



**Brentnall Academy**

The best in everyone™

Part of United Learning

# **Exclusion Policy**

## Introduction

The current DFE guidance to be followed in relation to exclusion from school was published in June 2012 and relates to all exclusions which occur from 1 September 2012. In this policy reference to 'exclusion' includes both fixed term and permanent exclusions. Where the policy is referring to a specific type (i.e. fixed term or permanent) of exclusion, the wording will make this clear.

Principals, Local Governing Bodies, United Learning, independent review panel members and clerks, and SEN experts must by law have regard to this guidance when deciding:

- whether to exclude a pupil;
- whether to uphold an exclusion;
- whether to direct reinstatement;
- whether to recommend or direct that the governing body considers the exclusion again.

Schools must have policies, procedures and staff training in place that will promote good behaviour. Behaviour policies must be widely publicised so that pupils, parents and all school staff are aware of the standards of behaviour expected and the range of sanctions.

Exclusion is recognised as an appropriate sanction, however permanent exclusion should only be used as a last resort when a range of other strategies have been tried and exhausted. Most exclusions are the result of persistent breaches of the schools discipline policy. A permanent exclusion for a serious breach (e.g. a one-off or first offence) should only happen in the most serious of circumstances.

Maintained schools and academies have the power to direct a pupil off-site for education to improve his or her behaviour. A pupil can also transfer to another school/academy as part of a 'managed move'. The latter requires the consent of the parent/carer.

This policy provides an overview of the exclusion process. It should be read alongside current DFE Exclusion Guidance, which should be followed in all cases. Advice and support with regard to exclusion from school is available from central office.

Any decision of a school or academy in relation to exclusion must be made in line with the principles of the Human Rights Act – that it is lawful, rational, reasonable, fair and proportionate. Any reference in this policy to parent(s) includes all those with parental responsibility.

## Exclusion from school

In some circumstances, schools have agreed to participate in what are known as Fair Access Panels (FAPs) which are local agreements between schools and local authorities that significantly reduce or eradicate the need to permanently exclude pupils. Where a school is part of such an arrangement, the sections of this policy that refer to permanent exclusion are effectively redundant, but have been retained in case a particular FAP agreement ceases to operate. There are two types of exclusion:

### **1. Fixed term exclusion**

This is an exclusion for a **fixed number of days**. The pupil must remain at home up to the first 5 days (during which time the school should take reasonable steps to set and mark work for the pupil). For a fixed term exclusion of more than 5 days, full time education provision commences from the 6th day and must be organised by the excluding school. A pupil may not be excluded for more than 45 days in a school year. A pupil is entitled to return to school once the period of exclusion has ended.

A pupil may be excluded during **lunchtimes** for a **fixed number of days**. Each lunchtime exclusion is equivalent to half a day's fixed term exclusion. Arrangements will be made to provide a lunch if the pupil is entitled to free school meals.

### Reintegration

Our aim is for children to be in their classes learning with their peers as soon as they are safe to do so. Children will always have a reintegration meeting before returning to their class. This is a supportive meeting to help plan and support how a child can be successful at meeting the school behaviour expectations. This may include individual behaviour plans which would be reviewed in small steps throughout the day to focus on the successes they have achieved.

### **2. Permanent Exclusion**

This is where the Principal's intention is that the pupil should not be allowed to return to the school. The decision should only be taken if:

- (a) the pupil has committed a serious breach or persistent breaches of the school's behaviour policy; and
- (b) allowing him/her to remain in the academy seriously harms the learning or welfare of the pupil or others in the school;

In most cases, this will be after a wide range of alternative strategies have been tried without success. However, there will be exceptional circumstances

where, in the Principal's judgement, it might be appropriate to permanently exclude a child for a single serious breach (one-off or first offence). Examples of misconduct that might be considered as a serious breach are set out in Appendix 1.

### **3. Unofficial exclusions**

Formal exclusion is the only legal method of removal if a pupil is sent home for disciplinary reasons (including lunch times). "Informal or unofficial exclusions are unlawful" regardless of whether they are done with the agreement of parents or carers.

## **The decision to exclude**

### **1. General Advice**

Only the Principal, (or, in their absence, the acting Principal or teacher in charge) can exclude a pupil. The Principal may consult others, but not anyone who may later have a role in reviewing the Principal's decision.

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

The exclusion process falls into **three stages**:

1. Decision by the Principal to exclude
2. Consideration of the Principal's decision by the Local Governing Body (LGB), usually delegated to a Behaviour Committee
3. [In the case of a permanent exclusion, and only if requested by parents], consideration of the Principal's decision by an Independent Review Panel.

The initial decision on whether to exclude is therefore for a Principal to take. Where practical, Principals should ensure that a thorough investigation has been carried out and allow and encourage pupils to present their case before taking the decision to exclude. Establishing facts are to be decided on the balance of probabilities.

Whilst exclusion may still be an appropriate sanction, Principals 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 or provocation.

Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have. Principals should also consider the

use of a multi-agency assessment (including CAF) for pupils who demonstrate persistent disruptive behaviour. Such assessments may pick up unidentified special educational needs but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems.

As part of considering each permanent exclusion, **the Principal must consult with the Managing Director** United Learning (or delegated executive) **before** the decision is reached and the case presented to the Behaviour Committee

## **2. Fixed Term or Permanent**

In many cases investigation may not be immediately possible if, for example, the incident is complex and a number of witness statements are required.

In this case, a Principal may issue a fixed term exclusion for a short period (a maximum of 5 school days is advised):

- to allow investigation to take place;
- to give opportunity for a reasoned decision.

In this case the letter informing of the fixed term exclusion should clearly state that the reason for the fixed term exclusion is **"to allow investigation into an incident which may result in permanent exclusion"**. The letter should not state that the fixed term exclusion is, in itself, punishment for the incident under investigation. Once the investigation is complete, a further letter should be sent containing one of the following;

- notification for the pupil to return to school;
- an extension to the fixed term exclusion;
- notification of a permanent exclusion.

In exceptional cases, usually where further evidence, not available at the time of the investigation, has come to light a fixed term exclusion may be extended or converted to a permanent exclusion. Similarly, a Principal may choose to withdraw an exclusion in the light of new evidence.

## **3. Pupils from vulnerable groups**

### **Pupils with Special Educational Needs (SEN)**

Schools and governing bodies have a statutory duty to do their best to ensure that the necessary provision is made for any pupil who has SEN and to avoid excluding permanently any pupil with a statement of SEN. Where a pupil has a statement of SEN and is at risk of exclusion, schools should consider an early annual review or interim/emergency review.

### **Equality Duty**

The law places a general duty on academies and maintained schools, in the exercise of their functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010.

Furthermore such schools must advance equality of opportunity and good relations between people of different groups (for example different races, those with a disability and those without, age, gender) and foster good relations between all people.

The law also places a number of specific duties on schools, including duties to assess the impact of policies and to monitor the operation of those policies on pupils, parents and staff in the context of the public sector equality duty.

### **Disabled Pupils**

Schools have a legal duty under the Equality Act 2010 not to discriminate against disabled pupils by excluding them from school because of their disability. This applies to permanent and fixed term exclusions.

### **Race Relations**

The need to eliminate unlawful racial discrimination, the advancement of equality of opportunity and good relations between people from different racial groups is set out in the public sector equality duty.

### **Looked After Children**

Looked After Children are at risk of low attainment in school and exclusion. Schools should be especially sensitive to exclusion issues where Looked After Children are concerned. Schools should try every practicable means to avoid exclusion.

## **4. Behaviour outside School**

An academy has the right to make decisions about behaviour taking place on trips, outings, sporting fixtures, or travel/movement in the vicinity of the academy. Subject to the requirements of this policy, the Principal (or designated teacher in charge) may exclude students even if the circumstances giving rise to exclusion occur when the student is out of school. Schools' own policies should make clear how this operates in practice, in line with the DfE guidance.

## **5. Police Involvement and Parallel Criminal Proceedings**

The process of exclusion from school and criminal proceedings can and should run parallel. However, in certain circumstances it may be appropriate for a decision to permanently exclude to be postponed if a police investigation has not been concluded. In such circumstances, an extended fixed term exclusion should be used.

## **Responsibilities of the Principal**

Principals should follow the procedures set out in the DFE Exclusion Guidance, which has been designed to ensure fairness and openness in the handling of exclusions. Following the guidance will reduce the chance of any successful legal challenge to the exclusion at a later stage.

### **1. Informing parents**

Once a decision to exclude has been reached, the parent must be notified without delay, ideally by telephone, followed up with a letter preferably within one school day. There are specific requirements for what should be stated in the letter. Copies of model letters can be found in the appendices of this policy.

It is important to ensure the reason/s for the exclusion are stated clearly in the letter, as further reasons cannot be introduced at a later date.

### **2. Informing Governors and the LA**

Without delay, preferably within one school day, the Principal must inform the governing body and LA of:

- all permanent exclusions (if the pupil resides in another authority, the home LA should also be informed);
- exclusions that would take the term's total for that pupil to more than five days;
- exclusions that would result in the pupil missing a public examination or national curriculum test.

All other fixed term exclusions should be notified termly. Schools must keep a record of all exclusions for reporting to the DFE Census.

Pupils who have been permanently excluded should not be deleted from the school roll until the independent review panel process is completed, or the deadline for review is reached and no review has been applied for. Where a fixed term exclusion results in a pupil missing an examination, although there is no right for the excluded pupil to take such an examination (or test) on school premises, the school should exercise its discretion to allow the pupil to enter the school premises for the sole purpose of taking the examination.

### **3. Education provision for excluded pupils**

The school's obligation to provide education continues while the pupil is on roll. In all cases of exclusion work should be set from day one and marked.

Where a pupil is given a fixed term exclusion of six school days or longer, the school must arrange full time educational provision from and including the sixth day of exclusion. This should be day 1 where possible for pupils with SEN and looked after children.

During the initial period of up to five school days, the parents are solely responsible for the child and must ensure that he/she is not present in a public place during normal school hours without reasonable justification.

From the sixth day of a permanent exclusion, the home LA is statutorily responsible for ensuring that suitable full time education is provided. Schools must ensure that the LA is notified on day one of any permanent exclusion.

### **4. Governing body meetings**

If a meeting of the LGB Behaviour Committee is to be held, the Principal should prepare all supporting papers for the exclusion and pass them to the Clerk for circulation to all parties at least five days in advance of the meeting. The paperwork should include:

- the principal's case for exclusion;
- a copy of the exclusion letter of notification to parent;
- attendance records;
- witness statements (signed where possible and dated);
- excluded pupil statement;
- school discipline policy, and other relevant policies;
- details of any Pastoral Support Programme – or Individual Education Plan with clearly identified behaviour targets, where appropriate;
- Records of interventions;
- Details of any alternative or enhanced curriculum.

### **5. Reintegration interviews**

Reintegration interviews are not mandatory but are good practice.

A fixed term exclusion must not be extended if such an interview cannot be arranged in time or the parents do not attend. Pupils have a right to return to school as soon as the period of fixed term exclusion ends.

## **Role of the LGB (Local Governing Body)**



The United Learning Trust Charity Board has delegated powers to the LGB to review exclusions and must consider any representations about an exclusion made by the parents of the excluded pupil. The LGB usually delegates some or all of its functions in respect of exclusions to a committee consisting of at least three governors and such a committee may be called the Behaviour Committee.

The LGB's role is to review exclusions. The LGB can either uphold an exclusion, or direct reinstatement immediately or by a particular date. The LGB cannot extend a fixed term exclusion nor substituted it with a permanent exclusion.

The Behaviour Committee, which meets to consider any exclusion must be made up of at least three members, none of whom are employees of United Learning or have any connection with the pupil or incident that would affect their ability to act impartially. The Chair, who must be a member of the LGB, has the casting vote in all cases where an even number of members is considering the case.

The governors should appoint a Clerk to the Behaviour Committee to handle the administrative arrangements. The Clerk's responsibilities are described later.

The Behaviour Committee of the governing body has a duty to meet within 15 school days and consider the reinstatement of an excluded pupil if:

- the exclusion is permanent;
- it is a fixed term exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or
- it would result in a pupil missing a public examination or national curriculum test (The Committee should make all efforts to hold the meeting before the exam/test, but if this is not possible the Chair of Governors can consider the exclusion independently and decide whether or not to reinstate the pupil. Where this happens, parents still have the right to make representations to the governing body).

Where a pupil is excluded from school for a fixed term of more than 5 but not more than 15 school days in a single term, and if requested to do so by the parents, the Behaviour Committee must meet and consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion.

In the case of one or more fixed term exclusions totalling 5 days or less in a school term, the Behaviour Committee must consider any written representations from the parent. They cannot direct reinstatement in this case. For the avoidance of doubt there is no obligation to meet with the parents regarding their representations. In all exclusion cases, the governing body should comply with the statutory time limits, but are not relieved of their

obligation to carry out the relevant duty if they fail to do so. Accordingly, their decision will not be invalid simply on the grounds that it was made out of time.

## **1. Prior to the meeting**

The governing body should invite the parent and principal to the meeting, at a time and place convenient to all parties. The parent can be accompanied by a friend or legal representative at their request. A parent may also invite an LA representative to attend the meeting as an observer but representations can only be made by the LA with the consent of the LGB.

The pupil is also entitled to attend the meeting, and should be encouraged to participate, taking into account their age and understanding.

Any written statements should be requested prior to the meeting. These should be circulated to all parties at least five school days in advance of the meeting, along with a list of those who will be present at the meeting.

Governors should read all the paperwork and prepare relevant questions to assist them in making a decision.

## **2. Procedure for the meeting**

An agenda for Behaviour Committee meetings is set out later in this policy. The meeting should be conducted in line with guidance on natural justice:

- the principal and parents should all enter the room together, at the invitation of the Committee, at the beginning of the meeting;
- parents must not receive any impression that the Principal and Committee have discussed the exclusion prior to all parties being invited into the meeting;
- all parties, except the Committee and the clerk, should be asked to leave the room before the Committee discuss their views and make a decision.

Following this procedure ensures that all parties have an opportunity to present their views and ask questions. At the meeting, the Behaviour Committee should consider;

- any representations made by the parent and the pupil;
- whether the principal has complied with the exclusion procedure and has had regard to the Secretary of State's Guidance on Exclusion;
- on the balance of probabilities, has the pupil done what they are accused of;

- whether:
  - allowing him/her to remain in the academy seriously harms the learning or welfare of the student or others in the school;
  - the behaviour is a serious breach of the school behaviour policy. and
  - finally, in most cases, that a wide range of possible strategies to improve a pupil's behaviour were tried and have failed. Strategies could include the use of a Pastoral Support Programme or an alternative curriculum in the case of a pupil in KS4.

Governors should have particular regard to:

- the needs of children with Special Educational Needs and those with disabilities (refer to the Equality Act 2010);
- the needs of Looked After Children.

### **3. Governing Body's decision**

A checklist for Behaviour Committees is available in the appendices. This should be used when making the final decision for every permanent exclusion.

The Behaviour Committee must inform the parent, principal and the LA of their decision, in writing without delay, preferably within one school day of the meeting, stating their reasons. Where the pupil resides in a different LA, they must also inform the pupil's 'home' LA.

A note of the Behaviour Committee's views on the exclusion should be placed on the pupil's school record with copies of relevant papers.

If the Behaviour Committee directs reinstatement, this should take place as soon as possible. No conditions can be attached to any direction to reinstate the pupil save that the Committee can direct reinstatement on a particular date.

Where the Behaviour Committee upholds a permanent exclusion, there are specific requirements for what information should be included in the letter to parents. Model letters are contained in the Appendices.

## **Role of the Clerk to the Behaviour Committee**

### **1. Background**

The Behaviour Committee may appoint a Clerk. The Clerk must not be a member of the governing body or the Principal.

The role of the Clerk is to handle the administrative arrangements for considering exclusions. The Clerk should not have taught the pupil or been involved in any of the incidents involved in the case, and should not contribute to the meeting other than in an administrative capacity. Where possible the Clerk should be experienced in exclusion matters so that the meeting can progress smoothly.

### **2. Before the Meeting**

When the Principal notifies the Clerk that s/he has excluded a pupil for more than five days, the Clerk should:

- ensure that the Principal's letter of notification has been sent to all relevant parties and that any further information is being prepared;
- set up a meeting of the Behaviour Committee within the timescales (allowing two days for receipt of notification) and formally invite the parents and Principal to the meeting at a time and place convenient to all parties;
- obtain written information/statements and circulate to all parties at least five days in advance of the meeting, along with a list of those who will be attending and a copy of the procedure for the meeting (this set out overleaf).

### **3. At the meeting**

The Clerk should:

- ensure that the Behaviour Committee has all of the information it requires, and that it has appointed a Chair for the meeting;
- invite all other parties in to the meeting at the same time, when the Behaviour Committee has indicated it is ready to begin;
- prepare a written record of the meeting;
- stay with the Behaviour Committee to help them with reference to his/her notes of evidence and in wording their decision;

- record the Behaviour Committee's decision and reasons for it.

## **Procedure for the Behaviour Committee**

### **1. Before the Meeting**

- Election of Chair for meeting (usually the Chair of the Behaviour Committee).
- Confirm arrangements for a clerk to record the meeting (should not take any part in the proceedings).

### **2. During the Meeting – Agenda**

Introductions The Chair should:

- explain the purpose of the meeting, which will be: to hear any representations the parents and the pupil may wish to make; and for the committee to consider whether or not to uphold the exclusion;
- circulate copies of this procedure; and
- go through the procedure for the meeting as outlined below.

A decision will be made whether or not to include the pupil. The involvement of the pupil in the meeting should be encouraged, unless there are strong reasons for this not to happen.

#### The Principal's Case for Exclusion

The Principal will be invited to explain what has happened to lead to his/her decision to exclude the pupil and summarise his/her reasons for it. He/she may ask other relevant colleagues to help explain what has happened.

#### Questions to the Principal from the Parents

The parents and/or friend will be given the opportunity to ask questions of the principal and his/her colleagues.

#### Questions to the Principal from the Committee

The committee will be given the opportunity to ask questions of the principal and his/her colleagues.

#### The Parents' Representations/Views

The parents, pupil and/or friend will be invited to present their views concerning the exclusion and any other related matters.

#### Questions to the Parents from the Principal

The principal will be given the opportunity to ask questions of the parents, pupil and/or friend.

#### Questions to the Parents from the Committee

The governors will be given the opportunity to ask questions of the parents, pupil and/or friend.

#### Any other related matters

Any other questions

#### Summary by the Principal of the case for exclusion

#### Summary by the parents of their representations/views

#### At the end of the Representations Stage of the Meeting

The Chair should explain:

- that there are two possible outcomes from this meeting:
  - that the governors direct the Principal to reinstate the pupil; or
  - that the governors uphold the Principal's decision to exclude the pupil;
- that the governors will be the only people involved in the decision making for this meeting.
- that the governors' decision will be communicated to the parents, Principal and the Local Authority in writing without delay, preferably within one school day of the meeting and, if applicable, that the governors would be prepared to make their decision known verbally prior to this;
- that everyone but the committee members and the clerk to the committee will now be asked to withdraw.

#### Making the Decision

- The Principal, the parent and the pupil may be invited back into the meeting to offer further information and/or clarification. All parties should be invited in together.
- The governors should complete the Checklist (see appendix 7), in order to determine whether the Principal has complied with all of the necessary procedural requirements.
- Having completed the Checklist, the governors should then make their decision and record their reasons for their decision.
- The committee should ensure that the necessary arrangements are made to inform parents, the Principal and the Local Authority without delay, preferably within one school day.

### **3. After the Meeting**

The Behaviour Committee should;

- inform the parent, the Principal and the LA of the decision, in writing without delay, preferably within one school day of the meeting, stating the reasons for the decision. Where the pupil resides in a different LA, they must also inform the pupil's 'home' LA;
- a note of the governing body's views on the exclusion should be placed on the pupil's school record with copies of relevant papers;
- where the Behaviour Committee upholds a permanent exclusion, there are specific requirements for what information should be included in the letter to parents. Model letters are contained in the appendices.

## **The role of United Learning**

The LA does not have a decision-making role in the exclusion process for any school. The Charity Board has delegated this responsibility to each LGB. As part of considering each permanent exclusion, however, the Principal must consult fully with the Managing Director United Learning (or delegated executive) before a decision is reached and the case presented to the Behaviour Committee.

It is the Behaviour Committee which has the duty to review the Principal's decision to exclude.

## **Education of excluded pupils**

The LA is required to arrange full time educational provision for permanently excluded pupils from the 6th day of a permanent exclusion. Once a Principal has decided to permanently exclude a pupil, the LA will arrange to assess the pupil's needs and how to meet them (even though the exclusion might still be overturned by the school governors). The pupil's name will be deleted from the school roll only if:

- (i) the pupil was permanently excluded; and
- (ii) 15 school days have passed since the parents were notified of the Behaviour Committee's decision to uphold the permanent exclusion; or
- (iii) the parents have stated in writing they will not be applying for an independent review panel.

It will be the responsibility of the LA to offer an alternative school place.

## **Independent Review Panels**

Each LGB must take responsibility for setting up and training Independent Review Panels or make arrangements to use the service provided by the Local Authority. Note that the Independent Review Panel is only involved in

reviewing permanent exclusions and only if requested by the parent/carer of the excluded pupil, and/or the pupil if over 18.

### **1. Notifying parents**

When a permanent exclusion is upheld by the Behaviour Committee, the Committee's decision letter to the parent must state the reasons for the decision, give the last day for lodging a review (within 15 school days) and explain that the grounds for the review should be set out in writing. If a parent does not request a review within the timescales the LGB must reject the application.

### **2. The timing of the hearing**

An independent review panel must meet to consider an exclusion no later than the 15th school day after the day on which the review was requested. However, if necessary, the panel may then decide to adjourn the hearing.

### **3. Composition of independent review panels**

Review Panels must consist of 3 or 5 members. One must be a lay member (can be an ex-governor), one must be a headteacher or was one within the last 5 years (two for panels of 5), and one must be a governor who has served for 12 consecutive months in the last 5 years (two for panels of 5).

### **Role of the Clerk to the Independent Review Panel**

It is strongly advised that the Independent Review Panel has a Clerk. The Clerk, if appointed, provides an independent source of advice on procedures for all parties.

In advance of the independent review panel, whoever is convening the panel must take reasonable steps to find out when the parent and others entitled to attend the hearing would be available in order to ensure that all parties are able to attend. They must also arrange a suitable venue for hearing the independent review panel.

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

- the parent (or, if aged over 18, the pupil);
- the principal;
- the governing body;



The LA is entitled to attend if requested to do so by the parent (or pupil if over 18) but only as an observer and may only make representations with the consent of the Academy. The LA is not entitled to legal representation.

The SEN Expert must attend if requested to do so by the parent (or pupil if over 18) but there is no right for this person to be legally represented.

The pupil is also entitled to attend the review, but if not attending then their views can be presented through a representative or by written statement.

The clerk should circulate all written evidence to all parties at least 5 working days before the hearing, including information about the parties attending.

### **Request for a SEN Expert (see Section 9 DFE Exclusion Guidance)**

If requested by the parents, the person convening the panel must appoint a SEN Expert to attend the independent review panel.

Parents have a right to the above, regardless of whether their child has recognised or identified SEN.

The SEN Expert's role is to provide impartial advice to the independent review panel on how special educational needs may be relevant to the exclusion. Including whether school policies in relation to SEN were legally reasonable and procedurally fair, whether the school acted in a legal, reasonable and procedurally fair way with regards to identification of SEN and any contribution that this could have made to the circumstances of the pupils exclusion.

The SEN Expert's role does not include making an assessment of the pupil's special educational needs.

### **Conduct and role of the independent review panel**

It is for the independent review panel to decide how to conduct the proceedings, which should be reasonably formal so that all parties can present their case effectively. The meeting should take a similar form to that of the Behaviour Committee meeting.

The role of the panel is to review the Behaviour Committee's decision not to reinstate a permanently excluded pupil. The panel must take account of the circumstances of the excluded pupil and all others in the school. The panel must apply the civil standard of proof (the balance of probabilities).

#### **1. Reaching a decision**

Information on what the panel should consider when coming to their decision can be found in section 9 of the DFE Guidance on exclusions.

## **2. The decision**

An independent review panel can decide to:

- uphold the exclusion decision;
- recommend that the governing body reconsiders their decision; or
- quash the decision and direct that the governing body considers the exclusion again.

The panel's decision can be decided by a majority vote. The panel can request that a copy of the decision letter is placed on the pupil's record and the school must comply with this request.

The panel may only quash a decision and direct reconsideration where it considers that the exclusion was flawed when considered in the light of the principles applicable on an application for judicial review; illegality, irrationality and procedural impropriety.

## **3. Financial Penalties**

Where a panel directs a governing body to reconsider an exclusion it has the power to order that a readjustment of the academy budget be made if the governing body does not offer to reinstate the pupil within 10 school days of receiving notification. The sum of this adjustment must be £4000, payable within 28 days, and will be in addition to other monies that follow permanently excluded pupils.

## **4. Reconvening a Behaviour Committee**

If the independent review panel directs or recommends that the governing body reconsider the exclusion, the governing body must meet to reconsider within 10 school days of notification.

Where a governing body has reconsidered an exclusion decision it must inform the relevant person, the Principal and the LA of its reconsidered decision and the reasons for it without delay.

## **5. After the independent review panel**

The independent review panel is independent. Its decision is binding on the parent, the LGB and the Principal. The panel cannot revisit its decision once made.

The panel must let all parties know its decision without delay. The decision letter should give the panel's reasons for its decision in sufficient detail for the parties to understand why the decision was made.

If the independent review panel upholds the permanent exclusion, the Clerk should immediately report this to the LA. If the pupil is of compulsory school age, it is for the LA in whose area the pupil lives to make arrangements as quickly as possible for the pupil to continue in suitable full-time education. If the pupil lives outside the area of the LA, the Clerk should make sure that the home LA is also informed immediately of the position.

Where the exclusion is upheld the Clerk should also advise the parent to contact the appropriate person at the home LA about arrangements for their child's continuing education. The Principal should remove the pupil's name from the school roll the day after the conclusion of the independent review panel.

## **6. Remedies after the independent review panel**

A parent can complain to the Secretary of State via the Education Funding Agency at the Department for Education.

## **7. Judicial review**

Decisions of both governing bodies and independent review panels can be subject to judicial review.

## **8. Claims of Discrimination in relation to exclusion**

Parents can also apply to the First-tier tribunal to hear cases of alleged disability discrimination, in addition to their current right to apply to a County Court to hear other cases of discrimination under the Equality Act 2010. The First-tier Tribunal will be able to direct reinstatement.

## **APPENDICES**

### **Appendix 1 Examples of Misconduct that May Lead to Permanent Exclusion**

A note of examples of misconduct is set out below. This list is intended to show examples only and is not intended to be exhaustive.

- a serious breach of safety requirements likely to endanger other people or yourself, or to cause damage to academy property;
- unauthorised use of or supply of alcohol or drugs within the academy premises or whilst in the company of teachers, students or parents of students or during any extra-curricular activities organised by the academy at any time;
- unauthorised removal of academy property;
- stealing from the academy, employees of the academy, or from students and other serious and deliberate offences of dishonesty;
- intentional damage to property;
- abuse of the academy's computer system and of the internet and non-compliance with any policy issued by the academy addressing these matters specifically;
- sexual misconduct, abuse or assault;
- serious actual or threatened violence, physical assault or fighting against another student or member of staff or worker in the academy;
- carrying an offensive weapon;
- bullying and/or harassment including racial, sexual or homophobic harassment;
- wilful defiance of the properly exercised authority of the academy and its staff;
- bringing the academy into disrepute or acting in a manner deliberately to undermine the academy's principles or ethos to the detriment of students and staff.



## Appendix 2

### Model letter 1

*From the Principal notifying parent of a fixed term exclusion of **5 school days or fewer** in one term, and where a public examination is not missed.*

Date:

Name

Address

Pupil Name: (Full name of pupil)

D.O.B: (Date of birth)

Year Group:

Dear [parent's name]

I am writing to inform you of my decision to exclude [child's name] for a fixed period of [specify period]. This means that he/she will not be allowed in school for this period. The exclusion begins/began 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 for exclusion].

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.

We will set work for [name of child] to be completed on the days specified in the previous paragraph [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 written representations about this decision to the governing body. If you wish to make representations please contact [name of contact] on/at [contact details — address, phone number, email], as soon as possible.

Whilst the governing body 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.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking in to account their age and understanding.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim to the First-tier Tribunal.

[www.justice.gov.uk/tribunals/send/appeals](http://www.justice.gov.uk/tribunals/send/appeals)

You and your child are requested to attend a reintegration interview with me on [date] at [time]. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed.

You also have the right to see a copy of [name of child]'s school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of [name of child]'s school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

Further guidance on the exclusions process can be found at:

<https://www.education.gov.uk/publications/standard/AllPublicationsNoRsg/P age6/DFE-00042-2012>

the Coram Children's Legal Centre: [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com) 08088 020 008; and • [where considered relevant by the head teacher], links to local services, such as Traveller Education Services or the local parent partnership ([www.parentpartnership.org.uk](http://www.parentpartnership.org.uk) ).

[name of child]'s exclusion expires on [date] and we expect [name of child] to be back in school on [date] at [time].

Yours sincerely

[name] Principal

## Appendix 2

## Model letter 2

*From the Principal notifying parent of a fixed term exclusion of more than 5 and up to and including 15 school days in total in one term, or where a public examination would be missed.*

Date: Name Address Pupil Name: (Full name of pupil)

D.O.B: (Date of birth)

Year Group:

Dear [parent's name]

I am writing to inform you of my decision to exclude [child's name] for a fixed period of [period]. This means that [child's name] will not be allowed in school for this period. The exclusion begins/began 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 for exclusion].

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 days of this exclusion, that is on [specify dates] unless there is reasonable justification for this.

We will set work for [name of child] to be completed during the first 5 days of this exclusion [detail the arrangements for this]. Please ensure that work set by the school is completed and returned to us promptly for marking. From the 6th day of this exclusion [specify date] until the expiry of the exclusion, we will provide suitable full time education. On [date] he/she should attend at [name and address of alternative provider if not home school] at [time] and report to [staff member's name].

You have the right to request a meeting of the school's Behaviour 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 Behaviour Committee must meet if you request it to do so. The latest date by which the Behaviour Committee can meet, if you request a meeting is [specify date — no later than the 50th school day after the date on which the Behaviour Committee were notified of this exclusion].

If you wish to make representations to the Behaviour 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.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking in to account their age and understanding. You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim to the First-tier Tribunal:

[www.justice.gov.uk/tribunals/send/appeals](http://www.justice.gov.uk/tribunals/send/appeals)

You and your child are requested to attend a reintegration interview with me on [date] at [time]. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed.

You also have the right to see a copy of [name of child]'s school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of [name of child]'s school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

Further guidance on the exclusions process can be found at:

<https://www.education.gov.uk/publications/standard/AllPublicationsNoRsg/Page6/DFE-00042-2012>

the Coram Children's Legal Centre: [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com) 08088 020 008; and

- [where considered relevant by the head teacher], links to local services, such as Traveller Education Services or the local parent partnership ([www.parentpartnership.org.uk](http://www.parentpartnership.org.uk)).

[name of child]'s exclusion expires on [date] and we expect [name of child] to be back in school on [date] at [time].

Yours sincerely

[name] Principal

## Appendix 4

## Model letter 3

*From the Principal notifying parent of a fixed term exclusion of more than 15 school days in total in one term.*

Date:

Name

Address

Pupil Name: (Full name of pupil)

D.O.B: (Date of birth)

Year Group:

Dear [parent's name]

I am writing to inform you of my decision to exclude [child's name] for a fixed period of [period]. This means that [child's name] will not be allowed in school for this period. The exclusion begins/began 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 for exclusion].

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 days of this exclusion, that is on [specify dates] unless there is reasonable justification for this.

We will set work for [name of child] to be completed during the first 5 days of this exclusion [detail the arrangements for this]. Please ensure that work set by the school is completed and returned to us promptly for marking.

From the 6th day of this exclusion [specify date] until the expiry of the exclusion, we will provide suitable full time education. On [date] he/she should attend at [name and address of alternative provider if not home school] at [time] and report to [staff member's name].

As the length of the exclusion means that [ ] has been excluded for more than 15 school days in total in one term the governing body must meet to consider the exclusion. At the review meeting you may make representations to the governing body if you wish. The latest date on which the governing body can meet is [date here — no later than 15 school days from the date the governing body is notified]. If you wish to make representations to the governing body 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 governing body is of the time, date and location of the meeting.

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.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking in to account their age and understanding.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim to the First-tier Tribunal

[www.justice.gov.uk/tribunals/send/appeals](http://www.justice.gov.uk/tribunals/send/appeals)

You and your child are requested to attend a reintegration interview with me on [date] at [time]. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed.

You also have the right to see a copy of [name of child]'s school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of [name of child]'s school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

Further guidance on the exclusions process can be found at:

<https://www.education.gov.uk/publications/standard/AllPublicationsNoRsg/P age6/DFE-00042-2012>

the Coram Children's Legal Centre: [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com) 08088 020 008; and

[where considered relevant by the head teacher], links to local services, such as Traveller Education Services or the local parent partnership ([www.parentpartnership.org.uk](http://www.parentpartnership.org.uk)). [name of child]'s exclusion expires on [date] and we expect [name of child] to be back in school on [date] at [time].

Yours sincerely

[name]

Principal

## Appendix 5

## Model Letter 4

From the Principal notifying parent of a permanent exclusion

Date:

Name

Address

Pupil Name: (Full name of pupil)

D.O.B: (Date of birth)

Year Group:

Dear [parent's name]

I regret to inform you of my decision to permanently exclude [child's name] with effect from [date]. This means that [child's name] will not be allowed back to this school pending a meeting of the Behaviour Committee.

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 permanently because [reason for exclusion — serious breach (one off incident) or persistent breaches of the school's behaviour policy - also include any other relevant previous history here].

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 days of this exclusion, that is on [specify dates] unless there is reasonable justification for this.

Alternative arrangements for [child's name] education to continue will be made. For the first five days of this exclusion we will set work for him/her and would ask you to ensure this work is completed and returned promptly to school for marking. From the 6th day of the exclusion onwards [specify date] the Local Authority in which you reside will provide suitable full time education. I have also today informed the Local Authority of your child's exclusion and they will be in touch with you about arrangements for his/her education from the 6th school day of exclusion. You can contact them on [insert telephone number and name]

As this is a permanent exclusion the governing body must meet to consider it. At the meeting you may make representations to the governing body if you wish and ask them to reinstate your child. The governing body 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 request an independent review panel to review their decision. The latest date on which the governing body can meet is [specify date — no later than 15 school days from the date the governing body is notified].

If you wish to make representations to the governing body and wish to be accompanied by a friend or representative please contact [name of contact] on/at [contact details — address, phone number, email], as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the governing body of the time, date and location of the meeting. Please advise if you have a disability or special needs which would affect your ability to attend or take part in the meeting. Also, please inform [contact] if it would be helpful for you to have an interpreter present at the meeting.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking in to account their age and understanding.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim to the First-tier Tribunal

[www.justice.gov.uk/tribunals/send/appeals](http://www.justice.gov.uk/tribunals/send/appeals)

You also have the right to see a copy of [name of child]'s school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of [name of child]'s school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

Further guidance on the exclusions process can be found at:

<https://www.education.gov.uk/publications/standard/AllPublicationsNoRsg/P age6/DFE-00042-2012>

the Coram Children's Legal Centre: [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com) 08088 020 008; and

[where considered relevant by the head teacher], links to local services, such as Traveller Education Services or the local parent partnership ([www.parentpartnership.org.uk](http://www.parentpartnership.org.uk)).

Yours sincerely

[name]

Headteacher

## Appendix 6

## Model letter 5

Letter from the Clerk upholding a permanent exclusion

Date:

Name

Address

Pupil Name: (Full name of pupil)

D.O.B: (Date of birth)

Year Group:

Dear [Parents name],

The meeting of the governing body at [school] on [date] considered the decision by [Principal] to permanently exclude your son/daughter [name of pupil]. The governing body, after carefully considering the representations made and all the available evidence, have decided to uphold [name of pupil]'s permanent exclusion.

The reasons for the governing body's decision are as follows: [give the reasons in as much detail as possible, explaining how they were arrived at].

You have the right to request an Independent Review Panel to reconsider the exclusion. If you wish to do so, please notify the Clerk to the Independent Review Panel. You must set out the reasons for your request in writing, and send this request to [insert contact details for Clerk] by [specify the latest date — no later than 15 school days from the date the letter is posted, allowing 2 school days for receipt of letter]. If you have not lodged a request for an Independent Review Panel by [repeat latest date], your right will lapse. 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 Appeal Panel if it would be helpful for you to have an interpreter present at the hearing.

Your request would be heard by an Independent Review Panel. A three or five member panel will comprise one serving, or recently retired (within the last 5 years) headteacher, one serving, or recently serving, experienced governor and one lay member who will be the Chair. The Independent Review Panel will rehear all the facts of the 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 on which your request is lodged. In exceptional circumstances panels may adjourn a hearing until a later date.

In determining your request for reconsideration the Independent Review Panel can make one of three decisions: they may uphold your child's exclusion; they may recommend the governing body reconsiders their decision or quash the decision and direct that the governing body considers the exclusion again. However, the independent review panel cannot direct your child be reinstated at the school.

You have the right to request an SEN expert to attend the above panel meeting, regardless of whether the excluding school recognises that your child has SEN. You must make it clear if you wish for such an SEN expert to be appointed. Please advise as soon as possible.

Please also note you are permitted, at your own expense, to appoint someone to make written or oral representations to the Independent Review Panel and you may bring a friend to support you.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking in to account their age and understanding.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim to the First-tier Tribunal

[www.justice.gov.uk/tribunals/send/appeals](http://www.justice.gov.uk/tribunals/send/appeals)

Further guidance on the exclusions process can be found at:

<https://www.education.gov.uk/publications/standard/AllPublicationsNoRsg/Page6/DFE-00042-2012>

the Coram Children's Legal Centre: [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com) 08088 020 008; and

[where considered relevant by the governing body], links to local services, such as Traveller Education Services or the local parent partnership ([www.parentpartnership.org.uk](http://www.parentpartnership.org.uk)).

The arrangements currently being made for [pupil's name]'s education will continue. The LA / LGB [delete as appropriate] convened panel will shortly send you correspondence and guidance with regards to the Independent Review Panel.

Yours sincerely

[name]  
Clerk to the Governing body

## Appendix 7: Governor checklist

This should be used in the Behaviour Committee to ensure proper process has been followed and a completed checklist should be sent to the relevant Director at the end of the process. A Behaviour Committee must comprise of at least three governors independent of the case.

Pupil Name:		Date of Meeting:
1	<p>Telephone call to parent/visit from parent on (date):</p> <p>Letter of notification using model text sent on (date):</p> <p>Copied and sent to Behaviour Committee on (date):</p>	
2	<p>Date of Behaviour Committee Meeting:</p> <p>Within 15 school days from Principal/Headteacher's letter, for permanent exclusions and suspensions of more than 15 school days (or total more than 15 school days in a term), or it would result in the pupil missing a public examination or national curriculum test <b>OR</b></p> <p>Within 50 school days from Principal/Headteacher's letter, for suspensions of less than 15 school days in a term) <i>if</i> the parents make representations.</p> <p><b>Yes/No</b></p>	
3	<p>All written statements/evidence circulated in advance of this meeting (at least 5 school days before)</p> <p><b>Yes/No</b></p>	
4	<p>Procedure for the meeting and confirmation circulated in advance of the meeting</p> <p><b>Yes/No</b></p>	
5	<p>All relevant information provided on pupil, including: SEN Status; Care status if looked after or active case for Social Care; whether disabled and, if so, reasonable adjustments made (in line with the school's graduated approach); academic progress</p> <p><b>Yes/No</b></p>	
6	<p>Where it is a permanent exclusion decision that it:</p> <ul style="list-style-type: none"> <li>• meets the legal conditions in which permanent exclusion is appropriate: <ul style="list-style-type: none"> <li>○ in response to a serious breach or persistent breaches of the school's behaviour policy; <b>and</b></li> <li>○ allowing him/her to remain in the academy would seriously harm the education or welfare of the pupil or others in the school</li> </ul> </li> </ul> <p><b>Yes/No</b></p>	



7	<p>Evidence and use of procedures are satisfactory in relation to:</p> <ul style="list-style-type: none"> <li>• The investigation conducted</li> <li>• Firm evidence collected to support decision to exclude</li> <li>• Pupil has been given the opportunity to give his/her version of events</li> <li>• Provocation/harassment has been taken into account, if appropriate</li> <li>• The school's SEND, behaviour and equality policies were legal, reasonable and procedurally fair and the school adhered to these policies in practice</li> <li>• Where appropriate, a Pastoral Support Programme - or Individual Education Plan has been implemented fully.</li> <li>• There is evidence of all relevant interventions having been made for this specific pupil, including, where appropriate: <ul style="list-style-type: none"> <li>○ alternative or enhanced curriculum</li> <li>○ mediation</li> <li>○ education welfare involvement</li> <li>○ family support</li> <li>○ mentor support for the pupil</li> </ul> </li> <li>• Specifically, equality requirements under the Equality Act 2010 have been considered (disability, race, religion, sexual orientation, gender reassignment, pregnancy or maternity) and any reasonably adjustments required have been made, whether as part of the pupil planning and interventions above or otherwise.</li> <li>• Parent has been given adequate time to make representations</li> <li>• All parties to the meeting know how this decision will be communicated</li> <li>• Satisfactory arrangements in place for pupil to continue their education during exclusion period</li> </ul> <p><b>Yes/No</b></p> <p>If no, what concerns exist:</p>
7	<p><b>To be completed after the Behaviour Committee meeting</b></p> <p>Parent, Principal and Local Authority (and where relevant the pupil's social worker and/or VSH) notified of decision on (date):</p> <p>Letter regarding decision sent out on (date):</p> <p><b>Signed (Clerk to the Behaviour Committee):</b></p> <p>Date:</p> <p><b>A copy of this checklist should be <u>sent to the relevant Director</u> at the conclusion of the process.</b></p>