

## Exclusions Policy

**Reviewed by Fiona Coffin, TS Assistant Headteacher, February 2021**

**Ratified by the Board of Trustees 10.02.2021**

**Next review date January 2022**

*This policy has been reviewed in line with the principles set out in the Equality Policy and an initial screening Equality Impact Assessment has been carried out.*

Within this policy the term Headteacher refers to the Headteacher of the school. The term CEO refers to the CEO of the Trust.

The governors of the Twynham Learning Academy Trust (the Trust) are charity trustees and company directors and for the purpose of this policy these terms are interchangeable.

This policy reflects the legislation at the time that it was last reviewed. Any changes in legislation will take precedence over anything printed in this policy.

## Aims

At Twynham Learning we believe that good behaviour and discipline are essential to ensure that all students can benefit from the opportunities provided by education.

Amongst other disciplinary sanctions, the school recognises that exclusion of students may be necessary where there has been a serious breach, or consistent breaches, of the school's Behaviour Policy. Excluding a student may also be required in instances where allowing the student to remain in school would be damaging to the education and welfare of themselves or others.

All schools within Twynham Learning aim to ensure that:

- The exclusions process is applied fairly, lawfully and consistently
- The exclusions process is understood by Trustees, governors, staff, parents and students
- Students in school are safe and happy
- All students have a right to an education, despite having been excluded, by ensuring that appropriate arrangements are in place
- They will not discriminate against students on the basis of protected characteristics, such as disability or race. They will give particular consideration to the fair treatment of students from groups who are vulnerable to exclusion.

## Legislation and guidance

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units in England](#).

It is also based on the following legislation, which outline schools' powers to exclude students:

- 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
- European Convention on Human Rights (ECHR)
- The Equality Act 2010

## Grounds for exclusion

- The school will only exclude a student where it is absolutely necessary, and where all other possible disciplinary sanctions, as detailed in each school's Behaviour Policy, have failed to be successful. All exclusions will only be issued on disciplinary grounds.
- Students can be excluded on a fixed-period basis, i.e. up to 45 school days within a year, or permanently. The law does not allow for extending a fixed-period exclusion or 'converting' a fixed-period exclusion into a permanent exclusion. In exceptional circumstances, students can be permanently excluded following a fixed-period exclusion, but only where further evidence is presented.
- A permanent exclusion will be taken as a last resort.
- In all cases, the Headteacher will decide which exclusion period a student will be subject to, depending on what the circumstances warrant.

## The Headteacher's power to exclude

- Only the Headteacher has the power to exclude a student from the school, and is able to decide whether this is on a fixed-period or permanent basis.
- A fixed-period exclusion does not have to be for a continuous period.
- The Headteacher is able to exclude students 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 able to consider a student's disruptive behaviour outside of the school premises as grounds for exclusion, in accordance with the school's Behaviour Policy.
- 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 student 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.
- It is unlawful to exclude for a non-disciplinary reason. For example, it would be unlawful to exclude a student for a reason such as: academic attainment; the action of a students' parents; or the failure of a student to meet specific conditions before they are reinstated, such as to attend a reintegration meeting. However, a student who repeatedly disobeys their teachers' academic instruction could be subject to exclusion.
- Any decision made to exclude a student will be lawful, proportionate and fair, with respect to legislation relating directly to exclusions and the school's wider legal duties, including the ECHR, 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, 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; and will not increase the severity of a student's exclusion on these grounds.
- All exclusions will be formally recorded on the student information system.
- The Headteacher may withdraw any exclusion that has not already been reviewed by the Twynham Learning Joint Governor Panel

## Factors to consider when excluding a student

When considering the exclusion of a student, the Headteacher will:

- Where practical, allow the student the opportunity to present their case.
- Take into account any contributing factors that are identified after a case of poor behaviour has occurred.
- Take into consideration whether the student 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 students who demonstrate consistently poor behaviour.
- Consider what extra support may be available for vulnerable student groups whose exclusion rates are higher, to reduce their risk of exclusion, including the following: LAC, students eligible for FSM, students with SEND, certain ethnic groups.

## Roles and responsibilities

### The Headteacher

#### Informing parents

Following the Headteacher's decision to exclude a student, they must, without delay, 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 (electronically if written permission has been received from the parents for notices to be sent this way) 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 Twynham Learning Joint Governor Panel, including how the student 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 Twynham Learning Joint Governor Panel to consider the exclusion, and the fact that they are able to bring an accompanying individual
- The arrangements that have been made for the student to continue their education prior to the organisation of any alternative provision, or the student's return to school
- Relevant sources of free, impartial information

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 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.

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

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

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 it 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 an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

If the Headteacher has decided to exclude the student 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.

#### Informing the Chair of the LAB, the Academy Trust and Local Authority

The Headteacher must, without delay, notify the Chair of the LAB, Academy Trust and the Local Authority (LA) of:

- Any permanent exclusion
- Any exclusion which would result in the student being excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and
- Any exclusion which would result in the student missing a public examination or national curriculum test

The Headteacher must also notify the Chair of the LAB, Academy Trust and the LA once per term of any other exclusions not already notified.

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

#### **The Twynham Learning Joint Governor Panel**

The following responsibilities will be undertaken by the Twynham Learning Joint Governor Panel:

- Considering parents' representations about fixed term exclusions within 15 school days of receiving notice if the appropriate requirements are met.
- Where an exclusion would result in a student missing a public examination or test, considering the exclusion before this date.
- Considering whether it would be appropriate for a student 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 students.
- Considering the interests and circumstances of the excluded student, 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 student’s education record, along with copies of relevant papers for future reference.
- Notifying the student’s parents, the Headteacher and the LA of its decision and the reasons for it, without delay. The Chair of the LAB and the Governance Manager must also be informed and, in turn, will report the outcome to the LAB and Academy Trust.
- Where appropriate, informing parents of how to apply for an independent review panel.
- Informing parents of relevant sources of information.
- Ensuring a student’s name is removed from the school admissions register, where appropriate.
- Reconvening within 10 school days to reconsider reinstatement of a student where directed to do so by an independent review panel.

### **The Academy Trust**

The Academy Trust is responsible for:

- Arranging for an independent review panel hearing to review the decision of the Twynham Learning Joint Governor Panel not to reinstate a permanently excluded student, where requested by the parents.
- Arranging the hearing without delay at a time, date and venue convenient for all parties.
- Ensuring the Independent Review Panel consists of three members, which represent the required categories.
- If requested by parents, appointing a SEND expert to attend the Independent Review Panel and covering the associated costs of this appointment.

### **The LA**

The LA is responsible for:

- Arranging suitable full-time education for any student of compulsory school age excluded permanently, in coordination with the school.
- Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of LAC.
- Reviewing and reassessing students’ 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 education for excluded students**

For any fixed-period exclusions of less than five school days the school will make reasonable arrangements to set and mark work for the student to complete during the exclusion.

For any fixed-period exclusions of more than five school days, the school will arrange suitable full-time education for the student, which will begin no later than the sixth day of exclusion.

Where a student 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 student from the sixth day of exclusion by the LA.

The school will not arrange full-time education for any student who is currently in their final year of compulsory education, and who does not have any further public examinations to sit.

If a student with an EHC plan has been excluded, the school will ensure that when identifying alternative provision, the EHC plan is reviewed or the student's needs are reassessed, in consultation with the student's parents.

## **Returning from a fixed term exclusion**

Following a fixed-term exclusion, a re-integration meeting will be held involving the student, parents, a member of senior staff and other staff, as appropriate.

## **Considering exclusions**

The Twynham Learning Joint Governor Panel will consider any representations made by parents. They will consider the reinstatement of an excluded student, where:

- The exclusion is permanent.
- The exclusion is fixed-period, and would bring the student's total number of excluded school days to more than 15 in any given term.
- The exclusion would result in the student missing a public examination.

In the case of a fixed-period exclusion where the student's total number of excluded days is more than 5 but less than 15 school days within a term, if requested by the parents, the Twynham Learning Joint Governor Panel must meet within 50 school days of receiving notice to consider whether the excluded student should be reinstated. In the absence of any representations from the parents, the Twynham Learning Joint Governor Panel is not required to meet.

In the case of a fixed period exclusion, where the student's total number of excluded school days does not amount to more than five in a term, the Twynham Learning Joint Governor Panel must consider any representations made by parents, but it cannot direct the reinstatement of the student and is not required to arrange a meeting with parents.

Where exclusion would result in a student missing a public examination, the Twynham Learning Joint Governor Panel will consider the exclusion, as far as is reasonably practicable, before the examination. If it is not practicable for a sufficient number of governors to consider the decision before the examination, a smaller sub-committee will consider the exclusion and decide whether or not to reinstate the student. The Twynham Learning Joint Governor Panel will also consider whether it would be appropriate to allow the excluded student to enter the premises to take the examination.

When considering the reinstatement of an excluded student, the Twynham Learning Joint Governor Panel will:

- Only discuss the exclusion with the parties present at the meeting.
- Ask for any written evidence prior to the meeting.
- Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
- Allow students and parents to be accompanied by a person of their choice to the meeting.

- Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
- Identify the steps needed to enable and encourage the excluded student to attend the meeting and speak on their behalf, or how they may contribute personal views by other means, if attendance is not possible.
- Consider the interests and circumstances of the excluded student, including the grounds for exclusion.

## Reaching a decision

After considering exclusions, the Twynham Learning Joint Governor Panel will either:

- Decline to reinstate the student.
- Direct the reinstatement of the student immediately, or on a specified date.

If reinstatement would make no practical difference, e.g. if the student has already returned to school following a fixed-period exclusion or the parents make clear they do not want their child reinstated, the Twynham Learning Joint Governor Panel will still consider whether the student should be officially reinstated, and whether the Headteacher's decision to exclude the student was fair, lawful and proportionate, based on the evidence presented.

To reach a decision, the Twynham Learning Joint Governor Panel will:

- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
- Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
- Ask all parties to withdraw from the meeting before concluding their decision.
- Consider whether the exclusion of the student was lawful, proportionate and fair, taking into account the Headteacher's legal duties and any evidence that was presented, in relation to the decision to exclude.
- Record the outcome of the decision on the student's educational records, along with copies, which will be kept for at least six months.
- Make a note of their findings, where they have considered an exclusion but cannot reinstate the student.

## Notification of considered exclusions

The Twynham Learning Joint Governor Panel will notify the parents of the excluded student, the Headteacher and the LA of their decision following the consideration of an exclusion, in writing and without delay. The Chair of the LAB and the Governance Manager must also be informed and, in turn, will report the outcome to the LAB and Academy Trust.

In the case of a permanent exclusion, where the Twynham Learning Joint Governor Panel decides not to reinstate the student, they will notify the parents:

- That it is permanent, and their right for it to be reviewed by an independent review panel.
- Of the date by which an application for review must be made.
- Of the name and address of whom the review application should be submitted to.



- That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a student's SEND is considered relevant to the exclusion.
- That, regardless of whether a student has been identified as having SEND, the parents have a right to require the Trust to ensure a SEND expert attends the review.
- Of the role of the SEND expert that will attend the review, and that the parents will not be charged for this.
- That they are required to make it clear if they wish for a SEND expert to attend the review.
- That they may appoint someone at their own expense to make representations to the panel.

The Twynham Learning Joint Governor Panel will also notify parents that, if they believe an exclusion has been issued as a result of discrimination, then they are required to make a claim under the Equality Act 2010 to the First-tier Tribunal (SEND), and that this should be within six months of when the discrimination allegedly took place.

After any conclusion, the Twynham Learning Joint Governor Panel will notify the parents, and all other parties involved, of the decision that was made and the reasoning for this, in sufficient detail.

### **Removing permanently excluded students from the school register**

The Headteacher will remove students from the school register if:

- 15 school days have passed since the parents were notified of the Twynham Learning Joint Governor Panel's decision not to reinstate the student and no application for an independent review panel has been received; or
- The parents have stated in writing that they will not be applying for an independent review panel following a permanent exclusion.

If an application for an Independent Review Panel has been made within 15 school days of the Twynham Learning Joint Governor Panel's notification of their decision, the Headteacher will wait until the review has been determined, or abandoned, and until the Twynham Learning Joint Governor Panel has completed any reconsideration that the Independent Review Panel recommended or directed it to carry out, before removing the student from the school register.

If a student's name is to be removed from the register, the Headteacher will make a return to the LA, which will include:

- All the particulars which were entered in the register.
- The address of any parent with whom the student normally resides.
- The grounds upon which the student's name is to be removed from the register.

Any return to the LA will be made as soon as the grounds for removal are met and no later than the date in which the student's name was removed.

If a student's name has been removed from the register and a discrimination claim is made, the student may be reinstated following a decision made by the First-tier Tribunal (SEND) or County Court.

Whilst a student's name remains on the admissions register, the appropriate code will be used to mark the student's attendance:

- Code B: Education off-site

- Code D: Dual registration
- Code E: Absent and not attending alternative provision

## Independent Review Panel

An Independent Review Panel will review the Twynham Learning Joint Governor Panel's decision not to reinstate a permanently excluded student if the parents submit their application for this within the required time frame.

The Independent Review Panel will be made up of three members that represent the following categories:

- A lay member to chair the panel. This individual will not have worked in any school in a paid capacity.
- A current or former school governor who has served for at least 12 consecutive months in the last 5 years.
- A Headteacher or individual who has been a Headteacher within the last 5 years.

Parents are required to submit their applications within:

- 15 school days of the Twynham Learning Joint Governor Panel's notification of their decision.
- 15 school days of the final determination of a discriminatory claim made under the Equality Act 2010.

Any application made outside of this timeframe will not be reviewed.

Parents are able to request an Independent Review Panel even if they did not make a case to, or attend, the Twynham Learning Joint Governor Panel's initial consideration of the exclusion.

The Academy Trust must take reasonable steps to identify a date for the review that all parties are able to attend. However, the review must begin within 15 school days of the day on which the parent's application for a review was made.

The Academy Trust will adhere to all statutory guidelines when conducting an Independent Review, as outlined in the DfE's statutory guidance document [Exclusion from maintained schools, academies and student referral units in England](#)

Parents have a right to request the attendance of a SEND expert at a review, regardless of whether the school recognises that their child has SEND.

Guidance on the Academy Trusts appointment and role of the SEND expert can be found in the statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and student referral units in England](#)

The role of the Independent Review Panel is to review the Twynham Learning Joint Governor Panel's decision not to reinstate a permanently excluded student. In reviewing the decision, the panel 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 people working at the school.

The panel will apply the civil standard of proof, rather than the criminal standard of 'beyond reasonable doubt'.

Following the review, the panel will do one of the following:

- Uphold the decision.
- Recommend that the Twynham Learning Joint Governor Panel reconsiders reinstatement.
- Quash the decision and direct that the Twynham Learning Joint Governor Panel reconsiders reinstatement.

The panel's decision does not have to be unanimous and can be decided by a majority vote. It is binding on the student, parents, Headteacher, LAB, Academy Trust, and the LA.

Where the Independent Review Panel instructs or recommends the Twynham Learning Joint Governor Panel to reconsider their decision not to reinstate a student, they will do so within 10 school days of being given notice of the review panel's decision.

Following reconsideration, the Twynham Learning Joint Governor Panel will notify the parents, the Headteacher and the LA of their reconsidered decision and the reasons for this. They must also notify the Chair of the LAB and the Governance Manager who, in turn, will report the outcome to the LAB and Academy Trust.

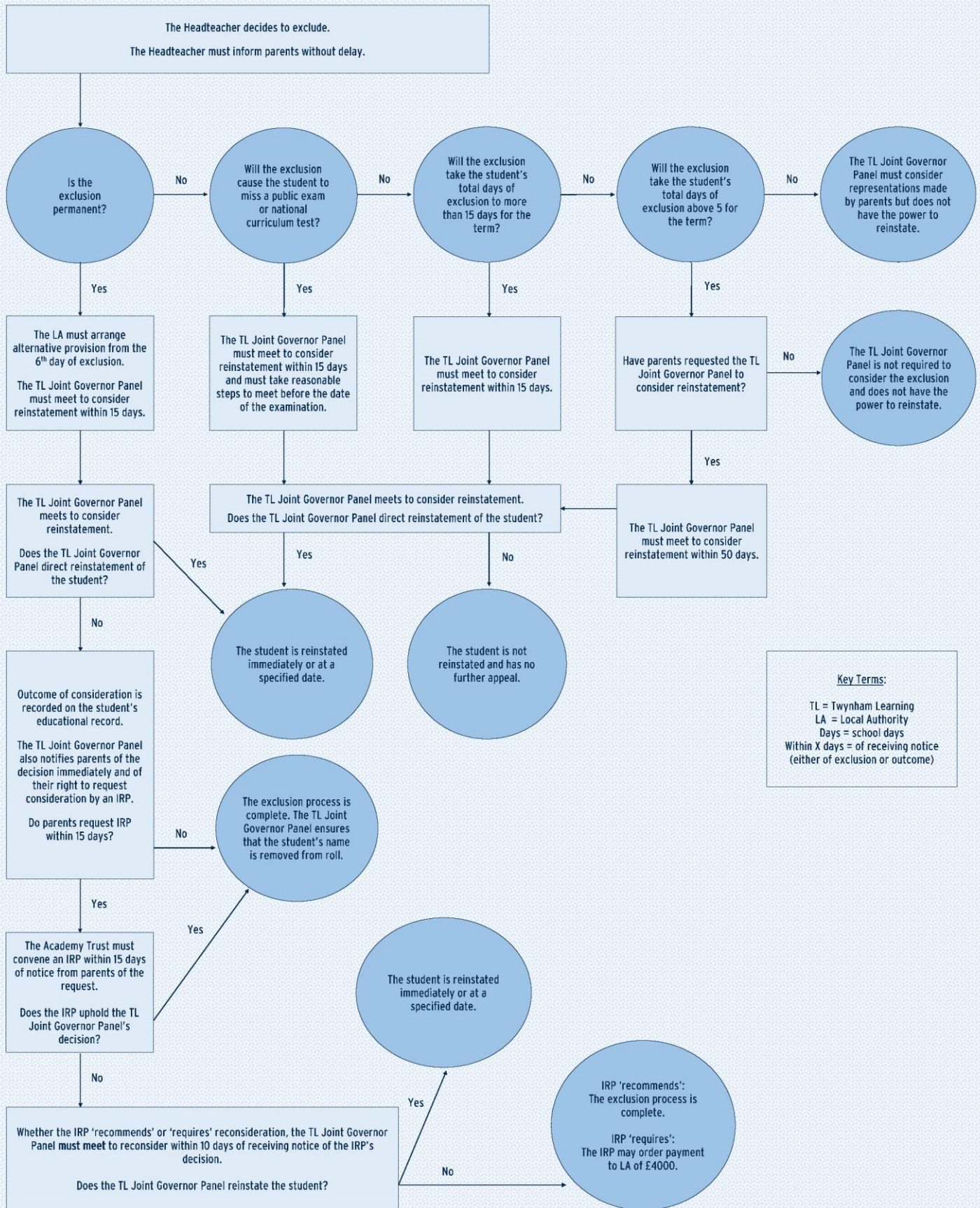
## **Criminal investigations**

The Headteacher will not postpone taking a decision to exclude a student due to a police investigation being underway, or any criminal proceedings that are in place.

The Headteacher will give particular consideration when deciding to exclude a student where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.

If the Twynham Learning Joint Governor Panel is required to consider the Headteacher's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

# Twynham Learning Exclusions Process Flowchart



**Key Terms:**  
 TL = Twynham Learning  
 LA = Local Authority  
 Days = school days  
 Within X days = of receiving notice (either of exclusion or outcome)

## Equality Impact Assessment – Initial Screening Record

1. What policy is being reviewed?

Exclusions Policy

2. Upon whom will this impact?

Students, parents, staff

3. How would the work impact upon groups; are they included and considered?

<b>The Equality Strands</b>	Negative impact	Positive impact	No impact
Minority ethnic groups			✓
Gender			✓
Disability			✓
Religion, faith or belief			✓
Sexual orientation			✓
Transgender			✓
Age (N/A to pre-school and school children)			✓
Rurality			✓

4. Does data inform this work, research and/or consultation, and has it been broken down by the equality strands?

	NO	YES	Uncertain
Minority ethnic groups	✓		
Gender	✓		
Disability	✓		
Religion, Faith or belief	✓		
Sexual Orientation	✓		
Transgender	✓		
Age	✓		
Rurality	✓		

Does the initial screening highlight potential issues that may be illegal? NO

Further comments:-

Do you consider that a full Equality Impact Assessment is required? NO

Initial screening carried out by Fiona Coffin, November 2020, reviewed by [NAME] [DATE].

Comment by CEO: