



UNIVERSITY
TECHNICAL COLLEGE BOLTON

EXCLUSIONS POLICY

2018-2020

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Introduction

This contents of this policy are drawn from *Exclusion from maintained schools, academies and pupil referral units in England* (Sept 2017) DfE Statutory Guidance and replaces the version published in 2012.

Related Legislation

The principal legislation to which this guidance relates is:

- The Education Act (2002), as amended by the Education Act (2011);
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations (2012);
- The Education and Inspections Act (2006);
- The Education Act (1996);
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations (2007), as amended by the Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations (2014)

Background

1. Key Points from the DfE 2017 Statutory Guidance to which the UTC adheres

- 'The Government supports head teachers in using exclusion as a sanction where it is warranted. However, permanent exclusion should only be used as a last resort, in response to a serious breach or persistent breaches of the school's behaviour policy; and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.
- The decision to exclude a pupil must be lawful, reasonable and fair. Schools have a statutory duty not to discriminate against pupils on the basis of protected characteristics, such as disability or race. Schools should give particular consideration to the fair treatment of pupils from groups who are vulnerable to exclusion.
- Disruptive behaviour can be an indication of unmet needs. Where a school has concerns about a pupil's behaviour, it should try to identify whether there are any causal factors and intervene early in order to reduce the need for a subsequent exclusion. In this situation, schools should consider whether a multi-agency assessment that goes beyond the pupil's educational needs is required.
- Schools should have a strategy for reintegrating a pupil who returns to school following a fixed-period exclusion and for managing their future behaviour.

- All children have a right to education. Schools should take reasonable steps to set and mark work for pupils during the first five school days of an exclusion; and alternative provision must be arranged from the sixth day.
- There are obvious benefits in arranging alternative provision to begin as soon as possible after an exclusion.
- Where parents dispute the decision of a governing board not to reinstate a permanently excluded pupil, they can ask for this decision to be reviewed by an independent review panel. Where there is an allegation of discrimination (under the Equality Act 2010) in relation to a fixed-period or permanent exclusion, parents can also make a claim to the First-tier Tribunal (Special Educational Needs and Disability) for disability discrimination, or the County Court for other forms of discrimination.
- An independent review panel does not have the power to direct a governing board to reinstate an excluded pupil. However, where a panel decides that a governing board's decision is flawed when considered in the light of the principles applicable on an application for judicial review, it can direct a governing board to reconsider its decision.
- The panel will then be expected to order that the school must make an additional payment of £4,000 if it does not offer to reinstate the pupil.
- Whether or not a school recognises a pupil as having SEN, all parents have the right to request the presence of an SEN expert at a review meeting. The SEN expert's role is to advise the review panel, orally or in writing or both, impartially, of the relevance of SEN in the context and circumstances of the review. For example, they may advise whether the school acted reasonably in relation to its legal duties when excluding the pupil.
- Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and ability to understand'.

2. The Headteacher's Power to Exclude

- 'Only the head teacher of a school can exclude a pupil and this must be on disciplinary grounds. A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed-period exclusion does not have to be for a continuous period.
- A fixed-period exclusion can also be for parts of the school day. For example, if a pupil's behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period. The legal requirements relating to exclusion, such as the head teacher's duty to notify parents, apply in all cases. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a governing board meeting is triggered.

- The law does not allow for extending a fixed-period exclusion or ‘converting’ a fixed-period exclusion into a permanent exclusion. In exceptional cases, where further evidence has come to light, a further fixed-period exclusion may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period.
- The behaviour of a pupil outside school can be considered grounds for an exclusion.
- The head teacher must take account of their legal duty of care when sending a pupil home following an exclusion.
- When establishing the facts in relation to an exclusion decision the head teacher must apply the civil standard of proof; i.e. ‘on the balance of probabilities’ it is more likely than not that a fact is true, rather than the criminal standard of ‘beyond reasonable doubt.’ This means that the head teacher should accept that something happened if it is more likely that it happened than that it did not happen.
- Under the Equality Act (2010) (the Equality Act), schools must not discriminate against, harass or victimise pupils because of: sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices and the provision of auxiliary aids.
- The head teacher and governing board must comply with their statutory duties in relation to SEN when administering the exclusion process. This includes having regard to the SEND Code of Practice.
- ‘Informal’ or ‘unofficial’ exclusions, such as sending a pupil home ‘to cool off’, are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for short periods of time, must be formally recorded.’

3. Statutory guidance on factors that a head teacher should take into account before taking the decision to exclude

‘A decision to exclude a pupil permanently should only be taken:

- In response to a serious breach or persistent breaches of the school's behaviour policy; and
 - Where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.
- The decision on whether to exclude is for the head teacher to take. However, where practical, the head teacher should give the pupil an opportunity to present their case before taking the decision to exclude.
 - Whilst an exclusion may still be an appropriate sanction, the head teacher should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to

light that the pupil has suffered bereavement, has mental health issues or has been subject to bullying.

- Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have. The head teacher should also consider the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour. Such assessments may pick up unidentified SEN but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems.
- Where a pupil has received multiple exclusions or is approaching the legal limit of 45 school days of fixed-period exclusion in an academic year, the head teacher should consider whether exclusion is providing an effective sanction'.

UTC Bolton Procedures

4. Fixed Term Exclusion

Fixed Term exclusion is reasonable and proportionate to the offence; account will be taken of any special circumstances individual students may have.

The Principal may exclude a student for up to 45 days in a UTC Bolton academic year. Where a student is excluded for a fixed term period the exclusion will be for the minimum time to ensure that the student and others in the UTC understand that the behaviour has been unacceptable. The Principal will also notify the Local Authority if the period of exclusion is longer than 5 days as the student has to be in education after 5 days, regardless of whether this is as a result of one Fixed Term period or more than one Fixed Term period.

Parents/carers will be expected to collect their child from the UTC and make appropriate provision for them during the period of exclusion.

When a student is excluded for a fixed term period, the Principal will arrange for the student to receive work to be completed at home and have it marked when she/he returns to the UTC.

If the Fixed Term period of exclusion exceeds 5 days, information on alternative provision will be included in the letter if this is available. Alternatively, it will be provided in a subsequent letter no later than 48 hours before the provision is due to start.

If a student is excluded for a further fixed term period following their original exclusion, or is subsequently permanently excluded, the Principal will immediately inform the parents/carers and issue them with a new exclusion letter.

Where considered relevant by the Principal, the letter will contain links to local services, such as Traveller Education Services, the Information Advice and Support Services Network (formerly known as the local parent partnership) (<https://councilfordisabledchildren.org.uk/information-advice-and-support-servicesnetwork/about>), the National Autistic Society (NAS) School Exclusion Service (England) (0808 800 4002 or schoolexclusions@nas.org.uk), or Independent Parental Special Education Advice (<http://www.ipsea.org.uk/>).

The Principal will immediately inform the Interim Management Committee and Local Authority of:

- Any permanent exclusion (including where a fixed-period exclusion is followed by a decision to permanently exclude a student);
- Any exclusion which would result in the student being excluded for a total of more than five College days (or more than ten lunchtimes) in a term;
- Any exclusion which would result in the student missing a public examination.

Indiscipline of a very serious nature will result in a student being dealt with by a Learning Agreement, as well as a possible Fixed Term exclusion.

Governors will also be provided with reasons for the exclusion and duration of the Fixed Term period of exclusion.

5. Additional Support for Students Who Have Been Excluded

- Following a Fixed Term exclusion, on re-entry to the UTC, parents/carers will be invited to talk with the Director of Inclusion or Principal.
- Students who have been excluded may also be placed on a Learning Agreement which has specific targets for the student.
- Students who are excluded may also be placed on attendance, behaviour or work performance reports so that their progress is monitored.
- If the student is excluded for behavioural difficulty then an assessment of performance in class and that of behaviour across all the staff who teach the student may be made, with a view as to whether the student needs to be placed on the Special Educational Needs register.
- Students who have identified Special Educational Needs or are on stages of assessment will have their progress reviewed and discussion will take place with the parents/carers and SENCO as to next steps.
- Restorative approaches may be used when and where appropriate, to ensure a return to full co-operation.

6. Permanent Exclusion

Permanent Exclusion will be used when the student has shown her/himself to be unwilling to accept the normal control mechanisms of UTC Bolton or when not to exclude would put members of staff and students at risk of harm.

It will also be used for incidents of severe violence, e.g. attack on a member of staff. The Principal will inform the Police of incidents of violence against staff and students or when a criminal offence has been committed.

Permanent Exclusion will be used for the possessing, handling, use or dealing in classified drugs and will automatically lead to the involvement of the Police. The possession of any weapons such as knives, guns, BB guns will automatically lead to exclusion.

Parents/parents will receive a Permanent Exclusion letter outlining the reasons for the exclusion and details of the Interim Management Committee Discipline hearing which will take place within 15 working days of the first day of exclusion. The letter will contain details of organisations which provide advice and support. It will inform parents that they have a right to attend the hearing together with their child, to be represented at that hearing (at their own expense) and to bring a friend. Parents/carers will be informed that the IMC Discipline hearing will take place whether or not they choose to attend.

Details regarding the appeals process will be contained within the letter.

The Principal will notify the Interim Management Committee and Bolton Local Authority of his/her recommendation to permanently exclude the student. If relevant they will be informed if the exclusion would result in the student missing a public examination. If the student lives outside Bolton Local Authority area, the area in which the UTC is located, the Principal will also notify the student's 'home authority' of the exclusion and the reason(s) for it.

Bolton Local Authority will arrange suitable full-time education for the student to begin no later than the sixth school day of the exclusion. This will be the student's 'home authority' in cases where the school is maintained by (or located within) a different Local Authority.

In addition, where a student has an EHC plan, the Local Authority may review the plan or re-assess the student's needs, in consultation with parents/carers, with a view to identifying a new placement.

The Clerk to the IMC will send a letter to the parents/carers inviting them to attend a discipline hearing consisting of governors from the Interim Management Committee. Where an exclusion would result in a student missing a public examination, the IMC

will endeavour so far as is reasonably practicable, to consider the exclusion before the date of the examination or test.

7. The IMC Discipline Panel Hearing

Full details of the procedure and running order for the IMC Discipline Hearing are included as **Appendix A**.

Full details of the portfolio of evidence presented by the UTC at a Permanent Exclusion Hearing are included as **Appendix B**

During the hearing the UTC will present to the Discipline Panel the reasons for the recommendation to permanently exclude, and parents/carers will have the opportunity to present their case, if they attend.

The IMC Discipline hearing will identify the steps they will take to ensure all parties are supported to participate in its consideration and have their views properly heard. This is particularly important as all UTC students are under 18 and are speaking about their own exclusion or giving evidence to the IMC Discipline hearing.

When establishing the facts in relation to an exclusion, the IMC Discipline hearing will apply the civil standard of proof; i.e. 'on the balance of probabilities' (it is more likely than not that a fact is true) rather than the criminal standard of 'beyond reasonable doubt'.

In the light of its consideration, the IMC Discipline hearing can either:

- Decline to reinstate the student; or
- Direct re-instatement of the student immediately or on a particular date.

If the IMC Discipline hearing is legally required to consider reinstating an excluded student they will consider the interests and circumstances of the excluded student, including the circumstances in which the student was excluded, and have regard to the interests of other students and staff working at the UTC.

Where reinstatement would make no practical difference because the parents/carers have made it clear they do not want their child reinstated, the IMC Discipline hearing will still consider whether the student should be officially reinstated. If it decides against reinstatement of a student who has been permanently excluded, the parents/carers can request an independent review.

The Clerk will ensure that clear minutes are taken of the hearing as a record of the evidence that was considered by the IMC Discipline hearing. These minutes will be made available to all parties on request.

The Chair of the IMC Discipline hearing will ask all parties to withdraw before making a decision. The Clerk will support the IMC Discipline hearing, by referring to the notes of the hearing and agreeing the wording of the decision letter.

In reaching a decision on whether or not a student should be reinstated, the IMC Discipline hearing will consider whether the decision to exclude the student was lawful, reasonable and procedurally fair, taking account of the Principal's legal duties and any evidence that was presented to them in relation to the decision to exclude.

The IMC Discipline hearing will note the outcome of its consideration on the student's educational record, along with copies of relevant papers for future reference.

In cases where the IMC Discipline hearing considers parent's representations but does not have the power to direct a student's reinstatement, it should consider whether it would be appropriate to place a note of its findings on the student's educational record.

Claims of discrimination to the First-tier Tribunal (Special Educational Needs and Disability), in relation to disability, or County Court, for all other forms of discrimination, can be made up to six months after the discrimination is alleged to have occurred. Where practicable, the UTC will retain records and evidence relating to an exclusion for at least six months in case such a claim is made.

8. The Decision to Reinstate

Where legally required to consider reinstating an excluded student, the IMC will notify parents, the Principal and the Local Authority of its decision, and the reasons for it, in writing and without delay. Where the student resides in a different Local Authority area from the one in which the UTC is located, the IMC will also inform the student's 'home authority'.

9. The Decision not to Reinstate

In the case of a permanent exclusion where the IMC decides not to reinstate the student, the IMC's notification will also include the information below.

- The fact that it is permanent.
- Notice of parent's right to ask for the decision to be reviewed by an independent review panel and the following information:
 - a) The date by which an application for a review must be made (i.e. 15 College days from the date on which notice in writing of the IMC's decision is given to parents;
 - b) Where and to whom an application for a review (and any written evidence) should be submitted;
 - c) That any application should set out the grounds on which it is being made and that, where appropriate, this should include a reference to how the student's SEN are considered to be relevant to the exclusion;

- d) That, regardless of whether the excluded student has recognised SEN, parents have a right to require the Local Authority/academy trust to appoint an SEN expert to advise the review panel;
- e) Details of the role of the SEN expert;
- f) That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel;

In addition to the right to apply for an independent review panel, if parents believe that there has been unlawful discrimination in relation to the exclusion they may make a claim under the Equality Act (2010) to the First-tier Tribunal (Special Educational Needs and Disability) in the case of disability discrimination, or the County Court, in the case of other forms of discrimination.

- That a claim of discrimination under the Equality Act (2010) made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place (e.g. the day on which the pupil was excluded).
- The decision of the independent review panel is final.

10. Removal of a Student's Name from the UTC Admissions Register

The IMC will ensure that a student's name is removed from the UTC admissions register if:

- 15 College days have passed since the parents were notified of the IMC's decision to not reinstate the student and no application has been made for an independent review panel; or
- The parents have stated in writing that they will not be applying for an independent review panel.

Where an application for an independent review panel has been made within 15 College days, the UTC will wait until the review has been determined, or abandoned, and until the IMC has completed any re-consideration that the panel has recommended or directed it to carry out, before removing a student's name from the register. Where a student's name is to be deleted from the UTC admissions register because of a permanent exclusion the UTC will make a return to the Local Authority. The return will include all the particulars which were entered in the admission register, the address of any parent with whom the student normally resides and the grounds upon which their name is to be deleted from the admissions register (i.e. permanent exclusion). This return will be made as soon as the grounds for deletion is met and no later than the deletion of the student's name.

Where a student's name is removed from the College register and a discrimination claim is subsequently made, the First-tier Tribunal (Special Educational Needs and

Disability) or County Court has the power to direct that the student should be reinstated.

Whilst an excluded student's name remains on the UTC's admissions register, the student will be marked using the appropriate attendance code. Where alternative provision has been made and the student attends it, an appropriate attendance code, such as Code D (if the alternative provision is at a PRU or independent school where the student is dual registered) or Code B (if the provision is an approved educational activity that does not involve the student being registered at any other school), should be used. Where a student is not attending alternative provision, they will be marked absent using Code E.

If applied for by parents within the legal time frame, the Local Authority or (in the case of an academy) the academy trust must, at their own expense, arrange for an independent review panel hearing to review the decision of the IMC not to reinstate a permanently excluded student.

The legal time frame for an application is:

- Within 15 College days of notice being given to the parents by the IMC of its decision not to reinstate a permanently excluded student; or
- Where an application has not been made within this time frame, within 15 College days of the final determination of a claim of discrimination under the Equality Act (2010) in relation to the exclusion.

Any application made outside of the legal time frame must be rejected by the Local Authority/academy trust.

11. Reporting to the Interim Management Committee

The Principal will report data on Fixed Term and Permanent Exclusions to each meeting of the Interim Management Committee. Data will also be made available to external bodies, e.g. Ofsted, HMI, DfE.

APPENDIX A

PERMANENT EXCLUSION IMC GOVERNOR DISCIPLINE HEARING

Procedure and Running Order

1. The Clerk will introduce the Panel of governors and their role at the UTC. The Chair of the Panel hearing will be introduced.
2. The Clerk will ask the parent(s) and student to introduce themselves and any other persons they have brought and will then ask the same of the Principal and the UTC witnesses.
3. **The purpose of the Hearing is two-fold:**
 - The first is to establish the accuracy of the version of events put forward by the UTC;
 - The second part is to establish whether the event(s) warrant(s) permanent exclusion.
4. The Governors will be impartial and ensure the judgement they make is in line with UTC policies.
5. **The Principal will state the case**, present any documentation, including witness statements and will call any witnesses.
6. Questions can be asked.
7. **The parent(s)/student will state their case** and present any documentation, including witness statements.
8. The parent(s) can also ask an independent witness to present/support their case.
9. The Panel will then ask any questions of clarity.
10. The Principal will sum up.
11. The Chair will sum up.
12. After the summary, the UTC representatives and the parent(s), the student and their representatives will leave the meeting.

The Decision

13. The Governors then decide firstly whether the case is proven. The Governor Panel must apply the civil standard of proof; ie 'on the balance of probabilities' (it is more likely than not that a fact is true), rather than the criminal standard of 'beyond reasonable doubt.'
14. The Governor Panel will then decide to either:
 - Decline to re-instate the student or

- Direct re-instatement of the student immediately or on a particular date.
15. The text of the letter to the parent(s) and UTC Principal will be agreed by the Panel of governors.
 16. The minutes of the meeting will be produced in accordance with the agreed UTC format.
 17. The Chair will sign the minutes of the meeting.
 18. Within three days (normally) of the meeting of the Governor Panel, the parents and UTC Principal will be sent a copy of the letter which will outline the decision of the Governor Panel. The letter will contain details of the Appeals process.
 19. The minutes of the Panel Hearing will be available should there be an application for a review of the Panel's decision.

APPENDIX B Permanent Exclusion Checklist and Portfolio of Evidence



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UTC Bolton Permanent Exclusion Check List

Student: _____ Date: _____

Check	Criteria	Completed
Timeframe	Panel between 6 th and 15 th day	
Attendance	3 Panel members (Chair has casting vote) Parent(s) Student Principal and other presenters Clerk	
Documentation	Sent Registered Delivery 5 days before panel. Include: History (start date – from which school etc) SEND Attendance Behaviour (positive and negative) and Support Log Intervention Log (with dates) Detail of incident Progress (reports, reading age) Work set during exclusion Referrals to external agencies	

	<p>Evidence: Physical or photos</p> <p>Statements (attributed, signed, dated, no collusion) redacted</p>	
	<p>Witnesses: Teachers may be accompanied</p> <p>Student only with parental permission. Must not be present before giving evidence.</p>	
Agenda	Elect Chair	
	Review documentation	
	<p>Invite UTC representative(s) and parent(s) in at same time.</p> <p>Introductions by the Clerk</p>	
	<p>Check: Student / Supporter</p> <p>Time/date/location / language</p> <p>Disability / Special needs / literacy level</p> <p>Documentation received</p>	
	Principal makes case	
	Parent(s) ask questions	
	Panel ask questions	
	Parents make comments, statements, provide evidence	
	Student given opportunity to present his/her case	
	Character references if available	
	UTC representative(s) asks questions	
	Panel members ask questions	
	UTC representative(s) and parent(s) leave meeting	
	<p>Panel discuss case and decide outcome.</p> <p>Must take into account:</p> <ul style="list-style-type: none"> • Representations by parent(s) and student • Whether Principal has followed law, balance of probabilities 	

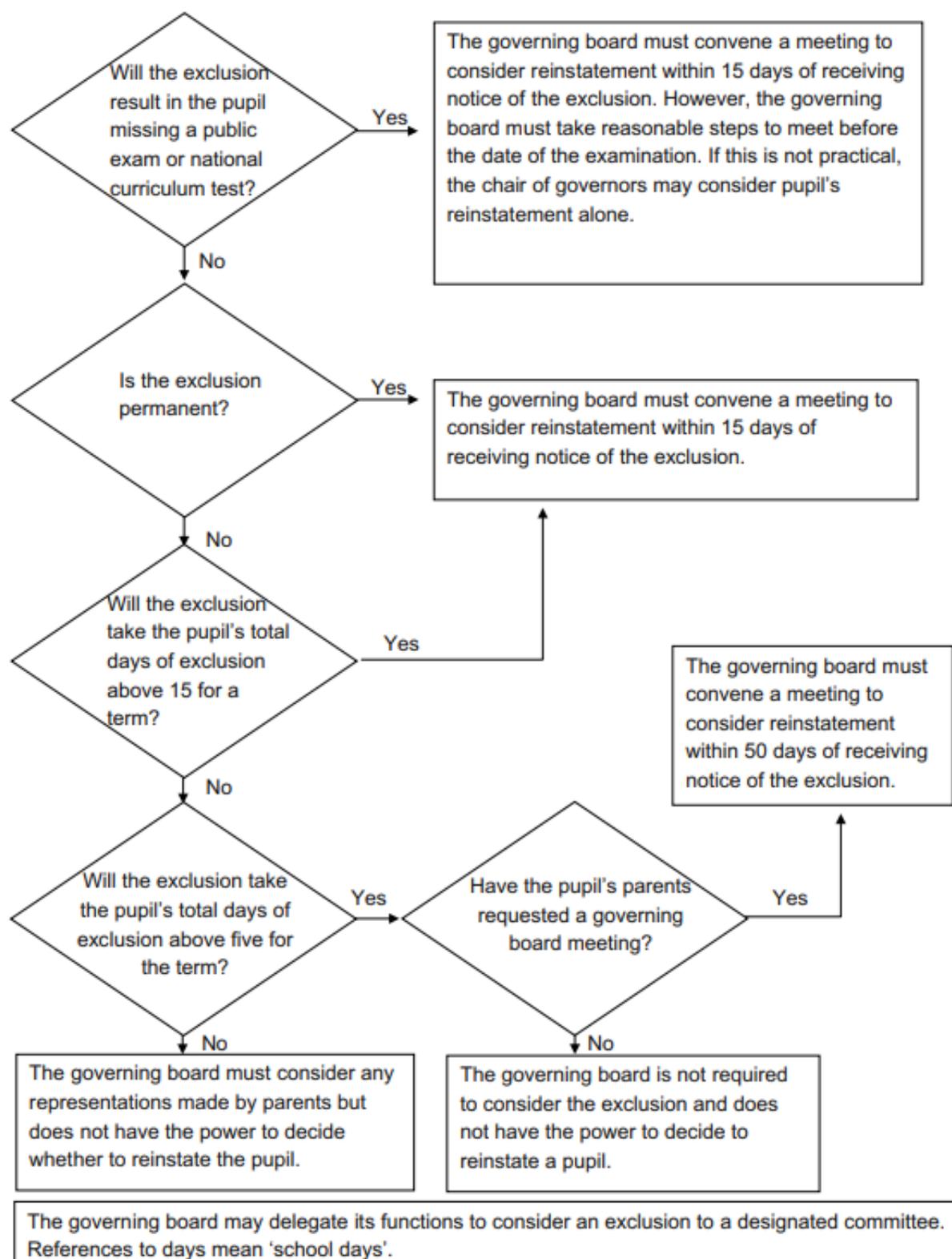
Outcomes	Uphold or direct reinstatement immediate or on a prescribed date <i>May not : increase severity, attach conditions</i> Exceptional circumstances required to not direct reinstatement	
Communication	Within one day communicate to: <ul style="list-style-type: none"> • Parent giving reasons • LA giving reasons. • Right to appeal (within 15 days) 	

Guidance on Taking Witness Statements

1. The witness statement must be taken as soon as possible after the incident- not left until the next day
2. Statements must be taken from all those involved
3. Statements must be taken from any witnesses to the incident
4. The witness statement must provide:
 - Dates
 - Times
 - Where the incident took place
 - What was seen/heard
 - Note of who else was present
5. Statements must be signed and dated
6. A note must be taken of who asked for the statement to be written and where it was written
7. The member of SLT supervising the writing of the statement must read it carefully afterwards to ensure the witness is clear about what they have written
8. If the handwritten statement from a student is illegible, the member of SLT should type it and ask the student to sign and date it to confirm the statement is their own
9. Staff/students must not be able to collude when writing statements
10. The names of anyone except the PEX student must be redacted

APPENDIX C

A Summary of the Decision of the IMC to Review the Principal's Exclusion Decision



n.b – In the context of UTC Bolton, references to Governing Board apply to the Interim Management Committee

APPENDIX D FURTHER STATUTORY GUIDANCE

Further statutory guidance on the following can be found in the DfE Statutory Guidance (2017) *Exclusion from maintained schools, academies and pupil referral units in England*

1. Exclusion of pupils from groups with disproportionately high rates of exclusion
2. Exclusion of pupils with Education, Health and Care plans and Looked After Children
3. The LA/Academy Trust's duty to arrange an independent review panel
4. Duties of independent review panel members, the clerk and SEN expert in the conduct of an independent review panel
5. The Governing Board's duty to reconsider reinstatement following a review
6. Statutory guidance to Head Teachers, Governing Boards and independent review panel members on Police involvement and parallel criminal proceedings
7. A Guide for Parents/Carers