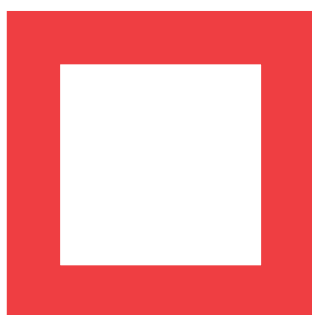


Improving Behaviour and Attendance

Guidance on Exclusion from
Schools and Pupil Referral Units

September 2006

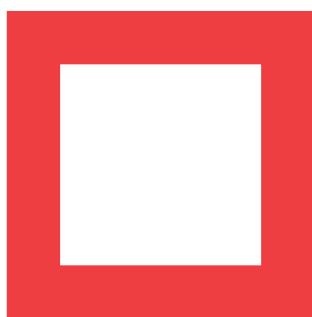
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Introduction

Head teachers, teachers in charge of a Pupil Referral Unit (PRU), governing bodies, local authorities (LAs) and Independent Appeal Panels (IAPs) must by law have regard to this guidance when making decisions on exclusions 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 judgments will need to take account of the circumstances of individual cases.

These procedures apply to all maintained schools and Pupil Referral Units and all pupils in them, including pupils who may be below or above compulsory school age. They also apply to maintained nursery schools.

They do not apply to independent schools, city technology colleges, Academies, or sixth form colleges, which have separate exclusion procedures. Academies must have exclusion procedures which are consistent with those set out in this guidance.

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.

This print version of the guidance is the same as the online text of the guidance on Teachernet, except that the online version has an additional final part (Part 8) on the statutory arrangements for funding to follow permanently excluded pupils to the new education provider.

This edition replaces the October 2004 edition.

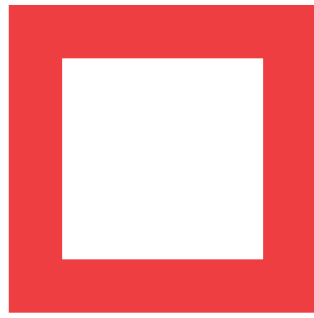
THE MAIN CHANGES MADE IN THIS VERSION OF THE GUIDANCE

- training for members of and clerks to exclusion appeal panels is now mandatory
- the head teacher may be represented including legally represented at an exclusion appeal hearing
- we recommend that the head teacher and governor members of an exclusion appeal panel be from the same type of school as the excluding school wherever possible
- clearer guidance to panels (IAPs) on decision making but without fettering their discretion
- encouraging the pupil to have a voice in the exclusion procedure, if he and his parents wish
- exclusions from PRUs – practical options for continuing education
- stronger guidance discouraging unofficial exclusion
- revised text on disabled pupils
- revised text on removing pupils from school in exceptional circumstances
- revised text on parallel criminal proceedings

DEFINITIONS

In this guidance, 'parent' means anyone who has parental responsibility for, or care of, a child. In cases of exclusion where the pupil is 18 or over, 'pupil' should be read for 'parent'. Where a child is the subject of a care order, the local authority that has parental responsibility for the child is entitled to determine to what extent the parents exercise their parental responsibility. Throughout this guidance, references to a school should be read as referring equally to a PRU; where guidance applies differently to PRUs then this will be indicated clearly.

Part 1



Promoting Positive Behaviour and Early Intervention

INTRODUCTION

1. In most cases exclusion will be the last resort after a range of measures have been tried to improve the pupil's behaviour. In schools and LAs a range of strategies should be in place to address the bad behaviour which may lead to exclusion. Head teachers should be able to refer pupils identified as at risk of exclusion to alternative or additional provision to meet their individual needs, which could include working in partnership with other agencies. The school, however, continues to be responsible for these pupils as they are still on the school roll. Many such strategies have proved successful, with few pupils going on to be excluded.

MANAGING BEHAVIOUR IN SCHOOLS

2. Schools need to have policies, procedures and staff training in place that will promote good behaviour and prevent bad behaviour. Such behaviour policies need to be widely publicised so that pupils, all school staff and parents are aware of the standards of behaviour expected of pupils, and the range of sanctions. Schools should apply their behaviour policies in a consistent, rigorous and non-discriminatory way and all areas of their application should be monitored routinely. To help achieve this, the Department is making behaviour audit and training materials, supported by expert consultancy, available to all secondary and middle schools (online at www.dfes.gov.uk/ibis/Department_policy/Behaviour.cfm) and is developing similar materials for primary schools. In October 2003 the Department also launched revised induction training materials for teaching assistants and new introductory training materials for all other support staff, both of which include a module on behaviour management (online at www.teachernet.gov.uk/supportstaff). Schools need to address the implications of the National Agreement on 'Raising Standards and Tackling Workload' (see www.teachernet.gov.uk/teachingassistants) by reviewing their arrangements for the management of school behaviour policies and the implementation of this guidance. It is good practice that behaviour management training is provided for the whole school workforce. Appropriate training would allow support staff to carry out an extended role in the management and implementation of school behaviour policies should it be required of them, thus helping to tackle teacher workload. Any change in job description to reflect new responsibilities in this area should be with the agreement of the support staff member and in keeping with their terms and conditions of employment. The effective implementation of school behaviour policies relies on local administrative arrangements and the efficient and effective transfer of information between schools and with the LA. This highlights a particularly important role for the deployment of school support staff in the collection, collation, input and transfer of information about pupil behaviour and exclusions.
3. Effective policies, procedures and training minimise the number of pupils at risk of exclusion. For those at risk, additional measures could include:
 - the school engaging with parents;
 - a change of teaching set or class;
 - curriculum alternatives at Key Stage 4, including attendance at a further education college or another form of alternative provision;
 - temporary placement in an in-school Learning Support Unit as part of a planned positive programme for pupils;
 - temporary or part-time placement in a Pupil Referral Unit (or with the Pupil Referral Service), where they are able to provide preventative programmes and where it is felt to be more appropriate for the pupil to be away from the school site for a while;

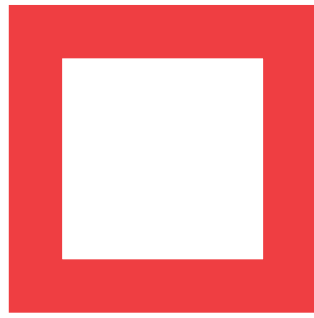
- a managed move to another school, with the consent of all parties involved; this can be successful for pupils at risk of exclusion and as an alternative to exclusion (see paragraph 7d);
 - consideration by the Special Educational Needs Co-ordinator (SENCO), with colleagues, of possible interventions within the school;
 - assessment of Special Educational Needs, including possible placement in a special school;
 - allocation of a key worker such as a Learning Mentor, Connexions Personal Adviser, Education Welfare Officer or member of Behaviour Support Team; and
 - referral to a specific support service, such as the Education Welfare Service, Social Services or the Child and Adolescent Mental Health Service.
4. Many schools find Pastoral Support Programmes (PSPs) useful to help pupils better manage their behaviour. It is appropriate in particular for those pupils whose behaviour is deteriorating rapidly. It will normally involve a number of interventions, such as those listed in paragraph 3. Whether or not there is a PSP in place for a pupil, LAs should where possible provide active support for head teachers who are considering the permanent exclusion of a pupil. This may involve trying to prevent exclusion through looking at the alternatives.
5. The LA should be fully involved in any measures involving out-of-school services. Some LAs have successfully reduced exclusions by establishing Pupils at Risk Panels. These panels, which are usually managed by head teachers, consider referrals of pupils at risk of exclusion and make recommendations for school-level action and support from LA and other services.
6. The behaviour of pupils at risk is sometimes driven by complex combinations of social, emotional and health problems, so the involvement of local authority and other services should be co-ordinated. Multi-agency teams such as Behaviour and Education Support Teams are an effective way of doing that.

ALTERNATIVES TO EXCLUSION

7. A number of different alternatives may be available to head teachers in response to a serious breach of behaviour policy:
- a) **restorative justice**, which enables the offender to redress the harm that has been done to a 'victim', and enables all parties with a stake in the outcome to participate fully in the process. This has been used successfully to resolve situations that could otherwise have resulted in exclusion. All the professionals involved in the process need to be thoroughly involved and this can only work with the consent of all parties;

- b) **mediation** through a third party, usually a trained mediator, is another approach that may lead to a satisfactory outcome, particularly where there has been conflict between two parties, e.g. a pupil and a teacher, or two pupils;
- c) **internal exclusion** which can be used to defuse situations that occur in school that require a pupil to be removed from class but may not require removal from the school premises. The internal exclusion could be to a designated area within the school, with appropriate support and supervision, or to another class on a temporary basis, and may continue during break periods. Internal exclusion should be for the shortest time possible and should be subject to review. Learning Support Units should not be used to provide internal exclusion;
- d) **managed move** to another school to enable the pupil to have a fresh start in a new school. The head teacher may ask another head teacher to admit the pupil. This should only be done with the full knowledge and cooperation of all the parties involved, including the parents, governors and the LA, and in circumstances where it is in the best interests of the pupil concerned. In order fully to address the pupil's difficulties it may be helpful for schools within an area to have a protocol in place and to have a full support package in place for the pupil. Parents should never be pressured into removing their child from the school under threat of a permanent exclusion, nor should pupils' names be deleted from the school roll on disciplinary grounds unless the formal permanent exclusion procedures set out in statute and in this guidance have been adhered to (see section on unofficial exclusions in paragraph 22 of this guidance).

Part 2



Removing Pupils from a School Site and the Decision to Exclude

REMOVING PUPILS FROM A SCHOOL SITE

8. Many pupils receive some of their education at locations other than the site of the school at which they are registered. For example, they participate in school journeys, field trips, work experience and provision at further education colleges. These are routine arrangements for groups of pupils. However, there are three exceptional circumstances in which individual pupils may be removed from school sites, namely where:
 - a) there is sufficient evidence that a pupil has committed a disciplinary offence. In these circumstances the pupil may be excluded from school for a fixed period or permanently. This guidance specifies procedures for exclusion;
 - b) a pupil is accused of a serious criminal offence but the offence took place outside the school's jurisdiction. In these circumstances the head teacher may decide that it is in the interests of the individual concerned and of the school community as a whole for that pupil to be educated off site for a fixed period, subject to review at regular intervals. This is not an exclusion. Paragraph 25 of this guidance deals with these circumstances; and

- c) a pupil's presence on the school site represents a serious risk to the health or safety of other pupils or school staff. In these circumstances a head teacher may send the pupil home after consultation with the pupil's parents. This is not an exclusion and may only be done for medical reasons. Paragraph 26 of this guidance deals with these circumstances.

These are the **only** circumstances in which pupils may be legally removed from the school site.

THE DECISION TO EXCLUDE

- 9. A decision to exclude a pupil should be taken only:
 - a) in response to serious breaches of the school's behaviour policy; and
 - b) if allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.
- 10. Only the head teacher, or teacher in charge of a PRU (or, in the absence of the head teacher or teacher in charge, the acting head teacher or teacher in charge) can exclude a pupil.
- 11. A decision to exclude a child **permanently** is a serious one. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies, which have been tried without success. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the child and should normally be used as a last resort.
- 12. There will, however, be exceptional circumstances where, in the head teacher's judgment, it is appropriate to permanently exclude a child for a first or 'one off' offence. These might include:
 - a) serious actual or threatened violence against another pupil or a member of staff;
 - b) sexual abuse or assault;
 - c) supplying an illegal drug; or
 - d) carrying an offensive weapon (for advice on what constitutes an offensive weapon, see *School Security – Dealing with Troublemakers – Chapter 6* at www.dfes.gov.uk/schoolsecurity/dwt6offensive_weapons.shtml)

Schools should consider whether or not to inform the police where such a criminal offence has taken place. They should also consider whether or not to inform other agencies, e.g. Youth Offending Teams, social workers, etc.

- 13. These instances are not exhaustive, but indicate the severity of such offences and the fact that such behaviour can affect the discipline and well-being of the school community.

14. In cases where a head teacher has permanently excluded a pupil for:
 - a) one of the above offences; or
 - b) persistent and defiant misbehaviour including bullying (which would include racist or homophobic bullying) or repeated possession and/or use of an illegal drug on school premises;

the Secretary of State would not normally expect the governing body or an Independent Appeal Panel to reinstate the pupil.

DRUG-RELATED EXCLUSIONS

15. All schools should develop in consultation with the whole school community a drug policy. It should clearly state that illegal drugs have no place within schools and define any circumstances where legal drugs may legitimately be in school.
16. In making a decision on whether or not to exclude for a drug-related incident the head teacher should have regard to the school's drug policy and should consult the designated senior member of staff responsible for managing drug incidents. But the decision will also depend on the precise circumstances of the case, for example, the seriousness of the incident, the circumstances and needs of those involved and the evidence available. Where legal drugs are concerned, again head teachers should conduct a careful investigation to judge the nature and seriousness of each incident before deciding what action to take. Factors to consider in determining an appropriate response to a drug-related incident have been set out in the Department's revised guidance on **drugs in schools** www.teachernet.gov.uk/wholeschool/behaviour/drugs.

FACTORS TO CONSIDER BEFORE MAKING A DECISION TO EXCLUDE

17. Exclusion should not be imposed in the heat of the moment, unless there is an immediate threat to the safety of others in the school or the pupil concerned. Before deciding whether to exclude a pupil, either permanently or for a fixed period, the head teacher should:
 - a) ensure that a thorough investigation has been carried out;
 - b) consider all the evidence available to support the allegations, taking account of the school's behaviour and equal opportunities policies, and, where applicable, the Race Relations Act 1976 as amended and the Disability Discrimination Act 1995 as amended;
 - c) allow and encourage the pupil to give his or her version of events;
 - d) check whether the incident may have been provoked, for example by bullying, including homophobic bullying, or by racial or sexual harassment; and
 - e) if necessary, consult others, but not anyone who may later have a role in reviewing the head teacher's decision, for example a member of the governing body.

18. The standard of proof to be applied is the balance of probabilities, i.e. if it is more probable than not that the pupil did what he or she is alleged to have done, the head teacher may exclude the pupil. However, the more serious the allegation, the more convincing the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard to be applied but it does mean that when investigating more serious allegations, head teachers will need to gather and take account of a wider range of evidence (extending in some instances to evidence of the pupil's past behaviour), in determining whether it is more probable than not that the pupil has committed the offence.
19. Where a police investigation leading to possible criminal proceedings has been initiated, the evidence available may be very limited. However, it may still be possible for the head teacher to make a judgment on whether to exclude the pupil. Part 6 of this guidance deals with such circumstances in detail.

EARLY INTERVENTION AND ALTERNATIVES TO EXCLUSION

20. LAs should have preventative programmes in place to enable them to refer pupils identified as being at risk of exclusion to appropriate support. Experience has shown that such intervention has a high success rate and few pupils go on to be excluded (see paragraphs 3-6). Exclusion, whether fixed period or permanent, should be used as a last resort when all other alternatives have been exhausted, but there will be circumstances where exclusion is appropriate. Some examples of alternatives to exclusion schools should consider are given in paragraph 7 of this guidance. Appropriate support should also be available to teachers and Key Stage 3 training materials may provide helpful scenarios that illustrate how exclusion can be avoided.

WHEN EXCLUSION IS NOT APPROPRIATE

21. Exclusion should not be used for:
 - a) minor incidents such as failure to do homework or to bring dinner money;
 - b) poor academic performance;
 - c) lateness or truancy;
 - d) pregnancy;
 - e) breaches of school uniform rules or rules on appearance (for example, relating to jewellery, body-piercing, hairstyles, etc), except where these are persistent and in open defiance of such rules; or
 - f) punishing pupils for the behaviour of their parents, for example where parents refuse, or are unable, to attend a meeting¹.

¹ Guidance on dealing with difficult parents is contained in the Legal Toolkit for Schools (See related documents).

UNOFFICIAL EXCLUSIONS

22. If a head teacher is satisfied that, on the balance of probabilities, a pupil has committed a disciplinary offence and needs to be removed from the school site for that reason, formal exclusion is the only legal method of removal. **Informal or unofficial exclusions are illegal** regardless of whether they are done with the agreement of parents or carers.
23. Where a pupil is sent home for disciplinary reasons for part of a school day, some head teachers have viewed this as a 'cooling off' period, and have not taken action to exclude the pupil formally. There is no basis in law for this. The relevant regulations do not state a minimum length of exclusion. If pupils are sent home in response to a breach of discipline, even for short periods of time, this must be formally recorded as an exclusion.
24. In every instance where a pupil is sent home for disciplinary reasons, head teachers should formally record and specify the length of the exclusion (for reporting purposes this should be recorded as a half day, whole day or lunchtime). They should ensure that:
 - they are meeting their legal duty of care towards pupils, providing appropriate supervision whilst on site, and ensuring parents are formally notified if a pupil needs to be removed from site;
 - child protection issues are taken into account; and
 - pupils' human right to education is not contravened.

Revised guidance on good practice in preventing unofficial exclusions is available at: <http://www.dfes.gov.uk/exclusions/guidance/index.cfm>.

REMOVAL OF PUPILS FROM SCHOOL IN EXCEPTIONAL CIRCUMSTANCES

25. There may be exceptional circumstances in which head teachers need to remove pupils from the school site when exclusion would be inappropriate. An example is where a pupil is accused of committing a serious criminal offence which took place outside the head teacher's jurisdiction (perhaps during a weekend or school holiday and off the site) and the head teacher considers it appropriate to remove the pupil from the site. There may be insufficient evidence to warrant exclusion. See paragraph 154 which deals with incidents on the school site where the police are involved and the head teacher may be constrained from gathering evidence. A head teacher can authorise leave of absence for a fixed period, with the parents' agreement, or, exercising powers delegated by the governing body under section 29(3) of the Education Act 2002, can arrange for the pupil to be educated elsewhere (without parental approval, although the parents should be notified). However, such education elsewhere must be arranged for the purposes of receiving any instruction or training included in the secular curriculum of the school. Whether the pupil has been granted leave of absence or is being educated elsewhere, the school must ensure that the pupil's full-time education continues while off site. Any such arrangements do not amount

to an exclusion from school on disciplinary grounds and should be kept under periodic review involving the parents. Where there is sufficient evidence to enable a head teacher to consider exercise of the power to exclude we would not expect the section 29(3) power to be exercised or arrangements to be made for authorising leave of absence in connection with the behaviour in question. It is important that in such exceptional circumstances the head teacher's actions and arrangements are documented to remove any possibility of this being construed as an illegal exclusion. If exclusion some time later remains a possibility, the head teacher should make the parents aware of this at the outset. The more time that passes the more difficult it becomes to impose exclusion for an event in the past.

REMOVAL OF PUPILS ON HEALTH AND SAFETY GROUNDS

26. Head teachers may send a pupil home, after consultation with that pupil's parents and a health professional (for example, a school nurse) as appropriate, where because of a diagnosed illness such as a notifiable disease he or she poses an immediate and serious risk to the health and safety of other pupils and staff. This is not an exclusion and should be for the shortest possible time. If difficulties persist, the head teacher should seek medical advice.

LENGTH OF FIXED PERIOD EXCLUSIONS

27. The regulations allow head teachers to exclude a pupil for one or more fixed periods not exceeding 45 school days in any one school year. The limit of 45 school days applies to the pupil and not to the institution. Therefore, any days of fixed period exclusion served by the pupil in any school or PRU in the same school year will count towards the total. It is important therefore that, when a pupil transfers to a new school during the academic year, records of the fixed period exclusions a pupil has received so far during the current academic year are also transferred promptly to the new school. However, individual fixed period exclusions should be for the shortest time necessary, bearing in mind that exclusions of more than a day or two make it more difficult for the pupil to reintegrate into the school. Ofsted inspection evidence suggests that 1-3 days is often long enough to secure the benefits of exclusion without adverse educational consequences. Exclusions may not be given for an unspecified period, for example until a meeting can be arranged. Such a practice amounts to an indefinite exclusion for which no legal arrangements exist.

CONSIDERATIONS FOLLOWING A FIXED PERIOD EXCLUSION

28. The school's obligation to provide education continues while the pupil is on the roll, and must be met during a fixed period exclusion. In all cases of more than a day's exclusion, work should be set and marked. A head teacher considering whether to exclude a pupil for a longer fixed period, for example, for more than 15 school days, should plan:
 - a) how the pupil's education will continue during the period of exclusion;

- b) how the time might be used to address the pupil's problems;
 - c) together with the school's maintaining LA, what educational arrangements will best help with the pupil's reintegration into the school at the end of the exclusion. The school will usually be expected to meet some of the costs for this but the exact arrangements will need to be agreed with the LA.
29. The head teacher should arrange a reintegration meeting with the parents following the expiry of a fixed period exclusion. This should be an opportunity to discuss how best the pupil can return to school and can be a useful forum to consider with parents the possibility of a parenting contract (see paragraph 30). However, a fixed period exclusion should not be extended if such a meeting cannot be arranged in time or the parents do not attend, as such a meeting is not a statutory requirement.
30. If the school or LA considers that parental influence could be better brought to bear in improving the behaviour of the pupil who has been excluded, they should consider whether it may be appropriate to offer a parenting contract. A parenting contract is a two-sided voluntary agreement between the school or LA and the parent under which the parent agrees to comply with certain requirements and the school or LA agrees to provide, or help the parent access, the support they need. Parenting contracts are appropriate where the parent is willing to engage with the school or LA but needs support. A school may not require a parent to sign a parenting contract as a condition of their child being reinstated in the school.
31. If the exclusion is the second fixed period exclusion (for serious misbehaviour) within a twelve-month period and the parent is unwilling to engage with the school or LA to bring about improvements in the pupil's behaviour, the LA may consider applying to the court for a parenting order to compel the parent to comply with certain requirements including attendance at parenting classes.
32. For further information on parenting contracts and parenting orders, see the Guidance on the Education-Related Parenting Contracts, Parenting Orders and Penalty Notices www.dfes.gov.uk/behaviourandattendance/guidance/Penalty%20Notices/Guidance.cfm

LUNCHTIME EXCLUSION

33. Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. A lunchtime exclusion is a fixed period exclusion (deemed to be equivalent to one half of a school day) and should be treated as such, and parents have the same right to be given information and to make representations. A lunchtime exclusion for an indefinite period, like any other indefinite exclusion, would not be lawful. Arrangements should be made for pupils who are entitled to free school meals to receive their entitlement which may mean, for example, providing a packed lunch.

34. The Secretary of State does not expect lunchtime exclusion to be used for a prolonged period. In the long run another strategy for dealing with the problem should be worked out.

PARENTAL COOPERATION

35. If a parent does not comply with an exclusion, for example by sending the excluded child to school, or by refusing to collect, or arrange collection of, him or her at lunchtime, the school must have due regard for the pupil's safety in deciding what action to take. An exclusion should not be enforced if doing so may put the safety of the pupil at risk. If efforts to resolve the issue with the parents are unsuccessful the school should consider whether to contact the Education Welfare Service and seek the advice of the LA about available legal remedies.

PROCEDURES FOR REVIEW AND APPEAL

36. Governing bodies must review all permanent exclusions from their school, and all fixed period exclusions that would result in a pupil being excluded for more than 15 school days in any one term, or missing a public examination. Governing bodies must also review fixed period exclusions which would result in the pupil being excluded for more than 5 school days but not more than 15 school days in any one term only where the parent has expressed a wish to make representations. They must decide whether or not to reinstate the pupil, if appropriate, or whether the head teacher's decision to exclude the pupil was justified. The governing body can delegate the function of reviewing exclusions to a committee consisting of at least three governors, which may be called the Discipline Committee. Procedures (including those for PRUs) are set out in Part 4 of this guidance.
37. The LA must make arrangements for Independent Appeal Panels to hear appeals against permanent exclusions where the governing body upholds the exclusion. Procedures are set out in Part 5 of this guidance.

PROCEDURES FOLLOWING PERMANENT EXCLUSION

38. In the case of a permanent exclusion the pupil remains on the roll of the school until any appeal is determined, or until the time limit for the parents to lodge an appeal has expired without an appeal being brought, or the parent has told the LA in writing that no appeal is to be brought. Again, while the pupil is on the roll of the school it is the responsibility of the school that his or her education continues but, as in the case of longer fixed period exclusions, it may be necessary for the school to seek the help of the LA which maintains the school. We have changed the 'relevant date' to provide schools with continuing funding so that they can arrange education for permanently excluded pupils while they remain on roll.

39. Once a permanent exclusion has been upheld by the governing body, the LA should arrange to assess the pupil's needs and how to meet them, including any special educational needs the pupil may have. The LA should also arrange a meeting with the parents to discuss options (see paragraph 174). Once the pupil is removed from roll, the LA is responsible for ensuring that suitable education is provided. This will be the pupil's home LA in cases where the school is maintained by a different LA. Since September 2002, all LAs have been committed to ensuring that all permanently excluded pupils receive suitable full-time education, either at another school or, where necessary, making use of a Pupil Referral Unit or other alternative provision.
40. If the school or LA considers that parenting is a factor in the behaviour of the pupil who has been excluded, they should consider whether it may be appropriate to offer a parenting contract or apply to the magistrates' court for a parenting order. These measures are outlined at paragraphs 30 and 31 above. In accordance with the law on admissions, a school may not require a parent to sign a parenting contract as a condition of their child being admitted following permanent exclusion.
41. For further information on parenting contracts and parenting orders, see the Guidance on the Education-Related Parenting Contracts, Parenting Orders and Penalty Notices www.dfes.gov.uk/behaviourandattendance/guidance/Penalty%20Notices/Guidance.cfm

EXCLUSIONS FROM PUPIL REFERRAL UNITS

42. Teachers in charge of Pupil Referral Units (PRUs) have the same powers as head teachers of maintained schools to exclude pupils for a fixed period or permanently. Local authorities are committed to ensuring that all excluded pupils, including those in PRUs, are provided with full-time education from the 16th school day after exclusion (see paragraph 161 and 169). Some local authorities have adopted a policy which aspires not to exclude children from PRUs. But in doing so they must ensure that the PRU provision meets the particular needs of the pupils; and they must have regard to their duty of care to other pupils and the health, safety and welfare of the workforce. Where a local authority has more than one PRU, it may be possible to place a pupil in another PRU following exclusion from the first PRU. However, where this is not possible or appropriate, local authorities should ensure that they maintain, and have access to, a wide range of suitable alternative provision to meet the needs of excluded pupils.

BEHAVIOUR OUTSIDE SCHOOL

43. Pupils' behaviour outside school on school business – for example, on school trips, away school sports fixtures, or work experience placements – is subject to the school's behaviour policy. Bad behaviour in such circumstances should be dealt with as if it had taken place in school. For behaviour outside school, but not on school business, a head teacher may

exclude a pupil if there is a clear link between that behaviour and maintaining good behaviour and discipline among the pupil body as a whole. This will be a matter of judgment for the head teacher. Pupils' behaviour in the immediate vicinity of the school, or on a journey to or from school, can be grounds for exclusion.

44. School staff who intervene to control the behaviour of pupils on public transport or in public places should be mindful of the fact that they are not empowered to use measures beyond their normal common law powers as citizens.

PUPILS WITH SPECIAL EDUCATIONAL NEEDS (SEN)

45. Statutory guidance on identifying, assessing and making provision for pupils with SEN, including those with behavioural, social and emotional needs, is given in the Special Educational Needs Code of Practice. Schools must have regard to this guidance. School governing bodies have a statutory duty to do their best to ensure that the necessary provision is made for any pupil who has SEN. Early identification and intervention, accurate assessment and the arrangement of appropriate provision to meet pupils' SEN usually leads to better outcomes.
46. Other than in the most exceptional circumstances, schools should avoid permanently excluding pupils with statements. They should also make every effort to avoid excluding pupils who are being supported at *School Action* or *School Action Plus* under the Special Educational Needs Code of Practice, including those at *School Action Plus* who are being assessed for a statement. In most cases, the head teacher will be aware that the school is having difficulty managing a pupil's behaviour well before the situation has escalated. Schools should try every practicable means to maintain the pupil in school, including seeking LA and other professional advice and support at *School Action Plus* or, where appropriate, asking the LA to consider carrying out a statutory assessment. For a pupil with a statement, where this process has been exhausted, the school should liaise with their LA about initiating an interim annual review of the pupil's statement.
47. Where a child is permanently excluded, the head teacher should use the period between his or her initial decision and the meeting of the governing body to work with the LA to see whether more support can be made available or whether the statement can be changed to name a new school. If either of these options is possible, the head teacher should normally withdraw the exclusion.
48. It is extremely important that parents of children with SEN who are excluded from school receive advice on the options available for their child's future education. Schools might usefully advise parents that advice and information on SEN is available through their local SEN Parent Partnership. The Parent Partnership should also be able to provide details of voluntary agencies that offer support to parents, including those that can offer advice concerning exclusions.

DISABLED PUPILS

49. Schools have a legal duty under the Disability Discrimination Act 1995 as amended not to discriminate against disabled pupils by excluding them from school because of behaviour related to their disability. This applies to both permanent and fixed period exclusions. The definition of disability under the Act covers pupils with physical, sensory or learning disabilities. Discrimination occurs where a person treats a disabled pupil less favourably than other pupils for a reason which relates to their disability, without justification. It also means failing to take reasonable steps to ensure that disabled pupils are not placed at a substantial disadvantage compared to their non-disabled peers. What constitutes a reasonable step will depend on the circumstances of each case. It must also be remembered that the reasonable adjustments duty requires schools to think ahead, anticipate the barriers that disabled pupils might face and remove or minimise them before a disabled pupil is placed at a substantial disadvantage. The Disability Rights Commission (DRC) has published a Code of Practice which explains and illustrates schools' duties to disabled pupils, including in relation to exclusions. Schools, and those involved in exclusion decisions or appeals, should read the Code of Practice for Schools available from the DRC or on their website (www.drc-gb.org). The Department has published a training resource *Implementing the Disability Discrimination Act in Schools and Early Years Settings* for schools and local authorities. Section 1 of the resource provides a guide to the duties schools have under Part 4 of the DDA and provides more detail on the definition of disability in the DDA. Section 2 illustrates the process of making reasonable adjustments and includes 3 DVDs of reasonable adjustments filmed in schools in different parts of the country. DVD 1 includes a section on behaviour for learning. Schools can order a copy of the resource by phoning 0845 6022260 quoting reference 0160-2006DOC-EN.
50. It is unlawful to exclude a disabled pupil for a reason related to their disability without justification. When considering whether or not it is appropriate to exclude a pupil who may be disabled within the meaning of the Disability Discrimination Act 1995, head teachers should consider four questions:

a) **Is the pupil disabled?**

The Act covers pupils with physical or mental impairment including sensory impairments and learning difficulties. The definition of disability is not the same as the definition of special educational needs but there is likely to be a large overlap between those pupils who have SEN and those who are disabled. Further guidance on the definition of disability is included in "Guidance on matters to be taken into account in determining questions relating to the definition of disability". Paragraphs D13 to D14 deal specifically with children and provide useful examples involving school pupils.

Examples of children in an educational setting where their impairment has a substantial and long-term adverse effect on ability to carry out normal day-to-day activities:

A 10-year-old girl has learning difficulties. She has a short attention span and has difficulties remembering facts from one day to the next. She can read only a few familiar words and has some early mathematical skills. To record her work in class she needs to use a tape recorder, pictures and symbols.

A 14-year-old boy has been diagnosed as having attention deficit hyperactivity disorder (ADHD). He often forgets his books, worksheets or homework. In class he finds it difficult to concentrate and skips from task to task forgetting instructions. He often fidgets and makes inappropriate remarks in class or in the playground. Sometimes there can be outbursts of temper.

In both of these examples reading, writing and participating in activities in class and/or in the playground, which are all normal day-to-day activities, are adversely affected to a substantial degree. The capacity affected is 'memory, or ability to concentrate, learn or understand'.

b) Is the exclusion for a reason related to the pupil's disability?

The exclusion does not have to be because of the pupil's disability but "for a reason related to it." This means that if there is any connection between the behaviour resulting in the exclusion and the pupil's disability this is considered less favourable treatment for a reason related to the pupil's disability.

c) Would another pupil to whom the reason did not apply be treated in the same way?

If the reason for the exclusion is the pupil's "behaviour" then it is necessary to consider whether or not another pupil who did not behave in that way would be excluded. It is not correct to compare the treatment of the disabled pupil with a non-disabled pupil. Instead the treatment of the disabled pupil should be compared with a pupil who did not behave in the same way.

d) Can the exclusion be justified?

An exclusion of a disabled pupil for a reason related to their disability can only be justified if there is a "material" and "substantial" reason for it **and** the head teacher can show that there were no reasonable steps that could have been made to avoid the exclusion. Maintaining order and discipline in the school may well be a material and substantial reason if there was a specific incident that gave rise to the exclusion. The head teacher will also have to show that reasonable steps were made in response to the pupil's disability. This could include differentiating the school's general disciplinary or behavioural policy to take account of behaviour which is related to a pupil's disability; developing strategies to prevent the pupil's behaviour; requesting external help with a

pupil (e.g. requesting a statutory assessment) and staff training. Further guidance on reasonable steps that could be taken are provided in the DfES resource pack *“Implementing the Disability Discrimination Act in Schools and Early Years Settings”*.

51. Appeals against permanent exclusion, where discrimination is alleged to have taken place, or the disabled pupil has allegedly been placed at a substantial disadvantage by the exclusion procedures, will be heard by the Independent Appeal Panel. Claims alleging discrimination in respect of fixed period exclusions will be heard by the SEN and Disability Tribunal (SENDIST). Schools will be required, in disability discrimination claims, to demonstrate that their actions are justified and that there are no reasonable adjustments to their policies and practice they might have made to prevent the incident which led to the exclusion. Since many disabled pupils will also have special educational needs, schools may wish to consider the action they have taken to address those needs in this context.

RACE RELATIONS

52. The law places a general duty on all maintained schools to have due regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between people of different racial groups. The law also places a number of specific duties on schools, including duties to assess the impact of policies and to monitor the operation of those policies on pupils, parents and staff from different racial groups.
53. This legislation requires schools to take steps to ensure that they will not discriminate against pupils on racial grounds when making a decision about whether to exclude a pupil. For example, schools should monitor and analyse exclusions by ethnicity to ensure that they do not treat some groups of pupils more harshly than others. Schools are required to assess whether policies that lead to sanctions including exclusion, have a disproportionately adverse impact on pupils from particular racial groups. If adverse impact is identified and this cannot be justified, then the policy and practice should be revised. Although rates of permanent exclusion among most Black and minority ethnic pupils have fallen in recent years, there is still a disproportionate permanent exclusion rate for Black pupils, especially boys. Given this, schools should ensure that all school staff and governors are fully trained to understand how their own perceptions, values and beliefs affect their behaviour and therefore their interaction with pupils from minority ethnic backgrounds. Good connections between schools and community groups and open discussion within schools can greatly help to facilitate this.
54. The Commission for Racial Equality has prepared a *Code of Practice on the Duty to Promote Race Equality* and a non-statutory guide *The Duty to Promote Race Equality: A Guide for Schools*. It is strongly recommended that schools and all those involved in exclusion decisions or appeals read the Code of Practice or non-statutory guide. These can be obtained from the Stationery Office. See the CRE’s website for further information: www.cre.gov.uk .

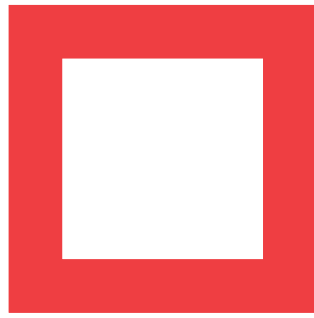
LOOKED AFTER CHILDREN

55. Looked after children are especially at risk of low attainment in school and exclusion (*Guidance on the Education of Children and Young People in Public Care* (May 2000), which can be accessed at www.dfes.gov.uk/incare/). Schools should be especially sensitive to exclusion issues where looked after children are concerned. Schools should try every practicable means to maintain the child in school and should seek LA and other professional advice as appropriate. If the school has a Looked After Children Officer, they may be best placed to do this. Social Services should in all cases be involved at the earliest opportunity in working with the school to avoid the need to exclude the pupil.
56. In cases where a looked after child is excluded, anyone who is legally defined as a parent will have the right to make representations and to appeal. The definition of a parent for the purposes of the Education Acts is broadly drawn and includes any person who has parental responsibility (which includes the Local Authority where they have a care order in respect of the child) and any person (for example, a foster carer) with whom the child lives. These are in addition to the child's birth parent(s). This means that there could be a number of people whom the school has to notify about exclusions and who will have the right to make representations and appeal. In these circumstances, where support for the child may not be consistent or robust, head teachers considering exclusion should be especially mindful of encouraging the pupil to give his or her own version of events.
57. Even where the Local Authority does not have parental responsibility, the child's social worker should be informed about any exclusion. The designated teacher for looked after children will be able to advise on the legal status of pupils in public care in the school.

ROLE OF THE SECRETARY OF STATE

58. The Secretary of State issues guidance on exclusion to which head teachers, teachers in charge of a Pupil Referral Unit, governing bodies, LAs and Independent Appeal Panels must have regard. He can consider complaints about governing bodies' operation of the exclusion procedure. He has no power to consider complaints about the decision of an Independent Appeal Panel.

Part 3



Procedure for Excluding a Pupil: Role of Head Teacher

INFORMING PARENTS ABOUT THE EXCLUSION

59. Head teachers should follow carefully the procedures set out in law and statutory guidance, which are designed to ensure fairness and openness in the handling of exclusions. Following this guidance will also reduce the chance of any successful legal challenge to the exclusion at a later stage.
60. Whenever a head teacher excludes a pupil, the parent (or pupil if aged 18) must be notified immediately, ideally by telephone followed up by a letter within one school day. Letters of notification of exclusion must state:
- a) for a fixed period exclusion, the precise period of the exclusion;
 - b) for a permanent exclusion, the fact that it is a permanent exclusion;
 - c) the reasons for the exclusion;
 - d) the parent's right to make representations about the exclusion to the governing body and how the pupil may be involved in this;
 - e) the person whom the parent should contact if they wish to make such representations (this will usually be the clerk to the governing body).

Letters may need to be translated into other languages, where parents' first language is not English.

61. Letters should also mention:
- a) the latest date by which the governing body must meet to consider the circumstances in which the pupil was excluded (except where the exclusion is for a total of not more than 5 school days in any one term, and would not result in the pupil missing a public examination);
 - b) the parent's right to see and have a copy of his or her child's school record upon written request to the school;
 - c) in the case of a **fixed period** exclusion, the date and time when the pupil should return to school (in the case of a **lunchtime** exclusion, the number of lunchtimes for which the pupil is being excluded, and if applicable the arrangements for the child to receive free school meals);
 - d) if the exclusion is **permanent**, the date it takes effect and any relevant previous history;
 - e) the arrangements made for enabling the pupil to continue his or her education, including the setting and marking of work. It is the parent's responsibility to ensure that work sent home is completed and returned to school;
 - f) the name and telephone number of an officer of the LA who can provide advice; and
 - g) the telephone number for the Advisory Centre for Education (ACE) exclusions helpline – 020 7704 9822. ACE is a long-established independent national charity providing advice to parents.
62. Whenever a teacher in charge of a PRU excludes a pupil, the parent should be notified immediately, ideally by telephone followed up by a letter within one school day.
63. Letters of notification of a fixed period exclusion from a PRU must state:
- a) the precise period of the exclusion;
 - b) the reasons for the exclusion;
 - c) the parent's right to make representations about the exclusion to the LA; and
 - d) the person whom the parent should contact if they wish to make such representations.
64. Letters of notification of a permanent exclusion from a PRU must state:
- a) the fact that it is a permanent exclusion;
 - b) the reasons for the exclusion;
 - c) the right to appeal to an Independent Appeal Panel, together with the name and address of the person to whom any notice of appeal should be sent (normally the clerk to the appeal panel); and

- d) the date by which any notice of appeal should be lodged (15 school days after the day on which notice was given in writing of the teacher in charge's decision). Where the notice is sent by first class post it is treated as having been given on the second working day after it was posted.
65. Letters should also mention the matters set out in paragraph 61 as appropriate. Model letters (1-4) for notifying parents of fixed period and permanent exclusions are provided at the end of this part of the guidance. Model letter 1 should be used for fixed period exclusions of no more than 5 school days and where a public examination is not missed. Model letter 2 should be used for fixed period exclusions of more than 5 and up to 15 school days (single or cumulative) or where a public examination is missed. For fixed period exclusions (single or cumulative) of more than 15 school days model letter 3 should be used, and model letter 4 should be used for permanent exclusions.
66. All exclusion cases should be treated in the strictest confidence.
67. In exceptional cases – usually where further evidence has come to light – a fixed period exclusion may be extended, or converted to a permanent exclusion. In such cases the head teacher must write again to the parents explaining the reasons for the change. The head teacher may withdraw an exclusion that has not yet been reviewed by the governing body.

INFORMING THE GOVERNING BODY AND THE LA

68. Within one school day the head teacher must inform the governing body and the LA of:
- a) permanent exclusions;
 - b) exclusions which would result in the pupil being excluded for more than five school days (or more than 10 lunchtimes) in any one term; and
 - c) exclusions which would result in the pupil missing a public examination.
69. For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the head teacher should also advise the "home" LA of the exclusion, so that they can start to make arrangements for the pupil's full-time education in the event of the exclusion being upheld by the governing body and independent appeal panel.
70. For schools with three terms in a school year, fixed period exclusions totalling five or fewer school days, or 10 or fewer lunchtimes or half days, in any one term must be reported to the governing body and LA once a term. For schools with more than three terms in a school year, this information must be reported in a term in which 31 December, Easter Monday or 31 July falls or the term immediately preceding one of those dates. The school should also at the same time report this information in respect of any previous terms, if it has not already done so.

71. Exclusion reports should include:
- a) the pupil's name;
 - b) the length of the exclusion;
 - c) the reason for the exclusion;
 - d) the pupil's age, gender and ethnicity;
 - e) whether the pupil has a statement of SEN, is being assessed for such a statement, or is on *School Action* or *School Action Plus*; and
 - f) whether the pupil is in Local Authority care.
72. The teacher in charge of a PRU must give similar information to the LA.

MARKING ATTENDANCE REGISTERS FOLLOWING EXCLUSION

73. Where pupils are excluded for a fixed period and no alternative provision is made for them to continue their education whilst excluded, they should be marked absent in the attendance register using Code E. Where alternative provision is made, and it meets the requirements of the pupil registration regulations, they should be marked using the appropriate attendance or absence code, such as Code B (Education Off-site) or Code N (Absent - reason not known). Further information on the attendance codes and pupil registration regulations is available at www.dfes.gov.uk/schoolattendance/.
74. Pupils who are permanently excluded must not be deleted from either the admission register or the attendance register until the appeal process has been completed. If no alternative provision is made for them to continue their education whilst excluded but still on the school roll, they should be marked absent in the attendance register using Code E. Where alternative provision is made, and it meets the requirements of the pupil registration regulations, they should be marked using the appropriate attendance or absence code, such as Code B (Education Off-site) or Code N (Absent - reason not known). Further information on the attendance codes and pupil registration regulations is available at www.dfes.gov.uk/schoolattendance/.

MODEL LETTERS 1–4

MODEL LETTER 1 – FROM HEAD TEACHER (OR TEACHER IN CHARGE OF A PRU) NOTIFYING PARENT OF A FIXED PERIOD EXCLUSION OF 5 SCHOOL DAYS OR FEWER IN ONE TERM, AND WHERE A PUBLIC EXAMINATION IS NOT MISSED

Dear **[Parent's Name]**

I am writing to inform you of my decision to exclude **[Child's Name]** for a fixed period of **[Period]**. This means that he/she will not be allowed in school for this period. The exclusion begins/began on [date] and ends on [date].

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[Child's Name]** has not been taken lightly. **[Child's Name]** has been excluded for this fixed period because **[Reason for Exclusion]**.

[School other than PRU] You have the right to make representations to the governing body. If you wish to make representations please contact **[Name of Contact]** on/at **[Contact Details – Address, Phone Number, email]**, as soon as possible.

[PRU] You have the right to make representations to **[name of LA]**. These representations will be considered by **[set out arrangements which the LA have made for considering representations]**. If you wish to make representations please contact **[Name of Contact]** on/at **[Contact Details-Address, Phone Number, email]** as soon as possible.

If you think this exclusion relates to a disability your child has, and you think disability discrimination has occurred, you may raise this issue with the governing body **[for a PRU – the Local Authority]**. You can also make a claim of disability discrimination to the SEN and Disability Tribunal (SENDIST), Mowden Hall, Staindrop Road, Darlington DL3 9DN.

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

The school will set work for **[Name of Child]** during the period of his/her exclusion **[detail the arrangements for this]**. Please ensure that work set by the school is completed and returned to us promptly for marking.

You may wish to contact **[Name]** at **[LA Name]** LA on/at **[Contact Details – Address, Phone Number, email]**, who can provide advice. You may also find it useful to contact the Advisory Centre for Education (ACE) – an independent national advice centre for parents of children in state schools. It offers information and support on state education in England and Wales, including on exclusion from school. It can be contacted on 020 7704 9822 or at www.ace-ed.org.uk **[insert reference to local sources of independent advice if known]**

[Name of Child]'s exclusion expires on **[Date]** and we expect **[Name of Child]** to be back in school on **[Date]** at **[Time]**. I am sure it would be helpful for us to meet to discuss **[Name of Child]**'s return to school before they are due back. Please could you contact **[Name]** to arrange a convenient time and date.

Yours sincerely

[Name]

Head teacher

**MODEL LETTER 2 – FROM HEAD TEACHER (OR TEACHER IN CHARGE OF A PRU)
NOTIFYING PARENT OF A FIXED PERIOD EXCLUSION OF MORE THAN 5 AND UP TO
AND INCLUDING 15 SCHOOL DAYS IN TOTAL IN ONE TERM, OR WHERE A PUBLIC
EXAMINATION WOULD BE MISSED**

Dear **[Parent's Name]**

I am writing to inform you of my decision to exclude **[Child's Name]** for a fixed period of **[Period]**. This means that **[Child's Name]** will not be allowed in school for this period. The exclusion begins/began on [date] and ends on [date].

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[Child's Name]** has not been taken lightly. **[Child's Name]** has been excluded for this fixed period because **[Reason for Exclusion]**.

[School other than PRU] You have the right to request a meeting of the governing body at which you may make representations and the decision to exclude can be reviewed. As the length of the exclusion is more than 5 school days in one term the governing body must meet if you request it to do so. The latest date by which the governing body can meet is **[insert Date – no later than 50 school days from the date the governing body is notified]**. If you wish to make representations to the governing body and wish to be accompanied by a friend or representative please contact **[Name of Contact]** on/at **[Contact Details – Address, Phone Number, email]**, as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend a meeting at the school. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the meeting.

[PRU] You have the right to make representations to **[name of LA]**. These representations will be considered by **[set out arrangements which the LA have made for considering representations]**. If you wish to make representations please contact **[Name of contact]** on/at **[Contact Details-Address, Phone Number, email]** as soon as possible. **[Note – this wording is not suitable where the child would lose the opportunity to take a public examination]**

If you think this exclusion relates to a disability your child has, and you think disability discrimination has occurred, you may raise this issue with the governing body **[for a PRU – the Local Authority]**. You can also make a claim of disability discrimination to the SEN and Disability Tribunal (SENDIST), Mowden Hall, Staindrop Road, Darlington DL3 9DN.

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

The school will set work for **[Name of Child]** during the period of his/her exclusion **[Insert the arrangements for this]**. Please ensure that work set by the school is completed and returned to us promptly for marking.

You may wish to contact **[Name]** at **[LA Name]** LA on/at **[Contact Details – Address, Phone Number, email]**, who can provide advice. You may also find it useful to contact the Advisory Centre for Education (ACE) – an independent national advice centre for parents of children in state schools. It offers information and support on state education in England and Wales, including on exclusion from school. It can be contacted on 020 7704 9822 or at www.ace-ed.org.uk **[Insert reference to local sources of independent advice if known]**

[Name of Child]'s exclusion expires on **[Date]** and we expect **[Name of Child]** to be back in school on **[Date]** at **[Time]**. I am sure it would be helpful for us to meet to discuss **[Name of Child]**'s return to school before they are due back. Please could you contact **[Name]** to arrange a convenient time and date.

Yours sincerely

[Name]

Head teacher

**MODEL LETTER 3 – FROM HEAD TEACHER (OR TEACHER IN CHARGE OF A PRU)
NOTIFYING PARENT OF A FIXED PERIOD EXCLUSION OF MORE THAN 15 SCHOOL
DAYS IN TOTAL IN ONE TERM**

Dear **[Parent's Name]**

I am writing to inform you of my decision to exclude **[Child's Name]** for a fixed period of **[Period]**. This means that **[Child's Name]** will not be allowed in school for this period. The exclusion begins/began on **[date]** and ends on **[date]**.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[Child's Name]** has not been taken lightly. **[Child's Name]** has been excluded for this fixed period because **[Reason for Exclusion]**.

[School other than PRU] As the length of the exclusion is more than 15 school days in total in one term the governing body must meet to consider the exclusion. At the review meeting you may make representations to the governing body if you wish. The latest date on which the governing body can meet is **[Date Here – no later than 15 school days from the date the governing body is notified]**. If you wish to make representations to the governing body and wish to be accompanied by a friend or representative please contact **[Name of Contact]** on/at **[Contact Details – Address, Phone Number, email]**, as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the governing body of the time, date and location of the meeting. Please advise if you have a disability or special needs which would affect your ability to attend a meeting at the school. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the meeting.

[PRU] As the length of the exclusion is more than 15 days **[Name of LA]** must consider the exclusion. **[Here set out the arrangements which the LA has made to review fixed period exclusions]**. A review meeting will be held and at the review meeting you may make representations if you wish. The latest date for a review meeting is **[Date here-no later than 15 school days from the date LA is notified]**. If you wish to make representations and wish to be accompanied by a representative please contact **[Name of contact]** on/at **[Contact Details-Address, Phone Number, email]**. Please advise if you have a disability or special needs which would affect your ability to attend a meeting at the school. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the meeting.

If you think this exclusion relates to a disability your child has, and you think disability discrimination has occurred, you may raise this issue with the governing body **[for a PRU – the Local Authority]**. You can also make a claim of disability discrimination to the SEN and Disability Tribunal (SENDIST), Mowden Hall, Staindrop Road, Darlington DL3 9DN.

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

The school will continue to set work for **[Name of Child]** during the period of **his/her** exclusion **[Please insert what arrangements are in place for this]**. Please ensure that any work set by the school is completed and returned to us for marking.

You may want to contact **[Name]** at **[LA Name]** LA on/at **[Contact Details – Address, Phone Number, email]**, who can provide advice. You may also find it useful to contact the Advisory Centre for Education (ACE), which is an independent national advice centre for parents of children in state schools. It offers information and support on state education in England and Wales, including on exclusion from school. It can be contacted on 020 7704 9822 or at www.ace-ed.org.uk **[Insert reference to source of local independent advice if known]**.

[Name of Child]'s exclusion expires on **[Date]** and we expect **[Name of Child]** to be back in school on **[Date]** at **[Time]**. I am sure it would be helpful for us to meet to discuss **[Name of Child]**'s return to school before they are due back. Please could you contact **[Name]** to arrange a convenient time and date.

Yours sincerely

[Name]

Head teacher

**MODEL LETTER 4 – FROM HEAD TEACHER (OR TEACHER IN CHARGE OF A PRU)
NOTIFYING PARENT OF A PERMANENT EXCLUSION**

Dear **[Parent's Name]**

I regret to inform you of my decision to exclude **[Child's Name]** permanently from **[Date]**. This means that **[Child's Name]** will not be allowed back to this **[school /PRU]** **[for school only]** pending a meeting of the governing body. Alternative arrangements for **[Child's Name]**'s education will need to be made. In the first instance we will set work for **[Child's Name]** and would ask you to ensure this work is completed and returned promptly to school for marking.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[Child's Name]** has not been taken lightly. **[Child's Name]** has been excluded permanently because **[Reason for Exclusion – also include any other relevant previous history here]**.

[School other than PRU] As this is a permanent exclusion the governing body will meet to consider it. At the review meeting you may make representations to the governing body if you wish. The latest date on which the governing body can meet is **[Date – no later than 15 school days from the date the governing body is notified]**. If you wish to make representations to the governing body and wish to be accompanied by a friend or representative please contact **[Name of Contact]** on/at **[Contact Details – Address, Phone Number, email]**, as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the governing body of the time, date and location of the meeting. Please advise if you have a disability or special needs which would affect your ability to attend the meeting. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the meeting.

[PRU] You have the right to appeal to an independent appeal panel against this decision. If you wish to appeal please notify **[name of clerk to appeal panel]** of your wish to appeal including your grounds of appeal in writing to **[address]** by no later than **[specify the latest date-the 15th school day after the second working day after the letter is posted if sent by first class post, or, if delivered by hand, the 15th school day after delivery]**. If you have not lodged an appeal by this date your right to appeal will lapse. Please advise if you have a disability or special needs which would affect your ability to attend the hearing. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the hearing.

If you think this exclusion relates to a disability your child has, and you think disability discrimination has occurred, you may raise this issue with the governing body **[for a PRU – the independent appeal panel]**.

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

Alternative education other than setting work will be provided for **[Name of Child]** if the exclusion continues beyond 15 school days. A **[School's Maintaining LA]** LA representative will contact you to discuss this.

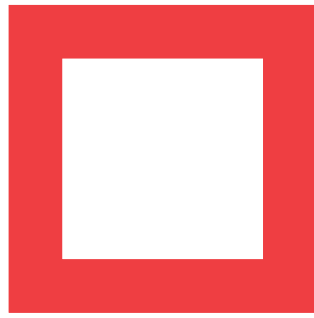
You may also wish to contact **[Name]** at **[LA Name]** LA on/at **[Contact Details – Address, Phone Number, email]**, who can provide advice on what options are available to you. Additionally, you may find it useful to contact the Advisory Centre for Education (ACE) – an independent national advice centre for parents of children in state schools. It offers information and support on state education in England and Wales, including on exclusion from school. It can be contacted on 020 7704 9822 or at www.ace-ed.org.uk **[Insert reference to source of local independent advice if known]**.

Yours sincerely

[Name]

Head teacher

Part 4



Responsibilities of the Governing Body

THE GOVERNING BODY

75. The governing body must review certain exclusions and must consider any representations about an exclusion made by the parents of the excluded pupil. The governing body can delegate some or all of its functions in respect of exclusions to a committee consisting of at least three governors and such a committee may be called the Discipline Committee. References throughout this guidance to the governing body should be taken to include a reference to the Discipline Committee where one has been established.
76. It is very important that governors who are called upon to review exclusions receive training to equip them to discharge their duties properly. We expect the LA to organise training sessions for governors on exclusion issues, which governors should make every effort to attend. The Department published training materials for clerks and chairs online in June 2004 at www.teachernet.gov.uk/wholeschool/behaviour/exclusion/gettingitright/. The Council on Tribunals has emphasised the importance of training for all those involved in the exclusion process.
77. Where the governing body establishes a Discipline Committee it should appoint a clerk to the Committee. The quorum for a Discipline Committee meeting is three members. If any governor has a connection with the pupil, or knowledge of the incident that led to the exclusion, which could affect his or her ability to act impartially, he or she should step down. The Chair has the casting vote in all cases where an even number of governors are considering the case.

78. At one meeting the governing body may consider more than one exclusion so long as it complies with the statutory time limits relating to each one.
79. If any exclusion would result in the pupil missing a public examination, the governing body should try to meet before the date of the examination. If, exceptionally, it is not practical for the governing body to meet before the time when the pupil is due to take the public examination, the Chair of Governors – using his or her powers to act in an emergency – may consider the exclusion and decide whether or not to reinstate the pupil (these are the only circumstances in which the Chair of Governors can alone review an exclusion). In such cases the parent has the right to make oral representations to the governing body or, as the case may be, the Chair. If possible, the Chair should have the advice of the Clerk and an LA Officer.
80. In some cases, depending on the nature and seriousness of the exclusion, the governing body may exercise its discretion to allow an excluded pupil on the premises for the sole purpose of taking a public examination. There is no automatic right for any excluded pupil to take a public examination on the excluding school's premises – this is entirely at the governors' discretion.

GOVERNING BODY'S ROLE IN REVIEWING EXCLUSIONS

81. There is no legal requirement for the head teacher to inform the governing body of short fixed period exclusions (i.e. those of up to and including 5 school days in total in any one term) as they occur, with the exception of such an exclusion which would result in the pupil missing a public examination. The law requires the head teacher to report short fixed period exclusions once a term to the governing body and LA.
82. But the governing body must, in the case of a fixed period exclusion of 5 school days or fewer in one term (and which does not bring the pupil's total number of days of exclusion to more than 5 in one term), consider any representations made by the parent. If representations from the parent are received the governing body must consider them, but they cannot direct reinstatement (model letter 1). In such cases the governing body has discretion to agree to a meeting if the parent requests a meeting to discuss the exclusion. No statutory time-limits apply to the consideration of such exclusions, but the governing body should consider responding promptly to any request from the parent. An excluded pupil under the age of 18 should be allowed and encouraged to attend the hearing and to speak on his or her own behalf, if he or she wishes to do so and the parent agrees.

83. On receiving notice of an exclusion from the head teacher, the governing body:
- a) must, in the case of a fixed period exclusion of more than 5, but not more than 15 school days in one term (which does not bring the pupil's total number of days of exclusion to more than 15 in one term), convene a meeting between the 6th and the 50th school day after receiving notice of the exclusion, **but only if the parent requests such a meeting** (model letter 2);
 - b) must, in the case of a permanent exclusion, or a fixed period exclusion of more than 15 school days in one term (or which brings the pupil's total number of days of exclusion to more than 15 in one term) convene a meeting between the 6th and the 15th school day after the date of receipt of notice to consider the exclusion (model letters 3 and 4). If a pupil's total number of days of fixed period exclusion exceeds 15 school days in one term, any subsequent fixed period exclusion(s) of the pupil in the same term would again trigger the governing body's duty to consider the circumstances of the exclusion;
 - c) must invite the parent, head teacher and an LA officer to the meeting at a time and place convenient to all parties (but in compliance with the relevant statutory time limits);
 - d) should ask for any written statements (including witness statements) in advance of the meeting; and
 - e) should circulate in advance of the governing body meeting any written statements (including witness statements) and a list of those who will be present at the meeting to all parties, including the pupil if it is known that they are to attend the meeting.

Note: the legislation deems a lunchtime exclusion to be a fixed period exclusion equivalent to half a school day. This should be taken into account for the purposes of a) and b) above. For example, if a pupil were to be excluded at lunchtime for 15 school days in the same term, a) above would apply.

84. The governing body must comply with the statutory time limits but are not relieved of their obligation to carry out the relevant duty if they fail to comply. Accordingly their decision will not be invalid simply on the grounds that it was made out of time.
85. It should be noted that the governing body's role is to review exclusions imposed by the head teacher, who alone has the power to exclude. It follows that the governing body cannot increase the severity of an exclusion, for example by extending the period of a fixed period exclusion or by imposing a permanent exclusion in substitution for a fixed period exclusion. The governing body can uphold an exclusion; or direct the pupil's reinstatement, either immediately or by a particular date. Governors should bear in mind that, in the case of a permanent exclusion, if an appeal is lodged the independent appeal panel will not just review the governors' decision, it will rehear all the facts of the case including any fresh evidence.

PROCEDURE AT THE GOVERNING BODY MEETING

86. The governing body should conduct the meeting along the lines of the principles laid out in paragraphs 123 and 124 in Part 5. Where an allegation of misconduct against the pupil is in dispute the governing body should apply the balance of probabilities standard of proof, i.e. whether it is more probable than not that the pupil did what he is accused of. However, the more serious the allegation, the more convincing the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard to be applied, but it does mean that when investigating more serious allegations head teachers will need to gather and take account of a wider range of evidence (extending in some instances to evidence of the pupil's past behaviour) in determining whether it is more probable than not that the pupil has committed the offence. The governing body should allow and encourage the excluded pupil to attend the meeting and speak, if the parent agrees. They should allow the parent to be accompanied by a friend or legal representative at their request. A pupil aged 18 or over has the right to attend and to make representations in their own right.
87. The LA is not required (and it may not be practical) to send a representative to all governing body exclusion meetings in its area. The LA should send a representative to all permanent exclusion meetings and to longer fixed period exclusion meetings if possible. The LA's role at the governing body meeting is not to give its view on the merits of the particular exclusion. But it can make a statement to the governing body in general terms, for example about how other schools in the area (and the LA itself, if applicable) have dealt with similar incidents, and it can advise on alternative arrangements for the pupil to continue his or her education if the exclusion is upheld. The LA representative can also draw the attention of governors to issues where there is a lack of clarity or where more information may be needed or where guidance appears to have been ignored. The head teacher should attend the meeting to clarify points and answer any questions relating to the incident or events leading to the exclusion. However, no party to the review should be alone with the governors at any point before, during or after the meeting.
88. The governing body may ask the LA officer for advice. However, it should make its decision alone, asking the other parties, including the LA officer, to withdraw. The clerk may stay with the governing body to help it by reference to the notes and with the wording of the decision letter.
89. Where the exclusion is for more than 5 school days in total in one term and where reinstatement is practical, the governing body should decide whether to direct reinstatement. In reaching its decision the governing body should consider:
- a) any representations made by the parent, the pupil and the LA; and
 - b) whether the head teacher has complied with the exclusion procedure and has had regard to the Secretary of State's guidance on exclusion.

90. In considering whether to direct reinstatement, the governing body should seek the LA's views as to what support could be made available to assist with reintegrating the pupil.

GOVERNING BODY'S DECISION

91. Where reinstatement is not practical, because, for example, the pupil has returned to school following the expiry of a fixed period exclusion, or because the parent makes clear he or she does not want their child reinstated, the governing body must consider whether the head teacher's decision to exclude the child was justified, based on the evidence. The outcome of its review should be added to the pupil's school record for future reference. There are only two decisions open to the governing body – to uphold the exclusion or to direct the pupil's reinstatement, either immediately or by a particular date. It may not decide that because of exceptional circumstances or for other reasons it is not practical to give a direction for reinstatement, but that it would otherwise have been appropriate to give such a direction. Such a decision is reserved for the Independent Appeal Panel.
92. The governing body must inform the parent (or the pupil if aged 18 or over), the head teacher and the LA of its decision in writing within one school day of the hearing, stating the reasons. Where the pupil resides in a different LA from the one that maintains the school, the governing body should also inform that LA – the pupil's 'home' LA. The governing body may not attach conditions to any direction it may give to the head teacher to reinstate the pupil; however, this does not prevent a school from following good practice in reintegrating the pupil.
93. Where the governing body decides to uphold a permanent exclusion, its letter to the parent (or pupil if aged 18 or over) should also include the following information:
- a) the reason for the decision;
 - b) their right to appeal to an Independent Appeal Panel, together with the name and address of the person to whom any notice of appeal should be sent (normally the clerk to the appeal panel);
 - c) the date by which any notice of appeal should be lodged (15 school days after the day on which notice in writing was given of the governing body's decision. Where the notice is sent by first class post it is treated as having been given on the second working day after it was posted);
 - d) that any notice of appeal must set out the grounds on which the appeal is made; and
 - e) that any claim on grounds of disability discrimination can also be set out in the notice of appeal.
94. A model letter (model letter 5) for notifying parents of a decision to uphold a permanent exclusion is provided at the end of this part of the guidance.

AFTER THE MEETING

95. A note of the governing body's views on the exclusion should normally be placed on the pupil's school record with copies of relevant papers.

PUPIL REFERRAL UNITS

96. The LA must review fixed period exclusions from PRUs and consider any representations made by parents. In the case of one or more fixed period exclusions (including lunchtime exclusions) totalling more than 15 school days in any one term, where reinstatement is a practical option, the LA must consider whether to reinstate the pupil. In the case of such exclusions the LA must allow oral representations to be made by the parent and teacher in charge and the representations must be heard within the same time-limits as apply to governing bodies, set out in paragraph 83.

MODEL LETTER 5 – FROM THE CLERK TO THE GOVERNING BODY TO PARENT UPHOLDING A PERMANENT EXCLUSION

Dear **[Parent's name]**

The meeting of the governing body at **[school]** on **[date]** considered the decision by **[head teacher]** to permanently exclude your son/daughter **[name of pupil]**. The governing body, 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's decision are as follows: **[give the reasons in as much detail as possible, explaining how they were arrived at]**

You have the right to appeal against this decision. If you wish to appeal, please notify **[name of the clerk to the appeal panel]** of your wish to appeal. You must set out the reasons for your appeal in writing, and may also include reference to any disability discrimination claim you may wish to make, and send this notice of appeal to **[address]** by no later than **[specify the latest date – the 15th school day after receipt of this letter]**. If you have not lodged an appeal by **[repeat latest date]**, your right to appeal will lapse. Please advise if you have a disability or special needs which would affect your ability to attend the hearing. Also, please inform **[name of the clerk to the appeal panel]** if it would be helpful for you to have an interpreter present at the hearing.

Your appeal would be heard by an Independent Appeal Panel, which is empowered also to hear disability discrimination claims. A three-member panel will comprise one serving, or recently retired (within the last 5 years), head teacher, one serving, or recently serving, experienced governor 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 and one lay member who will be the Chairman.] The appeal panel will rehear all the facts of the case – if you have fresh evidence to present to the panel you may do so. The panel must meet no later than the 15th school day after the date on which your appeal is lodged. In exceptional circumstances panels may adjourn a hearing until a later date.

In determining your appeal the panel can make one of three decisions: they may uphold your child's exclusion; they may direct your child's reinstatement in school, either immediately or by a particular date; or they may decide that the exclusion should not have taken place, but that reinstatement in the school is not in the best interests of all concerned.

I would advise you of the following sources of advice: **[repeat details from the original exclusion letter, i.e. a named LA officer and the Advisory Centre for Education and any local sources of independent advice]**

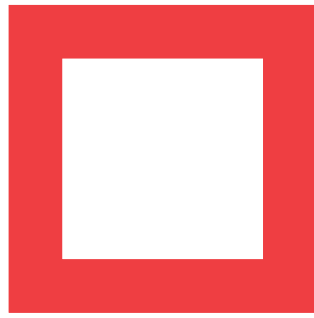
The arrangements currently being made for **[pupil's name]**'s education will continue for the time being. However, new arrangements to provide full-time education for **[pupil's name]** are being made and **[name of LA officer]** will liaise with you shortly about these new arrangements. If you have any questions about this please contact **[name]**.

Yours sincerely

[name]

Clerk to the Governing body

Part 5



Independent Appeal Panels

NOTIFYING PARENTS

97. When a permanent exclusion is upheld by the governing body, its decision letter (model letter 5) to the parent (or the pupil, if aged 18 or over) must state the reasons for the decision, give the last day for lodging an appeal and explain that the grounds for the appeal should be set out in writing. In the case of a permanent exclusion from a PRU the letter from the teacher in charge should give this information. The LA should also write to the parent (or pupil) within 3 working days of the governors' meeting indicating the latest date by which an appeal may be lodged, the name and contact details for the clerk to the appeal panel, and explain that the notice of appeal must be in writing setting out the grounds on which it is made. LAs may wish to have a leaflet available on the appeal process, which they can send to parents. Parents have a right to an independent appeal panel hearing even if they did not make a case to, or attend, the governors' meeting.
98. Any appeal made after the latest date for lodging an appeal will be out of time and must be rejected by the LA. Generally, it is the local authority itself, rather than the education department, which administers the parent's appeal. It is important, therefore, that information relating to the progress of the appeal be given to the LA, particularly where the parent lodges an appeal, but then withdraws it or fails to turn up at the appeal hearing without explanation. In the case of a pupil who lives outside the authority area, if the parent withdraws or abandons their appeal, the clerk to the appeal panel should notify the "home" LA.

THE TIMING OF THE HEARING

99. An appeal panel must meet to consider an appeal no later than the 15th school day after the day on which the appeal was lodged. However, if necessary, the panel may decide to adjourn the hearing if, having regard to the particular circumstances of the case, it considers that it would not be appropriate for it to proceed to determine the appeal. This might include circumstances where more information is awaited. If the parent requests a hearing date later than the 15th school day, the clerk may consult the panel members by telephone or email about the request and, if the members agree, a later hearing date may be set and the panel will be deemed to have adjourned the hearing. The panel may adjourn on more than one occasion if necessary.

COMBINED APPEALS

100. If the issues raised by two or more appeals are the same or connected, the panel may decide to combine the hearings. In such cases the panel should check that no-one objects to this approach, and be aware of possible conflicts between the parties involved.

COMPOSITION OF APPEAL PANELS

101. The LA must constitute the appeal panel and appoint a clerk. The panel must have three or five members (as decided by the LA) made up of three categories:
- a) the chair must be a lay member, defined as someone who has not worked in a school in any paid capacity, although they may be (or have been) a school governor or work (or have worked) in a school as a volunteer. The chair could be someone with a legal qualification;
 - b) one (or, on a five member panel, two) must be, or have been, a governor of a maintained school, provided they have served in this capacity for a least 12 consecutive months in the last 6 years (but they must not be, or have been in the last five years, a teacher or head teacher);
 - c) one (or, on a five member panel, two) must be, or have been within the last 5 years, a head teacher of a maintained school. If the exclusion is from a PRU then this representative can be either a head teacher of a maintained school, or a teacher in charge of a PRU.

102. It is important that in all cases the governor and head teacher panel members should be from the same phase of education as the school to which the case refers and wherever possible should reflect the type of school. For example, governor and head teacher panel members considering a primary school exclusion should have experience of that phase of education, those considering a secondary school exclusion should have experience of secondary education, and those considering an exclusion from a special or boarding school should have experience of that area of education. The lay member should have the necessary skills, qualities and training to chair the panel effectively.
103. A person may not serve as a member of an appeal panel if they:
- a) are a member of the Local Authority or of the governing body of the excluding school;
 - b) are an employee of the Local Authority or of the governing body, unless they are employed as a head teacher in another school in the same LA or as a teacher in charge of a PRU in the same LA where the exclusion is from a PRU;
 - c) have, or at any time have had, any connection with an interested party, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their ability to act impartially; or
 - d) are the head teacher of the school or have been the head teacher of the school in the last five years.
104. Doubts about impartiality may arise from the panel member having worked closely with the head teacher or governing body of the excluding school, or from being the head teacher or governor of a school to which the pupil might be admitted if the exclusion is confirmed. Small LAs may have difficulty finding serving head teachers and governors who feel they are able to act impartially and may need to recruit panel members from a neighbouring LA if they cannot find retired head teachers and governors to take on the role.

GUIDANCE ON TRAINING FOR CLERKS AND PANEL MEMBERS

105. The Department and the Council on Tribunals consider that it is very important that local authorities ensure that all panel members receive suitable training. It is mandatory that new clerks and new panel members satisfy the training requirements before they serve. Panel members and clerks who have been in post in the year prior to 6 September 2006 may continue to act in that capacity for a further two years from that date before the training requirement applies to them, though it is advisable that during this period they obtain training so that when the two years is up they may continue to act.
106. The training requirements are that, within the two years preceding the date of the hearing, the panel member or clerk has been given sufficient training and received such information and instruction as is suitable and sufficient for him to know:

- a) the requirements of the regulations governing exclusions (and statutory guidance);
- b) the role of the chair of an appeal panel;
- c) the role of the clerk to an appeal panel;
- d) the duties of the appeal panel under the Race Relations Act 1976;
- e) the duties of the appeal panel under the Disability Discrimination Act 1995 as amended;
- f) the duties the appeal panel may have under Part 4 of the Equality Act 2006;
- g) the effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act compatibly with human rights protected by that Act; and
- h) the need for the appeal panel to observe procedural fairness and the rules of natural justice.

107. The Department anticipates that training will last for at least half a day, although some training programmes may require a full day. Training for clerks and panel members could be combined or separate. The trainer should be aware that whilst some of the duties and responsibilities for clerks and panel members are similar, there are differences and this should be pointed out. The chair should be trained in the specific chairing skills that the panel requires.

108. The training should be delivered by someone who has knowledge, and possibly experience, of exclusion appeals. Training should be prepared in advance with time allocated for people to ask questions and clarify any issues.

109. Once panel members and clerks have received training they will be required to undergo refresher training at least once every two years in order to continue to satisfy the training requirements. Local authorities will need to identify and train **all** panel members to ensure they can arrange hearings within the necessary timescale.

110. The DfES has issued a training pack for exclusion appeal panel members (for details of how to obtain a copy see the related documents section at the end of Part 7 on page 70). Further training materials specifically for chairs and clerks are available at -

<http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/gettingitright/>.

The Judicial Studies Board's (JSB) Competence Framework for Chairmen and Members of Tribunals (October 2002) may be helpful for training purposes –

http://www.jsboard.co.uk/tribunals/ttp/2006/ttp_08.htm

ROLE OF THE CLERK

111. The clerk provides an independent source of advice on procedure for all parties. Further information on the role of the clerk can be found in Checklist 9 of the ISCG training pack www.teachernet.gov.uk/docbank/index.cfm?id=3814. The clerk should not have served as clerk to the governing body hearing.
112. Clerks will need to keep up to date with developments in case law and changes in legislation and guidance. Over time clerks are likely to develop experience in the conduct of both exclusion and admission appeals. The authority may wish to consider whether the panel should have an independent source of legal advice, for example a solicitor from the authority's legal services department. In any event this is desirable where the appellant (the parent) is legally represented.

IN ADVANCE OF THE HEARING

113. The LA must take reasonable steps to find out when the parent and others entitled to attend the hearing would be available in order to ensure that all parties are able to attend. They must also arrange a suitable venue for hearing the appeal in private. It should be neutral, accessible, and have good access for people with disabilities. Appeal hearings should never be held at the excluding school.
114. The following are entitled to make written representations, appear and make oral representations, and to be represented (including legally):
 - a) the parent (or, if aged over 18, the pupil);
 - b) the head teacher;
 - c) the governing body; and
 - d) the LA.

A member of the Council on Tribunals is entitled to attend as an observer. The Council would be grateful if LAs would notify them of forthcoming appeals (their address is: 81 Chancery Lane, London, WC2A 1BQ).

115. We would normally expect either the head teacher or the governing body to be represented, or both to be jointly represented, rather than the head teacher and governing body being separately represented.
116. An excluded pupil under the age of 18 should be encouraged to attend the hearing and to speak on his or her own behalf, if he or she wishes to do so and the parent agrees. The panel cannot compel witnesses to attend the hearing.

117. The clerk should advise the parent of his or her right to be accompanied by a friend or representative, including a legal representative or advocate. If the parent wishes to bring more than one friend or representative, the clerk should seek the panel's agreement in advance, having regard to a reasonable limit on numbers attending the hearing.
118. The clerk should also ascertain whether an alleged victim wishes to be given a voice at the hearing either in person, through a representative or by submitting a written statement.
119. When the position is clear, the clerk must give all parties details of those attending and their role and notify them of the order of hearing.
120. The clerk should circulate all written evidence to all parties at least 5 working days before the hearing. This must include the statement of decision by the governing body and the notice of appeal from the parent which gives the grounds for the appeal and any disability discrimination claim. A locally prepared summary of this exclusions guidance should also be circulated. The head teacher, governing body and LA may also make written representations. If any of the parties intend to raise matters or produce documents at the hearing that are not covered by the statement of decision or the notice of appeal, they should be asked to submit these to the clerk in good time before the hearing.

CONDUCT OF THE APPEAL HEARING

121. It is for the appeal panel to decide how to conduct the proceedings which should be reasonably informal so that all parties can present their case effectively. Tape-recording of the hearing should be avoided unless there is good reason and all parties agree.
122. In opening the appeal hearing the chair should outline the procedure to be followed and explain to all parties that the panel is independent of the school and the LA. The chair should explain that the panel needs to have regard to legislation and DfES guidance in its conduct and in reaching its decision.
123. Following introductions, the clerk should explain the order in which the parties entitled to be heard will state their case (as previously notified to them) and that there will be an opportunity for questioning by the other parties after each presentation. The chair should then lead the panel in establishing the relevant facts. Panel members may wish to ask questions to clarify an issue or to elicit more information. Questions from the panel should generally be taken at the end of each party's statement and following questioning by the other parties.

124. Sufficient time must be allowed for each party to put their case. The panel should ensure that the parent (or, if aged over 18, the pupil) is given the opportunity to comment on relevant information obtained from the LA or governing body. Care must be taken to ensure that no party attending the hearing is present alone with the appeal panel in the absence of any other party.
125. An appeal cannot continue if the number of panel members drops below three at any stage. In this event, the panel may need to adjourn until its quorum is restored. Once an appeal has begun, no panel member may be substituted by a new member for any reason. Accordingly, where a member cannot continue as a result of illness or death a new panel will have to be constituted. In the case of a five-member panel, however, the panel may continue in the event of the death or illness of one (or even two) of its members, provided all three categories of member are still represented. In the case of a panel being reduced to four members, the chair has the casting vote in the event of a tied vote.

EVIDENCE AND WITNESSES

126. Where the school's case rests largely or solely on physical evidence, and where the facts are in dispute, then the physical evidence, if practicable, should be retained and be available to the panel. Where there are difficulties in retaining physical evidence, photographs or signed witness statements are acceptable.
127. All parties may put forward new evidence about the event that led to the exclusion, including evidence that that was not available to the head teacher or the governing body. All parties should be given the opportunity to respond to any such new evidence which has been put forward. However, the school may not introduce new reasons for the exclusion.
128. To reach a decision, the panel will generally need to hear from those directly or indirectly involved. The governing body may wish to call witnesses who saw the incident that gave rise to the exclusion. These may include any alleged victim or any teacher, other than the head teacher, who investigated the incident and interviewed pupils. A teacher may be accompanied by a friend or representative.
129. In the case of witnesses who are pupils of the school, it will normally be more appropriate for the panel to rely on written statements. Pupils may appear as witnesses if they do so voluntarily and with their parent's consent. Panels should be sensitive to the needs of child witnesses to ensure that the child's view is properly heard.

130. All written witness statements must be attributed and signed and dated, unless the school has good reason to wish to protect the anonymity of pupils, in which case they should at least be dated. The general principle remains that an accused person is entitled to know the substance and the source of the accusation. The panel must consider what weight to attach to written statements, whether made by adults or pupils, as against oral evidence. They should bear in mind that a written statement may not encompass all the relevant issues, nor can the author be interrogated.
131. The calling of character witnesses is at the discretion of the panel, but should be allowed unless there is good reason to refuse.
132. It is for the panel to decide whether any witnesses should stay for the rest of the hearing.

REACHING A DECISION

133. In considering an appeal, the panel should decide, on the balance of probabilities, whether the pupil did what he or she is alleged to have done. However, the more serious the allegation, the more convincing the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard to be applied, but it does mean that when investigating more serious allegations, head teachers will need to gather and take account of a wider range of evidence (extending in some instances to evidence of the pupil's past behaviour), in determining whether it is more probable than not that the pupil has committed the offence. If more than one incident of misconduct is alleged, the panel should decide in relation to each one.
134. The panel should consider the basis of the head teacher's decision and the procedures followed having regard to the following:
 - a) whether the head teacher and governing body complied with the law and had regard to the Secretary of State's guidance on exclusion in deciding, respectively, to exclude the pupil and not to direct that he or she should be reinstated. While the law states that the panel must not decide to reinstate a pupil solely on the basis of technical defects in procedure prior to the appeal, procedural issues would be relevant if there were evidence that the process was so flawed that important factors were not considered or justice was clearly not done;
 - b) the school's published behaviour policy, equal opportunities policy and, if appropriate, anti-bullying policy, Special Educational Needs policy, and race equality policy;
 - c) the fairness of the exclusion in relation to the treatment of any other pupils involved in the same incident.

135. Where panels accept that the individual committed the offence in question, they must consider whether the response is proportionate and also be satisfied that the disciplinary process has been carried out without any procedural irregularities of a kind that affect the fairness of the procedure or the governors' findings. Once satisfied on all these points, it would be unusual for the panel to vary the governing body's decision. In particular, the panel should not reinstate the pupil without good reasons.
136. In deciding on whether or not to direct reinstatement, the panel must balance the interests of the excluded pupil against the interests of all the other members of the school community.
137. Where a parent appeals against permanent exclusion and makes a claim alleging racial discrimination, the appeal panel must consider whether there has been discrimination in relation to the *Race Relations Act 1976* (as amended).
138. Where a parent appeals against permanent exclusion and makes a claim alleging disability discrimination, the appeal panel must consider whether the pupil is disabled and whether there has been discrimination within the meaning of the *Disability Discrimination Act 1995* (as amended). Appeal panels must consider the Disability Rights Commission's Schools Code of Practice which provides guidance on the *Disability Discrimination Act*.

THE DECISION

139. An appeal panel may uphold the decision to exclude; direct immediate reinstatement or reinstatement at some future date; or it may decide that because of exceptional circumstances or other reasons it is not practical to give a direction requiring reinstatement, but that it would otherwise have been appropriate to give such a direction.
140. If the panel directs reinstatement, the date specified must be reasonable in the circumstances. The panel may not attach conditions to the reinstatement of a pupil.
141. In some cases it will not be practical for the panel to direct reinstatement because the parent has made clear he or she does not want it, or because the child has become too old to return to the school.
142. There may also be exceptional cases where the panel considers that the permanent exclusion should not have taken place, but that reinstatement in the excluding school is not a practical way forward in the best interests of all concerned. This could include situations where there has been an irretrievable breakdown in relations between pupil and teachers; or between the pupil and other pupils involved in the exclusion or appeal process. Before deciding that there are exceptional circumstances the panel should try to establish what efforts have been made to address a possible breakdown in relations. Balancing the interests of the pupil and the whole school community may suggest that reinstatement would not be the most sensible outcome in such cases. In considering whether such exceptional

circumstances exist the panel should consider representations from the governors, the head teacher and from the parent (or pupil if 18 or over).

143. In any case where the panel decides that reinstatement would have been justified but is not practical, it should indicate this in its decision letter and give details of the circumstances that made it decide not to direct reinstatement. Such a letter should be added to the pupil's school record for future reference.

RECORD OF THE PROCEEDINGS OF AN APPEAL PANEL

144. The clerk to an appeal panel should take minutes of the proceedings, the attendance, the voting and the decision in a format approved by the LA. The minutes are not public documents but should be retained by the LA for a period of at least five years, as they may need to be seen by a court or by the Local Government Ombudsman.

AFTER THE HEARING

145. The panel is independent. Its decision is binding on the parent, the governing body, the head teacher and the LA. The panel cannot revisit its decision once made.
146. The panel must let all parties know its decision by the end of the second working day after the hearing. Model letter 6, provided at the end of this part of the guidance, is for notifying the parent of the decision of the panel. The decision letter should give the panel's reasons for its decision in as much detail as possible, including clear information about the offences or behaviour for which the pupil has been excluded, so that the parties can understand why the decision was made. Where the panel overturns the exclusion but does not direct reinstatement, the panel should explain their reasoning for reaching this decision.
147. If the appeal panel upholds the permanent exclusion, the clerk should immediately report this to the LA. If the pupil is of compulsory school age, it is for the LA in whose area the pupil lives to make arrangements as quickly as possible for the pupil to continue in suitable full-time education. If the pupil lives outside the area of the LA arranging the appeal, the clerk should make sure that the home LA is also informed immediately of the position.
148. Where the exclusion is upheld the clerk should also advise the parent to contact the appropriate person at the home LA about arrangements for their child's continuing education. The head teacher should remove the pupil's name from the school roll the day after the conclusion of the appeal.
149. Where the panel directs reinstatement it should immediately inform the head teacher of its decision and specify the date on which the pupil must be readmitted.

150. Details of an exclusion may not be deleted from the pupil's record, even where reinstatement is directed. The governing body must, however, comply with any parental request to append their appeal statement to the pupil's record. It will be for the governing body to decide what details of the exclusion are included in the pupil's school record: copies of the principal correspondence might be included and possibly the minutes of the governing body and appeal panel hearings, if the governing body and appeal panel respectively agree to this.

REMEDIES AFTER THE APPEAL HEARING

Complaint to the Commissioner for Local Administration (the Local Government Ombudsman)

151. A parent can complain to the Local Government Ombudsman about maladministration by the appeal panel. The Ombudsman can make recommendations if he or she finds that there has been maladministration. He or she might recommend a fresh hearing, if this were practical, and the LA would normally be expected to comply.

Judicial review

152. If either the parent or the governing body consider that the panel's decision is perverse, they may apply to the High Court for a judicial review. This must be done promptly and no later than three months from the date of the decision. If a judicial review were granted, the court would consider the lawfulness of the panel's decision. If it found the panel's decision to be unlawful or unreasonable (in the narrow legal sense of 'unreasonable', i.e. irrational or perverse), it could quash the decision and direct the LA to hold a fresh appeal hearing before a newly constituted panel.

**MODEL LETTER 6 – FROM THE CLERK TO THE INDEPENDENT APPEAL PANEL
NOTIFYING PARENT (OR PUPIL IF AGED 18 OR OVER) OF THE OUTCOME OF THE APPEAL**

Dear **[parent's name]**

Following the hearing of your appeal by the Independent Appeal Panel constituted by **[name]** Authority on **[date]** at **[location]** against the decision of the governing body of **[name]** School/the teacher in charge **[name] of [name]** Pupil Referral Unit not to reinstate **[child's name]**, I am writing to advise you of the panel's decision.

After careful consideration of your representations both oral and written and those of the **[School/PRU]** and **[name]** LA **[and of others if applicable, for example any victim]** and in the light of the available evidence, the panel has decided:

Either

(i) to uphold the exclusion.

or

(ii) to direct **[pupil's name]**'s reinstatement in **[name of school/PRU]** with effect from **[date and time]**. **[Pupil's name]** should report to **[name of staff member]** at that time.

or

(iii) that it is not practical to direct **[pupil's name]**'s reinstatement **[here give reasons, for example because this is an exceptional case where reinstatement would not be in the pupil's best interests or those of the whole school/PRU community]** although otherwise reinstatement would have been appropriate. Your child's school record will show that the permanent exclusion was overturned on appeal even though reinstatement was not directed.

[Give reasons in as much detail as possible for the panel's decision: the decision may be challenged by judicial review; or be the subject of a complaint of maladministration to the Local Government Ombudsman]

The panel's decision is binding on you, the governing body and the headteacher of **[name]** School/the teacher in charge of **[name]** PRU and **[name]** Local Authority.

For decisions (i) and (iii) above: The alternative arrangements put in place for **[pupil's name]**'s full-time education will continue for the time being; but **[LA officer's name]** will be in touch with you to discuss future provision.

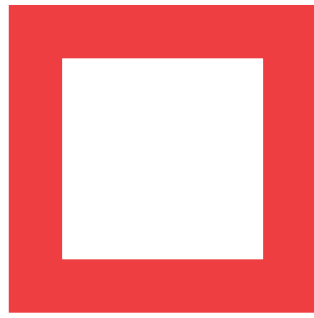
A copy of this letter will be added to **[pupil's name]**'s school record for future reference.

Yours sincerely

[name]

Clerk to the Independent Appeal Panel

Part 6



Police Involvement and Parallel Criminal Proceedings

INTRODUCTION

153. A school-related incident may sometimes also be the subject of a police investigation which may subsequently result in criminal proceedings. This can mean that the evidence available to head teachers, governing bodies and Independent Appeal Panels is very limited. They may not, for example, be able to hear relevant witnesses or to consider relevant material; it may not be known whether a criminal charge is to be brought; if a charge has been brought, the eventual outcome of any court proceedings may be uncertain. It should be remembered that the police and the courts will be applying the criminal standard of proof – beyond reasonable doubt – whereas the head teacher, governing body and Independent Appeal Panel must apply the civil standard of proof (the balance of probabilities).

HEAD TEACHER'S DECISION TO EXCLUDE AND CONSIDERATION OF THE CIRCUMSTANCES BY THE GOVERNING BODY

154. A head teacher need not postpone his or her decision to exclude a pupil simply because of the possibility that criminal proceedings may be brought in respect of the same incident, but the critical factor in any such case will be the evidence that is available to the head teacher. In such circumstances, a judgment must be made on the basis of the evidence available. If, having considered the evidence, on a balance of probabilities the head teacher concludes

that it is likely that the pupil committed the alleged offence, then normally we would expect the head teacher to exclude the pupil if it would be appropriate to do so, for example if he represented a danger to other persons at the school. It may be advisable, where the evidence is not clear cut or is still coming to light, first to exclude the pupil for a fixed period. Paragraph 25 provides head teachers with alternatives where exclusion on disciplinary grounds is inappropriate. Relevant considerations include the fact that:

- a) a serious allegation has been made against the pupil by another pupil or member of staff at the school which is the subject of a police investigation which may result in criminal proceedings being brought;
- b) pending the conclusion of any such criminal proceedings, the pupil's continued presence in the school may have an adverse effect on the complainant and other potential witnesses, and on the promotion of good order and discipline at the school generally.

155. Where a head teacher excludes a pupil in circumstances such as those outlined in the preceding paragraph, the school's governing body has no power to postpone their meeting to consider the pupil's exclusion beyond the statutory time limit. In deciding whether to direct the head teacher to reinstate the pupil, therefore, they too may be subject to the same constraints as regards the availability of witnesses and other relevant information and will have to consider the case on the same basis.

ARRANGEMENTS FOR APPEAL HEARINGS IN PARALLEL CRIMINAL PROCEEDINGS CASES

156. Where the governing body decide not to direct the head teacher to reinstate a permanently excluded pupil in the circumstances described in the preceding paragraph, the parent (or, if aged over 18, the pupil) should be notified of their decision and of their right to appeal in accordance with Part 5 of this guidance. Any appeal must be lodged no later than 15 school days after the day on which notification of the governing body's decision was received and the appeal panel must meet to consider the appeal no later than 15 school days after the day on which the appeal was lodged.

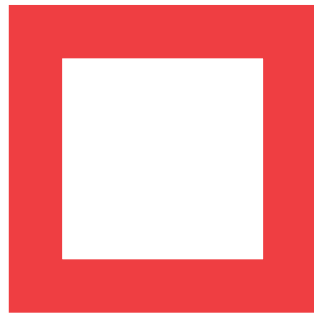
157. Upon first meeting, the appeal panel must consider, taking into consideration any representations made by the parties and on the advice of the clerk, whether it can proceed to determine the appeal or whether instead to adjourn the hearing pending the outcome of any police investigation and/or any criminal proceedings that may be brought. The mere fact that parallel criminal proceedings are in progress will not of itself determine whether the hearing should be adjourned. Relevant factors for the panel to consider will include:

- a) whether any charge has been brought against the pupil and, if so, what the charge is;
- b) whether relevant witnesses and documents are available;
- c) the likelihood of delay if the hearing were adjourned and the effect it may have on any complainant, the excluded pupil or the school itself; and

d) whether an adjournment or, as the case may be, declining to adjourn, might result in injustice.

158. If the panel does decide to adjourn, the LA should take steps to ensure the pupil's continuing education pending the hearing. The clerk will be responsible for monitoring the progress of any police investigation and/or criminal proceedings and for reconvening the panel at the earliest opportunity when the hearing can proceed to final determination.
159. If necessary the panel may adjourn more than once. The same panel members should reconvene on each occasion (subject to the considerations referred to in paragraph 125). Where the panel reconvenes following the disposal of any criminal proceedings it should have regard to any information about them relevant to the issues it has to determine.

Part 7



LA responsibility to provide full-time education and reintegrate permanently excluded pupils

INTRODUCTION

160. Local Authorities (LAs) have a responsibility towards all permanently excluded pupils to:
- a) provide suitable full-time education; and
 - b) reintegrate pupils as quickly as possible, where practical into a suitable mainstream school.

SUITABLE FULL-TIME EDUCATION FOR PERMANENTLY EXCLUDED PUPILS

Commitment

161. Since September 2002, all LAs have been committed to provide suitable full-time education for all permanently excluded pupils and to make every effort to do so for pupils excluded for a fixed period over 15 school days. Pupils who are excluded from school are not excluded from education and should therefore be provided with continuing education until a permanent school or other placement is found.

Meaning of full-time education

162. 'Full-time' means supervised education equivalent to that provided by mainstream schools in the area and will be different for each Key Stage (KS). The recommended minimum hours per week of taught time are as follows:

KS1	21 hours
KS2	23.5 hours
KS3/4	24 hours
KS4 (Y11)	25 hours

These hours are set out in guidance in Circular 7/90.

Timetable and curriculum

163. Although educational provision must meet the number of hours required for the school day, the timetable of an excluded pupil may look significantly different to the timetable in a mainstream school. For example, a pupil may spend the entire school week at one site, or alternatively arrangements for that pupil may require attendance at a combination of sites throughout the week. Either approach is valid so long as the total number of hours provided adds up to the minimum hours outlined above at paragraph 162.
164. Where possible LAs and schools should ensure that full-time education for excluded pupils covers core National Curriculum subjects (outlined in the National Curriculum handbooks), but in addition time should be used to meet specific needs such as improving basic skills or strengthening emotional literacy. PRUs are also required to include Personal, Social & Health Education (PSHE), ICT and Citizenship within their curriculum. Whatever programme is provided there must be a clear structure to each day and rules, boundaries and expectations must be understood by all, especially the pupil.

165. There should be good links between schools and full-time education providers over the curriculum, particularly for KS3/4 pupils, so that they are working towards eventual reintegration (usually to a mainstream school) otherwise time spent in alternative provision can itself become a barrier to reintegration. It is best practice for PRUs to include working towards exams or accreditation of some sort.

Full-time education and Special Educational Needs

166. Permanently excluded pupils with statements of Special Educational Needs (SEN) should receive full-time provision like any other excluded pupils. In some cases, a pupil's statement will specify fewer teaching hours than required for their key stage, for example because of an associated medical condition. In such cases, LAs should provide the number of hours set out in the statement.
167. Where statemented pupils are temporarily unable to meet the full-time requirement for their key stage, but can do so in the longer term, their statement should be amended to set out the milestones in a staged return to full-time hours.
168. For pupils with statements of SEN, the behaviour which led to their exclusion may mean that they require transfer to a special school or a different special school. The pupil's statement should be amended accordingly in line with the procedure set out in the SEN Code of Practice.

Time needed to arrange full-time education

169. In order to ensure minimum disruption to a pupil's education, LAs should plan as soon as they become aware of the exclusion to provide suitable full-time education for a permanently excluded pupil from the 16th school day following the head teacher's decision to exclude. The LA should work with the school during the first 15 school days while making arrangements for longer term provision.

Involving and supporting parents to secure attendance

170. LA officers should seek to involve the pupil's parents in making arrangements for continuing the pupil's education, as their cooperation should help to ensure regular attendance. LAs have a responsibility to offer full-time education to excluded pupils and parents have a responsibility to make sure that their children attend, as for school. LA officers should support pupils and parents where attendance is irregular.

Providing full-time education

171. The educational needs of individual pupils will vary, and LAs should aim to meet these by having a range of alternative provision available to permanently excluded pupils. To help the LA, schools need to pass on a record of the pupil's educational achievements; the steps being taken to address the pupil's behavioural problems including information about other agencies involved; whether the pupil is on the SEN Code; and an initial assessment of needs, against which the LA can plan the most appropriate provision to meet individual needs. The range could include:
- a) schools;
 - b) Pupil Referral Units (PRUs);
 - c) voluntary or community organisations;
 - d) private sector providers;
 - e) further education colleges or work experience placements; and
 - f) IT provision with appropriate supervision.
172. Where LAs have contractual arrangements with voluntary, community or private sector providers it is important to remember that the LA is still responsible for providing the pupil's education and so should monitor the quality of the placement and the pupil's attendance.

REINTEGRATION

Importance of reintegration

173. For most pupils, school is the best learning environment, because it provides them with access to the full National Curriculum, and support, activities and social interaction. Pupils who have been permanently excluded from school need to be placed in a new school as quickly as possible for their full education to continue. Often, this will be following a period in alternative provision, addressing their individual needs and underlying issues which led to their exclusion. However, for some pupils, an early start in a new school is the best solution. Reintegration needs to be pupil-focused. While school is the best outcome for most pupils, for older pupils an early start in a further education college may be a better outcome.

Involving and supporting parents

174. LAs should involve parents at an early stage in discussions about alternative school places. Although parents may apply for a place at another school without involving the LA, they may often benefit from advice and support, and so should be encouraged to keep in touch with the LA. Helping parents find a school which suits the child's needs will improve the chances of successful reintegration. Parents should be kept in touch with progress and where possible, be given a named contact.
175. Parents of children out of school may feel isolated, and the LA, in partnership with other agencies, may want to support the family through the reintegration process. Additional help, such as a resource room or parenting skills training, may be appropriate.

Early planning

176. In order to reintegrate pupils quickly and appropriately, early planning by LAs and schools is essential. While an exclusion is being reviewed by a school's governing body and Independent Appeal Panel (IAP), LAs, while not pre-empting the outcome of these hearings, should use the time to gather relevant information on the pupil. This could include progress reports from teachers or providers where the pupil is receiving their education. This information will be helpful in planning next steps to support the pupil whether the exclusion is upheld or not.
177. Assessment of a pupil's needs would always be an early part of the reintegration process, and this may be carried out formally by an appropriate teacher or other professional, or may be conducted by gathering and reviewing information held on the pupil's records and through discussion with parents.

Reintegration panels/officers

178. In some areas LAs convene reintegration panels. They may deal only with exclusions or they could have wider responsibility for co-ordinating all services for pupils out of school. Panels meet regularly to discuss next steps for such pupils. Membership of a panel could include:
- a) education welfare officers;
 - b) social services representatives if applicable (especially if the child is looked after by the authority or on the child protection register);
 - c) educational psychologists;
 - d) staff from PRUs, or other providers of education outside school, e.g. further education colleges;
 - e) admissions, SEN policy staff, and staff with Inclusion responsibility;

- f) school staff, e.g. head teachers, pastoral support staff;
 - g) community representatives; and
 - h) representatives of other interest groups, including school workforce representatives.
179. Reintegration panels or officers should consider promptly each excluded pupil and may meet to discuss several pupils at each sitting. LAs should balance the desirability of representing all relevant interests with the need to have a panel that can meet quickly after an exclusion. It may be more effective to have a core panel to take quick action and engage parents and children, with a larger panel meeting less often to monitor and review progress. LAs may wish to agree a target number of days from confirmation of the exclusion, within which pupils' cases will be considered.
180. Panels should agree with the pupil, parents and school staff issues such as where the pupil should be educated, when this education will commence, who will support pupil and parents through the process and any additional support the pupil may need from external agencies to make a successful return to mainstream education. Even if LAs do not convene reintegration panels, specific reintegration officers should have responsibility for not only arranging reintegration of pupils but also ensuring ongoing support is provided. They should also monitor progress and outcomes for reintegrated pupils.

Individual reintegration plans

181. In order to ensure the pupil, parents, LA and school staff agree to and are clear about next steps, individual reintegration plans should be drawn up within one month of a permanent exclusion being confirmed by the governing body. Plans should be agreed by and issued to all relevant parties. Each plan should contain all agreed actions, including interim as well as long-term arrangements:
- a) the name of the new school or other educational establishment;
 - b) a date for the pupil to start (this can be revised later, if necessary);
 - c) steps towards reintegration in the new school or other educational establishment;
 - d) a named LA officer responsible for supporting pupil, parents and teachers; and
 - e) monthly review dates for all activities detailed in the plan.
182. The plan should cover pastoral and educational objectives for reintegration, with appropriate targets. It should be attached to the pupil's education plan, Individual Education Plan (IEP) for statemented pupils, Pastoral Support Programme (PSP) or all. At a review the LA should amend the reintegration plan to include action by a PRU or other provider to address the pupil's problems and ease transition to school or other educational establishment.

Early reintegration to school

183. For some pupils a start in a new mainstream school may be appropriate and should be brokered quickly. Where this is possible pupils will not need to spend time at PRUs or other non-mainstream establishments, but they may need some in-school or outreach support to ensure successful transition.
184. For other pupils an interim period at a PRU or other establishment may be necessary to address any difficulties and prepare the pupil for a successful return to a mainstream school at a later date.
185. The needs of excluded pupils vary, and it is for the pupil, parents, school staff, LA officers and other professionals involved in the process to discuss and determine what provision will best meet the pupil's needs. However, LAs should only plan to educate excluded pupils outside mainstream schools long term where there are significant problems which are better addressed in a specialist environment.

Steps towards successful reintegration

186. If a pupil is not ready for early reintegration to school then their reintegration plan will need to map out how they will be prepared for eventual reintegration to the new school. LAs may have a variety of options available for excluded pupils:
 - a) **Pupil Referral Units** – The programme at PRUs should take account of the relevant key stage for each young person and should offer a broad enough curriculum to enable both a return to a mainstream school, and preparation for the next key stage. Additionally, the programme at PRUs should aim to address specific behavioural or emotional issues the pupil may have, for example through counselling or emotional literacy programmes. **LAs need to ensure that pupils who could be reintegrated successfully into a mainstream school are not left long term in a PRU due to a lack of planning, or unwillingness on the part of local schools to take excluded pupils;**
 - b) **community, voluntary and private sector providers** – contractual arrangements with community, voluntary and private sector organisations can be an effective way for LAs to meet the specific needs of excludees and provide education out of school, or additional support in school as part of the reintegration process. Many LAs have developed good links with ethnic minority community organisations which can offer programmes which ethnic minority pupils and school staff find very effective. Organisations such as the Youth Service can provide professional support to pupils in addressing specific problems and helping them to re-engage with education. The LA continues to be responsible for providing education and should therefore quality assure the provision offered as well as monitoring attendance and pupil outcomes.

Planning a pupil's start at a new school after a time out of school

187. In some cases a gradual return to mainstream school may be helpful and a pupil could be dual-registered at a new school and a PRU, spending part of the week at each site and gradually building to full-time attendance at the school.
188. Excluded pupils at all key stages should, where possible, maintain some contact with mainstream education and even if pupils at PRUs are not formally dual-registered with schools, PRUs may develop informal arrangements with local schools to give pupils access to wider facilities, for example for sport and out of school activities. These should be noted in the pupil's individual reintegration plan.

Transition from primary to secondary school

189. For Year 6 pupils excluded from primary school, it may be more productive for reintegration efforts to concentrate on preparing the pupil for a sound start at their secondary school. The continuity and progression in teaching and learning promoted through Key Stage 3 Strategy transfer activity from Year 6 to Year 7, should support the reintegration of pupils who have been excluded. Reintegration officers and panels should liaise closely with the excluding school as well as teachers at the new secondary school. Suitable short term provision, noted in the individual reintegration plan, would still need to be made, pending the start of secondary school.

Reintegration to further education colleges

190. For pupils at KS4, early transfer to a further education college may be more appropriate than planning for the pupil to return to school. In addition, for such pupils, a plan setting out action to manage the transition post-16 should also be drawn up. LAs can arrange with colleges tailored motivational programmes and suitable further or secondary education. Pupils' and parents' agreement should be obtained to any such arrangements and they should be noted in the individual reintegration plan. The LA remains responsible for educational provision for pupils under 16.

Reintegration of pupils with special educational needs

191. Reintegration for pupils with SEN should be in settings which are suitable for their needs. Pupils who were receiving support at School Action and School Action Plus will normally remain in the mainstream sector. Pupils' SEN can increase and change and those who were on School Action or School Action Plus, or those with statements may need to have their needs statutorily assessed or re-assessed and placement arranged in a suitable mainstream or special school, as appropriate.

192. Children with statements are amongst those pupils with the most severe and complex, long-term needs. Placement in a PRU can be appropriate for these pupils in the very short term but meeting their needs in the long term generally requires placement in a school.
193. In exceptional circumstances only, a Pupil Referral Unit or other form of alternative provision may be the most appropriate placement for some statemented pupils and pupils with behavioural, emotional and social difficulties.

Admission forums and cooperation of schools

194. Admission authorities, including LAs and schools which are their own admission authorities, and academies, must have regard to any advice given by the Admission Forum in their area. Admission Forums have the important role of ensuring that excluded children are effectively provided for in admissions arrangements and all arrangements should be designed to ensure, where possible, the rapid reintegration of excluded pupils into an alternative school.
195. Admission Forums are encouraged to broker protocols for the admission of excluded children, so that all schools play their part in accommodating these pupils.
196. Coordinated admission schemes for both primary and secondary education must say how applications will be handled outside the normal admission round. This will either be through the LA or through the school itself. Parents may usually apply for more than one school (although this may not be the case for primary admissions) and LAs should encourage them to do so. Unless the child has been twice excluded, applications for places must be considered on the same basis as all other applications and in line with the School Admissions Code of Practice.
197. Parents may state a preference for any school and arrangements agreed under a protocol for a particular area do not override parental preference. The LA should discuss with parents of an excluded pupil the possibilities that might exist under any agreed protocol.
198. LAs are required to plan effectively to ensure that there are sufficient school places. Pupils should not be placed in PRUs simply because there are no school places, nor should permanently excluded pupils remain in PRUs when they can be fully reintegrated.

Support when a pupil starts a new school

199. For reintegration to be successful LAs should provide continuing appropriate support for pupils and teachers in the new school. For example, support could consist of the reintegration officer having regular progress meetings with the pupil, parents and teachers at the school, or ongoing assistance from the LA's Behaviour Support Service.

Related documents and websites

The Education Act 2002 section 52

The Education (Pupil Exclusions and Appeals) (Maintained Schools) (England) Regulations 2002 SI 2002/3178

The Education (Pupil Exclusions) (Miscellaneous Amendments) (England) Regulations 2004 SI 2004/402

The Education (Pupil Exclusions and Appeals)(Miscellaneous Amendments)(England) Regulations 2006 SI 2006/2189

The Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (England) Regulations 2002 SI 2002/3179

The Office of Public Sector Information publishes the text of legislation online

<http://www.opsi.gov.uk/>

Exclusion Appeal Panels Training Pack – Getting it Right – available from ISCG tel no 020 7229 0200 email: iscg@governors.fsnet.co.uk or online -

www.teachernet.gov.uk/wholeschool/behaviour/exclusion/appealtrainingpack/

Legal Toolkit for Schools – available from DfES Publications tel no 0845 602 2260 or at www.teachernet.gov.uk/safeschools

Disability Discrimination Act 1995 as amended

Race Relations Act 1976 as amended

The Race Relations (Statutory Duties) Order 2001 SI 2001/3458

The Education (Pupil Registration)(England) Regulations 2006 SI2006/1751

Guidance on the education-related provisions of the Anti-social Behaviour Act – available from Prolog tel no 0845 602 2260 or online - www.dfes.gov.uk/behaviourandattendance/

The Education (Parenting Orders) (England) Regulations 2004 SI 2004/182

Guidance on Drugs in Schools – online www.teachernet.gov.uk/wholeschool/behaviour/drugs/

The education of children and young people in public care www.dfes.gov.uk/incare/

Circular 7/90 Management of the School Day – available on the DfES website

National Curriculum Handbooks (References: QCA/99/457, QCA/99/458)

Admissions Code of Practice (Reference: DfES/0031/2003)

Special Educational Needs Code of Practice (Reference: DfES/581/2001)

Admission Appeals Code of Practice

Online guidance about school partnerships to improve behaviour and attendance -

www.teachernet.gov.uk/wholeschool/behaviour/collaboration/

online guidance about Learning Support Units -

www.teachernet.gov.uk/wholeschool/behaviour/learningsupportunits/

Disability Discrimination Act: Guidance on matters to be taken into account in determining questions relating to the definition of disability (in particular paragraphs D13-D14) -

<http://www.dwp.gov.uk/consultations/2005/disability.asp>

Implementing the Disability Discrimination Act in schools and early years settings (DfES 0160 2006)

Disability Rights Commission website - www.drc-gb.org/

Commission for Racial Equality website -

www.cre.gov.uk/

online guidance about alternative provision -

<http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=LA%2f0023%2f2005&>

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PPMRP/D16/0906/14

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