



Liverpool
City Council

SCHOOL EXCLUSIONS

ADVICE TO HEADTEACHERS

AND CHAIRS OF GOVERNORS

SEPTEMBER 2016

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This guidance is not exhaustive and judgements may well have to take account of the circumstances of the individual case. If such a situation should arise, Headteachers are strongly advised to contact Social Inclusion for clarification or further advice.

INTRODUCTION

The Department for Education (DFE) has issued wide-ranging advice to schools outlining changes in the law on exclusions and giving guidance on the procedures which should be adopted in dealing with exclusion. There is an expectation that Headteachers, governing bodies and Academy trusts will follow the guidance unless there is good reason to depart from it.

The Authority is issuing its own advice to schools on this important matter and it is hoped that Headteachers and Governors will find this information helpful in dealing with what are often difficult and sensitive issues. The DFE website with the full guidance is – www.gov.uk/government/publications/school-exclusion.

A decision to exclude a pupil for a lunchtime, fixed period or permanently should be taken in response to a serious breach of the school disciplinary policy and once a range of alternative strategies have been tried. In exceptional cases a breach of the school discipline policy may leave the Headteacher little alternative but to permanently exclude for a one-off incident.

For the purpose of this document, any reference made to a school should also be deemed to apply equally to an Academy and Pupil Referral Unit, unless otherwise stated.

The term ‘parent’ is used throughout this document to include parents/carers and those with parental responsibility including any person with whom the child lives for example, foster carer. In cases of exclusion where the pupil is 18 or over, ‘pupil’ should be read for parent.

The term Headteacher used throughout this guidance also refers to Academies and PRUs.

For the purpose of this guidance, any reference made to a School Governors’ Committee/ Governors’ Committee should also be deemed to apply equally to a Management Committee of a Pupil Referral Unit, unless otherwise stated. In respect of Academies, any reference to a School Governors’ Committee should also be deemed to apply equally to Board of Directors or the Directors of the Academy Trust Company.

These procedures apply to all maintained Schools including sixth forms which are part of a maintained school, Academies, Free Schools, Alternative Provision Academies and Pupil Referral Units and all pupils in them, including those below or above compulsory school age. They also apply to maintained Nursery Schools.

The requirements related to the provision of education on the 6th day apply only to pupils of compulsory school age.

If the parents of an excluded pupil do not speak or have a good understanding of English, correspondence and documentation relating to the exclusion should be translated. An interpreter should be present at any

meetings with the parent regarding the exclusion. Arrangements for disabled parents should also be made.

If you wish to discuss or clarify any aspect of the exclusion process, please contact the Social Inclusion Team on **225 4970**.

All exclusion cases should be dealt with in the strictest confidence. Only those who need to know the details of an exclusion should be informed of them.

DEFINITION OF EXCLUSION

Exclusion takes place when a pupil is prevented, on disciplinary grounds, from attending the school. A pupil may be removed from school site where there is sufficient evidence that a pupil has committed a disciplinary offence and if allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school. In these circumstances the pupil may be excluded from school for a fixed period or permanently.

The decision to exclude must be made in line with the principles of administrative law i.e. that it is: lawful; rational; reasonable; fair and proportionate.

Types of exclusion

Three types of exclusion are available to Headteachers. These are:

- (i) Lunchtime Exclusion
An exclusion for a lunchtime period counts as a half day and should be counted towards a maximum of 45 days in a school year.
- (ii) Fixed – period exclusions
Short-term exclusions for one or more fixed periods provided that the pupil is not excluded for more

than 45 school days in any one school year and that no public examination will be missed. The 45 day limit **cannot** be exceeded. If a pupil is subject to a number of fixed period exclusions, other strategies should be tried. **The limit of 45 days applies to the pupil not to the school. If in doubt, contact the Social Inclusion Team.**

Days of fixed period exclusion served by the pupil in any school/PRU in the same school year will count towards the total; Individual fixed-period exclusions should be for the shortest time necessary. Schools should have a strategy for re-integrating pupils to school following a fixed period exclusion for managing future behaviour.

- (iii) Permanent exclusions
An exclusion when it is not intended that the pupil return to the same school. The pupil's name should remain on the school roll until the review procedure is completed or until the time to request a review has expired, or earlier if the parents have given notice in writing that they do not intend to request a review.

Exclusions for indefinite or unspecified periods are not permitted, nor are informal arrangements by which pupils are prevented from attending school, until parents agree to meet with teachers to discuss their child's difficulties. Headteachers should not encourage parents to withdraw

pupils as an alternative to exclusion.

THE POWER TO EXCLUDE

Only the Headteacher has the legal power to exclude and this must be on disciplinary grounds. Exceptionally, a member of the school's management team acting in the Headteacher's absence can exclude.

A decision to exclude must be based on the civil standard of proof, which is, '**on the balance of probabilities.**' That is to say, if it is more probable than not that the pupil has done what has been alleged, the pupil may be excluded. However, the more serious the allegation and thus the possible sanction, the more convincing the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard of proof but it does mean that when investigating more serious allegations, Headteachers will need to gather and take account of a wider range of evidence. In some cases this may extend to evidence of the pupil's past behaviour, if relevant to the seriousness of the present allegation.

Headteachers must take account of their legal duty of care when sending a pupil home following exclusion.

For a certain fixed period and all permanent exclusions, it is also the Governors' Committee which has the duty to consider whether or not the exclusion should stand and has the power to direct the Headteacher to reinstate the pupil. See Appendix C.

PRE-EXCLUSION PROCEDURES

Schools should intervene as soon as possible to address emerging behaviour problems and try to identify whether there are any causal factors, learning difficulties or disabilities, and intervene

early thereby minimising the need for permanent exclusion.

Permanent exclusion should be considered as a last resort, in response to a serious breach, or persistent breaches of the school's behaviour policy and where allowing a pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school. Schools should be able to demonstrate that they have taken all reasonable steps and considered alternatives to exclusion to avoid excluding the child e.g. consideration of restorative justice/managed move to another school.

An exclusion should not be enforced, if in doing so, may put the safety of the pupil at risk. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the child.

All schools should have effective policies on behaviour. Such policies should be explicit, widely publicised and be available to parents on request.

Schools must apply their behaviour policies in a consistent, rigorous and non-discriminatory way. All areas of their application must be monitored routinely to satisfy legal requirements under The Equality Act 2010 (as amended).

Headteachers should ensure, through appropriate induction and in-service training programmes, that their staff are adequately trained to promote good behaviour and prevent poor behaviour.

Headteachers should be able to refer pupils at risk of exclusion to alternative or additional provision to meet their individual needs which

could include drawing up an EHAT to engage the support of other agencies. It may be particularly appropriate to carry out an EHAT assessment in cases of multiple fixed period exclusions. The school continues to be responsible for these pupils unless they are permanently excluded.

Children's Services should be informed of any pupils at risk of permanent exclusion in order to monitor and, where appropriate, offer support to schools. See Form – Appendix D.

In cases of cumulative disruptive or disturbed behaviour and persistent offending, likely to lead to exclusion, a school may find a Pastoral Support Programme (PSP) useful.

The PSP could:

- (i) consider the views of staff and the suitability of the curriculum – the adequacy of pastoral care and relationships with staff, parents and other pupils, the appropriateness of previous or further discipline, all relevant records and documentation including that from other schools, the home circumstances;
- (ii) ensure effective liaison with parents;
- (iii) consult with relevant professionals including Education Welfare Officers, Educational Psychologists, Health, Social Services, Voluntary Agencies as appropriate;
- (iv) consider alternative placements e.g. Managed Move;
- (v) contain targets;
- (vi) be reviewed;
and
- (vii) be time - limited.

The Authority accepts that in certain circumstances, such as violent assault, arson, etc., permanent exclusion may be justified even though there is no record of previous misbehaviour or disciplinary action. Such a situation will be exceptional. It is important that all details of actions, outcomes, individuals contacted, etc should be recorded.

Whilst an exclusion may still be appropriate, Headteachers 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 a pupil has suffered bereavement, has mental health issues or has been subject to bullying.

PUPILS WITH SPECIAL EDUCATIONAL NEEDS (SEN)

The Headteacher and Governing Body must take account of their statutory duties in relation to SEN when administering the exclusion process. This includes having regard to the SEN Code of Practice.

DFE Guidance states clearly that:

“Other than in the most exceptional circumstances schools should, as far as possible, avoid permanently excluding pupils with an EHC plan.”

This is because the EHC plan itself provides a more appropriate means of dealing with the problems which may arise in managing a pupil's behaviour before the situation has escalated.

This may include schools seeking Local Authority and other professional advice as appropriate. Where this process has been

exhausted, the school should liaise with Special Educational Needs Team to initiate an 'interim' annual review of the EHC plan.

This review should consider whether the plan should be amended to provide additional support or other arrangements or whether another school or provision should be named in the plan. If either of these options is possible, the Headteacher should normally withdraw the exclusion.

The same process should be applied by mainstream schools regarding any pupil at risk of permanent exclusion that is part way through the process of statutory assessment.

Parents of children with special educational needs might usefully be advised that information on SEN is available through their local SEN Parent Partnership – Liverpool Parent Partnership Service on www.liverpool.gov.uk/parentpartnership

PRE-EXCLUSION MEETINGS

As a final means of averting permanent exclusion, Headteachers should take the initiative, together with other relevant agencies (e.g. Educational Psychologist, etc), where necessary, to meet the pupil in the presence of her / his parents in order to try to resolve the difficulties which the pupil is experiencing.

It is emphasised, however, that these agencies should have been involved at an earlier stage if their intervention is to be of the greatest help.

Attendance of the Chair of Governors or her / his representative and relevant pastoral teacher(s) may be appropriate.

In cases of parental conflict, a meeting may be held on neutral ground at local offices.

PROCEDURES FOLLOWING AN EXCLUSION

Each school, in framing its own code of discipline, should state a procedure for exclusion, explain it clearly in information to parents and pupils and give an indication of the reasons for which exclusion may normally be applied.

EDUCATION FOLLOWING FIXED PERIOD EXCLUSION

The School's obligation to provide education continues and must be met during a fixed period exclusion. Parents are not responsible for making educational provision for their child, but are expected to cooperate with schools in this regard. Where a pupil is given a fixed period exclusion of a duration of six days or longer, the school (but not a PRU) has a duty to arrange suitable full-time educational provision for pupils of compulsory school age from and including the sixth school day to the end of the exclusion: this does not apply to pupils of non-compulsory school age.

Where a child receives consecutive fixed period exclusions, these are regarded as a cumulative period of absence for these purposes. This means that if a child has more than five consecutive days of exclusion, then education must be arranged for the sixth school day of exclusion regardless of whether this is a result of more than one fixed period exclusion.

During the initial period of up to five school days, the parents of the excluded pupil **must** ensure that he/she is not present in a public

place during normal school hours without reasonable justification. This requirement applies whether or not the pupil is in the company of the parent. The pupil may also be removed from the public place by the police and taken to designated premises. Failure to comply with this requirement is an offence. Parents can be prosecuted or may be given a fixed penalty notice of £50 if they fail to do this. The penalty payable increases to £100 if unpaid after 28 calendar days, and if this is still unpaid after 42 days the parent is subject to prosecution for the original offence.

The Headteacher should ensure that work is set for the pupil to complete during the first five school days of the exclusion and that it is marked, unless during that time the pupil will be attending alternative provision.

The Headteacher should also ensure that the parent is fully informed of their duties in the first five days and of the school days on which the pupil will be provided with suitable full-time education and that the pupil must attend that provision and of any sanctions that may be imposed for non-attendance.

The Headteacher should plan to make suitable full-time provision available to the pupil from the sixth day of any fixed period exclusion of six school days or longer. The provision should cover core National Curriculum subjects and should normally be off-site but a school may make provision on-site where arrangements for shared on-site provision have been made jointly with the governing body of at least one other school and is available to excluded pupils from that or those other schools. Provision can also be arranged by having a reciprocal arrangement between schools. For a pupil with a pupil with an EHC plan, suitable full-

time provision must be consistent with what is specified in the plan.

The Headteacher should also plan how the time might be used to address the pupil's problems and what support will best help the pupil's reintegration into school at the end of the exclusion. This may include arrangements for a reintegration interview with a parent of the pupil.

EDUCATION FOLLOWING A PERMANENT EXCLUSION

In the case of a permanent exclusion the pupil remains on the roll of the school until any review is determined; until the time limit for parents to lodge a review has expired without a review being brought; or the parent has informed the Local Authority in writing that no review is to be brought.

During the first five school days of a permanent exclusion the school should send home work for the pupil to complete. During these initial five school days of exclusion parents must ensure that their child is not present in a public place during school hours whether or not the pupil is in the company of the parent without reasonable justification and commit an offence if they do not. The pupil may also be removed from the public place by the police and taken to designated premises.

PENALTY NOTICE

Parents are subject to prosecution or a fixed penalty notice of £50 if they fail to do this. Service of a penalty notice prevents a prosecution being brought during

the time for payment and if the parent pays within that time, they may not be prosecuted. The penalty notice increases to £100 if unpaid after 28 calendar days and if this is still unpaid after 42 days the parent will be subject to prosecution for the original offence. From the sixth school day of a permanent exclusion, the pupils home Local Authority is responsible for ensuring that suitable full-time education is provided for pupils of compulsory school age. If a pupil was reinstated to school by the Governors' Committee then the Local Authority would continue to educate that pupil until the date of return to school.

RECORDING AND NOTIFICATION OF EXCLUSIONS

A parent/carer of a pupil who is under 18, or a pupil over 18, must be informed without delay, ideally by telephone (but may also be by email or text message), followed up by a letter, of the exclusion and the reason for it. If the pupil is Looked After, the Social Worker, as well as the parents / carers should also be notified.

When the parent must be notified in writing depends on when the pupil is excluded.

- Where the pupil is excluded at the end of the afternoon session and the exclusion takes effect from the next school day, notice must be given before the start of that day.
- Where the pupil is excluded in the morning session and the exclusion takes effect from that afternoon, notice must be given before the start of the afternoon session.
- Where the pupil is excluded in the afternoon session and the exclusion takes effect that afternoon, the notice must be given by the end of the afternoon session.

The letter should explain:

- The type of exclusion.
- Why the Headteacher decided to exclude the pupil and steps taken to try to avoid exclusion.
- The arrangements for a pupil to continue her / his education – setting / marking of work (which should be accessible and achievable) and provision of suitable full-time education as appropriate. It is the parent's responsibility to ensure that work sent home is completed and returned to school.
- The parents/carers (or pupil's if over the age of 18) right to make representations to the Governors' Committee and whom to contact (usually the Clerk to the Governors' Committee) and how the pupil may be involved in this.
- The latest date information can be submitted to the Committee and if appropriate, the latest date that the School Governors' Committee must meet.
- The parents' right to see their child's school record, (a reasonable charge may be imposed for photocopying).
- If the exclusion is for a fixed period – the length of the exclusion and the date and time for return to school.
- The school days on which a parent is required to ensure that their child is not present in a public place in school hours without reasonable

justification, that the parent may be prosecuted or given a fixed penalty notice for this offence.

- The school days (or school day from) which the pupil will be provided with alternative suitable full-time educational provision including information about the provision, start, finish times, address and who to report to. In the case of a fixed period exclusion, the parent must be given this information in writing at least 48 hours before the education is to be provided.
- In the case of a permanent exclusion, on receiving details of the provision from the relevant Local Authority, the Headteacher should advise the parents in writing and confirm to the Local Authority that these details have been passed on.
- If appropriate, the parent will be invited to attend a reintegration interview.
- If a fixed period exclusion has been extended or converted into a permanent exclusion, the Headteacher should write again explaining the reasons for the change and providing any additional information required.
- If the exclusion is for lunch times only, the length of the exclusion and any arrangements for providing a meal (if the pupil is in receipt of free school meals) and the right to make written representations to the Governors' Committee (as appropriate).
- If the exclusion is permanent, the letter should include details of previous warnings and other disciplinary measures including

any fixed period exclusions. This may take some time to collate and could be sent as a follow-up letter to the parent.

- A contact in Local Authority who can provide advice.
- **If a pupil lives outside the Liverpool Authority area, the Headteacher must also inform the home Authority of the exclusion.**

Every parent of an excluded child should be sent a copy of the leaflet "*Permanent Exclusions – Advice for Parents / Carers*" and / or '*Fixed Period Exclusions Advice for Parents/Carers.*' As appropriate (Further copies available on EDNet or from the Social Inclusion Team).

- (i) All permanent exclusions, including where a public examination or National Curriculum test will be missed, should be notified within one day to the Social Inclusion Team. The Chair of Governors must also be informed.
- (ii) If a period of exclusion which was originally for a fixed period is made extended or made permanent, it is the duty of the Headteacher to take steps immediately to inform a parent of the pupil of this decision and the reasons for it, and likewise to inform the Local Authority and Governing Body.
- (iii) A Headteacher may withdraw an exclusion which has not yet been reviewed by the School Governors' Committee.

- (iv) A selection of letters which contain all the required information may be used to notify parents can be found in Appendix A of this document.
- (v) Without delay, the Headteacher must inform the Governing Body and the Local Authority of – Permanent Exclusions, exclusions which would result in the pupil being excluded for more than five days (or more than 10 lunchtimes) in any one term and exclusions which would result in the pupil missing a public examination or a national curriculum test.
- (vi) The Local Authority should be informed of all exclusions via download once a term.
- (vii) In addition, within 14 days of a request, governing bodies must provide to the Secretary of State and (in the case of maintained schools and PRUs) the Local Authority information about any exclusion within the last 12 months.

A DECISION TO EXCLUDE A CHILD

Should be taken only:

- (i) In response to serious breaches of a school's discipline policy;
- (ii) After a range of strategies, possibly including a Pastoral Support Programme, has been tried and proven to have failed. The strategies should include the approaches set out in the guidance, including considering whether the child's behavioural difficulties might arise from unmet special educational needs;
- (iii) Where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or of others in the school;

- (iv) Where a pupil's action poses a serious risk to the health and safety of the pupil or others in the school, e.g., serious actual or threatened violence against another pupil or a member of staff, or supplying an illegal drug or carrying an offensive weapon. The Headteacher may wish to exclude a pupil for such an offence even if they have not tried other approaches to modify the pupil's behaviour.

Schools should consider whether or not to inform police where a criminal offence may have taken place. School should also consider whether or not to inform other agencies e.g. Youth Offending Service.

INAPPROPRIATE USE OF EXCLUSIONS

The following are normally inappropriate grounds for exclusion:

- (i) breaches of the school's uniform policy or rules on appearance including hairstyle or the wearing of jewellery except where these are persistent and in open defiance of such rules and all other avenues for resolving the uniform dispute have been resolved;
- (ii) poor academic performance;
- (iii) minor incidents such as failure to do homework or to bring dinner money;
- (iv) to deal with problems of lateness or truancy;
- (v) pregnancy or maternity;

- (vi) punishing pupils for the behaviour of the parents e.g., where parents do not attend a meeting;
- (vii) protecting victims of bullying by sending them home.

Before deciding to exclude, Headteachers should ensure that an appropriate investigation has taken place.

Under the Equality Act 2010, schools must not discriminate against, harass or victimise pupils because of their: gender, race, disability, religion or belief, or sexual orientation; because of a gender reassignment. For disabled pupils all reasonable adjustments to policies and practices should be made.

UNOFFICIAL EXCLUSIONS

Informal and/or unofficial exclusions are illegal regardless of whether they are done with the agreement of parents. If pupils are sent home in response to a breach of discipline, for a 'cooling off' period, even for short periods of time, there is no basis for this in law. This **must** be formally recorded as an exclusion.

In every instance where a pupil is sent home for disciplinary reasons, Headteachers should formally record and specify the length of exclusion and ensure that they meet their legal duty of care towards pupils. Ensuring parents are properly notified if a pupil needs to be removed from site. Safeguarding issues are taken into account and that the pupils' human rights are not contravened. Headteachers should also ensure that work is sent home or alternative provision is arranged.

Further advice on this issue is available on the DFE website.

MONITORING

Schools need to monitor the use of exclusions. The Office for Standards in Education (OFSTED) inspection forms require schools to provide information on the number of exclusions, their duration, and the racial origin, gender and ages of the pupils concerned.

LOCAL AUTHORITY INVOLVEMENT FOR PERMANENTLY EXCLUDED PUPILS

The Local Authority has a primary and Secondary In Year Fair Access Panels (IYFAP) to look for an alternative placement for permanently excluded pupils.

In recommending an alternative placement, the IYFAP will consider:

- (i) The reasons for the exclusion;
- (ii) The age / sex of the pupil;
- (iii) Parental views / representations;
- (iv) Any equal opportunities implications;
- (v) The pupil's address and appropriate placements within the area;
- (vi) Religious preference;
- (vii) Any other relevant or exceptional factors.
- (viii) The responsibilities of the Local Authority in the provision of education for excluded pupils.

In making alternative arrangements the Panel will consider the following options:

- (i) Alternative school placement using the agreed scheme(s) for allocating places;
- (ii) A Key Stage Unit;
- (iii) Assessment for EHC plan;
- (iv) Referral to the Alternative Provision Team

It is anticipated that option (i) will cater for most pupils. Where option (iii) is recommended, then a temporary school placement may be arranged pending the outcome of the assessment.

Where an alternative school placement is proposed (option (i)) this will be done after due consideration of all relevant factors by the IYFAP, which will have formed the view that the option is reasonable, realistic and sustainable.

VOLUNTARY AIDED SCHOOLS AND ACADEMIES

The Authority respects the separate responsibilities of Headteachers and governors of voluntary aided Schools, Academies in determining admission arrangements. However, Headteachers and governors will wish to ensure a consistency of approach across all schools in order to provide equality of opportunity for all pupils regardless of race, sex, culture, religion or belief, sexual orientation, ability or place of residence.

With this in mind, it is the expectation of the DFE that schools within these sectors will also accept agreed protocol of the IYFAP regarding the admission of a pupil.

Headteachers and governors will wish to take into account that, in many cases, parents have chosen specifically to educate their children according to a particular religious denomination and the Authority can only meet parental preferences in this respect with the full co-operation of the schools concerned.

PARENTAL REPRESENTATIONS AND APPEALS

Following either a lunchtime / fixed-period exclusion of more than five days, or a permanent exclusion, parents have the right to make representations to the Governors' Committee.

Governors should give parents the opportunity to make written and oral representation in an atmosphere which avoids excessive formality. This is something best done by a Governors' Committee containing three or five members of the governing body, none of whom should be the Headteacher. The quorum for the meeting is three. In the interests of fairness it is important that the governors considering cases have had no previous involvement with the decision to exclude.

The Governors' Committee should also review the overall use of exclusion in school and have an appointed Clerk to provide advice and carry out administrative procedures ensuring that the Clerk is able to advise the Governors' Committee in an impartial and independent manner.

If the exclusion is fewer than five days, the Governors' Committee

cannot direct re-instatement, but should consider any statement from the parent. The Committee could consider whether any further information should be added to the pupil's school records.

For exclusions of more than five days in a term or where a pupil loses the opportunity to take a public examination or national curriculum test, the Governors' Committee should consider the exclusion if a parent has expressed a wish to make representations and decide whether the pupil should be re-instated.

Governors should consider all exclusions of more than 15 days (whether or not the parent requests).

Guidance from the DFE should be followed. If this guidance was not followed, then re-instatement should be directed.

Permanent Exclusions

The Governors' Committee should meet within time limits set out in the DFE Guidance and as indicated in Appendix C.

Independent Review - (permanent exclusion only)

If the decision of the Governors' Committee is not to re-instate the pupil, the Clerk should write to the parent within one school day giving the reasons for the decision and, in the case of a permanent exclusion, explaining the right of appeal to an Independent Review Panel, stating the last date by which an appeal should be received, the grounds for the appeal and the name and address of the person to whom the parents should write.

In the case of maintained schools and PRUs, this is Ms K Hellon or Mr D Dillon or Ms D Harper, Liverpool City Council, Legal Services, 5th Floor, Cunard Building, Pier Head, Water Street, Liverpool, L3 1DS.

In the case of an Academy, the letter should contain the details of where to send a request for an Independent Review.

See Appendix A for Model Letters informing parents of exclusion.

If a parent wishes to request a review of the decision not to reinstate the pupil then he / she has 15 school days by which to lodge a request for a review stating their reasons.

The pupil should remain on school roll until the outcome of the independent review is known.

The independent review panel will usually meet within 15 school days of receipt of the request.

In the case of maintained schools and PRUs, the independent review is constituted by the Legal Services Team in order that all parties can be assured of the independence of the panel.

LUNCHTIME EXCLUSIONS

Pupils whose behaviour at lunchtime is disruptive may be excluded from school for the duration of the lunchtime period.

Lunchtime exclusions are counted as one half of a school day for statistical purposes.

Lunchtime exclusions should be formally recorded as an exclusion

and should the aggregate exceed five days per term, they should be dealt with in the same way as fixed period exclusions as far as any review is concerned.

Parents must also be notified in writing of the exclusion.

Lunchtime exclusion should not be used for a prolonged period. Another strategy for dealing with the problem should be worked out.

Lunchtime exclusions will not be counted towards the school duty to provide full-time education from day six of a fixed period exclusion.

A lunch time exclusion for an indefinite period is unlawful.

Arrangements should be made for pupils who are entitled to free school meals to be provided with a meal.

N.B. If a parent is unwilling or unable to arrange supervision of their child, it is the responsibility of the Headteacher to ensure that the pupil remains in a safe environment.

LOOKED AFTER CHILDREN

National and local data continues to reflect the under achievement of this vulnerable group of young people. Recognising that education can be key in improving the predicted life chances and experiences for these children, specific educational targets have been set by the Government.

The under-achievement is reflected in higher than normal absence rates as well as a disproportionately high level of exclusion.

Children in the care of the authority should have a Personal Education Plan, which should be an integral part of the **Care Plan**.

All schools should have a **Designated Teacher** to act as a resource and advocate for children and young people in public care. The Designated Teacher has an important role in supporting these pupils in school, to ensure the needs of these pupils are promptly and sensitively met.

It is part of the City Council's responsibility as a **corporate parent** to ensure that the statutory duties are adhered to. The Local Authority is working to ensure that the authority does all that a '**good parent**' would do to ensure that a child in public care has her / his educational needs met by aiming for continuity and stability of the school placement.

Schools are expected to proactively support and cooperate with foster carers and the Local Authority as a corporate parent to do everything possible to avoid excluding Looked After pupils.

The Looked After Children Education Services (LACES) team can be contacted, on **0151 233 3901**

Where a child is subject of a care order the Local Authority that has parental responsibility for the child is entitled to determine to what extent the parents can exercise their parental responsibility.

Anyone who is legally defined as a parent will have the right to make representations and to appeal.

Even where the Local Authority does not have parental responsibility, the child's Social Worker should be informed about any exclusion.

At any exclusion hearing the young person should have a voice and feel they are being listened to.

In the light of these specific responsibilities, it is essential that the exclusion of Looked After Children should be an absolute last resort. Before excluding, the school in conjunction with the Local Authority should first consider alternative options of support for the Young Person.

If difficulties arise, the Designated Teacher should seek advice from the Local Authority. A review should be held which may consider identifying appropriate support arrangements and strategies.

No child in Public Care should be excluded from school without discussion with the Local Authority to ensure that there is suitable alternative provision elsewhere.

Although the Education and Inspections Act 2006 only requires full-time education to be provided from the sixth day of an exclusion, such a break in education will have an impact on the education of children in public care. To ensure minimal disruption, schools and Local Authority should arrange alternative provision from the first day of the exclusion regardless of type.

BEHAVIOUR OUTSIDE SCHOOL

Pupils' behaviour outside school on school business may be subject to the school's behaviour policy. The school's behaviour policy should provide for the circumstances where the school may discipline pupils for bad behaviour outside school, e.g., school trips / work experience placements.

If the behaviour poses a serious threat to a member of the public the police should be informed.

For behaviour outside school but not on school business, a Headteacher may exclude if there is a clear link between that behaviour and maintaining good behaviour and discipline among the pupil body as a whole. This will be a matter of judgement for the Headteacher.

A pupil's behaviour outside school can be considered as grounds for exclusion. This will be a matter of judgement for the Headteacher in accordance with the school's published behaviour policy.

DISABLED PUPILS

Schools have a duty under the Equality Act 2010 (as amended) not to discriminate against pupils due to their sex, race, disability, religion or belief or sexual orientation by excluding them from school because of behaviour. This applies to both permanent and fixed period exclusions.

For disabled pupils, schools should make reasonable adjustments to policies and practices.

Schools are strongly advised to read the Code of Practice available at www.drc-gb.org.

POLICE INVOLVEMENT AND PARALLEL CRIMINAL PROCEEDINGS

A school related incident may also be subject of a police investigation which may result in criminal proceedings. This can mean that the evidence available to Headteachers, Governors' Committee and Independent Review Panels is limited.

A clear distinction should be made between behaviour that is in clear breach of the school's behaviour policies and criminal behaviour.

Criminal behaviour should be reported to the police without delay.

A Headteacher need not postpone the decision to exclude a pupil simply because of the possibility that criminal proceedings might be brought. A judgement must be made on the evidence available. If, having considered the evidence, on a balance of probabilities the Headteacher concludes that it is distinctly more likely that the pupil committed the alleged offence, then the Headteacher may proceed to take a decision on exclusion.

At that stage it would be expected that the pupil would be excluded where it would be appropriate to do so. It may be advisable, where evidence is still coming to light, to make alternative provision. Where it is clear on the balance of probabilities that the pupil committed disciplinary offence but the full circumstances and the seriousness have not yet been established a fixed period exclusion or alternative provision may be appropriate in the first instance.

In cases like this, schools should contact the Local Authority which will take legal advice based on the individual facts in each case.

FACTORS TO CONSIDER BEFORE MAKING A DECISION TO EXCLUDE

The decision to exclude, especially permanently, is a serious one and should only be taken where the basic facts have been clearly established on the balance of probabilities.

Exclusion should not be imposed in the heat of the moment unless there is a threat to the safety of the pupil concerned or the safety of others.

Before deciding to exclude the Headteacher should:

- (i) Ensure a thorough investigation has been carried out – considering all evidence and taking account of the schools behaviour and other policies such as equal opportunity as appropriate.
- (ii) Ensure the pupil's version of events is encouraged and recorded at all stages of the exclusion process (where appropriate with parental permission).
- (iii) Check if the incident may have been provoked, e.g. by bullying etc
- (iv) Consult others as necessary but not anyone who may later have a role in reviewing the Headteachers decision, e.g. a member of the Governing Body.
- (v) The standard of proof to be applied is the balance of probabilities, if it is more probable than not that the pupil did what he / she is

alleged to have done, the Headteacher may exclude the pupil. However, the more serious the allegation, the more convincing the evidence substantiating the allegation should be.

- (vi) Keep a written record of all the actions taken and copies of written records made by other members of staff including any interviews with the pupil concerned. Witness statements must be signed and dated wherever possible
- (vii) Headteachers who interview their pupils, particularly older pupils, who are alleged to have been involved in incidents which could lead to their exclusion should consider making note of the date, time and duration of any interview and a record of any important parts of the conversation. If possible, the pupil should be given an opportunity to confirm that the note is accurate or at least be given the opportunity to express disagreement with the contents.

PARENTING CONTRACTS AND ORDERS

If the school (or Local Authority) considers that parental influence could be better brought to bear in improving the behaviour of the pupil, a parenting contract may be offered. It may help parents take responsibility for their children and strengthen their ability to do so. It provides early intervention to deal with emerging behaviour problems or after an exclusion of any duration. This is a written voluntary agreement between the parent and school (or Local Authority). Parenting contracts are appropriate where the parent is willing to engage with the school (or Local Authority) but is in need of (and will

accept) support to help improve their child's behaviour.

Please contact Social Inclusion Team for further information. Guidance is also available on DFE website.

A school cannot require a parent to sign a parenting contract as a condition of reinstatement, admission or not being excluded. If the parent refuses or fails to engage with the school or Local Authority in attempting to improve the child's behaviour and the requisite standard of misbehaviour in the contract is met, the school or Local Authority may consider applying to the magistrates' court for a parenting order to compel the parent to comply with certain requirements.

MARKING OF ATTENDANCE REGISTERS FOLLOWING EXCLUSION

Information on recording attendance registers following exclusion is available from the DFE Website in the School Attendance area. Advice is also available from the Education Welfare Service. Whilst an excluded pupil's name remains on a school's admissions register the pupil should be marked using the appropriate attendance code. Where alternative provision has been made that meets the requirements of the pupil registration regulations, and the pupil attends it, an appropriate attendance code, such as Code B (Education Off-site) or Code D (Dual Registration), should be used. Where pupils are not attending alternative provision they should be marked absent using Code E.

HEADTEACHERS DUTY TO REMOVE A PERMANENTLY EXCLUDED PUPIL'S NAME FROM THE SCHOOL REGISTER

The Headteacher must remove the pupil's name from the school admissions register if:

- (i) 15 school days have passed since the parents were notified of the governing body's decision to uphold the permanent exclusion and no application has been made for an Independent Review or
- (ii) Where parents have stated in writing that they will not be applying for an Independent Review
- (iii) Where an application for Independent Review has been made then the Headteacher must wait until the review has been determined or abandoned before removing the name from the register
- (iv) Where a pupil's name is removed from the register and a discrimination claim is made, the First-tier tribunal or County Court has the power to direct that the pupil is reinstated.
- (v) Where a pupil's name is deleted from the school admission register then the school must make a return to the Local Authority giving the full name of the pupil, the address of any parents with whom the pupil normally resides and the ground upon which their name is to be deleted from the admission register (permanent exclusion).

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

PARENTAL CO-OPERATION

If a parent does not comply with an exclusion, for example, by sending the excluded child to school, or by refusing to collect, or arrange collection of her/him, including at lunchtime, the school must have due regard for the pupil's safety in deciding what action to take.

An exclusion should not be enforced if doing so may put the safety of the pupil at risk. If efforts to resolve the issue with parents are unsuccessful the school should consider contacting the Education Welfare Service and seek the advice of the Local Authority.

**THE HEADTEACHER'S REPORT – FOR MEETINGS
OF THE GOVERNORS' COMMITTEE**

The Headteacher's report is an important document and should give details of all the relevant information and facts relating to the exclusion. It should contain the reasons for the exclusion, a detailed account of any investigation of the incident backed up by corroborative and reliable evidence.

The report should be sent to the parents and Governors' Committee in advance of the meeting. At least five working days should be given to allow all parties to read and consider the contents of the report in preparation for the meeting.

Exclusion reports are confidential to the parties concerned. Appropriate translation arrangements should be made for parents who need it.

Parents who do not speak English, or do not have a good understanding of English, should be given access to an interpreter or help with literacy.

Included in the documents for circulation should be:

- Handwritten or original signed and dated statements from the offender, the victim and any witness/es. Pupil statements should be anonymised for distribution purposes, but the originals must be brought to any future Governors' Committee;
- The pupil's record;
- Behaviour record (only if breach of school's written behaviour policies are persistent and / or the incident is very serious);
- Evidence of any multi-agency involvement.

An up-to-date PSP or IEP/IBP (as appropriate), which includes:

- all strategies used to manage the pupil's behaviour, indicating realistic and relevant targets set within specified timescales, details of any review and outcomes of each;
- details of any parent / carer involvement;
- details of any parenting contracts or parenting orders;
- details of any SEN statement / assessment, with dates or any action that has not been followed up;
- details of Local Authority and multi-agency support, including Education Psychology Service, with dates;
- evidence that monitoring and reviewing procedures have been followed;
- minutes of relevant meetings;
- if the pupil is considered to have any additional needs and details of meetings and / or referrals.

Headteachers must make sure that the documentation sent out to the parties is identical.

In situations where there is justifiable fear of further reprisals, judgements may well have to be made about whether to withdraw evidence before the Governors' Committee meeting. Please contact Social Inclusion if this case arises.

**ROLE OF THE SCHOOL GOVERNORS'/PRU
MANAGEMENT COMMITTEE**

THE ROLE OF THE GOVERNORS' COMMITTEE

The Governing Body must review certain exclusions. The Governing Body of a maintained school can delegate some or all of its exclusion functions to a Committee which can be called the Discipline Committee. In this Guidance, this will be referred to as the Governors' Committee.

- This Committee, which must have a nominated independent clerk, consists of either three or five members of the Governing Body. There must be at least three members to be quorate. The Headteacher cannot be part of the Governors' Committee.
- The Chair has the casting vote in all cases where an even number of governors are considering the case.
- The Governors' Committee must meet to review the use of exclusion in the school and to consider any permanent exclusion and any fixed term exclusion of more than 15 days in any one term or where a pupil would miss an opportunity to take a public examination or a national curriculum test. They must also consider the views of a parent of an excluded pupil and decide whether or not to confirm exclusions of more than five days in a term only where the parent has expressed a wish to make representations. See table – Review of Exclusions by Governing Bodies – Appendix C.
- If an exclusion would result in a pupil missing a public examination or a national curriculum test, the Governors' Committee should meet before. If, exceptionally, it is not practical for the Governors' Committee to meet then the Chair of Governors may review the exclusion in an emergency but with advice from the Clerk or an LA officer – see DFE Guidance for further details. In such cases parents still have the right to make representations to the Governors Committee and must be made aware of this right.
- Whilst there is no automatic right for an excluded pupil to take an examination or test on the excluding school's premises, the Governors' Committee should consider whether it would be appropriate to exercise their discretion to allow an excluded pupil on the premises for the sole purpose of taking the examination or test.
- If the exclusion is fewer than five days then the Governors' Committee cannot direct reinstatement but must consider any representations from the parent / carer as soon as practicable. The Governor's Committee can place a copy of their findings on the pupil's records.

Meetings to discuss exclusions must meet time limits (see DFE Guidance and Appendix C.)

- Parent(s) have the right to make oral as well as written representations to the Committee.

The meeting of the Governors' Committee should **only** include:

- three or five governors, one of whom will chair the meeting;
- the Headteacher (or the deputy in her / his absence) to explain the reasons for exclusion;
- the parents (or a pupil if aged 18 or over) and a friend / representative (if the excluded pupil is a Looked After Child, the Social Worker **must** also be in attendance);
- the pupil (should be encouraged to attend the meeting and speak if he/she wishes to do so subject to their age and understanding);
- the Local Authority representative (in the case of a maintained school or PRU only);
- In the case of Academies, a parent may invite a representative of the Local Authority to attend a meeting of an Academy Governing Body as an observer, that representative may only make representations with consent from the governing body;
- the Clerk to the Committee;

Staff and Parent Governors should not be part of the Governors' Committee's makeup unless their inclusion is the only way to ensure that the hearing takes place within the necessary timescale. Where they are included, the Chair must inform the parents of the Governor's role and ask whether they object to their attendance.

The Governors' Committee should circulate in advance written statements and a list of who will be present at the meeting to all parties including the pupil if it is known that they are to attend the meeting.

The Governors hearing the case should not have any connection with the pupil, details, prior knowledge of, or involvement in, the incident which could affect their ability to act impartially. If a Governor knows the pupil personally, he / she should not take part in the meeting.

The Governors' Committee should ensure clear minutes are taken of the meeting as a record of the evidence that was considered by the Governors Committee. These minutes should be made available to all parties on request.

Before any hearing –

- the Headteacher must have written to the parent(s) at least five days in advance of the meeting (information should also be sent to the pupil if it is known that they are attending) informing them of the exclusion ensuring that the following information is contained in the letter:

- the type of exclusion, the date it began and the date that the pupil should return to school. If the exclusion is permanent, details of any previous sanctions should be enclosed;
 - the reason for the exclusion;
 - the parents' right to address the Governors' Committee and who to contact;
 - the last date to submit information for consideration by the Governors' Committee;
 - the parental right to a copy of their child's school record;
 - arrangements for the child's education whilst out of school;
 - any written statements including witness statements and a list of those who will be present at the meeting;
 - The Governors' Committee must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded and have regard to the interests of other pupil and people working at the school
- In the case of maintained schools and PRUs - the Local Authority should also be invited to the meeting and be allowed to make oral representations to the Governors' Committee on the appropriateness of the exclusion.
 - The parents and Headteacher must be invited to the meeting.
 - The parents and pupil should be allowed to be accompanied by a friend or representative.
 - The Governors' Committee should identify the steps they will take to ensure that all parties will be supported to participate and have their views properly heard.
 - To consider the exclusion the Governors' Committee should refer to the DFE Guidance.
 - The Governors' Committee should identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on their own behalf (such as providing accessible information or allowing them to bring a friend) taking into account the pupil's age and understanding, or how the excluded pupil may feed in her/his views by other means if attending the meeting is not possible.

- The Governor's Committee can either uphold the exclusion or direct the reinstatement of the pupil immediately or on a particular date.
- If the Governors' Committee decides to reinstate the pupil, the school may discuss short-term support with the Local Authority to assist reintegration, but conditions cannot be attached to the reinstatement.
- Where reinstatement is not practical as, for example, the pupil has returned to school or the parent/carer make it clear they do not want the child reinstated, the Governors' Committee must consider whether the Headteacher's decision to exclude was justified based on the evidence.

All parties, except the Clerk should withdraw before the Governors' Committee make their decision.

If the Governors' Committee decides not to re-instate the pupil, then the parent (pupil if aged 18 or over), headteacher and the LA should be informed, in writing, giving the reasons for the decision without delay.

- In the case of a permanent exclusion, the parent must also be informed of their right of appeal to an Independent Review Panel. The appeal should be lodged within 15 school days of receiving the Governors' Committee's decision. See Appendix A.
- **The Governors' Committee cannot increase the severity of exclusion,** for example the Committee cannot change a fixed period exclusion to a permanent exclusion.
- The Governors' Committee can place a copy of their findings on the pupil's school record.
- The Governors' Committee can only take into consideration the stated reason(s) for the child's exclusion and must not consider any other factors on the child's record unless these are cited as the reasons for exclusion.
- The Governors' Committee should consider whether the Headteacher has complied with the law on exclusions and has had regard to DFE/Local Authority Guidance on exclusions.
- The Governors' Committee can also take into consideration any representations by parents, pupils and the Local Authority Officer
- The Governors' Committee must comply with the statutory time limits but are not relieved of their obligation if they fail to comply. A decision is not invalid simply on the grounds it was out of time.
- The Governors' Committee should apply the balance of probabilities standard of proof and consider whether the decision to exclude was lawful, reasonable and procedurally fair taking account of the Headteacher's duties.

- **No party to the review should be alone with the Governors' Committee at any point before, during or after the meeting.**
- The Governor's Committee should not discuss the exclusion with any party outside of the meeting.
- Claims of discrimination to the First-tier Tribunal or County Court can be made up to six months after the discrimination is alleged to have occurred. Where practicable schools should retain records and evidence relating to the exclusion for at least six months in case a claim is made.

DRUG RELATED EXCLUSIONS

INTRODUCTION

All schools should develop a drug policy in consultation with the whole school community. It should clearly state that illegal and other unauthorised drugs have no place within schools and define any circumstances where authorised drugs may legitimately be in school. It should also cover volatile substances (those giving off vapour) which have the potential for misuse by pupils.

In making a decision on whether or not to exclude for a drug-related incident, the Headteacher should have regard to the school's drug policy and should consult the designated senior member of staff responsible for managing drug incidents.

Permanent exclusion may not be appropriate for some drug related incidents. Where the misuse of authorised drugs is concerned, Headteachers should conduct a careful investigation to judge the nature and seriousness of each incident before deciding what action to take. Factors to consider in determining an appropriate response to a drug-related incident are set out in DFE & ACPO – Drugs Advice for schools.

It is also important to ensure that parents understand the consequences of a breach of the drugs policy.

It is not the Authority's wish to be prescriptive in the type of advice it offers, but rather to assist schools in addressing the issues which are involved.

Each case requires careful individual consideration in line with the school's policy as the young person's future and career aspirations could be affected by the decision and subsequent action.

As a Headteacher / Governing Body you are quite naturally concerned for the safety of all the young people in your care. With regard to decision-making resulting in permanent exclusion of a young person involved in a drug-related incident, this should be dealt with in the same way as a decision to exclude permanently for a bullying, racial or sexual harassment incident that directly affects other young people in the school.

In making a decision whether or not to exclude for a drug related offence, the Headteacher should have regard to the school's published policy on drugs. The decision should also depend on the circumstances of the case and evidence available.

**ARRANGEMENTS FOR MONEY TO FOLLOW
PUPILS WHO HAVE BEEN
PERMANENTLY EXCLUDED FROM SCHOOL**

ARRANGEMENTS

After consultation with representative Headteachers and subject to DFE guidance, the following arrangements have been agreed:

The Local Authority invoices the excluding school from the sixth day following the Headteachers decision to exclude the pupil to the end of the financial year. This is called the relevant date.

If the pupil was reinstated then the remaining proportion of funding would be returned to school with effect from the date of the pupil's reinstatement.

The calculation which is used is
 $A \times (B/52)$

Where A is the amount attributable for the full financial year to a registered pupil of the same age and characteristics of the pupil in question.

B is the number of complete weeks remaining in the financial year calculated from the relevant date.

This will also apply to any pupil premium paid in respect of the excluded pupil.

If a pupil is in a transfer year and the relevant date falls between April and the beginning of the new school year, then funding is removed until the end of the school year rather than the end of the financial year.

**EXCLUSION OF PUPILS FROM HIGH EXCLUDING
GROUPS**

DFE guidance states that –

Exclusion rates for certain groups of pupils are consistently higher than average. This includes, for example, pupils with special educational needs and pupils from certain ethnic groups.

In addition to early intervention, Headteachers should consider what extra support might be needed to identify and address the needs of pupils from these groups in order to reduce their risk of exclusion.

Headteachers need to ensure that disciplinary procedures are applied objectively and consistently across all cultural groups, and to be aware that failure to do so could constitute discrimination under the Equality Act 2010 (as amended).

CULTURAL DIVERSITY

Britain is a multi-cultural society, and to ensure that each pupil is treated equally, schools need to consider how each child's racial, cultural or religious background may affect her or his behaviour in certain situations.

APPENDIX A

MODEL LETTERS INFORMING PARENTS / CARERS OF EXCLUSION

APPENDIX A

FIXED PERIOD EXCLUSION OF NO MORE THAN FIVE DAYS IN ONE TERM (AND WHERE PUBLIC EXAMINATION IS NOT MISSED) (FOR SCHOOLS AND PRUs)

Dear

I am writing to inform you of my decision to exclude (child's name) for a fixed period of (specify period) days. This means that (child's name) will not be allowed in school for this period. The exclusion begins on (date) and ends on (date).

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude (child's name) has not been taken lightly.

May I remind you of my reasons for excluding her / him:-

For pupils of compulsory school age: You have a duty to ensure that your child is not present in a public place in school hours during this exclusion on (specify dates) unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the Local Authority if your child is present in a public place during school hours on the specified dates. If so, it will be for you to show reasonable justification.

We will set work for (child's name) to be completed on the days specified in the previous paragraph as school days during the period of her/his exclusion when you must ensure that he/she is not present in a public place without reasonable justification. (detail the arrangements for this). Please ensure that work set by the school is completed and returned to us promptly for marking.

You have the right to make representations about this decision to the School Governors' Committee/PRU Management Committee if you wish to make representations you should contact (name of contact, address, telephone number, e-mail) as soon as possible. Whilst the Governing Body/PRU Management Committee has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's school record.

If you believe that the exclusion has occurred as a result of discrimination then you may make a claim under the Equality Act 2010 to the First-tier Tribunal (Special Educational Needs & Disability) in the case of disability discrimination or the County Court in the case of other forms of discrimination. This should be lodged within 6 months of the date of exclusion. You can access further information on this issue and how to make an appeal at www.justice.gov.uk/tribunals/send/appeals.

You also have a right to see and have a copy of your child's school record. Due to confidentiality restrictions, you should put any request in writing as soon as possible and there may be a charge for photocopying.

For further information you may wish to contact the Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0808 802 0008 or www.childrenslegalcentre.com. The advice line is open from 8.00am to 8.00pm Monday to Friday, except Bank Holidays and 24 December to 1 January.

Statutory Guidance on exclusions is also available at www.gov.uk/government/publications/school-exclusion.

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(Also provide links to any local services as applicable, for example, Parent Partnership)

I expect (child's name) back in school on (date) at (time).

May I thank you for your support over this matter.

Yours sincerely

Headteacher

APPENDIX A

FIXED TERM EXCLUSION OF MORE THAN FIVE AND UP TO AND INCLUDING 15 SCHOOL DAYS IN ONE TERM (SCHOOLS AND PRUS)

Dear

I am writing to confirm the conversation we had on the telephone with regard to (child's name) and her / his unacceptable behaviour that has led to my decision to exclude her / him from the school for a fixed period of (specify period) days, starting on (date) and finishing on (date). Your child should return to school on (date).

I realise that this exclusion may well be upsetting for you and your family but my decision has not been taken lightly. May I remind you of my reasons for excluding her / him (specify reasons for exclusion).

For pupils of compulsory school age: You have a duty to ensure that your child is not present in a public place in school hours during the first five school days of this exclusion, that is on (specify dates). I must advise you that you may be prosecuted or receive a penalty notice from the local authority if your child is present in a public place on the specified dates without reasonable justification. It will be for you to show that there is reasonable justification for this.

For pupils of compulsory school age: We will set work for (child's name) during the (first 5) school days of her/his exclusion (specify arrangements for this). Please ensure that work set by the school is completed and returned to us promptly for marking.

For pupils of compulsory school age: From the (sixth day of the exclusion – specify date) until the expiry of her/his exclusion we (if PRU, the Local Authority to provide) will provide suitable full-time education. On (date) he/she should attend (give name and address of alternative provider if not the home school) at (specify time) and report to (staff member's name). (If applicable – say something about the transport arrangements from home to the alternative provider). [If this information is not known, say that the arrangements for suitable full-time education will be notified by a further letter].

You have the right to request a meeting of the school's Governors' Committee/PRU Management Committee to whom you may make representations, and my decision to exclude can be reviewed. As the period of this exclusion is more than 5 school days in a term the Governors' Committee/PRU Management Committee must meet if you request it to do so. The latest date by which the Governors' Committee/PRU Management Committee must meet if you request a meeting is (specify date – no later than the 50th school day after the date on which the Governors' Committee/PRU Management Committee were notified of this exclusion). If you wish to make representations to the Governors' Committee/PRU Management Committee, and wish to be accompanied by a friend or representative please contact (name of contact) on/at (contact details – address, phone number, e-mail), as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. Also please inform (contact) if it would be helpful for you to have an interpreter present at the meeting.

If you believe that the exclusion has occurred as a result of discrimination then you may make a claim under the Equality Act 2010 to the First-tier Tribunal (Special Educational Needs & Disability) in the case of disability discrimination or the County Court in the case of other forms of discrimination. This should be lodged within 6

APPENDIX A

months of the date of exclusion. You can access further information on this issue and how to make an appeal at www.justice.gov.uk/tribunals/send/appeals.

You have a right to see and have a copy of your child's school record. Due to confidentiality restrictions, you should put any request in writing as soon as possible if you wish to do so. There may be a charge for photocopying.

If you require any further information, you may wish to contact the Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0808 802 0008 or www.childrenslegalcentre.com. The advice line is open from 8.00am to 8.00pm Monday to Friday, except Bank Holidays and 24 December to 1 January.

Statutory Guidance on exclusions is also available at www.gov.uk/government/publications/school-exclusion.

(Also provide links to any local services as applicable, for example, Parent Partnership)

(Child's name)'s exclusion expires on (date) and we expect her/him to be back in school on (date) at (time).

Again, may I thank you for your support over this matter.

Yours sincerely

Headteacher

FIXED PERIOD EXCLUSION FOR MORE THAN 15 SCHOOL DAYS IN ONE TERM (FROM A SCHOOL AND PRU)

Dear

I am writing to confirm the conversation we had on the telephone with regard to (child's name) and her / his unacceptable behaviour. He / she has left me no choice but to exclude her / him for a period of (specify period) days. This means that (child's name) will not be allowed in school for this period. The exclusion begins on (date) and ends on (date).

I realise that this exclusion may well be upsetting for you and your family but the decision to exclude (child's name) has not been taken lightly. (Child's name) has been excluded for this fixed period because (reason(s) for exclusion).

For pupils of compulsory school age: You have a duty to ensure that your child is not present in a public place in school hours during the first five school days of this exclusion, that is on (specify dates) unless there is reasonable justification for this. I must advise you that you may be prosecuted or receive a penalty notice from the Local Authority if your child is present in a public place on the specified dates. It will be for you to show that there is reasonable justification.

For pupils of compulsory school age: We will set work for (child's name) during the (first 5 school days) of her/his exclusion (specify arrangements for this). Please ensure that work set by the school is completed and returned to us promptly for marking.

For pupils of compulsory school age: From the (sixth day of the exclusion – specify date) until the expiry of her/his exclusion we (if PRU, the Local Authority to provide) will provide suitable full-time education. (Set out the arrangements if known at time of writing, e.g. on (date) he/she should attend (give name and address of alternative provider if not the home school) at (specify time) and report to (staff member's name). (If applicable – say something about the transport arrangements from home to the alternative provider). [If arrangements are not known say that the arrangements for suitable full-time education will be notified shortly by a further letter].

As the length of the exclusion is more than 15 school days in total in one term, the Governors' Committee/PRU Management Committee must meet to consider this exclusion. At the review meeting you may make representations to the Governors Committee/PRU Management Committee if you wish. The latest date on which the Governors Committee/PRU Management Committee can meet is (date here – no later than 15 school days from the date the Governing Body/PRU Management Committee is notified). If you wish to make representations you can be accompanied by a friend or representative, please contact (name of contact) on/at (contact details - address, phone number, e-mail) as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the Governing Body/PRU Management Committee of the time, date and location of the meeting. Please advise if you have special needs or a disability which would affect your ability to attend or take part in a meeting at the school. Please inform (contact name) if it would be helpful for you to have an interpreter present at the meeting.

If you believe that the exclusion has occurred as a result of discrimination then you may make a claim under the Equality Act 2010 to the First-tier Tribunal (Special

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Educational Needs & Disability) in the case of disability discrimination or the County Court in the case of other forms of discrimination. This should be lodged within 6 months of the date of exclusion. You can access further information on this issue and how to make an appeal at www.justice.gov.uk/tribunals/send/appeals.

You have a right to see and have a copy of your child's school record. Due to confidentiality restrictions, you should put any request in writing as soon as possible if you wish to do so. There may be a charge for photocopying.

If you require any further information, you may wish to contact the Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0808 802 0008 or www.childrenslegalcentre.com. The advice line is open from 8.00am to 8.00pm Monday to Friday, except Bank Holidays and 24 December to 1 January.

Statutory Guidance on exclusions is also available at www.gov.uk/government/publications/school-exclusion.

(Also provide links to any local services as applicable, for example, Parent Partnership)

(Child's name) exclusion expires on (date) and we expect her/him to be back in school on (date) at (time).

Again, may I thank you for your support over this matter.

Yours sincerely

Headteacher

APPENDIX A

PERMANENT EXCLUSION FROM A SCHOOL/PRU

Dear

I am writing to confirm the conversation we had on the telephone with regard to (child's name) and her / his refusal to behave in a reasonable manner while at school. As you are aware, we have, with you, attempted to support your child, but sadly this has failed and I am left with no choice but to exclude her / him on a permanent basis from the school.

The Permanent Exclusion will commence on (date) and (child's name) should not come on or near the school premises unless he/she is reinstated by the Governors' Committee/PRU Management Committee.

May I remind you of my reasons for the permanent exclusion (include any other relevant previous history here):-

-
-

For pupils of compulsory school age: You have a duty to ensure that your child is not present in a public place in school hours during the first five school days of this exclusion, that is on (specify the precise dates) unless there is reasonable justification for this. You could be prosecuted or receive a penalty notice if your child is present in a public place during normal school hours on the specified dates. It will be for you to show reasonable justification.

For pupils of compulsory school age: Alternative arrangements for (Child's name)'s education to continue will be made. For the first five school days of the exclusion we will set work for (child's name) and would ask you to ensure this work is completed and returned promptly to school for marking (this may be different if supervised education is being provided earlier than the sixth day). From the sixth school day of the exclusion onwards – i.e. from (specify date) the local authority (give name of the authority) will provide suitable full-time education. (Set out the arrangements if known at the time of writing, if not known say that the arrangements for suitable full-time education will be notified shortly by a further letter).

For pupils of compulsory school age - (Where a pupil lives in a local authority other than the excluding school's local authority): I have also today informed (name of officer) at (name of local authority) of your child's exclusion and they will be in touch with you about arrangements for her/his education from the sixth school day of exclusion. You can contact them at (give contact details).

As this is a permanent exclusion, the Governing Body/PRU Management Committee must meet to consider it. At the review meeting you may make representations to the Governors' Committee/PRU Management Committee if you wish to ask them to reinstate your child to school. The Governors' Committee/PRU Management Committee have the power to reinstate your child immediately or from a specified date, or, alternatively, they have the power to uphold the exclusion in which case you may appeal against their decision to an Independent Review Panel. The latest date by which the Governors' Committee/PRU Management Committee must meet is (specify the date – the 15th day after the date on which the Governing Body/PRU

Management Committee was notified of the exclusion). If you wish to make representations to the Governors Committee/PRU Management Committee and wish to be accompanied by a friend or representative please contact (name of contact) on/at (contact details – address, phone number, e-mail) as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the Governors' Committee/PRU Management Committee of the time, date and location of the meeting. Please let us know if you have special needs or a disability which would affect your ability to attend or take part in the meeting. Also, please inform (contact name) if it would be helpful for you to have an interpreter present at the meeting.

If you think this exclusion relates to a disability your child has, and you think disability discrimination has occurred, you may raise the issue with the Governors Committee/PRU Management Committee.

If you believe that the exclusion has occurred as a result of discrimination then you may make a claim under the Equality Act 2010 to the First-tier Tribunal (Special Educational Needs & Disability) in the case of disability discrimination or the County Court in the case of other forms of discrimination. This should be lodged within 6 months of the date of exclusion. You can access further information on this issue and how to make an appeal at www.justice.gov.uk/tribunals/send/appeals.

You have the right to see and have a copy of your child's school record. Due to confidentiality restrictions, you should put any request in writing as soon as possible if you wish to do so. There may be a charge for photocopying.

I enclose for your information the telephone number of the Social Inclusion Team of the Local Authority who can provide you with further information, the number is **0151 225 4970**.

You may wish to contact the Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0808 802 0008 or www.childrenslegalcentre.com. The advice line is open from 8.00am to 8.00pm Monday to Friday, except Bank Holidays and 24 December to 1 January.

Statutory Guidance on exclusions is also available at www.gov.uk/government/publications/school-exclusion.

(Also provide links to any local services as applicable, for example, Parent Partnership)

Yours sincerely

Headteacher

PERMANENT EXCLUSION

MEETING OF THE SCHOOL GOVERNORS' COMMITTEE/PRU MANAGEMENT COMMITTEE

Dear

SCHOOL GOVERNORS' COMMITTEE MEETING/PRU MANAGEMENT COMMITTEE

I am writing to inform you that arrangements have been made for a meeting of the School Governors' Committee/PRU Management Committee of **(name of school)** to take place at **(time)** on **(day and date)** at the school to consider the permanent exclusion of **(name of pupil)**. You are invited to be present at that meeting together with **(name of pupil)**. You may, if you so wish, bring a friend or someone to represent you at this meeting. .

The following people will be present at the meeting:

e.g.	members of the Governors' Committee/PRU Management Committee,)
	Head teacher plus any other member of staff)
	Officer of the Local Authority) amend
	Clerk to the Committee) as
) applicable

The following written statements are being circulated to all those who will be present at the meeting (enclose copy of information).

For Academies – You can also invite a representative of the Local Authority to attend the meeting as an observer. The representative may only make representations with the Governors' Committee's consent.

For your information the meeting will be conducted as follows:

1. The Chair will introduce all those present and explain the procedure.
2. The Headteacher will give the reasons for the exclusion and describe all the strategies that have been previously used to improve **(name of pupil)**'s, behaviour. You, the Governors and the Local Authority officer (if present) will have the opportunity to ask questions.
3. You and your **(daughter/ son)** will be invited to express your views. Those present will be able to ask questions. If appropriate they may ask your child to withdraw whilst they ask you questions.
4. The Headteacher and you may then sum up your views and all parties, other than the Governors' Committee/PRU Management Committee, will withdraw from the room.
5. The decision and the reasons for it will be confirmed in writing within one school day.

APPENDIX A

Yours sincerely

Clerk to the Governors' Committee/PRU Management Committee

APPENDIX A

SCHOOL GOVERNORS' COMMITTEE/PRU MANAGEMENT COMMITTEE – LUNCHTIME OR FIXED PERIOD EXCLUSION OF FIVE DAYS OR LESS FOLLOWING REPRESENTATION BY PARENT

Dear

LUNCHTIME OR FIXED PERIOD EXCLUSION – (NAME OF PUPIL)

I write to confirm the decision made by **(name of school)** School Governors' Committee/PRU Management Committee meeting on **(day and date)** regarding the lunchtime or fixed period exclusion of **(name of pupil)** following the points you made regarding the exclusion.

Correspondence sent to you prior to the meeting gave details relating to the exclusion **(if applicable: and you were offered the opportunity to make representations)**. A detailed oral and written report was presented to the Committee. **(if applicable: an opportunity was given to all present to ask questions and comment.)**

The Governors considered carefully all the information provided, including the alternative strategies and disciplinary measures already taken in an effort to avoid your child's exclusion. In particular, they considered the effect exclusion could have on **(name of pupil)**'s education.

I can now inform you that the Committee's views on the exclusion are as follows:

Give views

As you will be aware, the Governors' Committee/PRU Management Committee is legally unable to overturn the Headteacher's decision to exclude your child. **(if applicable: However, the meeting gave you the opportunity to express your views on the exclusion.)**

Yours sincerely

Clerk to the Governors' Committee/PRU Management Committee

APPENDIX A

LUNCHTIME OR FIXED PERIOD EXCLUSION OF MORE THAN FIVE DAYS OR PERMANENT EXCLUSION

FOLLOWING MEETING OF SCHOOL GOVERNORS' COMMITTEE/PRU MANAGEMENT COMMITTEE - PUPIL REINSTATED

Dear (name of parent/guardian)

PERMANENT / LUNCHTIME / FIXED PERIOD EXCLUSION – (NAME OF PUPIL)

I write to confirm the decision made at (name of school) School Governors' Committee/PRU Management Committee meeting on (day and date) regarding the lunchtime / fixed period / permanent exclusion of (name of pupil).

Correspondence sent to you prior to the meeting gave details relating to the exclusion and you were offered the opportunity to make representations. A detailed and written report was presented to the Committee and an opportunity was given to all present to ask questions and comment.

The Governors considered carefully all the information provided, including the alternative strategies and disciplinary measures already taken in an effort to avoid your child's exclusion. In particular, they considered the effect exclusion could have on (name of pupil)'s education.

The Governors have decided to reinstate (name of pupil). This means that your daughter/son should return to school on (date) at (time).

The reasons for the Governors deciding to reinstate your child are as follows:

Give reasons

To discuss your child's return to school in more detail, please contact the Headteacher.

Yours sincerely

Clerk to the Governors' Committee

LUNCHTIME OR FIXED PERIOD EXCLUSION OF MORE THAN FIVE DAYS

FOLLOWING MEETING OF SCHOOL GOVERNORS COMMITTEE/PRU MANAGEMENT COMMITTEE EXCLUSION UPHELD

Dear **(name of parent/guardian)**

LUNCHTIME OR FIXED PERIOD EXCLUSION – (NAME OF PUPIL)

I write to confirm the decision made at **(name of school)** School Governors' Committee/PRU Management Committee meeting on **(day and date)** regarding the fixed period / lunchtime exclusion of **(name of pupil)**.

Correspondence sent to you prior to the meeting gave details relating to the exclusion and you were offered the opportunity to make representations. A detailed and written report was presented to the Committee and an opportunity was given to all present to ask questions and comment.

The Governors considered carefully all the information provided, including the alternative strategies and disciplinary measures already taken in an effort to avoid your child's exclusion. In particular, they considered the effect exclusion could have on **(name of pupil)**'s education.

The Governors have decided to support the Headteacher's decision to exclude **(name of pupil)**. They were satisfied that **(name of pupil)** was responsible for the behaviour complained of and that exclusion was the only appropriate sanction available.

The reason for the decision of the Governors Committee to support the decision of the Headteacher to exclude **(name of pupil)** are as follows:

This means that **(name of pupil)** is unable to return to school until the exclusion has been completed on **(date)** at **(time)**.

To discuss your child's return to school in more detail, please contact the Headteacher.

Yours sincerely

Clerk to the Governors' Committee

DECISION OF THE SCHOOL GOVERNORS COMMITTEE/PRU MANAGEMENT COMMITTEE FOLLOWING CONSIDERATION OF A PERMANENT EXCLUSION – EXCLUSION UPHELD

Dear **(Parent / Guardian)**

The meeting of the School Governors' Committee/PRU Management Committee at (school) on (date) considered the decision by the Headteacher to permanently exclude your daughter/son (name of pupil). The School Governors' Committee/PRU Management Committee, after carefully considering the representations made and all available evidence, has decided to uphold (name of pupil's) exclusion.

The reasons for the Governors' Committee/PRU Management Committee decision are as follows:

(Give the reasons in as much detail as possible, explaining how they were arrived at.)

You have the right to apply for a review of this decision to an independent review panel. If you wish to request a review, please notify the Clerk of this.

You must set out the reasons for your review in writing and, where appropriate, this should include a reference as to how you think your child's special educational needs are considered to be relevant to the exclusion.

The request may also include reference to any disability discrimination claim you may wish to make, and send this request for a review and any written evidence to:

Ms K Hellon or Mr D Dillon or Ms D Harper
Liverpool City Council }
Legal Services }
5th Floor } **This is for Maintained school and PRUs only.**
Cunard Building } **Academies must provide their own contact details**
Pier Head }
Water Street }
Liverpool }
L3 1DS }

Telephone: **0151 233 0449 / 0450**

The request for a review must be received no later than (specify the latest – the 15th school day after receipt of this letter). If you have not lodged a request for a review by (repeat latest date), you will lose your right to apply for a review of the decision.

Please advise if you have a disability or special needs which would affect your ability to attend the hearing. Also please inform the Clerk to the Review Panel if it would be helpful for you to have an interpreter present at the hearing.

You have a right whether or not your child has recognised Special Educational Needs, to require the Local Authority or Academy Trust to appoint a Special Educational Needs (SEN) expert to attend the review regardless of whether the school recognises that your child has SEN. There is no cost to you for this.

You must state in your letter if you wish an SEN expert to be appointed to attend the review.

The role of the SEN expert is to provide impartial advice to the Panel about how SEN could be relevant to the exclusion.

Your review would be heard by an Independent Review Panel, which is also empowered to hear disability discrimination claims. If you believe that the exclusion has occurred as a result of discrimination then you may make a claim under the Equality Act 2010 to the First-tier Tribunal (Special Educational Needs & Disability) in the case of disability discrimination or the County Court in the case of other forms of discrimination. This should be lodged within 6 months of the date of exclusion. You can access further information on this issue and how to make an appeal at www.justice.gov.uk/tribunals/send/appeals.

A three member panel will comprise of one serving or recently retired (within the last five years) Headteacher, one serving or recently serving experienced Governor/PRU Management Committee member and one lay member who will chair the meeting.

The Panel will rehear all the facts of your case. If you have fresh evidence to present to the panel you may do so. The Panel must meet no later than the 15th school day after the date your request for a review is lodged. In exceptional circumstances panels may adjourn a hearing until a later date.

In determining your review the panel can make one of three decisions: to uphold the exclusion; to recommend the Governing Body reconsider their decision; or to quash the decision and direct that the Governing Body consider the exclusion again.

You can, at your expense, appoint someone to make written and/or oral representations to the panel. You may also bring a friend to the review.

The arrangements currently being made for (pupil's name)'s education will continue for the time being (specify details here).

I enclose for your information the telephone number of the Social Inclusion Team of the Local Authority who can provide you with further information, the number is **0151 225 4970**.

You may wish to contact the Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0808 802 0008 or www.childrenslegalcentre.com. The advice line is open from 8.00am to 8.00pm Monday to Friday, except Bank Holidays and 24 December to 1 January.

Statutory Guidance on exclusions is also available at www.gov.uk/government/publications/school-exclusion.

(Also provide links to any local services as applicable, for example, Parent Partnership)

Yours sincerely

Clerk to the Governors' Committee/PRU Management Committee

APPENDIX B

GUIDANCE ON PROCEDURE FOR SCHOOL GOVERNORS'/PRU MANAGEMENT COMMITTEE

THIS GUIDANCE AND CURRENT DFE GUIDANCE SHOULD BE AVAILABLE TO GOVERNORS' AND PRU MANAGEMENT COMMITTEES AT THEIR MEETINGS.

SCHOOL GOVERNORS' COMMITTEE/PRU MANAGEMENT COMMITTEE HEARING OF REPRESENTATIONS

- **No party to the review should be alone with the Committee at any point before, during or after the meeting.**
- All written statements in the case of lunchtime, fixed period and permanent exclusion should be circulated to parents in advance of the hearing.
- The Committee must invite the parent, Headteacher and, in the case of maintained schools and PRUs, Local Authority Officer to the meeting at a time and place convenient to all but in compliance with relevant statutory guidelines.
- The Chair of the Committee should ensure that the Headteacher, parent and their representative enter and leave the room at the same time and that the procedure for the hearing is clearly explained.
- The Headteacher is asked to present her / his case giving the reason(s) for the exclusion and the circumstances surrounding the decision to exclude. The Headteacher should also outline the steps taken to try and avoid the exclusion.
- The parent or parental representative will then have the opportunity to question the Headteacher on her / his statements to clarify any points.
- The members of the Governors' Committee/PRU Management Committee may then ask questions of the Headteacher.
- The parent or their representative is then given the opportunity to give their statement to support the case.
- The Headteacher and / or Committee members may then question the parent or representative and the pupil, if present, in order to clarify any of the issues raised.
- The pupil should be encouraged to speak at the meeting.
- In the case of maintained schools and PRUs - Following this the Local Authority officer, if present, will be invited to give the Authority's views on the appropriateness of the exclusion. The Governors' Committee/PRU Management Committee may ask the Local Authority Officer for specific technical advice and advice on alternative educational arrangements if the exclusion is upheld.
- In the case of maintained schools and PRUs, the Local Authority officer should draw the attention of the Governors to issues where there is a lack

of clarity or where more information may be needed or where guidance appears to have been ignored.

- Finally all the parties will be invited to 'sum-up'. Parents should always be given the opportunity to have the "last word".
- The Governors' Committee/PRU Management Committee must be satisfied that all possible strategies have been tried and have failed. The Committee must also consider whether, in the case of a pupil with an EHC plan, the plan should be reviewed rather than resorting to a permanent exclusion.
- The Chair's role is to make sure that all the necessary information has been provided so that the Governors' Committee may make an informed decision on the exclusion.
- Once the Chair is satisfied that the parties involved have completed their presentation, he / she will close the meeting and ask everyone, apart from the Committee members and clerk, to leave the room.
- The Governors' Committee/PRU Management Committee, under the guidance of the Chair should consider all the evidence they have heard and decide, if appropriate, whether to reinstate the pupil. In reaching their decision the Governors' Committee/PRU Management Committee should:
 - Consider the parent's, pupil's and, if appropriate, the Local Authority's statements;
 - Have regard to the guidance on the appropriate use of exclusion in the DFE's guidance.
 - In the case of lunchtime or fixed period exclusions, consider whether the Headteacher has tried sufficient approaches to improve a pupil's behaviour before resorting to exclusion;
 - In the case of permanent exclusion, satisfy itself that all possible strategies to improve a pupil's behaviour were tried and failed. Strategies should include those in the DFE's guidance;
 - Where allegations of misconduct against the pupil is in dispute the Governing Body should apply the balance of probabilities standard of proof.
 - When reviewing an exclusion, the Governors' Committee/PRU Management Committee should not interpret a parent's acceptance of full-time education off-site as signalling an agreement with the Headteacher's decision to exclude their child. Parents still have a right to make representations to the Governors' Committee/PRU Management Committee and this right is not affected in any way by the requirement for suitable full-time education to be provided from the sixth day of the exclusion.

Governors can only make one of two decisions:

- Uphold the Headteacher's decision to exclude the pupil;
- Reinstate the pupil immediately (or at a future date) unless the exclusion is for 5 days or less in one term.

If a Headteacher has not used exclusion in line with the guidance by the DFE, the Governors' Committee/PRU Management Committee should normally direct reinstatement.

It is good practice, wherever possible, to communicate the decision to the parents by telephone immediately following the meeting.

The decision, and the reasons for the decision, must be communicated to the parents (or the pupil if aged 18 or over), the Headteacher and Local Authority in writing within **one school day** of the meeting. Where a pupil resides in a different Local Authority from the one that maintains the school, the Governors' Committee/PRU Management Committee must also inform that Local Authority.

If the pupil is reinstated, no conditions may be attached to the reinstatement. This does not prevent a school from following good practice in reintegrating the pupil.

A copy of the Governors' Committee/PRU Management Committee's decision letter should normally be placed on the pupil's school record with copies of relevant papers. Exclusions can only be expunged from the pupil's school record through direction from the courts or rectification of personal data. Even where the exclusion has been overturned, a record of the decision of the exclusion hearing should be placed on the pupil's file; it cannot then be removed.

Where reinstatement is not a practical option (for example, because the child has returned to / found another school) or where the parents do not wish to child to be reinstated, Governors should consider whether the exclusion was justified.

In cases where a pupil comes before a Governors Committee/PRU Management Committee a number of times, it will not always be possible to have 'new' Governors. The guiding principle has to be that the same Governors feel able to look afresh at the case. In such cases it is advisable that the same Governor does not act as Chair of the meeting and that there are one to two Governors who have no previous involvement.

APPENDIX C

FLOWCHART FOR PROCEDURES FOLLOWING LUNCHTIME, FIXED PERIOD AND PERMANENT EXCLUSIONS

REVIEW OF EXCLUSIONS BY GOVERNING BODIES

LENGTH OF EXCLUSION	WILL THE GOVERNORS AUTOMATICALLY REVIEW THE EXCLUSION?	CAN THE PARENT MAKE WRITTEN REPRESENTATIONS TO THE GOVERNORS?	CAN THE PARENT MEET WITH THE GOVERNORS AND MAKE REPRESENTATIONS IN PERSON?	TIME LIMIT	OUTCOME OF THE MEETING	
					GOVERNORS HAVE POWER TO:	GOVERNORS DO NOT HAVE POWER TO:
Total 5 school days or less in one term	NO The Governors will not automatically review the exclusion.	YES The Governors must consider any of the parent's written points about the exclusion.	MAYBE Governors can agree to meet with the parent if the parent requests this, but they do not have to.	No time limit for the meeting but Governors should consider responding promptly.	<ul style="list-style-type: none"> ■ Decide whether or not the Head was justified in excluding the pupil and note their views on the pupil's record. ■ Include copies of other relevant papers on the pupil's record, e.g. the pupil's version of the incident or the parent's statement. 	<ul style="list-style-type: none"> ■ Reinstate the pupil. ■ Erase the exclusion from the pupil's record.
Total 5½ - 15 school days in one term	NO The Governors will not automatically review the exclusion. But they must meet if the parent requests it, even if the parent does not attend.	YES The Governors must consider any of the parents written points about the exclusion.	YES But the parent has to request a meeting with the Governors.	The Governors must meet within 50 school days after they receive the parent's request.	<ul style="list-style-type: none"> ■ Decide whether or not the Head was justified in excluding the pupil and note this on their school record. ■ Consider whether the Head followed the guidance. ■ Reinstate the pupil immediately or by a particular date. 	<ul style="list-style-type: none"> ■ Erase the exclusion from the pupil's record. ■ Change the severity of the exclusion.
Total 15½ school days or more in one term	YES the Governors will automatically review the exclusion.	YES The Governors must consider any of the parent's written points about the exclusion.	YES The Governors must invite the parent to their meeting.	The meeting must be held no later than 15 school days after the Governors receive information about the exclusion from the Head. The Head should inform the Governors of the exclusion within one school day.	<ul style="list-style-type: none"> ■ Decide whether or not the Head was justified in excluding the pupil and note this on their school record. ■ Consider whether the Head followed the guidance. ■ Reinstate the pupil immediately or by a particular date. 	<ul style="list-style-type: none"> ■ Erase the exclusion from the pupil's record. ■ Change the severity of the exclusion.
Permanent exclusion	YES The Governors will automatically review the exclusion.	YES The Governors must consider any of the parent's written points about the exclusion.	YES The Governors must invite the parent to their meeting.	The meeting must be held no later than 15 school days after the Governors receive information about the exclusion from the Head. The Head should inform the Governors of the exclusion within one school day.	<ul style="list-style-type: none"> ■ Decide whether or not the Head was justified in excluding the pupil and note this on their school record. ■ Consider whether the Head followed the guidance. ■ Reinstate the pupil immediately or by a particular date. 	<ul style="list-style-type: none"> ■ Erase the exclusion from the pupil's record. ■ Change the severity of the exclusion.
Any exclusion which will result in the pupil missing a public exam or national curriculum test	YES The Governors will automatically review the exclusion.	YES The Governors must consider any of the parent's written points about the exclusion.	YES The Governors or the Chair must invite the parent to their meeting / review.	The meeting should be before the date of the exam . If this is not possible, the Chair of Governors can review the exclusion alone.	<ul style="list-style-type: none"> ■ Decide whether or not the Head was justified in excluding the pupil and note this on their school record. ■ Consider whether the Head followed the guidance. ■ Reinstate the pupil immediately or by a particular date. ■ Allow the pupil into school just to take the exam. 	<ul style="list-style-type: none"> ■ Erase the exclusion from the pupil's record. ■ Change the severity of the exclusion.

APPENDIX D

**FORM FOR COMPLETION FOR PUPILS
AT RISK OF PERMANENT EXCLUSION**



Notification Form
PUPIL 'AT RISK' OF PERMANENT EXCLUSION

PUPIL DETAILS

Pupil Name:		Parent/Carer name:	
Home Address:		& address (if different):	
Unique Pupil No (UPN):		Telephone number:	
Date of birth:	Year Group:	Does this pupil have SEN:	
Is the young person Looked After? Yes <input type="checkbox"/>	No <input type="checkbox"/>	Gender: Female <input type="checkbox"/>	Male <input type="checkbox"/>
Cultural Background: (please use SIMS or most appropriate category)			

SCHOOL DETAILS

School Name:	School telephone no:
Key or named teacher:	Contact telephone no:
Email address:	

NATURE OF CONCERNS

Classroom disruption		Problems with aggression	
Problems out of class		Attendance/truancy problems	
Problems with teachers		SEN concerns	
Problems with peers		Poor home/school relationship	
Other (please specify)			

CURRENT POSITION

Pre-exclusion warning Pastoral staff Head Governors

No. of fixed-period exclusions

Other (particular to your school) _____

IS A PASTORAL SUPPORT PLAN:

ALREADY IN PLACE / CURRENTLY BEING SET UP?

(please delete as appropriate)

STRATEGIES USED	SUCCESS RATING (please tick)		
	POOR	SOME HELP	GOOD
Report card / Target sheet			
Counselling 1:1			
Involving parents / carers			
Sanctions (please specify)			
Rewards (please specify)			
Other (please specify)			
Negotiated transfer			

DATE OF 'AT RISK' NOTIFICATION _____

DATE PASTORAL SUPPORT PLAN WAS STARTED _____

(Only if different from above, i.e. it has been in place for some time already)

DOES THIS PUPIL HAVE AN EHAT IN PLACE YES/NO

<p>Signed: _____ Date: _____</p> <p>Please print name: _____</p> <p>Designation: _____</p>	<p>Please return to: Social Inclusion Team Children's Services Brougham Terrace 1-7 West Derby Road Liverpool L6 1AE Tel: 0151 225 4970 Fax: 0151 225 6039 E-mail: geraldine.irish@liverpool.gov.uk</p>
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APPENDIX E
HEARING OF THE INDEPENDENT
REVIEW PANEL

PARENTAL REQUEST TO AN INDEPENDENT REVIEW PANEL

In the case of permanent exclusion, a parent has the right to request a review of the decision to an Independent Review Panel, even if they did not attend the meeting of the Governors' Committee.

In the case of maintained schools and PRUs, the Independent Review Panel is set up by the Local Authority.

In the case of Academies, the Independent Review Committee is set up by the Academy Trust.

The role of the Panel is to review the Governors' Committee decision not to reinstate a permanently excluded pupil. In reviewing the decision the panel must consider the interests and circumstances of the excluded pupil and have regard to the interests of other pupils and people working at the school.

The Panel operates according to the principles of natural justice.

The panel must have three or five members. One / two Headteachers or individuals who have been a Headteacher within the last 5 years. One / two serving or recently serving experienced Governor who was a Governor for 12 consecutive months in the last 5 years but must not be or have been (in the last five years) a teacher or Headteacher. One lay member who has not worked in any school in a paid capacity disregarding any experience as a school governor or volunteer.

It is important that in all cases Panel Members should be from the same phase of education as the school to which the case refers and wherever possible should reflect the type of school

A clerk would also be present to provide an independent source of advice on procedure for all parties.

Whether or not a school recognises that a pupil has special educational needs, all parents/carers have the right to request a SEN expert to attend the Independent Review Panel. The SEN expert's role is analogous to an expert witness, providing impartial advice to the Panel about how SEN might be relevant to the exclusion, for example whether the school acted reasonably in relation to its legal duties when excluding a pupil. The SEN expert should base their advice on the evidence provided to the Panel.

In the case of maintained schools or PRUs - the Local Authority may consider whether the Panel should have an independent source of legal advice (usually from the Local Authority Legal Services Department).

The Independent Review Panel must meet within 15 school days of the date a parent lodges an appeal.

The following people are entitled to make written representations, appear, make oral representations and to be represented (including legally):

- the parent (or pupil if aged over 18)
- The pupil who may speak on their own behalf
- the headteacher
- the Governing Body
- In the case of maintained schools and PRUs - a nominated Local Authority Officer

The DFE expect that either the Headteacher or School Governors' Committee/PRU Management Committee to be represented, or both to be jointly represented rather than the Headteacher and School Governors' Committee/PRU Management Committee being separately represented.

If either the Headteacher or School Governors' Committee/PRU Management Committee wish to bring more representatives (or friends) than one each, they should inform the Clerk to the Panel who would seek the Panel's agreement in advance, having regard to a reasonable limit on the numbers attending the hearing.

All parties may put forward new evidence about the event that led to the exclusion, including evidence that was not available to the Headteacher or the Governors' Committee/PRU Management Committee. All parties should be given the opportunity to respond to any new evidence. However, the school may not introduce new reasons for the exclusion.

The Governing Body/PRU Management Committee may wish to call witnesses who saw the incident that gave rise to the exclusion. These may include the alleged victim or a teacher other than the Headteacher who investigated the incident and interviewed the pupils. A teacher may be accompanied by a friend or a representative.

The Panel cannot compel witnesses to attend the hearing.

In the case of witnesses who are pupils of the school/PRU, it would normally be more appropriate for the Panel to rely on written statements. Pupils may appear as witnesses if they do so voluntarily and with their parent's consent.

In considering an appeal, the Independent Review Panel should decide whether the pupil actually did what they are accused of doing.

If satisfied on the balance of probabilities that the pupil did what they are alleged to have done, then the panel should decide whether permanent exclusion is a reasonable response.

FACTORS FOR THE PANEL TO TAKE INTO ACCOUNT:

- Was permanent exclusion used in accordance with the latest published DFE guidance.
- The broader interests of other pupils and staff in the school
- The school's published discipline policy and any other school policies, as appropriate.
- The fairness of the permanent exclusion in relation to the sanctions imposed on any other pupils involved
- If there is a claim of disability or another form of discrimination the Panel must consider this in light of legislation
- Where present, the Panel must have regard to the SEN expert's view of how SEN might be relevant to the exclusion.

THE PANEL'S DECISION

The panel will make one of the following decisions:

- Uphold the decision of the Headteacher to exclude;
- Recommend the Governors' Committee reconsider their decision;
- Quash the decision and direct that the Governors' committee consider the exclusion again.

The decision of the Independent Review Panel is binding on all parties.

An Independent Review Panel does not have the power to direct a Governors' Committee to reinstate an excluded pupil. However where a Panel decides that a Governors' Committee decision is flawed when considered in light of the principals applicable on application for judicial review, it can direct the Governors' Committee to reconsider its decision. If the Governors' Committee does not subsequently offer to reinstate a pupil, the Panel will be expected to order that the school makes an additional payment of £4,000.00. This will go to the Local Authority towards the cost of providing alternative provision.

EXAMPLES OF INFORMATION WHICH COULD BE PROVIDED TO AN INDEPENDENT REVIEW PANEL

If a parent requests an Independent Review the school will be asked for evidence of the pupil's misbehaviour leading to the exclusion, the steps taken

to address the behaviour and earlier actions taken to avoid the permanent exclusion.

Information that may be requested by the Clerk of the Independent Review Panel:

- A report (signed and dated) giving the reasons for the permanent exclusion
- A copy of the school behaviour policy, rules, code of conduct with the date it was drawn up, date of review and date parents / pupils were informed that the Governors' Committee would have reasonably been expected to take account of in reaching their decision.
- The decision of the Governors' Committee.
- A copy of the parent's application for a review
- Copies of any evidence.
- A review of the pupil's achievements and conduct including sanctions and records of previous incidents.
- An account of strategies employed to improve behaviour.
- An account of any meetings with parents to discuss behaviour and copies of any correspondence.
- A copy of home – school agreement or any parenting contract.
- The pupil's recent school reports.
- Any physical evidence (if practicable), photographs or signed witness statements.
- A copy of the letter informing the parents about the permanent exclusion.

The Clerk will also request the following documents from the Chair of Governors:

- A copy of the Minutes from the meeting of the Governors' Committee
- A short report on behalf of the Governing Body indicating the reasons for the Governors' Committee's support of the Head Teacher's decision to permanently exclude this pupil.
- A copy of the letter to the parent informing them of the Governors' Committee's decision to uphold the Head Teacher's decision.

All witness statements must be attributed, signed and dated, unless the school has good reason to wish to protect the anonymity of pupils, in which case they should at least be dated. The general principle remains that an accused person is entitled to know the substance and the source of the accusation. The Panel will consider what weight to attach to written statements, whether made by adults or pupils, as against oral evidence. A

written statement may not encompass all the relevant issues, nor can the author be questioned.

The calling of character witnesses is at the discretion of the Independent Review Panel but should be allowed unless there is good reason to refuse. It is for the Panel to decide whether any witnesses should stay for the rest of the hearing.

THE GOVERNORS' COMMITTEE'S DUTY TO RECONSIDER AN EXCLUSION DECISION FOLLOWING A REVIEW

Where a Panel directs a Governors' Committee to reconsider, it has the power to order that a readjustment of the school budget be made or (in the case of Academies) that the school must make the equivalent payment to the Local Authority if the Governors' Committee does not offer to reinstate the pupil within 10 school days of receiving notice of the Panel decision. The sum of the adjustment/payment must be £4,000.00 and would be in addition to any funding that would normally follow an excluded pupil.

The Governors' Committee must reconvene within 10 school days of being given notice of the Panel's decision.

If following a direction to reconsider, the Governors' committee does not offer to reinstate the pupil, the payment/adjustment must be made to the Local Authority.

If the Governors' Committee offers to reinstate the pupil within the specified timescale but this is declined by the parents/carers, no readjustment would be made to the school's budget.

The Governors' committee must comply with any direction of the Panel to place a note on the pupil's educational record. This includes noting that, where a pupil is not reinstated following a direction to reconsider, the exclusion does not count towards the rule that an admission authority may refuse to admit a child who has been excluded twice; or in the case of a community or voluntary controlled school, the governing body may appeal against the decision of the Local Authority as the admission authority to admit the child.

In the case of a recommended or directed reconsideration, the Governors' Committee must notify the following people of their reconsidered decision and the reason for it, in writing and without delay:

- The parents;
- The Headteacher
- The local authority and, where relevant, the 'home authority'.