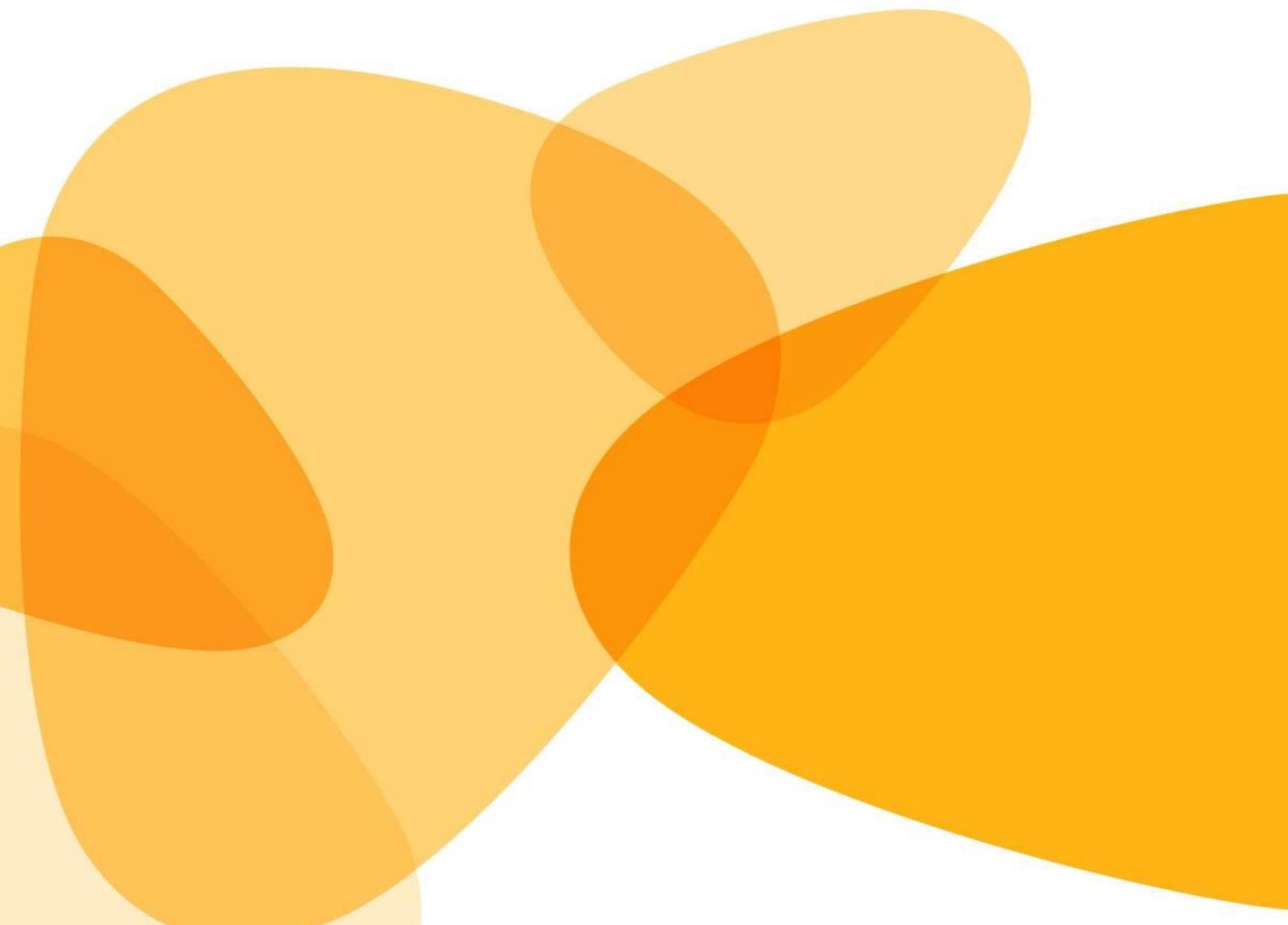


# Revised Exclusions Guidance for Hampshire Schools

For the particular attention of Headteachers, Governors and  
Education Centre Management Committee members

October 2020



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## **Introduction**

The Children's Services Department of Hampshire County Council (HCC) is responsible for the delivery of strategic plans, identified in the County's 'Children and Young People's Plan' (CYPP). The Executive Summary of the CYPP sets out the strategic plan for Hampshire's Children's Trust, and the main priorities for the delivery of services to children, young people and families are listed below. The vision and priorities of the CYPP are based on a commitment to early help for children, young people and families. This means identifying as early as possible if a child or family needs support, helping them to access services and working together to ensure that the support provided has the maximum impact.

The CYPP identifies five priorities for all those working with children and young people in Hampshire. These have been developed through an analysis of need and consultation with children, young people, their parents/carers and all Children's Trust partners. Furthermore, all priorities align national Children's Plan 2020 goals and incorporate Hampshire's Child Poverty Strategy as required by the Child Poverty Act 2010.

### **Hampshire priorities:**

- 1. Addressing the incidence and reducing impact of poverty on the achievement and life chances of children and young people.**
- 2. Securing children and young people's physical, spiritual, social, emotional and mental health, promoting healthy lifestyles and reducing inequalities.**
- 3. Providing opportunities to learn, within and beyond the school day, that raise children and young people's aspirations, encourage excellence and enable them to enjoy and achieve beyond their expectations.**
- 4. Helping children and young people to be safe and feel safe**
- 5. Promoting vocational, leisure and recreational activities that provide opportunities for children and young people to experience success and make a positive contribution.**

All the priorities can be linked to maintaining the inclusion agenda and hopefully reducing exclusions so children's life chances can be enhanced. Attention is also drawn to the DfE's 'Keeping Children Safe in education September 2020' given its importance regarding the safeguarding and welfare of young people.

The latest Department of Education (The Guidance) guidelines on exclusion: Exclusion from maintained schools, academies and pupil referral units in England, defines the headteacher's role, the governing body's role and details for independent reviews.

<https://www.gov.uk/government/publications/school-exclusion>

This Hampshire document is designed to highlight important points and provide additional advice specifically tailored for HCC schools and which highlights

good practice over and above legislative requirements. Inclusion Officers or Inclusion Assistants will be happy to give further help and advice.

Headteachers, Governing Bodies, Academies, Free Schools, Local Authorities (LA) and Independent Reviews must, by law, have regard to The Guidance when making decisions on exclusion and administering the exclusion procedure. This means that, whilst the guidance does not have the force of statute, there is an expectation that it will be followed unless there is good reason to depart from it. The guidance is not exhaustive and judgements will need to take account of the circumstances of individual cases. Schools should note that the parts of The Guidance where the word “must” is used are normally underpinned by law.

These procedures apply to all Hampshire maintained schools, Academies and PRUs - known as Education Centres in Hampshire - and all pupils in them, including any who are below or above compulsory school age. The procedures do not apply to independent schools, city technology colleges or sixth form colleges, but do apply to maintained nursery schools and sixth forms which are part of a maintained school. Academies must have procedures in place that are consistent with those set out in the guidance. Annex D, Exclusions of the Funding Agreement for Academies, gives guidance and reference to The Guidance with three exceptions relating to 1) The Academy Trust’s responsibility for setting up Independent Reviews 2) Local Authority’s role and 3) Arrangements for money to follow pupils who have been permanently excluded.

Where 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 into their mother tongue. In such cases, the school and/or LA should arrange for an interpreter to be present at any meetings with the parent about the exclusion (Ethnic Minority and Traveller Achievement Service (EMTAS) may be able to help with this). Similarly, schools need to take into consideration any disability of parents, e.g. hearing or visual impairments and consider any appropriate support that may be needed during the exclusion process.

## **Types of Exclusion**

There are two types of exclusion: fixed period and permanent. The former is limited to a total of 45 days in any one academic year for an individual pupil – not in any one particular establishment - and therefore the receiving school, for pupils changing establishments mid-year, should be particularly vigilant about obtaining accurate information on any previous fixed period exclusions in that academic year.

### **Fixed period exclusions**

Fixed period exclusions are split, procedurally, into:

- Fixed period exclusions of 5 days or under;
- Fixed period exclusions of between 5.5 and 15 days;
- Fixed period exclusions of 15.5 days and over

Schools are responsible for the **setting and marking** of work during the first 5 school days of a fixed period exclusion. The set work should be available at the beginning of the exclusion and be appropriate for the child concerned. Some children will not be able to manage to work independently either with printed or IT based work so will need clear guidelines and prompts.

During this period, parents are responsible for ensuring that the pupil is not present in a public place during normal school hours without reasonable justification, e.g. a dentist's or doctors' appointment.

On the 6th day of an exclusion or consecutive exclusions, schools must make arrangements to provide full-time education provision (see Section C for further advice).

Failure to complete work, however, is not a reason for refusing to allow the pupil to return to school.

## **Permanent exclusion**

The Local Authority will be responsible for arranging suitable full-time education provision from 6<sup>th</sup> school day of a permanent exclusion.

It is imperative to inform the relevant LA representative at the earliest opportunity of the decision to permanently exclude, so that Education Centres can be informed and transport arrangements made.

Hampshire has an electronic notification form, which is generated from SIMS, which will feed electronically into Hampshire's IT system and avoid the necessity for paper notification forms. Where schools do not use SIMS and have not already downloaded the forms, they will need to contact ISS who can provide an electronic copy of the most up-to-date form(s) or use the link if they have access to the Children's Services intranet page.

<https://www.education.hants.gov.uk/intranet/policies/exclusions/index.php>

This form needs to be completed on the first day of the notification of permanent exclusion so the child does not suffer any delay in 6<sup>th</sup> day educational provision.

Where another LA other than HCC is involved, schools have a duty to inform the relevant Local Authority immediately.

Money following permanently excluded pupils is taken from the 6th day of the exclusion process. However, in all permanent exclusions, the pupil's name must remain on the school roll until the review process has been completed. This can be:

- a) The day following the last date for parents to ask for an IRP which in Hampshire is taken to be 18 school days from the date of the GDC (allowing 1 day for the letter to be issued and 2 days for delivery by first class post)  
**or**
- b) the date the LA receives written notification that the parent does not wish to request an Independent Review if that is received before the 18<sup>th</sup> school day following the GDC  
**or**
- c) the date on which outcomes from the Independent Review process or any possible Tribunal outcome determine an off-roll date or reinstatement (see Section B (ii) flowchart  
**whichever is the earlier.**

### **The Law, Policies and Advice**

The principle legislation to which the exclusions guidance relates is:

- The Education Act 2002, as amended by the Education Act 2011;
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- The Education and Inspections Act 2006;
- The Education Act 1996The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007 as amended by the Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014;Exclusion from maintained schools, academies and pupil referral units in England Statutory guidance for those with legal responsibilities in relation to exclusion September 2017.

Under the Equality Act 2010 schools must not discriminate against, harass or victimise pupils because of their: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy /maternity; or because of a gender reassignment. For disabled children, and those with identified special educational needs this includes a duty to make reasonable adjustments to policies and practices. The Equality and Human Rights Commission have published an informative and helpful website on reasonable adjustments:

<https://www.equalityhumanrights.com/en/publication-download/reasonable-adjustments-disabled-pupils>

In terms of exclusions, schools should be mindful of this duty. Section L outlines the findings of a Court case earlier in 2015 when a tribunal claim was raised against a school alleging the exclusions constituted discrimination arising from the disability. In carrying out their functions under the Act schools must have due regard to the need to:

- analyse the impact of behaviour, discipline and exclusion policies on different ethnic groups,
- make effective use of data, and
- involve minority ethnic pupils, parents and communities in policy making, consulting them about their needs and opinions.

Further advice can be obtained from the District School Improvement Manager, the Ethnic Minority Traveller Advisory Service or ISS. Legal Services can offer advice on disability discrimination enquiries

The exclusion rates for certain groups of pupils are consistently higher than average. This includes: pupils with SEN; pupils eligible for Free School Meals; looked after children; and pupils from certain ethnic groups. The ethnic groups with the highest rates of exclusion are: Gypsy / Roma; Travellers of Irish Heritage; and Black Caribbean communities.

The Guidance advice on behaviour and discipline in schools is available from:  
<https://www.gov.uk/government/publications/behaviour-and-discipline-in-schools>

**Ofsted:**

**Key features of the framework for school inspection from September 2019**

<https://www.gov.uk/government/publications/education-inspection-framework>

**Advanced Training Materials for Special Educational Needs & Disabilities (SEND)**

SEND Training materials can now be found on the SEN gateway:

[https://www.sendgateway.org.uk/resources.advanced-training-materials-for-autism-dyslexia-speech-language-and-communication-emotional-social-and-behavioural-difficulties-moderate-learning-difficulties\\_1.html](https://www.sendgateway.org.uk/resources.advanced-training-materials-for-autism-dyslexia-speech-language-and-communication-emotional-social-and-behavioural-difficulties-moderate-learning-difficulties_1.html)

**Hampshire Publications**

Hampshire's Learning, Behaviour and Attendance website is a support site for general queries and advice related to Hampshire school's policies and practices in the areas of general teaching and learning, and pupil behaviour and attendance at school.

<https://www.hants.gov.uk/educationandlearning/hias/teaching-learning/behaviour-attendance>

Hampshire's Virtual School Personal Education Plan Toolkit for Children in Care is an excellent aid for identification of children's and young people's needs with supportive strategies and interventions within the school setting. This is aimed at children in care with attachment difficulties but can be beneficial for schools assisting pupils with attachment and emotional difficulties.

<https://www.hants.gov.uk/educationandlearning/virtual-school>

Preparing Individual Plans with children who are experiencing difficulties in relation to their social, emotional and behavioural development; Guidance for Infant, Junior and Primary schools, HCC Educational Psychology Service:  
<http://www.hants.gov.uk/educationandlearning/educationalpsychology/documents>

## Section A

### The role of the Local Authority

The Local Authority (LA) has a number of statutory obligations in relation to the inclusion and exclusion of children of statutory school age which in Hampshire are managed by the Inclusion Support Service (ISS), consisting of a Strategic Inclusion Officer, two Inclusion Officers and three Inclusion Assistants.

The two main areas of work are:

1. Promoting LA and government policy with regard to reducing both permanent and fixed period exclusions. A large part of the Inclusion Officers' role is to act as 'critical friend' to schools, Governors, parents and interested parties on issues relating to how exclusion guidance should be interpreted:
  - advise schools, Governors and parents/carers on procedures relating to all exclusions and to assist where appropriate and applicable to promote effective outcomes
  - support schools where appropriate so they can ensure that suitable provision is in place for pupils who may need alternative provision or programmes, and from Day 6 of a fixed period exclusion of more than 5 days (See Section C), and
  - collect, collate, monitor and communicate appropriate qualitative and quantitative information on all exclusions to inform national and county policy.
2. Carrying out the LA's obligations relating to attending, and writing statements for, school Governors Discipline Committee (GDC) meetings on all permanent exclusions, and for any Independent Review Panel (IRP) hearings following GDCs, and on some long fixed-term exclusions.

At the GDC meeting, the LA officer will present a statement for permanent exclusion cases and, where appropriate, exclusions exceeding 15 days. Please note, a written LA statement is not statutory and rare in other LA's, but is considered a helpful document for Hampshire Governors in order to discharge their duties as robustly as possible. The LA aim to send their statement to all parties at least 48 hours before the GDC. In Hampshire, Independent Review Panels for maintained schools are convened by the Legal Services Department, and again the LA officer will present a statement for the hearing where parents have asked for a permanent exclusion decision to be reviewed. Academies will be responsible for setting up an Academy Independent Review unless they chose to buy in to HCC services.

ISS ask an excluding school to provide an evidence pack for any exclusion reviewed by a GDC. This information is sent to all parties and forms the basis for the LA Statement. A list of the suggested supporting documents is given in Section D and the evidence pack should be circulated to all those

invited to the GDC by the Clerk to the GDC to arrive **at least 5 school days** before the meeting. This includes parents even if they have initially said they will not be attending the meeting.

The Inclusion Officer writing the LA Statement also consults with appropriate colleagues and agencies e.g. (EPS), Early Help Hub (EHH), Children's Services Department (CSD Social Care), the Youth Offending Team (YOT) and Youth Crime Prevention (YCP). The LA Statements pulls all this information together, compares it to the criteria for exclusion, any statutory guidance, and to other similar exclusions in Hampshire and is sent to the Clerk to the GDC to be distributed to all attendees beforehand.

The LA statement draws the attention of the GDC to those issues where, for example: the LA feels that there is a lack of clarity; where more information might be helpful; where it is not evident best practice has been followed; or where statutory guidance appears to have been ignored. The LA may advise on how other schools have dealt with similar incidents, including alternatives to permanent exclusion, and advise on alternative arrangements for the pupil to continue their education if the exclusion is upheld.

The LA statement is not a summative document, merely one formed from the information received by the date of writing. The statement will not say whether an exclusion is appropriate or not, but it might point out the lack of evidence or comment on the quality of evidence regarding the incident/s and support provided to the child to address the behaviour in question. It may ask members of the GDC to consider:

- whether evidence regarding the incident leading to exclusion was clear
- if the strategies used by the school were appropriate and given time to succeed
- whether or not consideration has been given to any SEN or disability the pupil may have
- whether the school has taken into consideration the individual circumstances of the child before making the decision to permanently exclude
- what evidence there is of other relevant agency involvement, or
- if there was evidence which shows that 'allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or of others in the school'.

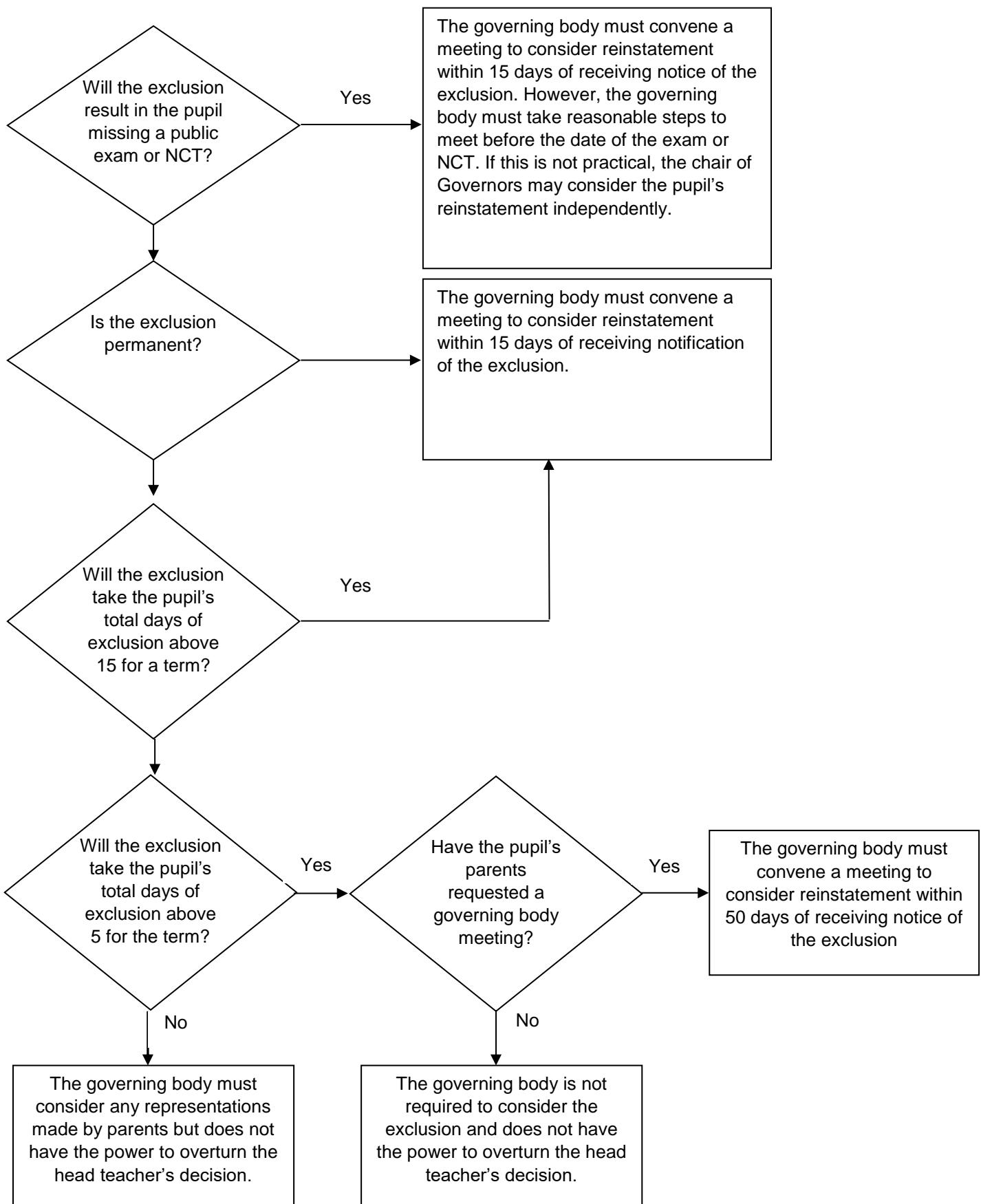
This advice is intended to assist Governors to carry out a robust review of the exclusion before arriving at their decision to either uphold the exclusion, or place comments on the pupil's record (for fixed-term exclusions) or reinstate the pupil (for permanent exclusions). A robust review will give the Governors sound reasoning for reaching their decision which is particularly helpful with a permanent exclusion when parents ask for an IRP.

Following amended legislation and revised guidance in 2012, as amended in 2017, IRPs are now required to review how Governors reached their decision at the GDC. It is therefore essential for Governors to ensure their decision would stand up to scrutiny by an IRP.

The flow chart in Section B (ii) demonstrates the possible options through the Independent Review process.

## Section B (i)

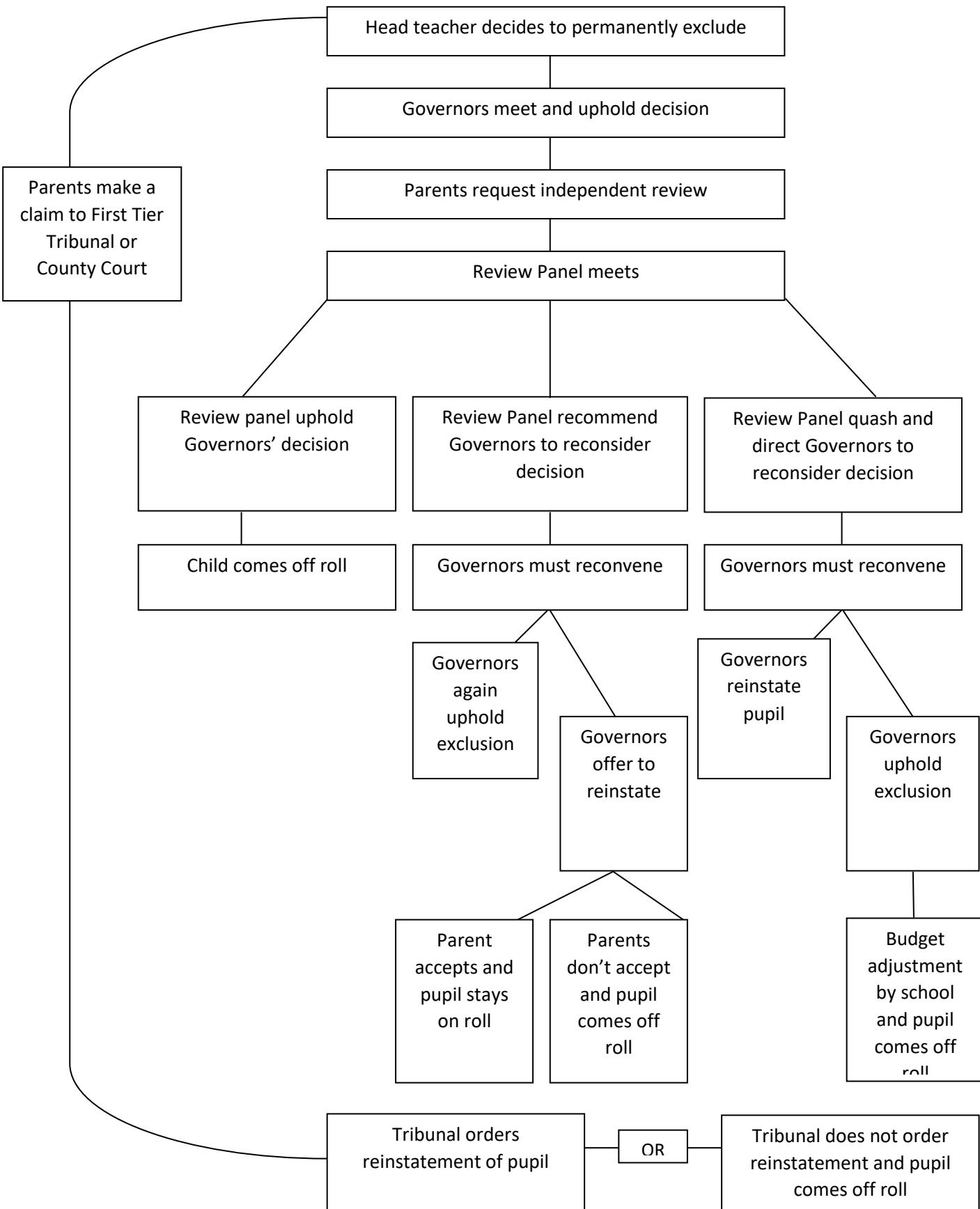
### A summary of the governing body's duties to review the headteacher's exclusion decision



The governing body may delegate its functions to consider an exclusion to a designated sub-committee which must comprise at least three Governors, but not an even number. References to days mean 'school days'

## Section B (ii)

### A summary of the Independent Review Process following the Governors decision to uphold the permanent exclusion



## Section C

### Alternative Provision

#### Providing full-time education from the sixth day of an exclusion

##### Introduction

Since September 2007, maintained schools (including Academies and CTCs) and Local Authorities' Education Centres have been required to ensure suitable full-time education is in place from and including the 6<sup>th</sup> day of any permanent exclusion. Full-time education means supervised education equivalent to that provided by mainstream schools in the area. In Hampshire that education is provided through Education Centres. For **single** fixed-period exclusions of 5.5 or more days, schools must make suitable full-time education provision off site from the 6<sup>th</sup> day (i.e. the 0.5 or more days). The exclusion notification letter should give details of this provision during exclusion.

##### **Key Points:** legal obligations

###### The school must:

- inform parents of their responsibility to ensure that their child is not present in a public place in school hours during the first five days of any fixed period exclusion without reasonable justification. Parents will face a fixed penalty notice or prosecution if their child is found in a public place in school hours without reasonable justification (e.g. a medical or dentist's appointment) during this period.
- provide full time education from the 6<sup>th</sup> day of any fixed period exclusion of 5.5 days or longer. Parents must be informed of the start date of the provision, the start and finish times of the provision, the address at which the provision takes place and information required by the pupil to identify the person the pupil is reporting to on the first day.
- inform their own and, if different, the pupil's home LA immediately of each permanent exclusion.

###### The school should:

- have in place simple, effective referral processes to ensure that as well as notifying parents, off-site providers have as much notice and information about the pupil as possible.
- review on a regular basis their processes and strategies in dealing with alternative provision. There should be robust quality assurance, monitoring and reporting. The Guidance document, Alternative Provision, January 2013 provides further detail, particularly the section 'Statutory duties and powers with advice for good practice (paragraphs 28 – 39), reference

<https://www.gov.uk/government/publications/alternative-provision>  
(amended 2016 version)

## **Possible models of suitable full-time equivalent education**

Schools should have access to a range of options to meet pupils' differing needs rather than a simple "one size fits all" approach. Provision for a day or two might look different to education arranged for a longer fixed period exclusion.

### **Reciprocal arrangements between schools**

A couple of schools or a group could agree reciprocal arrangements whereby they each support excluded pupils from other schools in the area. This practice can operate with minimal costs and places can be arranged relatively quickly if the infrastructure of the school supports this.

### **Exclusion provision shared between several local schools**

Another way to provide full time education from the 6<sup>th</sup> day of exclusion is for groups of schools to invest in, and share, an off-site facility. This facility could be something that already exists, similar to an Education Centre or youth centre, or it could be something completely new. It could be run, for example, by a private company, charity or LA and should be in a central location that can be easily accessed by public transport.

An alternative version of this type might be shared provision where the excluding school hosts shared provision with at least one other school.

### **Group exclusions**

Head teachers should make contingency plans about what to do in the event of a group of pupils being excluded together. It may be desirable to separate them which could be difficult in practice if they were dependent on the same school transport and/or if the school only had limited choice in provision. This suggests that schools should have access to at least two types of provision.

### **Externally contracted provision**

Schools could commission alternative education from a variety of external providers who operate in the private and voluntary sectors, whilst retaining accountability for the quality of education and core responsibilities, eg Registration, further breaches of discipline while attending alternative provision which cannot be delegated.

### **E-solutions**

There is a range of ICT provision available to those for whom mainstream schooling is either unsuitable or impracticable although this tends to be more suitable as a longer-term solution rather than just for a few days. It ranges from on-line learning systems for individual learners to virtual classroom-type provision for groups of learners. However, this type of learning is usually the hardest to supervise and there must be reliable monitoring measures in place. A number of schools are developing expertise in this area and it will be helpful if schools can share their learning and look at the possible options provided by this type of technology. Hampshire provides a virtual learning provision from Place2Learn, based at Basingstoke, which schools can refer to and access to support pupils during exclusion.

<https://www.hants.gov.uk/educationandlearning/place2learn>

### **Staggered school day**

Some schools arrange on-site education for excluded pupils with different start and finish times to those of other pupils. This practice can continue for pupils on an internal exclusion and for excluded pupils educated in a unit shared by several schools, but otherwise the law requires excluded pupils to be educated off site. Schools could set up an arrangement with local clusters or their feeder schools.

### **Twilight provision**

It may be practical to use half-day exclusion for a few mornings, e.g. 2.5 days fixed-period exclusion, spread over one week, and provide education for the other half of each day in a twilight session.

### **Quality standards and assurance**

Education provided for excluded pupils needs to be of the same high standard as the education provided in school. In arranging external provision schools need to be assured that the provision meets pupils' needs as far as possible and meets quality standards and statutory compliance.

### **Unofficial exclusions**

The Guidance makes it clear that removing pupils from school sites for disciplinary reasons, without following formal exclusions procedures, is illegal as there is no basis in law for headteachers or other school staff to do this, **even if with the agreement of parents or carers**, for example taking a child home to "cool off" or asking parents to collect the child before the end of the school day. NB: As this practice is illegal, the school could in these circumstances be judged to continue to hold the safeguarding responsibilities for the child during these times, even if a guardian has been informed.

### **What constitutes an unofficial exclusion?**

Unofficial or informal exclusion refers to:

- headteachers or other school staff sending pupils home for disciplinary reasons, but not following the procedures required to identify the time out of school using formal exclusion  
and
- pupils being sent home for either short periods of time or for longer, indefinite, periods which can sometimes result in the pupil not returning to school at all.

In these circumstances, schools sometimes mark pupils as an authorised absence or attending and sometimes take them (incorrectly) off the school roll without their having another school place elsewhere. This practice is illegal, and the formal exclusion process must always be used.

## Section D

### Information required for Governors Discipline Committee meetings

When a GDC meeting is convened, it is important the documentary evidence is as comprehensive as possible, and sent to parents, members of the GDC and the LA (where appropriate) to arrive at least **5 school days** prior to the meeting, in order that all parties are fully informed. It is important to remember that the paperwork supplied must be the same for all parties and ideally all pages should be numbered for ease of reference.

Section 8, paragraph 118 of the Guidance states 'All written witness statements must be attributed, signed and dated, unless the school has good reason to wish to protect the anonymity of the witness, in which case the statement should at least be dated and labelled in a way that allows it to be distinguished from other statements. and, if the school has cause to be concerned about the confidentiality of witness statements, the names can be anonymously coded. The general principles of fairness and transparency mean that excluded pupils are entitled to know the reason for their exclusion and the evidence that led to the exclusion'. The headteacher has to show, on the balance of probabilities, that the pupil did what he or she is alleged to have done but the more serious the accusation the more convincing the evidence needs to be.

When it is appropriate for a GDC to be called, ISS request, in writing, the supporting documentation as listed in Section D(i) to arrive at least five school days in advance of the GDC.

When a pupil is permanently excluded ISS contacts an Innovation Volunteer to contact parents and ask if they would like a visit to talk through the exclusion process and to record any comments, they have about the exclusion itself. A report is then written and, if parents agree, is provided as part of the formal paperwork to the GDC. The Innovation Volunteer can also help parents go through the evidence pack, put together a submission and accompany them to the GDC.

Parents are able to request an SEN expert to give a view on the SEN support of their child at the Independent Review stage of the permanent exclusion process. Although the SEN expert will not be required to attend a GDC there will be an expectation that there is an understanding and review of the support given to a pupil's SEN. It would be advisable for Governors to check that they are satisfied the school has made provision for any SEN the pupil may have or need even if the pupil is not on the school's SEN Register or does not have an Education Health Care Plan.

Section 6, paragraph 68 of The Guidance states:  
'The governing body should identify the steps it will take to ensure all parties will be supported to participate in its consideration and have their views properly

heard. This is particularly important where pupils under 18 are speaking about their own exclusion or giving evidence to the governing body'.

There will be circumstances when the full list of information in Section D will not be necessary, for example in instances of permanent exclusions for single serious incidents where only previous behaviour relating to the incident that led to exclusion can be considered. However, it is important to remember that Governors can only make decisions based on the information given to them.

The LA would also wish to advise schools and Governors that if the LA receives a Subject Access Request to disclose all records, all documentation including emails, administration forms, telephone messages, etc are required for disclosure, unless one of the exemptions of the Act applies. Where schools receive a Subject Access Request it is strongly recommended that they take appropriate advice as this might have implications for the timescale within which the GDC (or an IRP) may take place.

## Checklist for school paperwork required for Governors Discipline Committee meetings

The Information required includes:		✓
1.	A detailed overview statement from the <b>Headteacher</b> explaining why it is felt that a permanent exclusion is appropriate in this situation. It will include all the strategies (with dates of both action and review) used by the school to support the pupil. <b>Schools may want to refer to a useful table of strategies on pages 40-43 of the Exclusions Guidance for Hampshire Schools, Summer 2015:</b> <a href="http://www.education.hants.gov.uk/intranet/policies/exclusions/2015/exclusionsguidanceforhampshireschools.pdf">http://www.education.hants.gov.uk/intranet/policies/exclusions/2015/exclusionsguidanceforhampshireschools.pdf</a>	
2.	<p>A clear account of the actual incident including (where relevant) any events leading up to it. This will also include a range of witness statements – staff and pupils – who might have witnessed any incident that has led to the permanent exclusion. There should be at least one statement from the excluded pupil.</p> <p>Paragraph 118 of Exclusion from maintained schools, academies and pupil referral units in England, September 2017 states that: “All written witness statements should be attributed, signed and dated, unless school has good reason to wish to protect the anonymity of the witness, in which case the statement should at least be dated and labelled in a way that allows it to be distinguished from other statements. The general principle remains that excluded pupils are entitled to know the substance behind the reason for their exclusion”.</p> <p>Where written accounts of the incident are available and will be provided as part of the school's evidence pack, the school must consider the data subject rights of all concerned. Where a statement is written by a pupil, the school will need to consider their data protection obligations to that pupil and whether redaction of pupil names (and identifying details) is necessary in any witness statement which is being released to third parties.</p> <p>If redaction does occur, it is necessary for the documents involved to be labelled, for example, Pupil A, B, C or 1, 2, 3. Importantly, the same consistent labelling needs to be used so that, for instance, Pupil A's identity remains constant if pupils refer to other pupils in their statements. This is necessary so that the incident description can be easily followed by those reading the evidence pack, especially Governors when discharging their duties.</p> <p>If advice is needed on when anonymity is appropriate, please contact the ISS on 01962 876 331.</p>	
3.	A synopsis of events which culminated in the permanent exclusion, over a period of time, for example, dated behaviour logs from SIMS which clearly documents <b>incidents, outcomes and interventions</b> .	
4.	Dated documents reflecting how pupil's needs have been addressed and whether targets have been met, for example, Individual Behaviour Management Plans (IBMP), Personal Support Plans, Individual Education Plans. This should include all the strategies and interventions employed by the school to address a child's needs.	
5.	SEN perspective - Educational Psychology/Teacher Advisor reports and how any recommendations have been implemented, and any supporting SEN papers, e.g. copy of EHCP/Statement of SEN, last annual review, SEN Policy	
6.	Information regarding the involvement of other agencies, e.g. CAMHS, ISS, Children's Service Social Care, Early Help Hub referral etc.	
7.	Copies of the letters and notifications of any previous fixed period exclusions and a copy of the permanent exclusion letter and notification.	
8.	Details of relevant contact with and/or involvement with parents/carer	
9.	Attendance records over the last 12 months	
10.	<p>A summary of the child's strengths and abilities in relation to National Curriculum Key Stages e.g.:</p> <ul style="list-style-type: none"> <li>• a copy of the recent academic reports- detailing both attainment and effort. If the school uses its own assessment system/codes, it is important that an explanation is given of this</li> <li>• SATs results</li> <li>• CAT scores</li> <li>• Any other relevant attainment data including reading and spelling ages</li> </ul>	
11.	A copy of the school's Behaviour Policy and/or policies which relate to the exclusion, for example, drug related incidents.	

## Section E

### **Governors Discipline Committee Agenda And Management Committees for Education Centres (in line with good practice guidance relating to Tribunals)**

#### **Suggested Agenda**

- Introduction by Chair of the Committee and explanation of procedures
- Submission by the headteacher
- Questions by parents
- Questions by LA
- Questions by Governors
- Submission by parents
- Questions by headteacher
- Questions by LA
- Questions by Governors
- LA statement (where LA represented)
- Questions by headteacher
- Questions by parents
- Questions by Governors
- Summing up by headteacher including any responses necessary following the LA statement
- Summing up by parents
- ALL PARTIES, EXCEPT CLERK AND GOVERNORS, LEAVE THE MEETING
- Decision by Governors Discipline Committee (GDC) At no time either before, during or after the GDC meeting should any of the parties remain alone with the Governors in the absence of the other parties (The Guidance Section 6, paragraph 70).

The committee's decision must be made known to the parents, the headteacher and the LA in writing and without delay. HCC take the view that to avoid delay, **the decision letter should be written and posted, at the latest, by the day following the GDC, that it should be sent by first class post and allow two days for it to reach parents**. The committee should give full reasons for the decision that they have reached. A copy of the committee's decision letter should be placed on the pupil's file and with the Governing Body's confidential records, together with a copy of the original exclusion letter. The next section details further advice to clarify for Governors which elements should be considered when reaching their decision.

## Section F

### Minutes and Decision Letter

- The clerk should make clear and detailed minutes of the meeting (The Guidance, Section 6, paragraph 69). The minutes should be formally recorded by the chair of the committee as being a true and accurate record of the meeting. They should be filed securely with the other paperwork considered at the meeting in the individual pupil's school file and with the Governing Body's confidential records. It is good practice to send a copy of the minutes to all parties to the GDC, including parents and even if they do not attend as they still have the right to ask for an IRP.

The following list clarifies what Governors should be considering when reaching their decision:

- whether on the balance of probabilities the pupil did what they are alleged to have done and what behaviour policies were breached.
- whether the correct procedures were followed in dealing with the matter, e.g. were written accounts made by all staff and any pupils involved in the incident, and by the excluded pupil and whether the Headteacher complied with the law and had regard to The Guidance in making the decision to exclude;
- the seriousness of the incident.
- the appropriateness of the length of the sanction.
- whether to allow the pupil to remain in school would seriously harm the education and welfare of the pupil or of others in the school.
- the fairness of the exclusion in relation to the treatment of any other pupils involved in the same incident.
- any relevant previous breaches of the school's behaviour policy.
- the internal/external support and strategies provided by the school and for how long they were in place.
- any special educational needs and disabilities the pupil may have;
- any mitigating circumstances (e.g. being bullied).

- Section 6, paragraph 71 states 'In reaching a decision on whether or not to reinstate a pupil, the governing body should consider whether the decision to exclude the pupil was lawful, reasonable and procedurally fair, taking account of the head teacher's legal duties'.
- The governing body should set out the reasons for their decision in sufficient detail to enable all parties to understand why the decision was made.
- This will be particularly important if the parents exercise their right to ask for the decision to be reviewed by an IRP

## Section G

### Advice on practical procedures at the Governors Discipline Committee Meeting

In addition to the advice in this guidance, Governor Services provide an e-learning facility on GDCs which is available in the Governor Services intranet at:

[http://www.hants.gov.uk/education/governortraining/governorsdisciplinecommittees/presentation\\_html5.html](http://www.hants.gov.uk/education/governortraining/governorsdisciplinecommittees/presentation_html5.html)

This has been developed and updated by Governor Services with help from ISS. HCC would strongly advise any Governor who has been asked to sit on a GDC reads through this training, particularly if they have not attended the full exclusions training for Governors delivered by ISS and organised by Governor Support Services. It is also hoped to aid experienced clerks as an easy way to access the documentation required and as a checking facility. The e-learning is hyperlinked to documents from this guidance. Attending full exclusion training sessions for both new and existing Governors is strongly recommended by the LA and the Guidance.

The following bullet points give advice for practical procedures which will assist in ensuring good practice is followed, ensure secure outcomes, and reduce potential challenge:

- A neutral venue can prevent parents feeling at a disadvantage, e.g. it is preferable not to hold the meeting in the headteacher's office as parents may not feel at ease there or that the meeting was impartial
- Governors must not discuss the exclusion with the headteacher or anyone else outside the meeting – their decision must be based on only the information provided beforehand by the Clerk and that given in the GDC itself by the headteacher and parents, together with any advice sought from the LA, if they attend
- There must be at least 3 Governors for the meeting to be legal (Section 6 paragraph 53). Governors should not have prior contact with, or knowledge of, the pupil to avoid parents thinking there is any bias against their child
- The clerk needs to be present to minute the meeting which Governors may refer to in their discussions after everyone else has left the meeting. The committee should decide who is to chair the meeting before all parties are present.
- The headteacher, or any other staff involved in presenting the school's case, should enter and leave the meeting at the same time as the parents and the LA representative - this is important to ensure an impartial atmosphere.
- A GDC is a formal meeting but needs to be conducted as informally as possible to ensure that parents are able to put all their points across and ask relevant questions. The suggested Agenda (Section E) gives a structure to the meeting and will help the Chair to ensure

that all points are covered and that everyone has the chance to give further information and to ask questions of the other parties.

### **Recommendations for good practice based on ISS experience of exclusions in HCC, and guidance from Coram and Child Law Advice**

It is useful for the chair to remind all parties of the role of the Governors when making a decision on any exclusion, i.e. that it will consider:  
did the incident(s) occur as described and evidenced, and  
if the committee believes it did, was the exclusion an appropriate sanction in all the circumstances bearing in mind the criteria which have to be adhered to.

#### **Checking paperwork:**

- The chair needs to check that all parties have received the paperwork and that all parties have all parental submissions, and the LA statement where one has been provided in writing prior to the meeting.
- Should any party table late paperwork, an adjournment should take place to enable copies to be made for everyone else and for them to have time to read the new submissions.
- Some parents may find it easier to read a prepared statement to the meeting, particularly if they are finding the meeting distressing. If so, it would be helpful for Governors if a copy of this could be provided for reference during their decision-making.
- Care should be taken when including confidential or external third-party correspondence, e.g. Child Protection/health issues.

#### **The school submission**

This will usually be presented by the headteacher and should include the reason for the exclusion and details of any support and strategies the school has put in place to address inappropriate behaviour and to avoid exclusion. The headteacher may ask another teacher, with more detailed knowledge of the pupil or the incident which led to exclusion, to present or add to the school's case for exclusion.

#### **Governors Role**

Committee members should ask questions for clarification during the presentation. However, it is important that Governors do not get involved in offering their opinions or giving the impression that they have already decided on the outcome.

#### **Questions by parents**

In many cases the chair may need to guide parents to "ask questions" rather than making their statement at this point. It is important to explain to parents that they will have an opportunity to make their submission later in the meeting.

#### **Submission by the parents, pupil and/or representatives**

The GDC should allow and encourage the excluded pupil to attend the meeting and speak if their parent agrees. It is advisable for the chair to

establish, before the start, whether parents are happy for their child to be questioned, and whether they would prefer their child to leave after they have made a statement. At the end of the GDC it is helpful for the chair to ask the parents whether they feel they have been given the opportunity to say all they wish to say as this will be their last opportunity.

If the pupil is over 18, they may wish to make their own submission with or without their parents present.

### **Questions by the school and LA representative**

Both the school and the LA representative should be allowed the opportunity to ask questions at the appropriate times.

### **LA's statement**

The LA's statement will be in the form of a letter to the GDC and be sent to all parties beforehand where the evidence pack is provided in sufficient time to enable that to happen. An LA representative will attend all permanent exclusion hearings for maintained schools, and it is good practice for academies to invite an LA representative to attend. For fixed-period exclusion GDCs, the LA does not write a statement beforehand and attendance is reviewed on a case-by-case basis.

### **Summing up by the headteacher and then the parents**

This should be done in brief and without the introduction of any new information and parents should always have the final say.

### **Meeting ends**

The school staff, parents and the LA representative leave together. The committee then has its discussions in private, with the clerk providing clarification of any points covered in the meeting by reference to their notes, and recording the decision and the reasons for it. The decision letter must be sent to the parents without delay and copied to the headteacher and the LA at the same time (also see guidance in Section E & F).

### **Advice for asking questions at the GDC meeting**

As well as considering any written evidence, the hearing gives Governors the opportunity to put their own questions to all parties. Appropriate questioning can help Governors get additional information and test the evidence presented. Listening to and observing parents and school representatives is as important as asking them questions.

#### **Do**

- Ask plenty of open-ended questions (e.g. 'What does J like about school?' 'What happened that day?') but bear in mind that this could be difficult for nervous people and allow them to wander off the point.
- Ask neutral, probing, rational questions (e.g. 'Tell me about ...?; When? Who? What? How?'). This allows matters to be explored in more depth.

- Ask extending/linking/building questions (e.g. 'You said ...,' 'Tell me more about ...?'). This invites more information and keeps questioning relevant.
- Probe and check especially if you do not fully understand what has been written or said or if an answer does not seem to fully answer the question.
- Summarise your interpretation of what is being said from time to time (e.g. 'Are you saying that ...?' 'You feel that ....?'). This ensures that you have understood what has been said and gives the other party the chance to add to that or correct your understanding. Reflecting also helps to create rapport – shows you are listening and trying to understand.
- Listen not only to what is said but also what is meant, although it is important to avoid making assumptions – if you are unsure of what is meant, ask further questions.
- Give encouragement and maintain appropriate eye contact with the person speaking.
- Watch for cues – a speaker may hesitate, appear embarrassed or cut off a reply. Decide if this should be pursued and, if so, find out what the problem is by tactful follow-up questioning.
- Look for evidence – ask for examples.
- Consider hypothetical questions (e.g. to the school: 'If a parent complained that their child had been bullied, what would you do?'). This may provide opportunities for judgement and practice to be investigated and to ensure the school's policy is followed.
- Adjust your language to that with which parents are likely to be comfortable.

### Don't

- Ask too many closed questions which can be answered by a 'yes' or 'no' (e.g. J was rude only to Mr A?') This may be useful if a person is nervous but is unlikely to provide much information.
- Ask leading questions or make statements which appear to be judgemental (e.g. 'Fighting can't be tolerated. Is that why you excluded J?'). This may save time but can be seen by parents as you having hard and fast views with no room for taking into account a pupil's individual circumstances and how those might have affected the pupil's behaviour.
- Ask questions which give the impression that the committee has made up its mind (e.g. 'You do know that such behaviour cannot be tolerated at this school?' or "I/we are sure that the school has done all that it can to support J")
- Ask long questions.
- Ask multiple questions (e.g. 'What does J enjoy most; is it sport, or does he prefer academic subjects?' Rather ask, 'What does he like most at school?')
- Ask either/or questions (e.g. 'Would you prefer J to be at a school or an Education Centre')
- Talk down to parents – adjust your language to match theirs.

- Make sudden changes of style or topic. If changing topics, make this clear by prefixing your question with a pointer (e.g. 'Now I would like to ask about something different ....')
- Be abrupt, suspicious, argumentative, contradictory, critical, or aggressive.
- State your own opinions.
- Talk too much or make assumptions – ask.
- Stick so rigidly to an area of questioning that you are not hearing what the other person is saying.
- Use jargon or abbreviations – if you do, explain what it means

### **Attitudes and behaviour**

Remember that you can help to ensure that parents feel they have been treated fairly and equally by demonstrating neutral attitudes and behaviour throughout, and towards all parties.

### **Consistency and fairness**

Governors have a responsibility to respond and react with equal attention to each party's case. It is easy to give the appearance of prejudice in favour of/against a party unconsciously, e.g.:

- by calling some people by their first names and appearing to be on friendly terms with them,
- by getting names wrong,
- by the way in which questions are asked, or
- by body language
- talking quietly to other committee members while another party is speaking, yawning, doodling, failing to look at the speaker.

### **Empathy**

While remaining neutral throughout the hearing, Governors should try to be aware of any difficulties parents have or exhibit (e.g. hearing impaired or nervousness). Parents are there because they want what is best for their children. They may need help with expressing their case clearly, but Governors should avoid being patronising, making assumptions about how parents are presenting and why, or show signs of irritation towards them.

### **Listening**

Governors should remember that 'hearing is with the ears and listening is with the mind.' Active listening allows Governors to hear the content, understand the underlying meaning and recall it where necessary.

### **Names**

Governors should try not to confuse people's names. Chair should ask everyone to introduce themselves, as they wish to be addressed, before the meeting begins. If necessary, ask them to repeat their names if you don't catch it the first time as nervous people sometimes talk very quietly, mumble or talk too fast.

### **Cultural differences**

Governors should respect cultural differences. Questions should only be asked about those differences where it helps with understanding and should be phrased with sensitivity.

### **Making notes**

The clerk will take detailed notes. These are an essential part of the decision-making process. If any of the parties wish to make their own notes during the meeting, this should be done in as unobtrusive manner as possible so that it does not interrupt the flow of the meeting. The chair should explain these points to the meeting beforehand and suggest that if anyone hears something with which they disagree or about which they wish to comment or ask a question, they make a note of it and wait until it is their turn to speak.

### **Physical response**

Governors can show that they are listening by facing the speaker and leaning forward slightly. They should retain good eye contact and nod in appropriate places to show that they are paying attention and understand and to give encouragement.

### **Reflection**

Governors should not be afraid of pauses or silences. Always allow the speaker time to think so the speaker does not feel under pressure. Give the speaker plenty of opportunity to clarify what they have been saying. This will allow them to talk more freely. Try not to interrupt or cut in.

## Section H

### Education and Admissions following a permanent exclusion

#### Introduction

The LA has the responsibility towards all permanently excluded pupils to:

- a) provide a suitable full-time education from the 6<sup>th</sup> day; and
- b) reintegrate pupils, where practical, into an appropriate mainstream school.

1. Following the headteacher's decision to permanently exclude, a copy of the exclusion letter and the notification form is sent by the school to ISS who forward it to the appropriate Education Centre/PBS who are responsible for organising the 6<sup>th</sup> Day provision. During the first five days of exclusion the Education Centre Manager will invite the parents/carers and the pupil for an interview to discuss the educational provision to be put in place.
2. The pupil's needs will be assessed and, if appropriate, the pupil will be considered for reintegration by the Local Inclusion Panel in the pupil's home area in conjunction with HCC Admissions Fair Access protocol which follows this Section. It requires that certain groups of pupils are included in the protocol.
3. Parents/carers will still retain the right to apply for a place at another school at any stage during the exclusion process, providing their child has not been excluded twice within the previous two years but may find it beneficial to obtain LA support in doing this.
4. The LA are responsible for ensuring that, where possible, pupils are reintegrated into an appropriate mainstream school. ISS will liaise with the relevant teams (e.g. PBS, SEN and Admissions) to secure a new placement.
5. It is normally unacceptable for a school to refuse to admit a child on the basis of their behaviour elsewhere.

## **Fair Access Protocol for admission to schools**

### **Legislation**

The February 2007 Admissions Code placed a duty on each local authority to develop a Fair Access protocol. The latest revision of the Code, in force from December 2014, restates the principles and scope of the protocol. All admission authorities must participate in the Fair Access Protocol.

### **Key principles**

The School Admissions Code (December 2014) requires that:

1. Each local authority must have a Fair Access Protocol, agreed with the majority of schools in its area to ensure that – outside the normal admissions round – unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. In agreeing a protocol, the local authority must ensure that no school – including those with available places – is asked to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour.
2. All admission authorities must participate in the Fair Access Protocol.
3. The operation of Fair Access Protocols is outside the arrangements of co-ordination and is triggered when a parent of an eligible child has not secured a school place under in-year procedures.
4. There is no duty for local authorities or admission authorities to comply with parental preference when allocating places through the Fair Access Protocol.
5. Where a Governing Body does not wish to admit a child with challenging behaviour outside the normal admissions round, even though places are available, it must refer the case to the local authority for action under the Fair Access Protocol. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children. This provision will not apply to a looked after child, a previously looked after child or a child with a statement of special educational needs naming the school in question. Admissions authorities must not refuse to admit a child thought to be potentially disruptive, or likely to exhibit challenging behaviour, on the grounds that the child is first to be assessed for special educational needs.
6. A school will not be required to automatically take another child with challenging behaviour in the place of a child excluded from the school.

### **Procedures**

1. The majority of children requiring a school place will continue to be admitted to their local school in accordance with the usual admission procedures, rather than through this Protocol.
2. Where the placement of a child cannot be decided, the local authority will determine the placement, taking into account the circumstances of the individual

pupil, as well as which school will be best able to meet their needs, bearing in mind concerns from schools about admission and seeking to protect any one school from a disproportionate number of placements of children with challenging behaviour. In deciding a placement every effort will be made to ensure that transport arrangements, which may be the responsibility of parents, are reasonable and cost effective. Schools may act collaboratively to propose placements in their area under this Protocol.

3. To decide whether a child is ready for mainstream school, the child must be placed on roll and admitted to school in the first instance, where their needs can be assessed, before seeking appropriate support from the relevant agencies. This does not apply to children already attending Education Centres whose placements will be agreed through the local placement panels.
4. The fact that the PAN has been reached or exceeded cannot be given as a reason for not admitting a pupil under this protocol.
5. An admission under the Protocol has priority over other children on a waiting list. Schools must not require that an appeal be heard before a child is admitted under the Protocol and must not refuse a child on the basis that an appeal was previously unsuccessful.
6. The aim is to place a child in school within 20 school days of application. It is expected that all parties will act with a sense of urgency.
7. Statutory powers of direction and the rights of schools to object to Schools Adjudicator are set out below. Where a school has not responded to an application within 14 calendar days the LA will where appropriate use its powers of direction. For community and voluntary controlled schools, the LA as the admission authority will issue a decision letter in these circumstances.
8. Where the Governing Body of any school wishes (under paragraph 3.12 of the Code, Key Principle 5 above) to refuse an application of a child with challenging behaviour when there are places in a year group, the school must put in writing to the LA (only and not the parent) its intention to refuse to admit and the detailed reasons for this decision. This must be received by the Admissions Team within 14 calendar days of receipt of the application in order to assist the LA's determination of the child's application under the Fair Access Protocol. Where the determination is that the school in question should admit the child then the LA will request that the offer letter should be issued. Where the school does not do so, the LA will where appropriate use its powers of direction. For community and voluntary controlled schools, the LA as the admission authority will issue an offer letter.
9. All schools, including academies, are expected to respond to a request by the LA to admit a child under the Fair Access Protocol within 7 calendar days. The governing body of a maintained school can appeal by referring the case to the Schools Adjudicator within 15 calendar days. Similarly it is expected that an academy will agree a starting date for the child or set out its reasons for refusal in

writing to the LA within 15 calendar days (providing contact details to cover any approaching bank holiday or holiday periods).

10. The LA will report on admissions under the Protocol in its annual report to the Schools Adjudicator.

### **Safeguarding**

In all cases the LA's duty to safeguard the child is paramount. Children out of school may be at risk; schools, with the Admissions Team, ISS and any other relevant representatives of the LA must do their utmost to ensure that children are not out of school for extended periods of time.

### **Categories of children to be included in the Protocol**

- a) Children from the criminal justice system or Education Centres (Pupil Referral Units) who need to be reintegrated into mainstream education
- b) Children who have been out of education for two months or more
- c) Children of Gypsies, Roma and Travellers
- d) Children of refugees and asylum seekers
- e) Children who are homeless
- f) Children with unsupportive family backgrounds for whom a place has not been sought
- g) Children known to the police or other agencies
- h) Children who are carers
- i) Children who have to move school because of domestic violence (whether staying in a refuge or with friends/other relatives)
- j) Year 6 or Year 11 pupils
- k) Children with special educational needs (but without a statement), disabilities or medical conditions
- l) Children of UK Service personnel
- m) Any other children who arrive outside the normal admissions round who may have difficulty securing a place.

Categories (a) to (j) are seen as exceptional admissions and will always be handled under the protocol, where appropriate. For categories (k) to (m), admissions under the protocol can take account of other complicating issues for the child or family or the fact that more than one category applies. In making a placement of a child in these three categories, factors to be taken into account will include the number of children on waiting lists at the schools being considered and the likelihood of an admission under the protocol denying a place to another child in one of these categories. All admissions must follow the timescales and processes described above.

### **School Specific Protocols**

Schools may request an additional school-specific protocol which recognises the difficulties of finding alternate school places in a particular geographical location and allows the admission of catchment children where no other suitable place is available.

## **Record keeping**

The Children Services department will keep records of all pupils placed under this Protocol, together with all notified in-year admissions. Schools are required to notify the LA of all admissions and to ensure that the LA has up to date records of numbers on roll in all year groups.

## **Local Inclusion Partnerships (LLP)**

The role of the Local Placement Panels is to consider exceptional cases only, e.g. permanently excluded pupils who are ready to be integrated back into mainstream education. The panels will also monitor the number of managed moves/Fair Access placements within its area.

## **Looked After Children (and previously Looked After Children from September 2013)**

Looked after children will be placed in accordance with the appropriate legislation to the school that best meets their needs, as determined by the social worker in conjunction with the Manager for Vulnerable Children.

## **Children with Education Health Care Plans**

Children with statements of SEN will be placed in accordance with the appropriate legislation by the County's SEN team.

## **Powers of Direction**

The School Admissions Code 2014 summarises the powers of direction given to LAs under sections 96 and 97 of the 1998 Education Act, and the differing requirements in relation to admissions to Academies:

**3.16 Local authority powers of direction (general)** - A local authority has the power to direct the admission authority for any maintained school in its area to admit a child even when the school is full. The local authority can only make such a direction in respect of a child in the local authority's area who has been refused entry to, or has been permanently excluded from, every suitable school within a reasonable distance. The local authority **must** choose a school that is a reasonable distance from the child's home and from which the child is not permanently excluded. It **must not** choose a sixth-form that selects by ability unless the child meets the selection requirements, or a school that would have to take measures to avoid breaking the rules on infant class sizes if those measures would prejudice the provision of efficient education or the efficient use of resources.

**3.17** Before deciding to give a direction, the local authority **must** consult the governing body of the school, the parent of the child and the child if they are over compulsory school age. If, following consultation, the local authority decides to direct, it **must** inform the governing body and head teacher of the school. The governing body can appeal by referring the case to the Schools Adjudicator within 15 days. If it does this, the governing body **must** tell the local authority. The local authority **must not** make a direction until the 15 days have passed and the case has not been referred.

**3.18** If the case is referred to the Adjudicator, the Adjudicator may either uphold the direction or determine that another maintained school **must** admit the child.

The Adjudicator's decision is binding. The Adjudicator **must not** direct a school to admit a child if this would require the school to take measures to avoid breaking the rules on infant class sizes and those measures would prejudice the provision of efficient education or the efficient use of resources.

**3.19 Local authority powers of direction (looked after children)** - A local authority also has the power to direct the admission authority for any maintained school in England to admit a child who is looked after by the local authority, even when the school is full. The local authority **must not** choose a school from which the child is permanently excluded but may choose a school whose infant classes are already at the maximum size.

**3.20** Before deciding to give a direction, the local authority **must** consult the admission authority of the school it proposes to direct. The admission authority **must** tell the local authority within 7 days whether it is willing to admit the child. If, following consultation, the local authority decides to direct, it **must** inform the admission authority, the governing body (if the school is a voluntary controlled or community school), the local authority that maintains the school, and the head teacher. The admission authority can appeal by referring the case to the Schools Adjudicator within 7 days. If the child has been permanently excluded from two other schools and the most recent exclusion was within the previous two years, the governing body (if the school is a voluntary controlled or community school) may also refer the case to the Adjudicator. The admission authority or governing body **must not** refer the case unless it considers that admitting the child would seriously prejudice the provision of efficient education or the efficient use of resources. If the admission authority or governing body does refer the case, it **must** tell the local authority that looks after the child. The local authority **must not** make a direction until the 7 days have passed and the case has not been referred.

**3.21** If the case is referred to the Adjudicator, the Adjudicator may either uphold the direction or determine that another maintained school in England **must** admit the child. The Adjudicator's decision is binding. The Adjudicator **must not** direct an alternative school to admit a child unless the local authority that looks after the child agrees, nor if the child is permanently excluded from that school, nor if the admission of the child would seriously prejudice the provision of efficient education or the efficient use of resources.

**3.22 Secretary of State power of direction (Academies)** - Where a local authority considers that an Academy will best meet the needs of any child, it can ask the Academy to admit that child but has no power to direct it to do so. The local authority and the Academy will usually come to an agreement, but if the Academy refuses to admit the child, the local authority can ask the Secretary of State to intervene. The Secretary of State has the power under an Academy's Funding Agreement to direct the Academy to admit a child and can seek advice from the Adjudicator in reaching a decision.

Revised March 2015

## Section I

### Managed Moves

Secondary schools have adapted their own Managed Move Protocols based on the HCC Protocol below – please refer to your local Protocol.

#### Introduction

In some circumstances, it may be appropriate for a registered pupil of compulsory school age to transfer from one school to another, other than for the usual reasons such as moving home, and primarily at the initiative of their current school. Such situations might be, for example, when a pupil has a deteriorating exclusion profile or following a breakdown in relationships between staff and parents. However, due to the legal responsibilities of both school and parents regarding admission and attendance, it is best if such “Managed Moves” are dealt with according to a clear protocol and if schools in a given area can co-operate in mutually beneficial arrangements. This avoids the risk of disputes between schools over who is now responsible for the pupil or children and parents being left with no clear provision for their education.

#### Principles

The key principles of a Managed Move are:

- Consideration for a Managed Move must form an integral part of a pupil’s Behaviour Management Plan and there is an expectation that headteachers in Hampshire will consider this as an option prior to the implementation of a permanent exclusion. If necessary, a fixed period exclusion should be put into place whilst discussions are taking place. Parents, however, should be clear that this should not preclude any representation that they may wish to make regarding the exclusion to any subsequent Governors Discipline Committee or Independent Review Panel.
- A Managed Move is intended to be used as an early intervention strategy to give an opportunity of a fresh start and to stop repeated challenging behaviour which is leading to exclusions. Schools who are unsure as to whether a Managed Move is an appropriate strategy to use can obtain further advice and support from their local Inclusion Officer or Area Strategic Manager.
- Managed Moves require the full knowledge and agreement of all the parties involved, including the parents, pupil and both the receiving and home schools. All arrangements are voluntary. In cases where a child is in receipt of a personal education plan, on a child protection register or where there is active social worker involvement, there should be a contribution and involvement from Children’s Services with the education planning process.

- Managed Moves should be time-limited (a maximum of six weeks/half a term is recommended). A clear date for interim review should be set, and a date set when the final decision over whether the transfer can become permanent will be made. These dates should be clearly communicated to parents, pupil and both the receiving and home schools.
- Parents should never be pressured into removing their child from the school either to undertake a Managed Move they do not want or to educate their child at home. For the integrity and success of the Managed Move system the purpose of the Managed Move must be appropriate and understood by all parties.

## Procedures

**The success of a Managed Move depends upon clarity of expectations between pupils, parents and home and receiving schools. The following procedures are intended to give that clarity so aiding the success of pupils benefiting from a 'fresh start' in another school.**

1. Initial discussions must take place between a headteacher, parent(s) and the pupil. The parent(s)' written consent should be obtained to begin the process of finding a receiving school. Although parent(s) may wish to specify their preferred receiving school, they should be advised that it may not be possible to accord their wishes. All parties with parental responsibility should be consulted.
2. Appropriate supporting paperwork should be prepared in anticipation of a move. This should include:
  - a copy of the Managed Move agreement which sets out clear review, end dates and individual targets for the move period.
  - current (or most recent) academic reports including attainments,
  - most recent IBMP/PSP/IEP,
  - social care or child protection paperwork
  - behaviour and exclusion record, and
  - recent agency involvement.
3. Schools should work in collaboration with each other to allocate places for pupils who would benefit from being given the opportunity for a fresh start by way of a Managed Move. However, if agreement cannot be reached, the following options can be considered as an alternative to a Managed Move:
  - by requesting the Pupil be discussed at the local Inclusion Placement panel, and
  - by requesting the support of the LA Inclusion Officer or Area Strategic Manager 'to act as a broker'.
4. In order to plan effectively for the move period, once an agreed receiving school has been identified, a meeting should be convened with:
  - the child and parent(s) and, where appropriate,
  - any professionals already involved with a pupil,

- the Social Worker; for Looked After Children or children on the Child Protection Register, the child's Social Worker MUST be involved in the planning of the Managed Move and all relevant documentation MUST be shared with the receiving school,
- a member of the local ISS team (who may be supporting the pupil during the move period), and
- representatives from both the home and receiving schools.

5. The arrangements for the Managed Move should be recorded in writing; an example format follows but schools can use a preferred format. Any agreed format should include signatures of the parties, basic pupil and school details, and an outline of the parties' expectations but it could also include the following elements:

- the starting date and agreed attendance arrangements (for example, it may not be appropriate for all pupils to transfer on a full-time basis initially),
- the move period (either six weeks or half a term is recommended),
- details of any individual targets set that the pupil needs to meet during the move period. Agreed targets should be set on an individual basis taking into account previous circumstances that have led to a Managed Move being sought. Targets should not be blanket school focused targets but should be relevant to the individual pupil.
- the date for interim review and the date on which a final decision will be made. At the review meeting there will be one of three possible outcomes of 1. Transfer and enrolment 2. Return to home school or 3. An extension with agreed date (most cases will seldom require more than one extension).
- the arrangements for reporting and recording the child's attendance record. This must remain on the home school's register, using the code for "receiving education off-site" (present), so long as the child is actually in attendance when required. Absences from the receiving school which are not approved must be recorded as "unauthorised" by the home school. The receiving school will record the pupil as dual roll according to the current Absence and Attendance Codes. A pupil MUST NOT be removed from the home school roll until written confirmation, following the final review date, has been received by the home school, indicating that the move has been successful and the pupil has been accepted on to the roll of the receiving school.
- details of agreed levels of support to be provided during the move period and agreed action by individuals in or out of school, and
- details of transport arrangements.
- it will need to be decided following the set-up meeting which establishment is writing to the parents summarising the content of the meeting and targets for the pupil.

6. A copy of the Managed Move agreement should be forwarded to the Inclusion Officer at the Local Children's Services Office so an overview of pupils admitted to schools under the Managed Moves Protocol can be tracked. This information may be used when considering placement of hard to place pupils under the Fair Access Protocol for admission to schools 2013.

7. During the Managed Move, the receiving school is able to issue a fixed period exclusion for behavioural problems. If a fixed period exclusion is issued, the letter issued to parents informing them of the exclusion should be issued by the receiving school and copied to the LA and home school for their records. The home school MUST record the exclusion on SIMS and send the notification form to the LA.
8. If the receiving school wishes to end the Managed Move, the headteacher must confirm this in writing to the parent(s) and to the home school headteacher, specifying the date from which the child must return to their home school with specific details about incidents and attendance. Otherwise, at the agreed review meeting, a decision must be made to determine whether the child will return to their home school or be admitted to the new school on a permanent basis. If the Managed Move period is extended, then this should be confirmed in writing following the review meeting.
9. Where a pupil has a statement of special educational needs, interim statutory review procedures should take place before a decision to use permanent exclusion is made. Discussions at any subsequent review meeting may include consideration of a managed move.
10. When a managed move is being used as an alternative to a permanent exclusion decision, the pupil should still remain on the roll of the home school but when discussing the Managed Move with the pupil and parents, the home school MUST make it absolutely clear (preferably in writing) that if the Managed Move should fail, the home school headteacher after reconsidering the evidence and the reasons for the failure of the Managed Move may return to his decision to permanently exclude. In the case of serious incidents causing the Managed Move to fail, the receiving school will need to notify the home school and provide the necessary evidence base for the home school to consider when revisiting the decision to permanently exclude. This would usually require the issuing of a fixed period exclusion during notification and identification.
11. If the Managed Move is successful, on the agreed date, the pupil should be removed from the roll of the home school and admitted to the Admission Register of the receiving school. Any remaining records should then be formally transferred as a matter of urgency. Funding should be transferred to a receiving school when confirmation has been received that the pupil has been formally admitted on to the roll of the receiving school. This will be the balance remaining of the AWPU plus any other appropriate amounts such as Pupil Premium funding or Special Educational Needs funding. If the pupil is subsequently formally admitted, the funding transferred will be backdated to the date that the Managed Move was initiated.

## Managed Move Agreement

for \_\_\_\_\_ (pupil's name) \_\_\_\_\_ DoB \_\_\_\_\_ from \_\_\_\_\_ (home school) \_\_\_\_\_

to \_\_\_\_\_ (receiving school) \_\_\_\_\_ on \_\_\_\_\_ (date) \_\_\_\_\_

This pupil is being supported by a Managed Move to a new school for a fresh start following a period of difficulties at his / her home school. The move of school is supported by parents / carers and the pupil will be supported in the new school by \_\_\_\_\_ (designated staff member)

**The new school will explain the behaviour expected, their Behaviour policy and the school Code of conduct. \_\_\_\_\_ (Pupil's name) \_\_\_\_\_ will therefore agree to:**

**The new school will explain the behaviour expected, their Behaviour policy and the school Code of conduct. \_\_\_\_\_ (Pupil's name) \_\_\_\_\_ will therefore agree to:**

1. Co-operate with the programme arranged by completing class work and homework to the best of their ability
2. Distance themselves from trouble with other pupils and avoid fights or arguments
3. Find \_\_\_\_\_ (staff name) \_\_\_\_\_ or \_\_\_\_\_ (staff name) \_\_\_\_\_ to ask for help if there are any difficulties
4. Take advantage of the support of \_\_\_\_\_ (outside agency staff) \_\_\_\_\_

**The receiving school agrees to :**

1. Encourage \_\_\_\_\_ (pupil name) \_\_\_\_\_ in school work and keep in regular contact with parents / carers, home school and other agency staff
2. Take part in regular IEP reviews, which will be attended by all those signing this agreement, including both schools
3. Offer praise and reward whenever appropriate.
4. Record attendance and inform home school weekly (see Managed Move Guidance)

**The home school agrees to:**

1. Keep the pupil on roll and record attendance on the register (see Guidance)
2. Take part in regular IEP reviews, which will be attended by all those signing this agreement, including both schools
3. Accept the pupil back in school to plan a way forward should this be necessary.

**Date agreed** \_\_\_\_\_ **Dates of review** \_\_\_\_\_ & \_\_\_\_\_

### Signatures

Home school Head \_\_\_\_\_ New school Head \_\_\_\_\_

Home school link person \_\_\_\_\_ New school link person \_\_\_\_\_

Pupil \_\_\_\_\_ Parent / carer \_\_\_\_\_

Other \_\_\_\_\_ Other \_\_\_\_\_

## Section J

### Behaviour checklists and strategies

The Law, Policies and Advice section of the Introduction to this document highlighted the importance of behaviour management and identification in schools. An outline of Ofsted key features and references for materials were given. The other important aspect of Exclusion Guidance could be the possible scrutiny of SEN provision under the parental request for an SEN expert at Independent Review.

Schools will need to show evidence that there has been assessment over a period of time intended to address pupils' social, emotional and behavioural needs so that inappropriate behaviour is modified, reduced or even eliminated before the stage of exclusion as a sanction is reached (The Guidance, Section 3, paragraphs 18 and 19). In this respect, evidence of good planning, appropriate action and follow up evaluation cannot be over-emphasised. A balance should always be made between accessing support for an individual pupil and measures which should be adopted at a systemic or whole school level.

Many of the strategies are designed to raise children's self-esteem in order to establish positive attitudes to learning. It goes without saying that the earlier intervention takes place, the greater the chance of success. Parents (and pupils where appropriate) should be involved in the setting of targets and strategies to be used.

It is highly recommended that any new strategy designed to address a difficulty is kept in place for a reasonable length of time – either for the pupil to have time to adjust and/or for them to achieve good success. If at all possible, fixed period exclusion should be avoided during any key time-limited strategy (such as small group work with social skills/anger management) or for the pupil to at least attend the on-going sessions during exclusion. (A responsible adult could, for example, escort the pupil to and from the sessions).

The reintegration of pupils following a period of exclusion is also very important and thought needs to be given to what changes are required to take place. Following longer exclusions, some schools have a "fresh start" programme which aids a return to the classroom.

#### **Internal exclusion**

Schools could deal with minor infringements of their behaviour policy by arranging internal exclusion rather than short fixed period exclusions. This is perfectly acceptable and should not be treated or counted as an exclusion from school, because it is, by its very nature, contained within the school. (there is a template for an internal exclusion if schools wish to keep a record of the sanctions and notify parents of the behavioral difficulties, Appendix 2, letter 6).

## Table of Strategies

The table below is not exhaustive and will probably bring no surprises but may be useful as an aide-memoire. There are some excellent examples of good practice around the County - please contact your EP, Attendance Co-ordinator, Primary Behaviour Service, LLP, School Improvement Manager or ISS for further information. The references given in the Introduction under The Law, Polices and Advice section, give key features of the Ofsted framework in relation to behaviour, and references to sites where specific programmes and resources can be accessed.

Robust tracking of the behaviour of the child and strategies used to ameliorate the behaviour enable schools to apply behaviour policies consistently and being openly transparent and responsive enable a school to self-audit. There may be a 'one-off' very serious incident which alone merits exclusion. The following list may not, therefore, be appropriate for all cases but detailed records are still required.

<b>Regular meetings/contact with parents/carers of challenging pupils</b>	It is imperative that parents are kept fully aware of their child's behaviour and, as partners, are involved with target-setting and reviewing <b>along with their child</b> , thereby supporting the school in reinforcing positive behaviour. The school can write to the parents expressing concern and detailing the presenting problems and/or invite them to school in order to discuss problems as they arise. Tutors, heads of department, year heads and deputy heads can talk to the pupil (recorded in the pupil file) to offer advice. The parents and child should be made aware of the possible consequences of poor behaviour, including exclusion, and that this is consistent with the school's Behaviour Policy.
<b>Relocation – change of class/tutor group</b>	Are there clashes with peers or teacher?
<b>Buddying</b>	Could the pupil benefit from being paired up with an older buddy <b>or</b> would their self-esteem be raised if they were given that responsibility for a younger pupil?
<b>Behaviour Plan</b>	The school has initiated an Individual Behaviour Management Plan or Pastoral Support Programme, which involves all those who have contact with the pupil, with clear reviewing procedures. Programmes need time to be implemented. School sanctions have been applied consistently in an attempt to moderate the pupil's behaviour. Examples for plans can be found on the EP Hantsnet site or through educational psychology for secondary student pastoral support plan templates.
<b>Activity of responsibility</b>	Particularly effective in raising self-esteem.
<b>On report</b>	To a member of staff that the pupil will respond to. To be used on a flexible timescale.
<b>Mentoring</b>	By someone that the pupil will respond to – could be an older pupil, a particular member of the school community or someone from outside the school.
<b>Counselling/ELSA support</b>	From a qualified person either in school or out. Has the school considered ELSA trained staff supporting the pupil's emotional literacy needs?

<b>Rewarding achievements</b>	Where appropriate, positive reinforcement of good behaviour, to boost self-esteem. Rewards can range from verbal acknowledgments to a more structured system.
<b>Support targeted at times of identified difficulty</b>	Such as unstructured periods and movement between classes. Could these times, such as break and lunch, be used for alternative activities such as catching up with school work?
<b>Clear communication throughout school of pupils' needs</b>	Including supply/cover and temporary staff. There should be forums available for staff to share concerns and to plan ways forward. All relevant staff should be aware of pupil needs.
<b>Staff training</b>	Staff should be aware of "signs" to look out for which may suggest emotional difficulties. Other training needs should be identified through school self-evaluation processes. There are a wide range of classroom management courses available in Hampshire; details can be found at <a href="http://www.education.hants.gov.uk/intranet/training/">http://www.education.hants.gov.uk/intranet/training/</a> or by consulting with the Attendance Co-ordinator, EPS, HIAS, PBS, or ISS
<b>Transition work between key stages</b>	Particularly between primary and secondary transfer. For example, identifying in good time those pupils who would potentially find the transition difficult (not necessarily always those with disruptive behaviour). Good practice suggests when Yr 6 SATs have finished, weekly team-building activities in the receiving secondary school, coupled with some problem-solving activities in their home school, lessens anxiety and makes the pupil feel more secure. The appropriate secondary member of staff also has a better chance of assessing appropriate support for the beginning of the next term. Identification of pupils with difficulties would need to start earlier than the finish of year 6 SATs.
<b>SEN/ clear Individual Education Plan</b>	The school special needs department has investigated whether or not the behaviour problems could be linked to a learning difficulty and appropriate strategies have been employed e.g. indicating performance targets, specific programmes, support required, monitoring, assessment and review arrangements.
<b>Consultation with the Educational Psychologist</b>	Not just regarding particular pupils but for whole school support covering a wide range of issues such as developing policies, individual educational programmes etc.
<b>Multi-agency meetings/Early Help/Troubled Families</b>	Many secondary schools in particular have already set up regular multi-agency forums to discuss pupils at risk. If an individual pupil's behaviour deteriorates to a stage where there is a risk of exclusion or a rising profile of exclusions, schools should consider behaviour management plans or the need to consult with any relevant agencies for support.
<b>Specific parental support</b>	Can be provided from a variety of sources. Schools should be aware of local Parenting Programme initiatives and Hampshire wide support such as the Parent Partnership Service for parents of children with special educational needs (01962 845870) <a href="https://www.sendirect.org.uk/providers/information-advice-and-support-services-network/my-services/hampshire-parent-partnership-service/">https://www.sendirect.org.uk/providers/information-advice-and-support-services-network/my-services/hampshire-parent-partnership-service/</a> and the Family Information Service web site <a href="https://fish.hants.gov.uk/kb5/hampshire/directory/home.page">https://fish.hants.gov.uk/kb5/hampshire/directory/home.page</a>

	<p>Impartial SEN advice can also be obtained from:</p> <p><a href="https://www.hampshiresendiass.co.uk/">https://www.hampshiresendiass.co.uk/</a> Additionally Family Lives is a national charity offering help and information for parents and families (0808 800 2222).  <a href="https://www.familylives.org.uk/">https://www.familylives.org.uk/</a></p>
<b>Outreach support from a special school/unit</b>	Some of Hampshire's special schools or units offer an outreach service and/or specialist advice and support – special schools can be contacted directly.
<b>Pupils with an EHCP</b>	Schools should convene an early/interim annual review to recommend a change of programme or provision rather than permanent exclusion.
<b>Curriculum Alternatives</b>	Including alternative providers, attendance at further education college, or another form of alternative provision such as extended work placement. This will require monitoring and quality assurance by the school. Positive guidance and support on careers and personal development should also be considered.
<b>Involvement in community projects and/or county or national initiatives</b>	Examples here would be ASDAN, Duke of Edinburgh Awards, Hampshire Fire Service programmes, etc. Partnership working with police and other agencies such as Youth Crime Prevention and Anti Social Behaviour Co-ordinators can be productive.
<b>Corporate responsibility for Children in Public Care</b>	Ensure Schools' Designated Teachers are identified and, as appropriate, members of the LA working to assist vulnerable children are contacted for support and advice. Has appropriate regard been made to issues relating to pupils who are vulnerable?
<b>Use of a sanctuary/cool down room</b>	Some pupils – especially if issued with "time out" passes – need a location and/or nominated person in order to calm for a period of time before reintegrating back into the classroom.
<b>The Inclusion Support Service (ISS)</b>	Advice and support can be offered by ISS. Inreach/outreach support from an Education Centre can be sought by completing an ISS referral form or, for primary schools, by contacting PBS. These referrals can be for behaviour or for medical reasons.
<b>Use of internal exclusion</b>	This should be considered as an alternative to exclusion. Appendix 2 provides a template letter for advising parents/carers of the use of internal exclusion. This also provides the school with an evidence base of their strategies and identifies the behaviours.
<b>Managed Move</b>	To enable a pupil to have a fresh start in another school should be considered as an alternative to exclusion. This should only be done with the consent of all parties (The Guidance, Section 3, paragraph 15) and in accordance with HCC Protocol (Section I). Managed Moves can be very successful if planned appropriately and permanent exclusions have been avoided.

## Section K

### **Individual Behaviour Management Plans/Pastoral Support Programmes (IBMP/PSPs)**

Many schools will have already put into place the requirements of an IBMP/PSP for those pupils whose behaviour has become a cause for concern and where outside agencies are involved or have been consulted. The IBMP/PSP brings together the planning required around challenging pupils and should focus especially on the partnership of the school with parents, pupils and other agencies in meeting needs. Key points and possible interventions could include:

- parental involvement, (IBMP/PSP meetings should involve parents, school staff, and where appropriate the pupil, outside school support services and other agencies. However, if a parent or carer cannot be engaged, evidence of the failure to engage should be kept, and the process should be continued. Before the meeting assessment information should be gathered.)
- a description of appropriate behaviours to work towards and strategies for getting there,
- achievable, clear targets for behaviour, and learning, if appropriate, which are broken down into short (e.g. fortnightly) steps,
- provision necessary in order to support desired changes,
- clear responsibilities for all parties,
- assistance from the Children's Services Department and/or outside agencies; considering whether the pupil should be offered specialist support in areas such as substance misuse or bereavement,
- review of any learning difficulties, particularly literacy skills that may affect behaviour, (If necessary, a remedial programme can be put in place immediately. This may include lunchtime or after-school homework clubs, and other forms of study support.)
- formal review of the plan at agreed intervals, with the pupil and parents. Changes to the plan should be recorded along with the reasons why the changes were made.

Please see advice and a proforma contained in Hampshire Education Psychology's website

## Section L

### **Children not in receipt of full-time education September 2019**

This guidance can be found by following the link below.

<http://www.education.hants.gov.uk/intranet/policies/exclusions/index.php>

For those schools who cannot access the link, please email the Reduced Hours Inbox at [reducedhoursdata@hants.gov.uk](mailto:reducedhoursdata@hants.gov.uk)

## Section M

### Exclusions and Equalities – Review of X v Governing Body of a School [2015] UKUT 0007 (AAC)

This case concerned a 6-year-old pupil with ASD whose violent behaviour had resulted in their primary school issuing a number of fixed period exclusions. Subsequently the child's parents removed them from the school and they went to a special school, her parents brought a tribunal claim against the school on the basis that the school had acted in breach of the Equality Act 2010 as the exclusions constituted discrimination arising from their disability.

The Equality Act offers protection from discrimination to anyone with a protected characteristic which includes disability, however regulations enacted under this Act list a number of conditions which are not to be treated as impairments including:

- A tendency to set fires
- A tendency to steal
- A tendency to physical or sexual abuse of other persons
- Exhibitionism; and
- Voyeurism

The school argued that this pupil's exclusions were a consequence of her "tendency to physical abuse" and therefore she was not afforded the protection of the Equality Act in this respect.

The court concluded that:

- This regulation does apply to children under 18
- Even though the tendency to physical abuse arose out of her autism, this does not prevent the regulations from applying to the behaviour
- Whether someone's behaviour shows a "tendency to physical abuse" is dependent on the facts and needs to be interpreted on a case by case basis but the court did state the following:
  - there must be a violent act but a violent act on its own may not be sufficient
  - the greater the degree of violence the higher the likelihood that it will constitute physical abuse
  - there is no requirement on the part of the perpetrator to be aware that what they are doing is wrong
  - the existence of some sort of misuse of power or coercion (for example older child using violence against younger child / adult using violence against a child) may lead to a conclusion that a much lower degree of violence than would otherwise fall within the terms of the regulation, will suffice
  - the stage of a child's development is relevant
  - it is not necessary for the tendency to physical abuse to be manifested frequently or regularly (it may be revealed in one off incident), what is relevant is to look at whether the incident is indicative of a tendency to abuse.

The Court concluded this pupil's violence did constitute a tendency to physical abuse in that it was something she had a tendency to do in certain circumstances – albeit that it was for a fixed period of time and was not necessarily indicative of her current position. It was relevant that the attacks by this pupil were significantly violent and sustained over a period of time, they included kicking / hitting / punching / slapping members of staff and pupils and it was summarised by the court that

there was “repeated use of relatively serious violence against other people on a number of occasions”.

Even though her tendency to physical abuse arose in consequence of her autism the regulations still apply, and so in respect of the behaviour for which she received the exclusions, which was caused by that tendency, and which gives rise to the claim under s.15 of the 2010 Act, the court decided that the pupil was not to be treated as having an impairment under the 2010 Act and the claim did not succeed.

### **Practical Considerations for Schools**

This case will be relevant to schools when dealing with pupils with a disability who display violent behaviour.

It is important that each case is dealt with on the facts. Schools are still required to make reasonable adjustments for all disabled pupils and where behaviour is escalating schools should undertake all the usual steps to attempt to manage and reduce the likelihood of violent behaviour.

Where a school is considering excluding a pupil for violent behaviour who has a disability the details of the violent behaviour should be clearly set out in order to assess whether the behaviour is considered to show a tendency to physical abuse. All cases will be different and deciding whether a pupil has a “tendency to physical abuse” will require careful interpretation of the facts. Further advice can be sought from ISS or Amanda Scally in Legal Services.

*Amanda Scally, Legal Team Leader – Policy and Governance, HCC  
April 2015*

## Appendix 1

### Template letters

For schools using the SIMS system or a compatible IT system, templates of letters are available with the exclusion notification forms from:

<https://www.education.hants.gov.uk/intranet/policies/exclusions/index.php>

Please note that the national list of reasons for exclusion is a requirement to identify a single reason for data collection purposes for The Guidance and relates to the notification forms. These reasons and the language do not have to apply to the exclusion notification letters to parents/carers. It may be preferable to use a description of the incident(s) and less formal language than is used in the national list of reasons e.g. physical assault against an adult. Parents sometimes react to the more formal language whereas a description of the behaviours/incident would give greater clarity.

### Exclusion notification letters

Letters from the headteacher to notify parents:

- Letter 1 – fixed period exclusion of 5 school days or less in one term
- Letter 2 – fixed period exclusion between 5.5 and 15 school days
- Letter 3 – fixed period exclusion of 15.5 school days or more
- Letter 4 – permanent exclusion
- Letter 5 – Lunchtime exclusions
- Letter 6 – template letter for an internal exclusion

### Letters for the Governors duties considering exclusions

- i. Letter from the Clerk to the Discipline Committee/Management Committee inviting parents to meeting.
- ii. Letter from the Clerk to the Discipline Committee/Management Committee to Parent/Carer, upholding a permanent exclusion.
- iii. Letter from the Clerk to the Discipline Committee/Management Committee upholding a fixed period exclusion.
- iv. Letter from the Clerk to the Discipline Committee/Management Committee directing reinstatement following permanent exclusion.
- v. Letter from the Clerk to the Discipline Committee/Management Committee mitigating a permanent exclusion to a fixed period exclusion.
- vi. Letter from the Clerk to the Discipline Committee/Management Committee mitigating the length of a fixed period exclusion.

### Points for good practice

Please remember, for exclusion regarding Children in Care, the letters should be addressed to **all those with parental responsibility** i.e. the social worker as well as the foster carer, natural parents or the children's home.

It is a requirement of The Guidance that parents are notified of relevant sources of free and impartial information e.g. ISS and the Coram Children's Legal Centre. **Please be aware and advised that it would be good practice for correspondence, to the various parties on exclusions, to include a statement about data protection in view of the General Data Protection Regulation (GDPR) and the Data Protection Act (DPA)**

**Letter 1**

**From Headteacher (or Teacher in charge of an Education Centre) notifying parent of a fixed period exclusion of 5 days and under, and where a public examination is not missed.**

Date .....

Dear .....

I am writing to inform you of my decision to exclude ..... for a fixed period of ..... day(s). This means that he will not be allowed in school for this period. The exclusion begins/began ..... and ends on .....

The decision to exclude ..... has not been taken lightly. ..... has been excluded for this fixed period because on X date [child's name] **[GIVE DETAILS OF REASON(S) FOR EXCLUSION]**.

**[THE PARAGRAPH BELOW IS FOR PUPILS OF COMPULSORY SCHOOL AGE ONLY – REMOVE IF NOT APPLICABLE]**

You have a duty to ensure that your child is not present in a public place in school hours during this exclusion on **[INSERT DATES]** unless there is reasonable justification for this (or until the start date of any alternative provision where this is earlier). 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 ..... to be completed on the days specified in the previous paragraph **[INSERT 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 governing body. If you wish to make representations, please contact **[INSERT NAME OF CONTACT]** on/at **[INSERT CONTACT DETAILS]** 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. **[INSERT NAME OF CHILD]**, where applicable, is encouraged to attend any proposed meeting.

You should be aware that if you think the exclusion has occurred as a result of discrimination, you may make a claim under the Equality Act 2010 to the First Tier Tribunal (Special Educational Needs and Disability), in the case of disability discrimination, or the County Court, in the case of other forms of discrimination (<http://www.justice.gov.uk/tribunals/send>). A claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the pupil was excluded.

You may wish to contact the following sources of advice about exclusion from school:

Inclusion Support Service, Children's Services, Hampshire County Council, 4<sup>th</sup> Floor, Elizabeth II Court North, The Castle, Winchester, Hampshire SO23 8UG. Telephone 01962 876311

<https://www.hants.gov.uk/educationandlearning/educationinclusionservice>

The Coram Children's Legal Centre aims to provide free legal advice and information to parents on state education matters.

Phone: 020 7713 0089

The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24 December to 1 January.

<http://www.childrenslegalcentre.com>

Department for Education Statutory Guidance on exclusions is published online at  
<https://www.gov.uk/government/publications/school-exclusion>

.....'s exclusion expires on ..... and we expect ..... to be back in school on **[INSERT DATE OF RETURN]** at **[INSERT TIME OF RETURN]**.

Yours sincerely

**[INSERT NAME OF HEADTEACHER]**

Headteacher

**Letter 2**

**From Headteacher (or Teacher in charge of an Education Centre) notifying parent(s) of a pupil's fixed period exclusion of between 5.5 and 15 school days in a term.**

.....  
Date.....

Dear .....

I am writing to inform you of my decision to exclude ..... for a fixed period of ..... days. This means that ..... will not be allowed in school for this period. The exclusion start date is ..... and the end date is ..... Your child should return to school on **[INSERT DATE]**.

The decision to exclude ..... has not been taken lightly. ..... has been excluded for this fixed period because on X date [child's name] **[GIVE DETAILS OF REASON(S) FOR EXCLUSION]**.

**[THE NEXT 3 PARAGRAPHS ARE FOR PUPILS OF COMPULSORY SCHOOL AGE – REMOVE IF NOT APPLICABLE]**

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 school days of any exclusion that is on **[INSERT 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 (or until the start date of any alternative provision where this is earlier). It will be for you to show that there is reasonable justification.

We will set work for ..... during the **[first 5 or specify other number as appropriate]** school days of his exclusion. **[INSERT ARRANGEMENTS FOR THIS]**. Please ensure that work set by the school is completed and returned to us promptly for marking.

**[THE PARAGRAPH BELOW IS ONLY RELEVANT IF THIS EXCLUSION IS OVER 5 DAYS IN A BLOCK – REMOVE IF NOT APPLICABLE]**

From the 6<sup>th</sup> school day of .....'s exclusion, **[INSERT DATE]**, until the expiry of his exclusion we **[the Local Authority if for an Education Centre]** will provide suitable full time education. **[If not known, say that arrangements will be notified by a further letter]** On **[INSERT DATE]** s/he should attend at **[INSERT NAME AND ADDRESS OF ALTERNATIVE PROVIDER IF NOT THE HOME SCHOOL]** at **[INSERT TIME - this may not be identical to the start time of the home school]** and report to **[INSERT STAFF MEMBER'S NAME]**. **[INSERT TRANSPORT ARRANGEMENTS FROM HOME TO ALTERNATIVE PROVIDER IF APPLICABLE]**

You have the right to request a meeting of the school's Governors discipline committee to whom you may make representations, and my decision to exclude can be reviewed. As ..... has been excluded more than 5 school days in a term, the discipline committee must meet, if you request it to do so. The latest date by which the discipline committee must meet, if you request a meeting, is **[INSERT DATE – NO LATER THAN 50 SCHOOL DAYS FROM THE DATE THE**

**DISCIPLINE COMMITTEE IS NOTIFIED**]. If you do wish to make representations to the discipline committee, and wish to be accompanied by a friend or representative, please contact **[INSERT NAME OF CONTACT]** on/at **[INSERT CONTACT DETAILS – address, phone number, email]** 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 **[INSERT NAME OF CONTACT]** if it would be helpful for you to have an interpreter present at the meeting. ...., where applicable, is encouraged to attend any proposed meeting.

You should be aware that if you think the exclusion has occurred as a result of discrimination, you may make a claim under the Equality Act 2010 to the First Tier Tribunal (Special Educational Needs and Disability) in the case of disability discrimination, or the County Court, in the case of other forms of discrimination (<http://www.justice.gov.uk/tribunals/send>).

A claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the pupil was excluded. Making a claim would not affect your right to make representations to the discipline committee.

You may wish to contact the following sources of advice about exclusion from school:

Inclusion Support Service, Children's Services, Hampshire County Council, 4<sup>th</sup> Floor, Elizabeth II Court North, The Castle, Winchester, Hampshire SO23 8UG. Telephone 01962 876311  
<https://www.hants.gov.uk/educationandlearning/educationinclusionservice>

The Coram Children's Legal Centre aims to provide free legal advice and information to parents on state education matters.

Phone: 020 7713 0089. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24 December to 1 January.  
<http://www.childrenslegalcentre.com>

Department for Education Statutory Guidance on exclusions is published online at <https://www.gov.uk/government/publications/school-exclusion>

.....'s exclusion expires on .....and we expect ..... to be back in school on **[INSERT DATE OF RETURN]** at **[INSERT TIME OF RETURN]**.

Yours sincerely

**[INSERT NAME OF HEADTEACHER]**  
Headteacher

**Letter 3**

**From Headteacher (or Teacher in charge of an Education Centre) notifying parent of a fixed period exclusion of 15.5 school days or more in total in one term.**

Date .....

Dear .....

I am writing to inform you of my decision to exclude ..... for a fixed period of ..... days. This means that ..... will not be allowed in school for this period. The exclusion begins/began on ..... and ends on .....

The decision to exclude ..... has not been taken lightly. ..... has been excluded for this fixed period because on X date [child's name] **[GIVE DETAILS OF REASON(S) FOR EXCLUSION].**

**[The next 3 paragraphs are for pupils of compulsory school age only - REMOVE IF NOT APPLICABLE]**

You have a duty to ensure that your child is not present in a public place in school hours **[during the first 5 school days of the exclusion or specify dates]**, unless there is reasonable justification for this (or until the start date of any alternative provision where this is earlier). 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.

Alternative arrangements for .....'s education to continue will be made. We will set work for ..... during the **[first 5 school days or specify number of days if less]** of his exclusion. **[INSERT ARRANGEMENTS FOR THIS]**. Please ensure that work set by the school is completed and returned to us promptly for marking.

**[THE PARAGRAPH BELOW IS ONLY RELEVANT IF THIS EXCLUSION IS OVER 5 DAYS IN BLOCK – REMOVE IF NOT APPLICABLE]**

From **[6<sup>th</sup> school day of the pupil's exclusion - specify date]** until the expiry of his exclusion we will provide suitable full time education. **[set out the arrangements if known at time of writing, e.g. On [date] he should attend at [give name and address of the alternative provider if not the home school] at [specify the time – this may not be identical to the start time of the home school] and report to [staff member's name]. [If applicable – say something about transport arrangements from home to the alternative provider]. [If not known say that the arrangements for suitable full time education will be notified shortly by a further letter which must be provided no later than 48 hours before the provision is due to start]**

As ..... has now 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 **[INSERT 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 **[INSERT NAME OF CONTACT]** on/at **[INSERT CONTACT DETAILS]** 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 us 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 **[INSERT NAME OF CONTACT]** if it would be helpful for you to have an interpreter present at the meeting. ...., where applicable, is encouraged to attend any proposed meeting.

You should be aware that if you think the exclusion has occurred as a result of discrimination, you may make a claim under the Equality Act 2010 to the First Tier Tribunal (Special Educational Needs and Disability) in the case of disability discrimination, or the County Court, in the case of other forms of discrimination (<http://www.justice.gov.uk/tribunals/send>). A claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the pupil was excluded.

You may wish to contact the following sources of advice about exclusion from school:

Inclusion Support Service, Children's Services, Hampshire County Council, 4<sup>th</sup> Floor, Elizabeth II Court North, The Castle, Winchester, Hampshire SO23 8UG. Telephone 01962 876311  
<https://www.hants.gov.uk/educationandlearning/educationinclusionservice>

The Coram Children's Legal Centre aims to provide free legal advice and information to parents on state education matters.  
Phone: 020 7713 0089. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24 December to 1 January.  
<http://www.childrenslegalcentre.com>

Department for Education Statutory Guidance on exclusions is published online at  
<https://www.gov.uk/government/publications/school-exclusion>

.....'s exclusion expires on .....and we expect  
..... to be back in school on **[INSERT DATE OF RETURN]** at **[INSERT TIME OF RETURN]**.

Yours sincerely  
**[INSERT NAME OF HEADTEACHER]**

Headteacher

**Letter 4**

**From the Headteacher of a primary, secondary or special school (or Teacher in charge of an Education Centre) notifying the parent(s) of that pupil's permanent exclusion.**

Date.....

Dear .....

I regret to inform you of my decision to permanently exclude ..... with effect from ..... This means that ..... will not be allowed in this school unless s/he is reinstated by the governing body/the discipline committee.

The decision to permanently exclude ..... has not been taken lightly. ..... has been excluded because on ....., [child's name] **[GIVE DETAILS OF REASON(S) FOR EXCLUSION].**

**[INSERT ANY OTHER RELEVANT PREVIOUS HISTORY HERE].**

**[THE NEXT 3 PARAGRAPHS ARE FOR PUPILS OF COMPULSORY SCHOOL AGE – REMOVE IF NOT APPLICABLE]**

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, i.e. on **[INSERT DATES]** unless there is reasonable justification. You could be prosecuted or receive a penalty notice if your child is present in a public place during school hours on those dates. It will be for you to show reasonable justification.

Alternative arrangements for .....'s education to continue will be made. For the first five days of the exclusion we will set work for ..... 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 day of the exclusion onwards i.e. from **[INSERT DATE]** the local authority, **[INSERT NAME OF LOCAL AUTHORITY]** will provide suitable full time education. Arrangements will be notified shortly by letter or telephone.

**[THE NEXT PARAGRAPH IS FOR PUPILS LIVING IN LA OTHER THAN EXCLUDING SCHOOL'S LA – REMOVE PARAGRAPH IF NOT APPLICABLE]**

I have also today informed **[INSERT NAME OF OFFICER]** at **[INSERT NAME OF LOCAL AUTHORITY]** of your child's exclusion and they will be in touch with you about arrangements for their education from the sixth school day of exclusion. You can then contact them at **[INSERT CONTACT DETAILS]**.

As this is a permanent exclusion the governing body must meet to consider it. At the review meeting you may make representations to the governing body if you wish and ask them to reinstate your child in school. 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 have the right to ask for the decision to be reviewed by an Independent Review Panel. The latest date by which the governing body must meet is **[INSERT DATE - 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 **[INSERT NAME OF CONTACT]** on/at **[INSERT CONTACT DETAILS]** 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 let us know if you have a disability or special needs which would affect your ability to attend the meeting. Also, please inform **[NAME OF CONTACT]** if it would be helpful for you to have an interpreter present at the meeting. ...., where applicable, is encouraged to attend any proposed meeting.

You should be aware that if you think the exclusion has occurred as a result of discrimination, you may make a claim under the Equality Act 2010 to the First Tier Tribunal (Special Educational Needs and Disability) in the case of disability discrimination, or the County Court, in the case of other forms of discrimination (<http://www.justice.gov.uk/tribunals/send>). A claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the pupil was excluded.

You may wish to contact the following sources of advice about exclusion from school:

Inclusion Support Service, Children's Services, Hampshire County Council, 4<sup>th</sup> Floor, Elizabeth II Court North, The Castle, Winchester, Hampshire SO23 8UG. Telephone 01962 876311  
<https://www.hants.gov.uk/educationandlearning/educationinclusionservice>

The Coram Children's Legal Centre aims to provide free legal advice and information to parents on state education matters.  
Phone: 020 7713 0089. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24 December to 1 January.  
<http://www.childrenslegalcentre.com>

Department for Education Statutory Guidance on exclusions is published online at  
<https://www.gov.uk/government/publications/school-exclusion>

Yours sincerely

**[INSERT NAME OF HEADTEACHER]**  
Headteacher

**Letter 5**

**From Headteacher (or Teacher in charge of an Education Centre) notifying parent of lunchtime exclusions.**

Date .....

Dear .....

**RE: .....**

This letter is to inform you of my decision to exclude ..... during lunchtimes for **[INSERT NUMBER OF DAYS]** starting on ..... and ending on ..... The decision to exclude ..... has not been taken lightly. ..... has been excluded for this period because on.....[child's name] **[GIVE DETAILS OF THE REASON(S) FOR EXCLUSION]**

The Department for Education has stated that each lunchtime exclusion should be counted as a half day exclusion. Therefore this exclusion is equivalent to ..... days. If you wish to discuss this exclusion, will you please contact me at school to arrange a time and date that is mutually convenient.

You have the right to make representations about this decision to the school governing body and the decision to exclude can be reviewed.

**[DEPENDING UPON THE NUMBER OF DAYS ACCUMULATED IN ONE TERM CHOOSE THE CORRECT OPTION FROM THOSE LISTED BELOW:**

- a) For an exclusion of less than 6 days, the governing body cannot direct reinstatement but will consider any statement from you if you wish to make one.**
- b) For an exclusion of 6-15 days, the governing body must meet if you request it to do so within 50 school days.**
- c) For an exclusion of 16-45 days, the governing body must automatically consider the exclusion within 15 school days]**

If ..... is entitled to free school meals, a packed lunch will be provided by the school canteen. ..... should collect this before the start of the lunch break. You are responsible for your child during the lunch break. Please could you make arrangements for your child to be collected at the end of the morning session and returned to school at the beginning of the afternoon session.

You should be aware that if you think the exclusion has occurred as a result of discrimination, you may make a claim under the Equality Act 2010 to the First Tier Tribunal (Special Educational Needs and Disability) in the case of disability discrimination, or the County Court, in the case of other forms of discrimination (<http://www.justice.gov.uk/tribunals/send>). A claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the pupil was excluded.

You may wish to contact the following sources of advice about exclusion from school:

Inclusion Support Service, Children's Services, Hampshire County Council, 4<sup>th</sup> Floor, Elizabeth II Court North, The Castle, Winchester, Hampshire SO23 8UG. Telephone 01962 876311

<https://www.hants.gov.uk/educationandlearning/educationinclusionservice>

The Coram Children's Legal Centre aims to provide free legal advice and information to parents on state education matters.

Phone: 020 7713 0089. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24 December to 1 January.

<http://www.childrenslegalcentre.com>

Department for Education Statutory Guidance on exclusions is published online at  
<https://www.gov.uk/government/publications/school-exclusion>

Yours sincerely

**[INSERT NAME OF HEADTEACHER]**

Headteacher

## **Letter 6**

### *Sample Template 'Inclusion notice'*

Mrs/Mrs Parent/Carer

Address:

Date...

#### **Inclusion Notice**

Dear Mrs & Mrs.....

#### **Child's Name, DOB, Year Group etc.**

It is with regret that I have to inform you that ....name..... has been involved in a significant breach of school rules (or 'behaviour code' etc).

#### **Outline of incident**

On ... day ...date .... name...: what, where why, who and how of the incident(s).....

**Examples for the letter writer:**.....a) During the lunchbreak of ..... name... became involved in a conflict with another pupil. As a part of this....name...punched the other pupil on the nose, leaving it marked.

b) Name.... Has been wandering about the school, out of lessons and failing to follow instructions

As a direct consequence of this behaviour ...name... will be withdrawn from lessons on ...day... date... etc and taught within our Inclusion Room for an initial period of ..... day(s). Working in this area has its own structure to the day and I would request that you ensure that your child is provided with a packed lunch on the day in question. If your child is entitled to a free school meal then a packed lunch will be provided at school.

You need to be aware that this sanction provides your child with an opportunity to avoid exclusion and, by conforming to our rules and expectations, find a means to return to mainstream lessons.

We would appreciate your involvement in supporting the school and reinforcing the seriousness of this current situation. Should you wish to discuss this matter in greater detail then I recommend that you contact your child's Head of Year ...name...at your earliest convenience.

Yours sincerely,

Headteacher

## Appendix 2i

### Letter/email from Clerk to the Governors/Management Discipline Committee inviting parent to meeting

#### CONFIDENTIAL

Dear [parent/carer]

**Re: [Name and date of birth of pupil]**

I am writing to inform you that the Governors/Management Discipline Committee will be meeting to review **[pupil's name]**'s exclusion and has set aside the following alternative dates for that purpose:

- 
- 
- 

You and (name of child) are invited to attend the meeting. Please would you let me know if you are able to attend on any of the above dates and times, and your preference. If you are unable to attend any of the above dates, and wish to attend, please get in touch with the Clerk to the Committee – Phone: **[phone number]**

Every effort will be made to find a date convenient to all parties, bearing in mind that the meeting should take place within 15 school days from the date of the exclusion. - *and other time limits - Or 50 days for 6-15 days and no time limit on 5 days or less.*

If you would like to submit any paperwork for the Governors consideration when reviewing the exclusion please would you let me have this as soon as possible in order that I can distribute all the necessary paperwork at least five days before the meeting.

You are welcome to bring a friend or representative along for support. Please let me know if you choose to do so.

If I have not heard from you by **[date]** then the meeting will take place on **[date]** at **[time]** at the school.

Yours sincerely,

**[Name]**

Clerk to the Governors/Management Discipline Committee

*(NB if you are writing to parents detailing only one particular date and time for the meeting, please request that parents notify you as soon as possible if this is not convenient. Should parents have recourse to IR/Judicial Review at a future date it will be necessary to show that all attempts were made to convene the meeting at a date and time convenient to all parties.)*

**Letter from the clerk to the governing body (management committee in case of a PRU) to parent/carer, upholding a permanent exclusion.**

**CONFIDENTIAL**

Dear [Parent's name]

The meeting of the governing body/management committee at [school] on [date] considered the decision by [head teacher/teacher in charge] to permanently exclude your son/daughter [name of pupil]. The governing body/PRU management committee, after carefully considering the representations made and all the available evidence, has decided to uphold [name of pupil]'s exclusion.

The reasons for the governing body/management committee's decision are as follows: **[give the reasons in as much detail as possible, explaining how they were arrived at.] [to assist in detailing the decision please see *HCC Exclusions Guidance section F, Minutes and decision letter*]**

You have the right to ask for the decision to be reviewed by an independent review panel. If you wish for a review, please notify Inclusion Support Service who will provide a form, which has to be signed and returned, either as hard copy or scanned and attached to an email. You must set out the reasons for requesting a review and, where appropriate, include a reference to how any special educational needs your child has were relevant to the exclusion.

Regardless of whether [pupil's name] has recognised special educational needs, either by being on the school's Special Educational Needs Register or by having an Education Health Care Plan, you have a right to require the Local Authority/Academy Trust to appoint an SEN expert to attend the review, and must make it clear if you wish for an SEN expert to be appointed in any application for a review. There will be no financial implication for a parent requesting the SEN officer appointment.

The SEN expert will provide impartial advice to the panel on how special educational needs might be relevant to the exclusion. The SEN expert should base their advice on the evidence provided to the panel. The SEN expert's role does NOT include making an assessment of the pupil's special educational needs. The focus of the SEN expert's advice should be on whether the school's policies which relate to special educational needs or the application of these policies in relation to the excluded pupil, were legal, reasonable and procedurally fair.

Please send this notice of review to HCC Inclusion Support Service by no later than **[specify the latest date – the 15<sup>th</sup> school day after receipt of this letter]**. If you have not lodged a wish to review by [repeat latest date], you will lose your right to a review. Please advise if you have a disability or special needs which would affect your ability to attend the hearing. Also, please inform **[the Inclusion Officer]** if it would be helpful for you to have an interpreter present at the hearing.

Your request for a review of the governing body's decision will be heard by an Independent Review Panel. A three-member panel will comprise one serving, or recently retired (within the last five years), head teacher, one serving, or recently serving, experienced governor/management committee members and one lay member who will be the Chairman.

**[Use the following if there is a possibility that a five-member panel may sit:  
A five-member panel will comprise two serving, or recently retired (within the last 5 years), head teachers, two serving, or recently serving, experienced Governors/ management committee members and one lay member who will be the Chairman.]**

The role of the panel is to review the governing body's decision not to reinstate a permanently excluded pupil. 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 wish for a review is lodged. In exceptional circumstances panels may adjourn the hearing until a later date.

You should be aware that if you think the exclusion has occurred as a result of discrimination, you may make a claim under the Equality Act 2010 to the First Tier Tribunal (Special Educational Needs and Disability), and in the case of disability discrimination, or the County Court, in the case of other forms of discrimination ([www.justice.gov.uk/tribunals/send](http://www.justice.gov.uk/tribunals/send)). A claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the pupil was excluded.

I would advise you of the following sources of advice:

Inclusion Support Service, Children's Services, Hampshire County Council, 4<sup>th</sup> Floor, Elizabeth II Court North, The Castle, Winchester, Hampshire SO23 8UG. Telephone 01962 876311

[https://www.hants.gov.uk/educationandlearning/educationinclusionservice](http://www.hants.gov.uk/educationandlearning/educationinclusionservice)

The Coram Children's Legal Centre aims to provide free legal advice and information to parents on state education matters.

Phone: 020 7713 0089. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24 December to 1 January.

<http://www.childrenslegalcentre.com>

Department for Education Statutory Guidance on exclusions is published online at <https://www.gov.uk/government/publications/school-exclusion>

The arrangements currently being made for **[pupil's name]**'s education will continue. **[specify details here]**

Yours sincerely

**[Name]**

Clerk to the Governing Body (or clerk to the Management Committee in case of a PRU)

## Appendix 2iii

### **Letter from Clerk to Governors/Management Discipline Committee upholding the headteacher's decision following a fixed period exclusion**

**CONFIDENTIAL**

Dear [parent/carer]

**Re: Governors/Management Discipline Committee meeting to consider the exclusion of [name and date of birth of pupil] for the period of [state number of days]**

The meeting of the Governors/Management Discipline Committee at the [school] on [date] considered the decision by the headteacher to exclude your son/daughter [pupil's name] for [number of days]. The Committee, after carefully considering the representations made and all the available evidence has decided to uphold [pupil's name] exclusion.

The reasons for the Committee's decision are as follows: **[give the reasons in as much detail as possible, explaining how the committee arrived at their decision with reference to the representations where appropriate, showing that the Discipline Committee has grappled with the major issues]**

Arrangements **[must be/have been]** made for the reintegration of **[pupil's name]** to school and the headteacher **[will be/has been]** in contact with you to agree a reintegration plan.

Should you have further questions about the plan please contact the headteacher **[or nominated contact person]**.

Yours sincerely

**[Name]**

Clerk to the Governors/Management Discipline Committee

Copy to: Headteacher  
Inclusion Officer  
Children's Services Department (Social Care) (if appropriate)

## Appendix 2iv

### **Letter from Clerk to Governors/Management Discipline Committee directing reinstatement following permanent exclusion**

**CONFIDENTIAL**

Dear [parent/carer]

**Re: Governors/Management Discipline Committee meeting to consider the permanent exclusion of [name and date of birth of pupil]**

The meeting of the [school] Governors Discipline Committee at the [school] on [date] considered the decision by the headteacher to permanently exclude your son/daughter [pupil's name]. The Committee, after carefully considering the representations made and all the available evidence has decided to direct the reinstatement of [pupil's name].

The reasons for the Committee's decision are:

**[give details of all reasons]**

[Pupil's name] should, therefore, return to school on [date] following your discussions with the headteacher.

**[Insert below paragraph if applicable]**

If you do not want your child to return to [name of School] because you have made other arrangements for their education because (e.g. they are now on roll at another school or because you have chosen to educate them yourself at home) please reply to this letter in writing giving details of those other arrangements so that [name of school] is able to remove [name of pupil] name from the school roll.

Yours sincerely

**[Name]**

Clerk to the Governors/ Management Discipline Committee

Copy to: Headteacher  
Inclusion Officer  
Children's Services Department (Social Care) (if appropriate)

**Letter from Clerk to Governors/Management Discipline Committee  
mitigating a permanent exclusion to a fixed period exclusion**

**CONFIDENTIAL**

Dear [parent/carer]

**Re: Governors Discipline/Management Committee meeting to consider the permanent exclusion of [name and date of birth of pupil]**

The meeting of the Governors Discipline Committee at the [school] on [date] considered the decision by the headteacher to permanently exclude your son/daughter [pupil's name]. The Committee, after carefully considering the representations made and all the available evidence has decided to mitigate the exclusion from permanent to a fixed period of [number of days]. This means that [pupil's name] should return to school on [date].

The reasons for the Committee's decision are:

**[give details of all reasons]**

Arrangements for reintegration will be made and the headteacher will contact you to agree a reintegration plan and arrange a reintegration interview.

**[Insert below paragraph if applicable]**

If you do not want your child to return to [name of School] because you have made other arrangements for their education because (e.g. they are now on roll at another school or because you have chosen to educate them yourself at home) please reply to this letter in writing giving details of those other arrangements so that [name of school] is able to remove [name of pupil] name from the school roll.

Yours sincerely,

**[Name]**

Clerk to the Governors/Management Discipline Committee

Copy to: Headteacher  
Inclusion Officer  
Children's Services Department (Social Care) (if appropriate)

**Letter from Clerk to Governors/Management Discipline Committee  
mitigating the length of a fixed period exclusion**

**CONFIDENTIAL**

Dear [parent/carer]

**Re: Governors/Management Discipline Committee meeting to consider the exclusion of [name and date of birth of pupil] for the period of [state number of days]**

The meeting of the Governors/Management Discipline Committee at the [school] on [date] considered the decision by the headteacher to exclude your son/daughter [pupil's name] for [number of days]. The Committee, after carefully considering the representations made and all the available evidence has decided to reduce the length of the exclusion to [number of days] days. [Pupil's name] should, therefore, return to school on [date] OR A record of the reduction in the number of days will be placed on your child's file if [Pupil's name] has already returned to school.

The reasons for the Committee's decision are:

**[give details of all reasons]**

Arrangements **[must be/have been]** made for the reintegration of **[pupil's name]** to the school and the headteacher **[will be/has been]** in contact with you in order to arrange an interview.

Should you have further questions about the arrangements please contact the headteacher **[or nominated contact person]**.

Yours sincerely

**[Name]**

Clerk to Governors/ Management Discipline Committee

Copy to: Headteacher  
Inclusion Officer  
Children's Services Department (Social Care) (if appropriate)

## Appendix 3

### Revised Exclusion Notification Forms

#### Notes for the headteacher and Governors

##### Notification of exclusion

**Electronic forms and templates of the exclusion notification letters are available from:**

<https://www.education.hants.gov.uk/intranet/policies/exclusions/index.php>

For schools with SIMs data management systems, but not an HCC Service Level Agreement, the template letters and forms can be obtained by contacting Inclusion Support Service on 01962 876311 and explaining the situation as the LA is trying to encourage electronic notification systems .

Schools on alternative data management systems can copy the forms in this Appendix and forward them plus a copy of the letter to parents and carers electronically to ISS.

1. For either version, electronic or paper, the forms should be completed by the Headteacher on the day on which a pupil and his or her parents/carer are notified that he or she has been excluded.
2. Copies of the letter and form should be sent immediately:
  - i. to the Clerk to the Governors Discipline Committee/Management Committee, and
  - ii. to ISS either via the EDDIE server or the Exclusions Team Inbox [exclusion.uploads@hants.gov.uk](mailto:exclusion.uploads@hants.gov.uk)

Please attach to each form a copy of the notification letter to parents for all exclusions. It is a legal requirement to inform the governing body and the LA. This process is strongly recommended for reporting fixed period exclusions, and in cases affecting public examinations and permanent exclusions, it must be immediate.

3. The permanent exclusion form has a second page where we require the school to provide as much detail as possible on the pupil's background to benefit the education centre when providing 6<sup>th</sup> day provision. **Immediate notification to the LA is required at the time of the headteacher's decision to permanently exclude the pupil. It is essential any significant risk elements associated with a pupil are notified.**

## Notification of Permanent Exclusion (Autumn 2020) (Day 6 and Inclusion Support Service referral form)

*This complete form should be completed **immediately** and sent to the Clerk to the Governors and the Inclusion Support Service. Please attach to each a copy of the notification letter to parents. Procedural guidance is provided in both the DfE and HCC Exclusions Guidance.*

<b>School:</b>				<b>DfE No:</b>	
<b>School contact:</b>			<b>Email address:</b>		
<b>Pupil UPN</b>		<b>Age:</b>		<b>Date of Birth:</b>	
<b>Surname:</b>		<b>Gender:</b>		<b>Year Group:</b>	
<b>Forename:</b>				<b>Preferred Forename:</b>	
<b>Home Address:</b>					
<b>Attendance Summary</b>		<b>Traveller Type:</b>			
<b>Actual Attendance:</b>		<b>Ethnicity:</b>			
<b>Possible Attendance:</b>		<b>First language:</b>			
<b>% Attendance:</b>		<b>SEN Status:</b>			
<b>SEN Need code</b>	<b>SEN Needs</b>				

..... *was/was not* eligible to receive **free school meals** on date of notification

<b>In care</b>	Yes/No	<b>In care with</b>	
<b>Details of care order</b>		<b>Accommodated</b>	

### Contacts

Contact's Priority and Name	Relationship	Address	Court Order	Tel:	Mobile:

### Agents and agencies involved in Supporting Pupil:

Name	Role	Telephone

**Date of Exclusion and Exclusion Reason** (Select up to 3 reasons if appropriate. Where the description is covered in more than 1 category, please record all reasons that apply):

<b>First day of exclusion:</b>	<u>  /  /  </u>	
<input type="checkbox"/> Physical assault against a pupil	<input type="checkbox"/> Abuse relating to disability	
<input type="checkbox"/> Physical assault against an adult	<input type="checkbox"/> Sexual misconduct	
<input type="checkbox"/> Verbal abuse / Threatening behaviour against a pupil	<input type="checkbox"/> Drug/Alcohol related	
<input type="checkbox"/> Verbal abuse / Threatening behaviour against an adult	<input type="checkbox"/> Damage to property	
<input type="checkbox"/> Use or threat of an offensive weapon/prohibited item	<input type="checkbox"/> Theft	
<input type="checkbox"/> Bullying	<input type="checkbox"/> Persistent or general disruptive behaviour	
<input type="checkbox"/> Racist abuse	<input type="checkbox"/> Inappropriate use of social media or online technology	
<input type="checkbox"/> Abuse against sexual orientation and gender identity	<input type="checkbox"/> Wilful & repeated transgression of protected measures in place to protect public health	
<b>Total days excluded during Term:</b>		
<b>Total days excluded during Academic year:</b>		<b>Total number of Exclusions:</b>

**Academic Profile**

Name:

UPN:

<b>Literacy</b>				<b>Current Attainment Years 7 - 9</b>	
Reading Age	Spelling Age	Test Used	Date and Age when Tested	Mathematics	
				English	
<b>CAT Scores KS3/4</b>				Science	
Verbal	Non-Verbal	Quantitative	Average	ICT	
				Technology	
				History	
<b>Key Stage 1 Attainment</b>	English	Mathematics	Science	Geography	
				RE	
<b>Key Stage 2 Attainment</b>	English	Mathematics	Science	MFL	
				OTHER	
<b>Key Stage 4</b>					
Subject		Exam Board		Coursework/Exam	Predicted Grade

Please highlight any risk elements, clearly identifying high risks. **Violent incident form?****Y / N****Relationships with Peer Group:****Relationship between Home and school:****Pupil Relationship with Staff:****Details of challenging behaviours:****Details of SEN:****Physical or Mental Health Concerns:****What would need to happen for this young person to be successfully re-integrated into a new school?****Are there any child protection concerns for this pupil? Is this child on the CP register?****Name of the school's CP Officer:** .....

[INSERT NAME OF HEADTEACHER]

Headteacher

Agreed by Headteacher [Delete as applicable]

YES	NO
-----	----

Date: [INSERT DATE]

**Please refer to ISS for support and guidance.****<http://www.education.hants.gov.uk/intranet/policies/exclusions>**

## Notification of a Lunchtime or Fixed Period Exclusion (Autumn 2020)

If a pupil receives a fixed period exclusion from school this form should be completed immediately and sent to the Clerk to the Governors. The form, together with a copy of the exclusion letter to parents, should be uploaded to the Local Authority via the secure server or post/fax if this is unavailable.

<b>School:</b>				<b>DfE No:</b>	
<b>Pupil UPN:</b>		<b>Age:</b>		<b>Date of Birth:</b>	
<b>Surname:</b>		<b>Gender:</b>		<b>Year Group:</b>	
<b>Forename:</b>		<b>Preferred Forename:</b>			
<b>Home Address:</b>					
<b>Traveller Type</b>		<b>First Language</b>			
<b>Ethnicity</b>		<b>In Care</b>		<b>In Care with</b>	
<b>SEN Status</b>		<b>Details of care order</b>			
<b>SEN Need Code</b>	<b>SEN Needs</b>				
				Violent Incident Report <b>YES / NO</b>	

Pupil *was/was not* eligible to receive free school meals on date of notification.

### Contacts

Contact's Priority and Name	Relationship	Address	Court Order	Tel	Mobile

**Agents and Agencies involved in [pupil's name] 's support**    **Child Protection Issues :**  
**YES / NO**

Name	Role	Tel

\_\_\_\_\_ will be missing a public exam due to this exclusion **YES / NO**.

\_\_\_\_\_ will have been excluded for a total of \_\_\_\_\_ days this term and \_\_\_\_\_ days this year.

Academic Year	Term	Start date	End date	Days	Type of exclusion	Reason for exclusion

[INSERT NAME OF HEADTEACHER]

**Headteacher**

Agreed by Headteacher [Delete as applicable]

YES	NO
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Date: [INSERT DATE]

## Appendix 4

### National standard list of reasons for exclusions

The Guidance notified LAs in March 2003 of plans to collect termly data on fixed period and permanent exclusions. The notification was amended in September 2020 so that up to three reasons may be given for each exclusion. The list provides descriptors of reasons for exclusions. The 16 categories should cover the main reasons for exclusions. The further detail suggesting what the descriptors cover should be used as a guide and this list is not intended to be used as a tick list for exclusions.

It may be helpful for the administrators filling in the forms to have a copy of the list below; the list of sub-categories may assist in defining the main category for the form.

#### **Physical assault against pupil**

Includes:

- fighting
- wounding
- violent behaviour
- obstruction and jostling

#### **Physical assault against adult**

Includes:

- violent behaviour
- wounding
- obstruction and jostling

#### **Verbal abuse / threatening behaviour against pupil**

Includes:

- threatened violence
- swearing
- verbal intimidation
- aggressive behaviour
- homophobic abuse and harassment
- carrying an offensive weapon

#### **Verbal abuse / threatening behaviour against adult**

Includes:

- threatened violence
- swearing
- verbal intimidation
- aggressive behaviour
- homophobic abuse and harassment
- carrying an offensive weapon

#### **Bullying**

Includes:

- verbal
- homophobic bullying
- physical
- racist bullying

## **Racist abuse**

Includes:

- racist taunting and harassment
- racist bullying
- swearing that can be attributed to racist characteristics
- derogatory racist statements
- racist graffiti

## **Sexual misconduct**

Includes:

- sexual abuse
- sexual assault
- sexual harassment
- lewd behaviour
- sexual bullying
- sexual graffiti

## **Drug and alcohol related**

Includes:

- possession of illegal drugs
- inappropriate use of prescribed drugs
- drug dealing
- smoking
- alcohol abuse
- substance abuse

## **Damage**

Includes:

- damage to school or personal property belonging to any member of the school community:
- vandalism
- arson
- graffiti

## **Theft**

Includes:

- stealing school property
- stealing personal property (pupil or adult)
- stealing from local shops on a school outing
- selling and dealing in stolen property

## **Persistent disruptive behaviour**

Includes:

- challenging behaviour
- disobedience
- persistent violation of school rules

## **Use or threat of use of an offensive weapon or prohibited item**

Includes:

- Deliberately bringing an offensive weapon to school in order to cause harm
- Threatening others with an offensive weapon
- Using an offensive weapon or prohibited item to harm someone
- Possession

## **Abuse against sexual orientation and gender identity**

Includes:

- Verbal / threatened / taunting / mimicking / mocking / harassment abuse
- Written abuse / derogatory comments and/or publishing on social media
- Physical abuse/contact

## **Abuse relating to disability**

Includes:

- Verbal / threatened / taunting / mimicking / mocking / harassment abuse
- Written abuse / derogatory comments and/or publishing on social media
- Physical abuse/contact

## **Inappropriate use of social media or online technology**

Includes:

- Filming staff /pupils without permission
- Commenting on web pages or social media accounts relating to staff and/or pupils
- Circulating / distributing filmed footage to cause deliberate offence
- Hacking into school IT systems and deliberately misusing systems to cause offence or disruption
- Creating web pages or social media accounts relating to staff and/or pupils

## **Wilful and repeated transgression of protected measures in place to protect public health**

Includes:

- Refusal to follow health & safety rules
- Refusal to follow social distancing rules / bubble cross-over
- Refusal to follow one-way system
- Refusing to wear a mask
- Misuse of antibacterial spray/gel