



Building Brighter Futures Together

# Exclusion Policy

## Important coronavirus (COVID-19) update

This policy has been updated in line with the current guidance from the UK government. We have included an amendment to this policy in [Appendix B](#), which provides information about the changes to the exclusion process during the pandemic. Please have due regard for the stipulations within this amendment.

This policy will be reviewed annually.  
Date policy last reviewed:

April 2021

Signed by:

\_\_\_\_\_ Headteacher

Date: \_\_\_\_\_

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## **Statement of intent**

At Eastwood Community School, we understand that good behaviour and discipline is essential for promoting a high-quality education.

The school's Behaviour Policy is highly effective; it prioritises recognising and acknowledging positive learning and social behaviours, both individual and collective.

Amongst other disciplinary sanctions, the school recognises that exclusion of pupils may be necessary where there has been a serious breach, or consistent breaches, of the school's Behaviour Policy. Excluding a pupil may also be required in instances where allowing the pupil to remain in school would be damaging to the education and welfare of themselves or others; in all cases, excluding pupils will only be used as a means of last resort.

The school has created this policy to clearly define the legal responsibilities of the headteacher, Local Governing Body Trust and LA when responding to pupil exclusions, to ensure that they are dealt with both fairly and lawfully, and in line with DfE statutory guidance.

This policy also aims to secure a pupil's right to an education despite having been excluded, by ensuring that appropriate arrangements are in place.

## **1. Legal framework**

This policy has due regard to all relevant legislation including, but not limited to, the following:

- Education Act 2002
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Education and Inspections Act 2006
- Education Act 1996
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007
- The European Convention on Human Rights (ECHR)
- Equality Act 2010

This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:

- DfE (2017) 'Exclusion from maintained schools, academies and pupil referral units in England'
- DfE (2016) 'Behaviour and discipline in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'
- DfE (2018) 'Mental health and behaviour in schools'

This policy operates in conjunction with the following school policies:

- Behaviour Policy
- Anti-Bullying Policy
- Home School Agreement
- Special Educational Needs and Disabilities (SEND) Policy
- Child Protection and Safeguarding Policy

## **2. Roles and responsibilities**

The LA is responsible for:

- Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of LAC.
- Arranging suitable full-time education for any pupil of compulsory school age excluded permanently, in coordination with the school.
- Reviewing and reassessing pupils' needs in consultation with their parents where they have an EHC plan and are excluded permanently, with a view to identifying a new placement.
- Arranging for an independent review panel hearing to review the decision of the Local Governing Body not to reinstate a permanently excluded pupil where required.
- Arranging the hearing without delay at a time, date and venue convenient for all parties.
- Ensuring the independent review panel consists of three or five members as appropriate, which represent the required categories.
- Ensuring all panel members and the clerk have received training within the two years prior to the date of the review.

- If requested by parents, appointing a SEND expert to attend the panel and covering the associated costs of this appointment.

The Local Governing Body / Trust is responsible for:

- Providing information to the Secretary of State and LA about any exclusions within the last 12 months.
- Arranging suitable full-time education for any pupil of compulsory school age excluded on a fixed-term basis.
- Considering parents' representations about exclusions within 15 school days of receiving notice if the appropriate requirements are met.
- Where an exclusion would result in a pupil missing a public examination or test, considering the exclusion before this date.
- Considering whether it would be appropriate for a pupil to be permitted onto the school premises to sit the public examination or test.
- Arranging the representation meeting at a time and date convenient to all parties, but in compliance with the statutory time limits.
- Adhering to its responsibilities to consider the reinstatement of pupils.
- Considering the interests and circumstances of the excluded pupil, including the circumstances in which they were excluded, and have due regard to the interests of others at the school.
- Using the civil standard of proof (based on the 'balance of probabilities', it is more than likely that the fact is true) when establishing the facts relating to an exclusion.
- Ensuring clear minutes are taken of the representation meeting.
- Noting the outcome of the representation meeting on the pupil's education record, along with copies of relevant papers for future reference.
- Notifying the pupil's parents, the headteacher and LA of its decision and the reasons for it, without delay.
- Where appropriate, informing parents of where to apply for an independent review panel.
- Informing parents of relevant sources of information.
- Ensuring a pupil's name is removed from the school admissions register, where appropriate.
- Reconvening within 10 school days to reconsider reinstatement of a pupil where directed to do so by the exclusions review panel.

The headteacher is responsible for:

- Implementing good levels of discipline to ensure all pupils can benefit from the opportunities provided by education and to minimise potential exclusions.
- Applying the civil standard of proof when establishing the facts in relation to an exclusion.
- Complying with their statutory duties in relation to pupils with SEND when administering the exclusion process, as outlined in the Special Educational Needs and Disabilities (SEND) Policy.
- Considering any contributing factors that are identified after an incident of poor behaviour has occurred, e.g. if a pupil has suffered bereavement, bullying or has a mental health issue.

- Considering the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour.
- Reviewing the effectiveness of exclusions as a sanction, e.g. if a pupil has received multiple exclusions or is approaching the legal limit for exclusions in an academic year.
- Considering what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, eligible for FSM, LAC and those from certain ethnic groups.
- Engaging effectively with parents in supporting the behaviour of pupils with additional needs.
- Determining whether a pupil will be excluded on disciplinary grounds.
- Withdrawing any exclusions that have not been reviewed by the Local Governing Body, where appropriate.
- Ensuring any decision to exclude is lawful, rational, reasonable, fair and proportionate.
- Complying with the requirements of the Equality Act 2010 when deciding whether to exclude a pupil.
- Ensuring they have considered their legal duty of care when sending a pupil home following an exclusion.
- Making the decision to exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.
- Notifying a pupil's parents without delay where the decision is taken to exclude the pupil, including the days on which the parents must ensure the pupil is not present in a public place at any time during school hours, as well as any other necessary information statutorily required.
- Ensuring that all information provided to parents is clear and easily understood.
- Notifying the Local Governing Body Trust and LA of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required.
- Notifying the Local Governing Body and Trust once per term of any exclusions not already notified.
- Organising suitable work for excluded pupils where alternative provision cannot be arranged.

### **3. Grounds for exclusion**

The school will only exclude a pupil where it is absolutely necessary, and where all other possible disciplinary sanctions, as detailed in the school's Behaviour Policy, have failed to be successful.

The following examples of behaviour may underline the school's decision to exclude a pupil:

- Any incident which poses a risk to other pupils or members of staff, e.g. bringing a weapon onto the premises
- Any incident which breaches the law
- Persistent and severe bullying
- Verbal and physical abuse
- Constant disruption
- A single, serious and major incident, e.g. serious assault on another individual leading to injury

Pupils can be excluded on a fixed-period basis, i.e. up to 45 school days within a year, or permanently. Similarly, pupils can be permanently excluded following a fixed-period exclusion, where further evidence is presented. In all cases, the headteacher will decide which exclusion period a pupil will be subject to, depending on what the circumstances warrant.

#### **4. The headteacher's power to exclude**

Only the headteacher has the power to exclude a pupil from the school, and is able to decide whether this is on a fixed-period or permanent basis. All exclusions will only be issued on disciplinary grounds.

The headteacher is able to exclude pupils from the premises where their behaviour is disruptive during lunchtime. All lunchtime exclusions will be counted as half of a school day. The headteacher is also able to consider a pupil's disruptive behaviour outside of the school premises as grounds for exclusion, in accordance with the school's Behaviour Policy.

When sending a pupil home following any exclusion, the headteacher will ensure that they exercise their duty of care at all times and will always inform the parents.

Any decision made to exclude a pupil will be lawful, proportionate and fair, with respect to legislation relating directly to exclusions and the school's wider legal duties, including the ECHR. At all times, the headteacher will take into account their legal duties under the Equality Act 2010 and the 'Special educational needs and disability code of practice: 0 to 25 years', ensuring that they do not discriminate on any grounds, e.g. race, sex, disability, and will not increase the severity of a pupil's exclusion on these grounds.

The headteacher will apply the civil standard of proof when responding to the facts relating to an exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.

The headteacher will not issue any 'informal' or 'unofficial' exclusions, e.g. sending a pupil home to 'cool-off', regardless of whether or not the parents have agreed to this. The headteacher will not use the threat of exclusion as a means of instructing parents to remove their child from the premises.

All exclusions will be formally recorded.

#### **5. Factors to consider when excluding a pupil**

When considering the exclusion of a pupil, the headteacher will:

- Allow the pupil the opportunity to present their case.
- Take into account any contributing factors that are identified after a case of poor behaviour has occurred, e.g. if the pupil's wellbeing has been compromised, or they have been subjected to bullying.
- Take into consideration whether the pupil has received multiple exclusions or is approaching the legal limit of 45 excluded days per school year, and whether exclusion is serving as an effective sanction.

- Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess pupils who demonstrate consistently poor behaviour.

The headteacher will consider what extra support may be available for vulnerable pupil groups whose exclusion rates are higher, to reduce their risk of exclusion, including the following:

- LAC
- Pupils eligible for FSM
- Pupils with SEND
- Certain ethnic groups

The headteacher will consider avoiding permanently excluding LAC, those with SEMH issues or pupils with an EHC plan. Where any member of staff has concerns about vulnerable pupil groups and their behaviour, they will report this to the headteacher, who will instigate a multi-agency assessment to determine whether the behavioural issues might be a result of educational, mental health or other needs and vulnerabilities.

Where SEND or SEMH issues are identified, an individual behaviour plan will be created using the graduated response outlined in the school's Behaviour Policy. If the pupil continues to endanger the physical or emotional wellbeing of other pupils or staff, despite exhausting the graduated response process, then exclusion may be considered. In accordance with the Equality Act 2010, under no circumstances will a pupil with identified SEND or SEMH issues be excluded before the graduated response process has been completed.

Where a pupil with SEND or SEMH issues is permanently excluded because of a SEND- or SEMH-related need that could not be met at the school, detailed records will be kept highlighting that these pupils are closely tracked and showing that the school has a close relationship with the pupil's next destination.

The headteacher will work in conjunction with the parents of any pupil with additional needs to establish the most effective support mechanisms.

## **6. Duty to inform parents**

Following the headteacher's decision to exclude a pupil, they will immediately inform the parents, in person or by telephone, of the period of the exclusion and the reasons behind this.

The headteacher will inform the parents in writing of the following:

- The reason(s) for the exclusion
- The length of the fixed-period exclusion or, for a permanent exclusion, the fact that it is permanent
- Their right to raise any representations about the exclusion to the Local Governing Body, including how the pupil will be involved in this and how the representations will be made
- Their right to attend a meeting where there is a legal requirement for the Local Governing Body to consider the exclusion, and the fact that they are able to bring an accompanying individual

- The arrangements that have been made for the pupil to continue their education prior to the organisation of any alternative provision, or the pupil's return to school
- Relevant sources of free, impartial information

Where the pupil is of compulsory school age, the headteacher will inform the parents by the end of the afternoon session that for the first five days of the exclusion (or until the start date of any alternative provision or the end of the exclusion where this is earlier), parents are legally required to ensure that their child is not present in a public place during school hours without justification, and that parents may receive a penalty fine if they fail to do so.

Where the headteacher has arranged alternative provision, they will also inform the parents of the following:

- The start and end date for any provision of full-time education
- The address at which the provision will take place
- Any information necessary for the pupil to identify the person they should report to on the starting date

Where the headteacher is unable to provide information on alternative provision by the end of the afternoon session, they will provide the information in a subsequent written notice without further delay, and within 48 hours of the pupil beginning the provision. If the alternative provision is due to begin before the sixth day of the exclusion, the headteacher is able to give less than 48 hours of notice, with parental consent.

If the headteacher has decided to exclude the pupil for a further fixed period following their original exclusion, or to permanently exclude them, they will notify the parents without delay and issue a new exclusion notice to parents.

## **7. Duty to inform the Local Governing Body and LA**

The headteacher will inform the Local Governing Body and LA, without delay, of the following and will ensure that the LA's policy for exclusions is adhered to at all times:

- Any permanent exclusions (including where a fixed-period exclusion is followed by a decision to permanently exclude the pupil)
- Any exclusions which would result in the pupil being excluded for more than five school days in a term (or more than 10 lunchtimes)
- Any exclusions which would result in the pupil being absent from an examination or national curriculum test

For any exclusions, other than those above, the headteacher will notify the Local Governing Body and LA once per term. All notifications to the Local Governing Body and LA will include the reasons for exclusion and the duration of any fixed-period exclusion.

If the pupil who is excluded lives outside the LA in which the school is located, the headteacher will notify the pupil's 'home authority'.

## **8. Arranging education for excluded pupils**

For any fixed-period exclusions of more than five school days, the Local Governing Body will arrange suitable full-time education for the pupil, which will begin no later than the sixth day of exclusion. Where a pupil receives consecutive fixed-period exclusions, these will be regarded as cumulative, and full-time education will still have to be provided from the sixth day of exclusion. For permanent exclusions, full-time education will also be provided for the pupil from the sixth day of exclusion.

The Local Governing Body is aware that it is beneficial to excluded pupils to begin their alternative education arrangements before the sixth day of exclusion; therefore, the Local Governing Body will always attempt to arrange alternative provision before the sixth day of exclusion. Where it is not possible to arrange alternative provision during the first five days of exclusion, the school will ensure that they take reasonable steps to set and mark work for the excluded pupil.

If a pupil with SEND has been excluded, the Local Governing Body will ensure that:

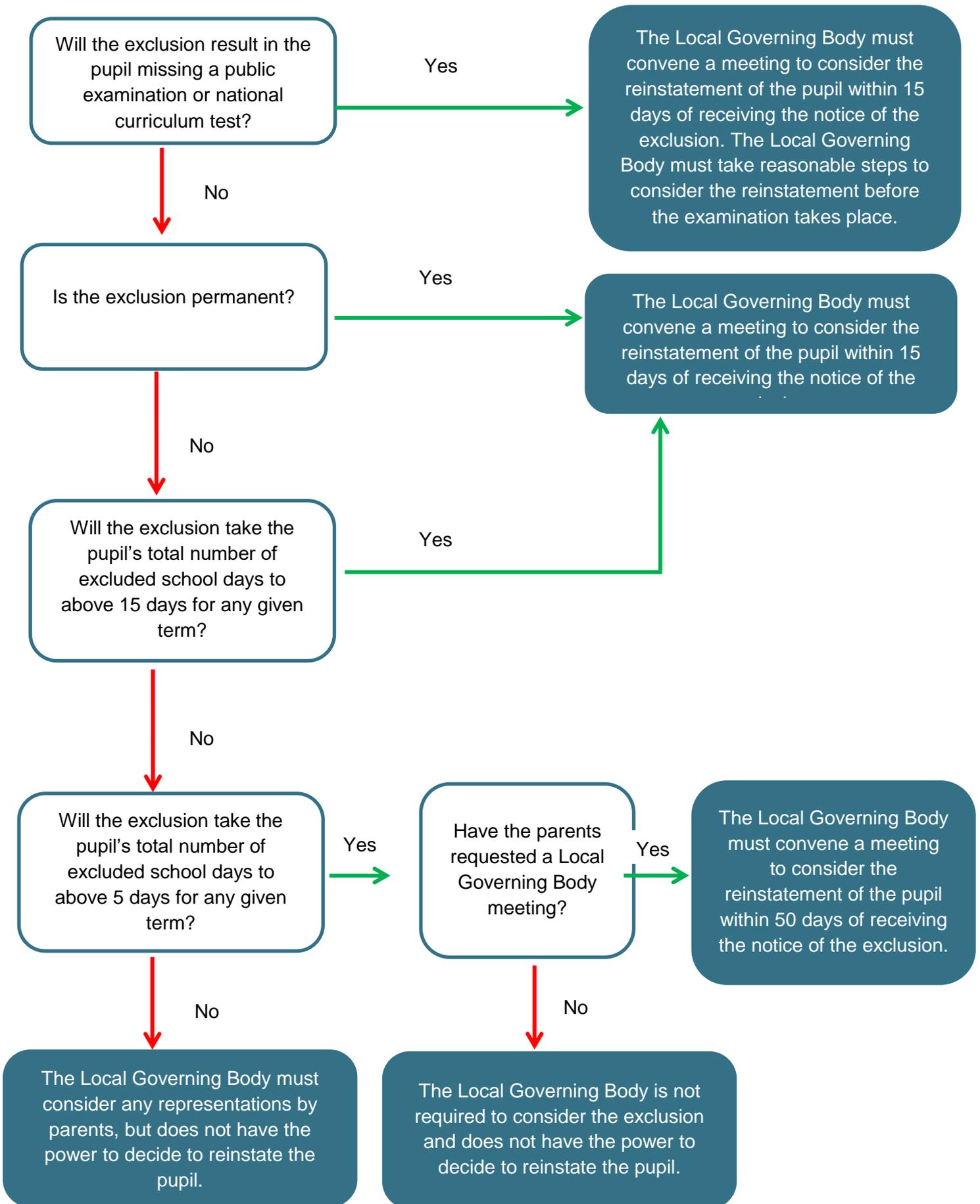
- Any alternative provision is arranged in consultation with the pupil's parents, who are able to request preferences.
- When identifying alternative provision, any EHC plan is reviewed or the pupil's needs are reassessed, in consultation with the pupil's parents.

## **9. Monitoring and review**

This policy will be reviewed annually by the headteacher in conjunction with the Local Governing Body.

All members of staff will be required to familiarise themselves with this policy as part of their induction programme.

## Reviewing the Headteacher's Exclusion Decision



# Changes to the Exclusion Process During the Coronavirus (COVID-19) Pandemic

Some temporary changes have been made to the school exclusion process due to the coronavirus (COVID-19) pandemic. The arrangements and procedures that must follow a decision to exclude on disciplinary grounds, as set out in our wider Exclusion Policy above, remain unchanged unless noted within this appendix. This appendix sets out what these changes are and what this means for our exclusion procedures in practice.

## 1. Legal framework

This appendix has due regard to the related legislation and statutory guidance including, but not limited to, the following:

- The School Discipline (England) (Coronavirus) (Pupil Exclusions and Reviews) (Amendment) Regulations 2020
- DfE (2021) 'Changes to the school suspension and expulsion process during the coronavirus (COVID-19) outbreak'

## 2. Application of arrangements

All exclusions occurring between 25 September 2020 and 24 September 2021 (inclusive) are subject to amended arrangements with regards to:

- The use of remote access technology for meetings relating to exclusions.
- The deadline for applications for an independent review.
- Timescale amendments, under certain circumstances.

Meetings relating to exclusions occurring between 25 September 2020 and 24 September 2021 will take place within the normal timescales set out in the main body of this policy.

The Local Governing Body and arranging authorities for independent review panels (IRPs) will take all reasonable steps to meet the normal timescales for exclusions occurring after 24 September 2020. In doing this, they will:

- Consider the DfE's 'Actions for schools during the coronavirus (COVID-19) outbreak'.
- Facilitate remote access meetings where it is not reasonably practicable to meet in person.

If the Local Governing Body and/or IRP have a duty to meet to discuss an exclusion that occurred between 1 June 2020 and 24 September 2020, they may be eligible for time extensions.

If deadlines are missed due to the coronavirus pandemic, the meeting will be held as soon as it becomes reasonably practicable to meet either in person or via remote access.

Any exclusions covered by these arrangements will continue to be subject to them until the procedures for scrutiny of the exclusion have been exhausted. For the purpose of this appendix, an exclusion will be taken as having 'occurred' on the first day of the exclusion, not the date when the decision to exclude was made or communicated.

## 3. Deciding whether a meeting should be held remotely

The school will follow all amendments to policy and procedure as outlined in the LA's amended (Covid compliant) Exclusion policy.

#### **4. Monitoring and review**

The arrangements in this appendix will be reviewed when there are any changes to government guidance. Any changes to the arrangements in this appendix will be communicated to all stakeholders.