

## Annex C

### **Serious incidents of misbehaviour leading to fixed period or permanent exclusion**

1. Subject to the exceptions in paragraph 5, the Company shall act and shall ensure that the Principal and Local Governing Body of each Academy act in accordance with the law on exclusions as if each Academy were a maintained school. For this purpose, reference in the law on exclusions to the Head Teacher and Governing Body shall respectively be deemed to be the Principal and Local Governing Body of the relevant Academy.
2. Without limiting the generality of paragraph 1, the Company shall ensure that the Local Authority in which each Academy is located and, where the pupil concerned resides in the area of a different Local Authority, the Local Authority in which the pupil is ordinarily resident is informed of an exclusion decision in the same circumstances, and within the same timescale as a the head teacher of a maintained school is required to inform the Local Authority (or Local Authorities) of an exclusion.
3. Subject to the exception in paragraph 5, the Company shall ensure that each Principal and the Local Governing Body of the Academy have regard to the Secretary of State's guidance on exclusions when excluding, or reviewing the exclusion of a pupil and in relation to any appeals or review process as if each Academy were a maintained school<sup>1</sup>.
4. The Company shall make arrangements for enabling appeals against, or review of any decision of the Local Governing Body to permanently exclude a pupil in accordance with the functions assigned to the Local Authority in relation to a maintained school. The Company shall ensure that appeal/review panels are impartial, and are constituted in accordance with the Secretary of State's guidance. The Company shall comply with any decision of an appeals panel, or direction of a review panel<sup>2</sup>.
5. The exception to the duties imposed under paragraphs 1 and 3 is:
  - the Local Governing Body is not expected to seek the advice of a Local Authority officer when considering an exclusion, although a Local Authority officer may attend any meeting to consider an

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<sup>1</sup>References in this annex to the Secretary of State's guidance are to "Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units", which is published on the DfE website at: <http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/2008guidance/>. The guidance may be subject to amendment, and each Academy is required to have regard to the guidance as it stands at any given time.

<sup>2</sup> A parent may seek a judicial review of a decision of an appeal/review panel relating to their child. A parent of a child excluded from an Academy may not complain to the Commissioner for Local Administration (the Local Government Ombudsman) about maladministration. This is because the Commissioner's remit is limited to considering the conduct of appeal panels constituted by Local Authorities.

exclusion (including an appeal hearing or review) at the request of a parent; and

- subject to the Company's obligations under clause 31 of this Agreement relating to an agreement with the LA on the flow of funds following an exclusion, the arrangements for money to follow pupils who have been permanently excluded from school does not apply.