

EQUITAS ACADEMIES TRUST



EQUITAS
— ACADEMIES TRUST —

Suspensions and Permanent Exclusions Policy

Review Date: March 2023
To be Reviewed: March 2024
Agreed: Full Trust Board
Policy Lead: Headteachers

EXCLUSIONS POLICY

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1. INTRODUCTION

- 1.1 This policy sets out Equitas Academies Trust's approach to handling exclusions.
- 1.2 This policy has been agreed following consultation with the recognised trade unions. It has been formally adopted by the Full Trust Board on (date TBC).

2. AIMS

- 2.1 Our school aims to ensure that:
- (a) The suspensions/permanent exclusions process is applied fairly and consistently
 - (b) The suspensions/permanent exclusions process is understood by governors, staff, parents and pupils
 - (c) Pupils in school are safe and happy
 - (d) Pupils do not become NEET (not in education, employment or training)
 - (e) All suspensions and permanent exclusions are carried out lawfully

3. LEGISLATION AND STATUTORY GUIDANCE

- 3.1 This policy is based on statutory guidance from the Department for Education: Suspension and permanent exclusion from mainstream schools, academies and pupil referral units in England, including pupil movement.
- 3.2 It is based on the following legislation, which outlines schools' powers to exclude pupils:
- (a) Section 51a of the Education Act 2002, as amended by the Education Act 2011
 - (b) The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- 3.3 In addition, the policy is based on:
- (a) Part 7, chapter 2 of the Education and Inspections Act 2006, which sets out parental responsibility for excluded pupils
 - (b) Section 579 of the Education Act 1996, which defines 'school day'
 - (c) 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
 - (d) The Equality Act 2010
 - (e) Children and Families Act 2014

3.4 This policy complies with our Funding Agreement and Articles of Association.

4. DEFINITIONS

4.1 SUSPENSION – WHEN A PUPILS IS REMOVED FROM THE SCHOOL FOR A FIXED PERIOD. THIS WAS PREVIOUSLY REFERRED TO AS A “FIXED TERM EXCLUSION”.

4.2 PERMANENT EXCLUSION – WHEN A PUPIL IS REMOVED FROM THE SCHOOL PERMANENTLY AND TAKEN OFF THE SCHOOL ROLL.

4.3 OFF-SITE DIRECTION – WHEN A GOVERNING BOARD OF A MAINTAINED SCHOOL REQUIRES A PUPIL TO ATTEND ANOTHER EDUCATION SETTING TEMPORARILY, TO IMPROVE THEIR BEHAVIOUR

4.4 PARENT – ANY PERSON WHO HAS A PARENTAL RESPONSIBILITY AND ANY PERSON WHO HAS CARE OF THE CHILD.

4.5 MANAGED MOVE – WHEN A PUPIL IS TRANSFERRED TO ANOTHER SCHOOL PERMANENTLY. ALL PARTIES, INCLUDING PARENTS AND THE ADMISSION AUTHORITY FOR THE NEW SCHOOL, SHOULD CONSENT BEFORE A MANAGED MOVE OCCURS

5. THE DECISION TO EXCLUDE

5.1 Only the headteacher, or acting headteacher, can exclude a pupil from school. A permanent exclusion will be taken as a last resort

5.2 Our school is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

“The practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil.”

5.3 We will not suspend or exclude pupils unlawfully by directing them off site, or not allowing pupils to attend school:

- a) Without following the statutory procedure or formally recording the event, e.g. sending them home to 'cool off'
- b) Because they have special educational needs and/or a disability (SEND) that the school feels unable to support
- c) Due to poor academic performance
- d) Because they have not met a specific condition, such as attending a reintegration meeting
- e) By exerting undue influence on a parent to encourage them to remove their child from the school

5.4 We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

5.5 A decision to suspend/permanently exclude a pupil will be taken only:

5.5.1 In response to serious or persistent breaches of the school’s behaviour policy, and

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5.5.2 If allowing the pupil to remain in school would seriously harm the education or welfare of others

5.6 Before deciding whether to exclude a pupil, either permanently or for a fixed period, the headteacher will:

5.6.1 Consider all the relevant facts and evidence, on the balance of probabilities, including whether the incident(s) leading to the suspension/permanent exclusion were provoked

5.6.2 Allow the pupil to give their version of events

5.6.3 Consider if the pupil has special educational needs (SEN)

5.6.4 Consider whether the pupil is especially vulnerable (e.g. the pupil has a social worker, or is a looked-after child (LAC))

5.6.5 Consider whether all alternative solutions have been explored, such as off-site direction or managed moves

6. DEFINITION

6.3 For the purposes of exclusions, the school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

7. ROLES AND RESPONSIBILITIES

7.1 The Headteacher :

a) The headteacher will consider the views of the pupil, in light of their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so.

b) Pupils who need support to express their views will be allowed to have their views expressed through an advocate, such as a parent or social worker.

c) The headteacher will not reach their decision until they have heard from the pupil, and will inform the pupil of how their views were taken into account when making the decision.

7.2 Informing Parents:

a) If a pupil is at risk of suspension or permanent exclusion due to persistent breaches of the academy's behaviour policy, the school will inform the parents as early as possible, in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour. If the headteacher decides to suspend or permanently exclude a pupil, the parents will be informed of the period of the suspension or permanent exclusion and the reason(s) for it, without delay.

7.3 The Headteacher will:

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- a) Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- b) Make clear the reason(s) for the suspension or permanent exclusion
- c) State the length of a suspension or, for a permanent exclusion, the fact that it is permanent
- d) Provide information about the parents' right to make representations about the suspension or permanent exclusion to the Trust board and how the pupil may be involved in this
- e) Set out how any representations should be made
- f) Make clear that, where there is a legal requirement for the governing board to hold a meeting to consider the reinstatement of a pupil, parents (or the pupil if they are 18 years old) have a right to attend the meeting, be represented at the meeting (at their own expense) and to bring a friend

7.3.1 The headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision (or the end of the suspension) where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

7.3.2 If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- a) The start date for any provision of full-time education that has been arranged
- b) The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- c) The address at which the provision will take place
- d) Any information required by the pupil to identify the person they should report to on the first day

7.3.3 Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of a permanent exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

7.4 Informing the Trust Board

7.4.1 The headteacher will immediately notify the Trust board of:

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- a) Any permanent exclusion, including when a suspension is made permanent
- b) Any suspensions or permanent exclusion which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- c) Any suspensions or permanent exclusions which would result in the pupil missing a public examination

7.4.2 For all other suspensions, the headteacher will notify the Trust Board once a term.

7.5 Informing the Local Authority

7.5.1 The headteacher will notify the LA of all suspensions and permanent exclusions without delay, regardless of the length of a suspension.

7.5.2 The notification will include:

- a) The reason(s) for the suspension or permanent exclusion
- b) The length of a suspension or, for a permanent exclusion, the fact that it is permanent

7.5.3 For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the headteacher will also, without delay, inform the pupil's 'home authority' of the permanent exclusion and the reason(s) for it.

7.6 Informing the pupil's social worker and/or virtual school head (VSH)

7.6.1 If a:

- a) Pupil with a social worker is at risk of suspension or permanent exclusion, the school will inform the social worker as early as possible, where a pupil persistently breaches the academy behaviour policy
- b) Pupil who is a looked-after child (LAC) is at risk of suspension or exclusion, the school will inform the VSH as early as possible, where a pupil persistently breaches the academy behaviour policy.

7.6.2 This is in order to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

7.6.3 If the headteacher decides to suspend or permanently exclude a pupil with a social worker/a pupil who is looked after, they will inform the pupil's social worker / the VSH, as appropriate, without delay, that:

- a) They have decided to suspend or permanently exclude the pupil
- b) The reason(s) for the decision

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- c) The length of the suspension or, for a permanent exclusion, the fact that is permanent.
- d) The suspension or permanent exclusion affects the pupil's ability to sit a National Curriculum test or public exam (where relevant)
- e) The social worker / VSH will be invited to any meeting of the governing board about the suspension or permanent exclusion. This is so they can provide advice on how the pupil's background and/or circumstances may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks and the pupil's welfare are taken into account.

7.7 The Trust Board

7.7.1 Considering suspensions and permanent exclusions

- a) Responsibilities regarding suspensions and permanent exclusions are delegated to the school governor discipline committee, consisting of at least 3 governors.
- b) The discipline committee has a duty to consider parents' representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded pupil in certain circumstances.
- c) Responsibilities regarding exclusions are delegated to the school governor discipline committee.

7.8 The local authority (LA)

- a) For permanent exclusions, the LA will arrange suitable full-time education to begin no later than the sixth school day after the first day of the exclusion.
- b) For pupils who are LAC or have social workers, the LA and the school will work together to arrange suitable full-time education to begin from the first day of the exclusion.

7.9 Considering the reinstatement of a pupil

- a) The school governor discipline committee, has a duty to consider parents' representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of a suspended or permanently excluded pupil in certain circumstances.
- b) Within 14 days of receiving a request, the governing board will provide the Secretary of State with information about any suspensions or exclusions within the last 12 months.
- c) For any suspension of more than 5 school days, the governing board will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the suspension.

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d) The governing board does not have to arrange such provision for pupils in their final year of compulsory education who do not have further public exams to sit.

7.10 The Trust board will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the permanent exclusion if:

- the exclusion is permanent
- it is a exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or
- it would result in a pupil missing a public examination

7.11 Where the pupil has been suspended for more than 5 days, but less than 16 days, in a single term, and the parents make representations to the board, the school governor discipline committee will consider and decide on the reinstatement of a suspended pupil within 50 school days of receiving notice of the suspension. If the parents do not make representations, the board is not required to meet and it cannot direct the headteacher to reinstate the pupil.

7.12 Where a suspension or permanent exclusion would result in a pupil missing a public exam or National Curriculum test, the school governor discipline committee will, as far as reasonably practicable, consider and decide on the reinstatement of the pupil before the date of the exam or test. If this is not practicable, the chair of the governing board (or the vice-chair, if necessary) may consider the suspension or permanent exclusion and decide whether or not to reinstate the pupil.

7.13 The following parties will be invited to a meeting of the governing board and allowed to make representations or share information:

- Parents, or the pupil if they are 18 or over (and, where requested, a representative or friend)
- The pupil, if they are aged 17 or younger and it would be appropriate to their age and understanding (and, where requested, a representative or friend)
- The headteacher
- The pupil's social worker, if they have one
- The VSH, if the pupil is looked after

7.13.1 The governing board will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

7.14 The Trust board can either:

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- a) Decline to reinstate the pupil, or
 - b) Direct the reinstatement of the pupil immediately, or on a particular date
- 7.15 In reaching a decision, the Trust board will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties. They will decide whether or not a fact is true 'on balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.
- 7.16 Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the pupil's educational record.
- 7.17 The Trust board will notify, in writing, the headteacher, parents or the pupil, if they are 18 or older, the pupil's social worker if they have one, the VSH, if the pupil is LAC, the pupil's home authority, if it differs from the school's, and the LA of its decision, along with reasons for its decision, without delay.
- 7.18 Where an exclusion is permanent and the school governors' discipline committee has decided not to reinstate the pupil, the notification will also include the following:
- a) The fact that it is permanent
 - b) Notice of the parents' right to ask for the decision to be reviewed by an independent review panel, and:
 - The name and address to whom an application for a review and any written evidence should be submitted
 - That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil's SEN are considered to be relevant to the permanent exclusion.
 - That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the academy trust to appoint a SEN expert to attend the review
 - Details of the role of the SEN expert and that there would be no cost to parents for this appointment
 - That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
 - That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review

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- The date by which an application for an independent review must be made (15 school days from the date on which notice in writing of the governing board's decision is given to parents)
- c) That if parents believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to their 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. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place.

8. AN INDEPENDENT REVIEW

- 8.1 If parents apply for an independent review, the academy trust will arrange for an independent panel to review the decision of the Trust board not to reinstate a permanently excluded pupil.
- 8.2 Applications for an independent review must be made within 15 school days of notice being given to the parents by the school governors discipline committee.
- 8.3 A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governors' category and 2 members will come from the headteacher category.
- a) A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer.
 - b) School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time
 - c) Headteachers or individuals who have been a headteacher within the last 5 years
- 8.4 A person may not serve as a member of a review panel if they:
- a) Are a member of the academy trust, or Trust board of the excluding school
 - b) Are the headteacher of the excluding school, or have held this position in the last 5 years
 - c) Are an employee of the academy trust, or the Trust board, of the excluding school (unless they are employed as a headteacher at another school)
 - d) Have, or at any time have had, any connection with the academy trust, school, Trust board, parents or pupil or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
 - e) Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

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- 8.5 A clerk will be appointed to the panel.
- 8.5.1 The panel must consider the interests and circumstances of the pupil, including the circumstances in which the pupil was permanently excluded, and have regard to the interests of other pupils and people working at the school.
- 8.5.2 Taking into account the pupil's age and understanding, the pupil or their parents will be made aware of their right to attend and participate in the review meeting and the pupil should be able to make representations on their own behalf, should they desire to.
- 8.5.3 Where a SEN expert is present, the panel must seek and have regard to the SEN expert's view of how SEN may be relevant to the pupil's permanent exclusion.
- 8.5.4 Where a social worker is present, the panel must have regard to any representation made by the social worker of how the pupil's experiences, needs, safeguarding risks and/or welfare may be relevant to the pupil's permanent exclusion.
- 8.5.5 Where a VSH is present, the panel must have regard to any representation made by the VSH of how any of the child's background, education and safeguarding needs were considered by the headteacher in the lead up to the permanent exclusion, or are relevant to the pupil's permanent exclusion.
- 8.6 Following its review, the independent panel will decide one of the following:
- a) Uphold the Trust board's decision
 - b) Recommend that the Trust board reconsiders reinstatement
 - c) Quash the Trust board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)
- 8.7 New evidence may be presented, though the school cannot introduce new reasons for the permanent exclusion or the decision not to reinstate. The panel must disregard any new reasons that are introduced.
- 8.8 In deciding whether the decision was flawed, and therefore whether to quash the decision not to reinstate, the panel must only take account of the evidence that was available to the governing board at the time of making its decision. This includes any evidence that the panel considers would, or should, have been available to the governing board and that it ought to have considered if it had been acting reasonably.
- 8.9 If evidence is presented that the panel considers it is unreasonable to expect the governing board to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the governing board reconsider reinstatement.

8.10 The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

9. SCHOOL REGISTERS

9.1 A pupil's name will be removed from the school admissions register if:

a) 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil and no application has been made for an independent review panel, or

b) The parents have stated in writing that they will not be applying for an independent review

9.2 Where an application for an independent review has been made within 15 school days, the Trust board will wait until that review has concluded before removing a pupil's name from the register.

9.3 Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

9.4 Where excluded pupils are not attending alternative provision, code E (absent) will be used.

9.5 Making a return to the LA

9.5.1 Where a pupil's name is to be removed from the school admissions register because of a permanent exclusion, the school will make a return to the LA. The return will include:

a) The pupil's full name

b) The full name and address of any parent with whom the pupil normally resides

c) At least 1 telephone number at which any parent with whom the pupil normally resides can be contacted in an emergency

d) The grounds upon which their name is to be deleted from the admissions register (i.e., permanent exclusion)

e) Details of the new school the pupil will attend, including the name of that school and the first date when the pupil attended or is due to attend there, if the parents have told the school the pupil is moving to another school

f) Details of the pupil's new address, including the new address, the name of the parent(s) the pupil is going to live there with, and the date when the pupil is going to start living there, if the parents have informed the school that the pupil is moving house.

9.6 This return must be made as soon as the grounds for removal is met and no later than the removal of the pupil's name.

10. RETURNING FROM A SUSPENSION

- 10.1 Following a suspension, the school will put in place a strategy to help the pupil to reintegrate successfully into school life and full time education.
- 10.2 A re-integration meeting will be held involving the pupil, parents, a member of senior staff, the head of year and other staff, where appropriate. The school will explain the reintegration strategy to the pupil in this meeting or on the pupil's return to school. During the meeting the school will communicate to the pupil they are getting a fresh start and that they are a valued member of the school community. The meeting will:
- a) Involve the attendance of the pupil, parent, a senior member of staff and head of year, as well as any other relevant staff
 - b) Will proceed without parents in the event they cannot or do not attend.
- 10.2.1 The school expects all returning pupils and their parents to attend their reintegration meeting, but pupils who do not attend will not be prevented from returning to the classroom.
- 10.3 The following measures may be implemented when a pupil returns from a suspension:
- a) Maintaining regular contact during suspension or off site direction and welcoming the pupil back to school
 - b) Daily contact in school with a designated pastoral professional
 - c) Agreeing a behaviour contract
 - d) Informing and agreeing with pupil, parents and staff of internal/external support
 - e) Putting a pupil 'on report'
 - f) Internal isolation
 - g) Regular reviews with pupil and parents to praise the progress being made and raise and address any concerns at an early stage
- 10.3.1 A personalised part timetable will be used as an appropriate tool to support the pupil's behaviour. It will be put in place for the minimum time necessary and reviewed regularly.
- 10.3.2 The strategy will be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the pupil, parents, and other relevant parties.

11. MONITORING ARRANGEMENTS

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11.1 The Headteacher monitors the number of exclusions every term and reports back to the governors. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

11.2 The school will collect data on the following:

- a) Attendance, permanent exclusions and suspensions
- b) Use of pupil referral units, off-site directions and managed moves
- c) Anonymous surveys of staff, pupils, governors/trustees and other stakeholders on their perceptions and experiences

11.2.1 The data will be analysed every term by the senior leadership team and will be reported back to the governors/trustees.

11.2.2 The data will be analysed from a variety of perspectives including:

- a) At school level
- b) By age group
- c) By time of day/week/term
- d) By protected characteristics

11.2.3 The school will use the results of this analysis to make sure it is meeting its duties under the Equality Act 2010. If any patterns or disparities between groups of pupils are identified by this analysis, the school will review its policies in order to tackle them.

12. MONITORING AND ANALYSING SUSPENSIONS AND EXCLUSIONS DATA

12.1 The Trust board will challenge and evaluate the data on the school's use of suspension, permanent exclusion, off-site direction to alternative provision and managed moves.

12.2 The governing board will consider:

- a) How effectively and consistently the school's behaviour policy is being implemented
- b) The school register and absence codes
- c) Instances where pupils receive repeat suspensions
- d) Interventions in place to support pupils at risk of suspension or permanent exclusion
- e) Any variations in the rolling average of permanent exclusions, to understand why this is happening, and to make sure they are only used when necessary

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- f) Timing of moves and permanent exclusions, and whether there are any patterns, including any indications which may highlight where policies or support are not working
- g) The characteristics of suspended and permanently excluded pupils, and why this is taking place
- h) The outcomes of reviews where the placements of pupils directed off-site into alternative provision in order to assure that the education is achieving its objectives and that pupils are benefiting from it
- i) The cost implications of directing pupils off-site

13. LINKS WITH OTHER POLICIES

The policy links to the following policies and procedures:

- a) Behaviour policy
- b) SEN policy and information report

14. REVIEW OF POLICY

This policy will be reviewed by the Headteacher of each school every year. At every review, the policy will be shared with the Trust board.

Reviewed and approved by:	Date approved:	Next review date:
Full Trust Board	March 2023	March 2024

APPENDIX 1: INDEPENDENT REVIEW PANEL TRAINING

The academy trust must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance Trust exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of a review panel
- The duties of headteachers, Trust boards and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act