

Children's Commissioner for Wales

Report following investigation into
unofficial school exclusions



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Foreword

Children’s Commissioner for Wales

During his years as Children’s Commissioner for Wales it became increasingly obvious to Peter Clarke that too many children were falling through the nets of support when their parents and carers were asked to take them out of school. He intervened on an almost daily basis to advocate on behalf of these hidden children who were at home by “agreement” with the school. In his opinion there was nothing truly voluntary about these so called agreements as schools were much more aware of their legal duties and responsibilities than parents and their children. Also pressure was often put on parents to withdraw their children from school. He called them unofficial exclusions.

As well as helping children on a daily basis who were unofficially excluded other organisations confirmed with Peter that unofficial exclusions are widespread in Wales. The National Autism Society found that one in four children with Aspergers Syndrome had been excluded and one parent said “We have had hundreds of unofficial sent homes, excluding for challenging behaviours”. One voluntary agency in South Wales, which works with young mothers, told him they receive on average four telephone calls a day asking parents to come to school to take their child out voluntarily. Often these unofficial exclusions include children with special education needs.

When a child is unofficially excluded from school they often do not receive the education and the formal support, which is their right. This may impact on their self esteem and self worth. Unofficial exclusions can also have other consequences for the children and their families and carers; childcare arrangements can be difficult especially if parents and carers work full time; unofficial exclusions can impact negatively on the child being able to stay with their substitute families if they are in public care; children do not have access to free school meals and can become socially isolated from their friends.

Given that pupils are often unofficially excluded for behavioural problems families and carers can have great difficulty in providing them with a stimulating and learning environment throughout the day. Unofficial exclusions can and do put children at risk when they are left to fend for themselves without adequate adult supervision.

Because Peter found this practice to be widespread and the impact upon children so negative, he decided to have the case of one boy, Pupil A, investigated. His experience of unofficial exclusions is movingly told by his mother at Appendix A. Peter Watkin Jones and Elizabeth Fevyer of Eversheds were commissioned to assist us with this investigation. My thanks to Eversheds and my team who worked closely with me on the report. We have been greatly helped by the ready co-operation of Pupil A’s mother, the school and Cardiff Local Education Authority (LEA).

We all need all to learn from Pupil A’s very sad and tragic circumstances and to stop this potentially unsafe and widespread practice of unofficially excluding our children from school.

Maria Battle

Deputy Children’s Commissioner for Wales

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Introduction

Background

This report follows a complaint made by the Mother of Pupil A, in relation to the experiences of her son, who was a pupil at a secondary school in Cardiff (“the school”) between September 2001 and Pupil A’s death in September 2003, aged 13.

The Mother of Pupil A’s concerns centre around the number of days of schooling which Pupil A missed and the lack of educational support which was offered to Pupil A when he was not at school. A proportion of these days of absence were days on which Pupil A had been formally temporarily excluded from the school. A larger proportion of these days, however, were days when Pupil A’s mother kept him away from school, at the suggestion of the school, because she feared her son would be permanently excluded and that the school would use the time to seek help.

The purpose of the investigation and the focus of this report is not to reach conclusions specific to the treatment of Pupil A. Neither is it to make any findings of fact; many potential witnesses were not in any event available. Rather, it is to consider whether the case of Pupil A has highlighted issues and problems which affect or potentially affect children in schools across Wales.

This report will not focus on the status of “official” exclusions; namely those exclusions which are in accordance with the appropriate legislation, whether fixed term or permanent.

The report will focus upon a form of exclusion which falls outside the law; namely days when pupils are kept away from school by agreement between schools and parents and often at the suggestion of the school. Welsh Assembly Government guidance (Circulars 3/99 and currently 1/2004 and 1/2004(a) and 47/2006) refer to them as “voluntary withdrawals”. However, the term “voluntary” suggests an agreement between equal partners. This is not the case as a headteacher will have knowledge of the relevant guidance and an understanding of the parent’s and the child’s rights whereas the parent and child may not. These exclusions will be referred to throughout this report as “unofficial exclusions”.

The investigation has highlighted that unofficial exclusions, whilst not legally sanctioned, can easily become a frequent occurrence for pupils who display challenging behaviour and can easily lead to such pupils not receiving the education to which they are entitled. Difficulties are faced by pupils, parents, schools and LEAs alike in striking the balance between finding an effective way of dealing with pupils who display challenging behaviour and safeguarding their entitlement to an appropriate education, whilst minimising disruption to teachers and other pupils. It is hoped that this report will highlight in a constructive manner those areas of the law and guidance which can be built upon and improved.

The structure of the report is based upon the agreed terms of reference.

Terms of Reference

1. To report on the legislative framework and the guidance provided by the LEA and the National Assembly for Wales, during Pupil A’s time at the school, for excluding pupils from school, and for dealing with pupils excluded from school, with particular reference to “unofficial” and temporary exclusions and to pupils with Special Educational Needs.
2. To consider whether this guidance was consistent with the legal duties of the National Assembly, the LEA and the school at that time.
3. To consider how the guidance was applied in practice in the case of Pupil A and the reasons for any shortcomings.
4. To report on the current legislative framework and the National Assembly and LEA guidance on exclusion, how these are implemented in practice and monitored, and to consider whether these resolve any of the issues raised above.

1. The Legal Framework Relating to Exclusions During Pupil A's Time at the School

1.1 The legal framework relating to school exclusions at the time that Pupil A attended the school (between 2001 and 2003) comprised both legislation and, emanating from that legislation, guidance.

1.2 The main legislation at this time, which outlined the powers and responsibilities of schools and LEAs in Wales when excluding pupils, was the **School Standards and Framework Act 1998**¹ ("the SSFA"), supported by Guidance from the National Assembly for Wales in its Circular **Pupil Support and Social Inclusion**² ("the Assembly Guidance"). Also relevant to the subject of school exclusions was The City of Cardiff County Council's **Revised Behaviour Support Plan** and the **Special Educational Needs Code of Practice**³ which provided guidance to schools in disciplining and dealing with pupils with behavioural problems and Special Educational Needs.

1.3 Whilst it is not the intention of this report to focus on the status of lawful "official" exclusions, it is necessary to briefly outline the way in which schools could then lawfully exclude pupils and the responsibilities of schools and LEAs in respect of lawfully excluded pupils. Both the SSFA and the Assembly Guidance gave schools and LEAs powers and responsibilities in respect of excluded pupils, which varied depending upon the number of days for which the individual pupil had been excluded:

1.3.1 Fixed-term exclusions resulting in up to 5 days of exclusion in one school term

Between 2001 and 2003 schools had a duty to inform the pupil's parent of the exclusion and to ensure that the pupil received a suitable education (which included setting and marking work). At this stage, a School Discipline Committee could listen to representations from the parent, but had no power to reinstate.

1.3.2 Fixed-term exclusions resulting in between 6 and 15 days of exclusion in one school term

In addition to the duties above, schools had a duty to inform the LEA and the School's Governing Body of the exclusion. The Governing Body's School Discipline Committee would then meet to consider the exclusion and decide whether the pupil should be reinstated or whether the exclusion should stand. The pupil's parent and the LEA could make representations to the Discipline Committee. The school would then notify the LEA of the decision. The LEA would deal with any appeal against a decision not to reinstate.

1.3.3 Fixed-term exclusions resulting in more than 15 days of exclusion in one school term

In addition to the duties above, schools had a duty to consider how the time for which the pupil was excluded would be used to address the pupil's difficulties and what arrangements would be put in place to secure the pupil's continuing education, schools also had a duty to initiate contact with the LEA to discuss how to provide a package of support that would facilitate reintegration at the end of the exclusion and how the cost of providing this would be met.

1.3.4 Under the SSFA it was unlawful for a pupil to be excluded on a fixed-term basis for more than 45 days in total during one academic year.

This may have led schools to use unofficial exclusions when they had, or were near to, exhausting the 45 days.

1.3.5 Permanent Exclusions

In addition to the duties above, the LEA had a duty to make arrangements for provision of full-time suitable education at a school or otherwise.

1.3.6 Unofficial Exclusions

It is important to note that the SSFA did not provide for "unofficial" exclusions. It was only lawful for a school to exclude a pupil in accordance with the SSFA. The Assembly Guidance stated that:

"The National Assembly does not believe that influencing or encouraging parents "voluntarily" to withdraw their child from school as a way of dealing with troublesome behaviour is an appropriate response. Heavy pressure put on parents to withdraw their child, particularly to withdraw a child permanently, denies the child an education, as it is unlikely that a new school place can be arranged quickly. It also denies the pupil and the parent the safeguards of access to the exclusion and appeals procedures to which they are entitled. A headteacher who considers a pupil's behaviour sufficiently difficult to warrant exclusion, either for a fixed period or permanently, should use the procedures described in Annex E"

*"LEAs will need to consider what action is appropriate where schools ask parents to withdraw their child in order to avoid a permanent exclusion"*⁵

The Assembly Guidance Circular 3/99 – Pupil Support and Social Inclusion included a clear statement:

Excessive amounts of authorised absence can be just as damaging to continuity of learning as unauthorised absence; schools therefore need to authorise absence sparingly and only after careful consideration, particularly where pupils have a history of irregular attendance. Inappropriate authorisation of absence is not in children's interests and may seriously hamper effective action by the Education Welfare Service and compromise legal proceedings.

And the Welsh Assembly Government Education (Pupil Registration) Regulations 1995 states:

(3) Subject to paragraph (4), on application made by a parent with whom the pupil normally resides, a pupil may be granted leave of absence from the school to enable him to go away on holiday.

(4) Save in exceptional circumstances, a pupil shall not in pursuance of paragraph (3) be granted more than ten school days leave of absence in any school year.

1.4 The provisions of the SSFA which dealt with school exclusions were replaced by the **Education Act 2002** and the **Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003**, with effect from 9 January 2004. The National Assembly for Wales subsequently published new guidance to LEAs and Schools, **Guidance on Exclusion from Schools and Pupil Referral Units**⁶. In May 2005, Cardiff Local Education Authority published a new **Behaviour Support Plan**. The changes brought about by the new legislative framework will be discussed at Chapter 4.

¹ c.31

² Circular 3/99 – Pupil Support and Social Inclusion

³ Special Educational Needs Code of Practice 1994 and Special Educational Needs Code of Practice for Wales 2002

⁴ Para 6.18, C 3/99

⁵ Para 6.19, C 3/99

⁶ C 01/2004 and C 01(A)/2004

2. Consistency of Guidance with Legal Duties of National Assembly, LEA's and Schools

- 2.1** The SSFA anticipated that guidance would be necessary in applying its provisions in relation to exclusions and stated that headteachers, Governing Bodies and LEAs should have regard to any guidance given by the Secretary of State⁷ devolved to the National Assembly for Wales. The Assembly Guidance is such guidance.
- 2.2** Neither the Assembly Guidance, nor the LEA's Behaviour Support Plan directly conflicted with the SSFA. This Investigation has, however, highlighted that there were a number of areas in the guidance which were ambiguous or inadequate in safeguarding pupils' entitlement to education. This will be dealt with in Chapter 3.
- 2.3** As noted above, both the legislation and the guidance which was in place during Pupil A's time at the school have since been replaced. We consider the extent to which the new legal framework resolves the issues under the old legal framework in Chapter 4.

⁷ section 68 School Standards and Framework Act 1998

3. Application of the Guidance in the Case of Pupil A and Reasons for any Shortcomings

- 3.1** It is clear that the Assembly Guidance was not effectively applied by the school or the LEA in the case of Pupil A. This is apparent from the fact that all relevant parties acknowledge that Pupil A was kept away from school by agreement on numerous occasions, as a result of Pupil A's challenging behaviour.

Appended to this report is:

- A** A statement from the Mother of Pupil A
- B** An agreed attendance note of discussions with the school
- C** An attendance note of a discussion with the Cardiff LEA
- D** A copy of Pupil A's attendance register 2002/2003

I refer in particular to the evidence of the Mother of Pupil A and paragraph 3 of appendix B in this regard.

- 3.2** This chapter will deal with the use of unofficial exclusions as a way of dealing with Pupil A's challenging behaviour, the education that Pupil A received whilst he was unofficially excluded and the support which was available from the LEA at this time. It will then consider the wider issues highlighted in this case and the reasons for any shortcomings in the system.

Use of Unofficial Exclusions

- 3.3** From the evidence obtained, as per appendices A and B, it is clear that from Pupil A's first year at the school he had displayed challenging behaviour towards teachers and other pupils which led to disciplinary action, including fixed-term exclusions. In my opinion Pupil A's behaviour should have triggered much sooner a statutory assessment of Pupil A's needs under the SEN Code of Practice⁸.

- 3.4** In December 2002, during Pupil A's second year at the school, the school met with his mother to discuss his behaviour and the fact that some teachers were refusing to teach him. The evidence suggests that the school asked his mother to keep him out of school for the remainder of the autumn term. The senior assistant headteacher was not available to give evidence, and all relevant personnel at the LEA have moved on, and were consequently not available. Pupil A's mother agreed because Pupil A was under threat of permanent exclusion and because, she says, the school assured her that they would seek help for him and the school from the LEA, Pupil A's mother sent him to stay with his grandparents on their farm in West Wales. It was hoped, by both the school and his mother, that time away from school and a structured active environment would mean that Pupil A would return to school in January and progress with the rest of the school year.

- 3.5** In fact, Pupil A remained away from school for the majority of the Spring and Summer Terms. On the occasions when he returned to school, Pupil A's behaviour would swiftly lead to the school calling his mother to ask her to take him home. Initially Pupil A's mother agreed to this. The school's attendance records show that during the academic year 2002/03 Pupil A was officially excluded for 22 days in total. In addition, the records suggest that there were at least 89 days on which Pupil A was absent from school by agreement between the school and Pupil A's mother.⁹ This is far outside the lawful legal levels of permitted exclusion and those recommended in the National Assembly for Wales Circular 3/99 for authorised absence.

⁸ Special Educational Needs Code of Practice 1994

⁹ See Annex D

3.6 Whilst it appears that a large part of the unofficial exclusions were at the suggestion of the school, some were at the suggestion of Pupil A's mother. In June 2003, Pupil A's mother decided that it would be best for Pupil A to go overseas to stay with family for the rest of the summer, including the last month of the summer term. The school agreed to this. Pupil A's mother said that this was a very difficult decision which she had not reached easily. However, at that time she felt Pupil A was nowhere near getting the proper help he needed and sending him overseas with his father was the only serious alternative. Pupil A's mother stated this was not a solution that would have occurred to her had the behavioural support, that should have been available to her child and the school, been provided.

3.7 The school acknowledged in hindsight that the arrangements whereby Pupil A was kept at home for long periods of time were not acceptable. However, at the time the unofficial exclusions provided a workable "solution" to the school, and to the problems when Pupil A was in school. The Mother of Pupil A believed that whilst her son was out of school, the school was seeking the help that was needed. The sad history of Pupil A shows how easy it is for both parties faced with a difficult problem, to agree "unofficial exclusions" as an ad hoc method of "muddling through".

Provision of Education during Unofficial Exclusions

3.8 The responsibility for providing an education to Pupil A remained with the school while he was on the register of pupils at the school. The LEA had a general responsibility to provide a suitable alternative education to pupils who did not attend a mainstream school for whatever reason¹⁰, although it is unclear how this responsibility would apply to unofficial exclusions in practice, where the LEA may not be aware that a pupil was not attending school. The evidence clearly shows how easy it was for "unofficial exclusions" to go un-noticed, or to be unwittingly or wittingly disguised, so that the extent of the problem would not be realised by the school, the LEA, the Educational Welfare Service or perhaps even the parent.

3.9 The school was aware of its duty to provide Pupil A with a suitable education and made some attempts to meet this duty during 2003. In practice, however, work was rarely set or followed up, and there was difficulty in finding work which was suitable for a pupil to undertake at home and without prior classroom guidance.

3.10 The school was not however washing its hands of the problem, or hoping it would somehow resolve itself. The school arranged and funded Pupil A's attendance at the Farm Trust, a charitable organisation, during the Spring of 2003. This occurred after the Mother of Pupil A had been to the school three times that day and had informed the school she was not prepared to keep her son at home after the Easter holidays as requested, and that she felt the time had come to permanently exclude her son.

The placement at the Farm Trust however, did not involve a curriculum based education, was only for two days per week and on the other three days the school asked Pupil A's mother to keep Pupil A at home. The school also arranged for Pupil A to attend two counselling sessions. Neither of these measures provided Pupil A with an education as such. They were simply an attempt to control and deal with Pupil A's behaviour. Whilst understandable, the effect of this was that Pupil A was de facto excluded from school on a non-recognised and unofficial basis.

Support available from the LEA

3.11 The support available from the LEA whilst Pupil A was at the school was limited by the LEA's policy that such support, including referral to Pupil Referral Units, did not become available until a pupil either obtained a Statement of Special Educational Needs or was permanently excluded.

3.12 The Special Educational Needs Code of Practice 1994 applied to both England and Wales and set out five hierarchical stages of assessment and support. Once a pupil had reached the fourth stage a school could apply to the LEA for a Statement of Special Educational Needs which may unlock additional funding and support. As well as this the school had its own procedures, stages A and B, which had to be exhausted before the Code of Practice stages began. It was recognised when redrafting the Special Educational Needs Code of Practice for Wales (which came into effect on 1st April 2002) that the old five stage approach gave the impression that it was necessary to progress through all the stages, when it was not.

This five stage approach was replaced in the new Code of Practice with a simpler and more effective system. In Pupil A's case the school went through each stage, with progression to each new stage being agreed by the school's Special Educational Needs Coordinator. In May 2003 having reached the fourth stage the school referred Pupil A for a statutory assessment in the hope of unlocking additional funding / support. Around this time the Mother of Pupil A took her son to see a Psychiatrist, who diagnosed Attention Deficit Hyperactivity Disorder (ADHD).

3.13 The school apparently contacted the LEA on numerous occasions throughout 2003 requesting support for Pupil A, but as he was neither permanently excluded nor in possession of a Statement of Special Educational Needs, funding for additional support was not available. In July 2003, after the statutory assessment process had commenced, the LEA contacted the school to confirm that there was a place in a Pupil Referral Unit (PRU) available for Pupil A, on the basis that the school would take a pupil from the PRU in return. This offer was not discussed with the Mother of Pupil A. By this time Pupil A was overseas on what was effectively a non recognised and therefore unofficial exclusion, and the school turned down the offer.

3.14 Pupil A returned to school in September 2003 and was excluded again. By this stage Pupil A's mother had become very concerned about Pupil A's situation, so she contacted the Head of Behavioural Services at the LEA. The LEA confirmed that it was not aware of the extent of Pupil A's absences (it was only aware of 22 days of official exclusions in the previous academic year) thus highlighting the point made above that unofficial exclusions hid the problem from view.

¹⁰ See Section 19(1) Education Act 1996.

The LEA was also not aware that he had been diagnosed with ADHD. The LEA apparently confirmed that placements in Pupil Referral Units were only available for pupils who were permanently excluded.

3.15 Upon learning of the extent of Pupil A's absences, the LEA arranged for a "teacher's aide" to be present in Pupil A's classes. This was an interim measure while the outcome of his assessment for a Statement of Special Educational Needs was awaited. This support was limited, in that it was only for four days per week and the teacher's aide had to leave at 3pm. Pupil A was not allowed in school when the teacher's aide was not there. This effectively constituted another one day per week of unofficial exclusion. Pupil A's mother observed an improvement in him during this time. However the teacher's aide had only been working with Pupil A for 4 days when, towards the end of September 2003, his mother was informed of an "incident" involving Pupil A and asked to keep him home. She was subsequently informed that Pupil A would be permanently excluded. Pupil A died on the day of his permanent exclusion.

Wider Issues and Reasons for Shortcomings

3.16 Parents' knowledge of legal rights and status of unofficial exclusions

3.16.1 From Pupil A's mother's perspective looking back on the sad history of her son's schooling, an important issue was her lack of knowledge of the legal position in relation to exclusions. She was not initially aware that she could insist upon her son attending school unless he was officially excluded.

This realisation seems to have grown shortly before Pupil A's death. She was also initially unaware that under the LEA's policy, a greater level of support would have become available to her son upon permanent exclusion or upon obtaining a Statement of Special Educational Needs.

3.16.2 Initially Pupil A's mother co-operated with the concept of keeping Pupil A from school and agreed to keep Pupil A home when asked in December 2002. This is understandable conduct in a mother concerned about her son's unruly behaviour. She contacted the Educational Welfare Service at the LEA, which apparently confirmed to her that Pupil A should not be unofficially excluded but suggested that she co-operate with the school in the short term. If this took place as alleged, it is a tacit official acknowledgment that unofficial exclusions had a role to play in the quest for a solution. At a later date the Educational Welfare Service advised her to insist upon Pupil A returning to school. There was no support available from the LEA at that time.

The school had, however, apparently told Pupil A's mother that he could not return to school until additional support from the LEA was in place. This effectively created a stalemate, with the result that Pupil A was unofficially kept out of school.

This calls into question the role of the Educational Welfare Service. Traditionally the Education Welfare Officer would have checked registers and discussed with the head of year any excessive absences including those that had been authorised. Such extensive absences should have led to an investigation and referral to support services.

3.16.3 Having become aware that more support would be available to help Pupil A if he were permanently excluded, in the Spring of 2003 Pupil A's mother raised the question of whether Pupil A should be permanently excluded, with the school. The school did not consider that Pupil A's behaviour warranted permanent exclusion at that point.

3.16.4 Soon after Pupil A returned to school in September 2003, the school asked Pupil A's mother to take Pupil A home and keep him home until support was in place. By this stage Pupil A's mother was aware of the legal status of unofficial exclusions and she insisted that if Pupil A was to be kept home, it would be through the official exclusion process. The school consequently officially excluded Pupil A for a fixed term. Pupil A's mother subsequently informed the LEA of the extent of Pupil A's absences and this coincided with the LEA offering support in the form of a teacher's aide.

3.16.5 It is therefore clear that parents can play a vital role in ensuring that the pupils are not unofficially excluded and receive a suitable education. This is, however, dependant upon parents having an understanding of their legal rights and the rights of their child.

3.17 Consequences for schools and LEA's knowledge of incidents of unofficial exclusions

3.17.1 The Assembly Guidance clearly put the responsibility for dealing with unofficial exclusions upon the LEA, when it stated that "LEAs will need to consider what action is appropriate where schools ask parents to withdraw their child in order to avoid permanent exclusion".

This guidance in itself was quite vague, because it did not suggest what the appropriate sanctions might be. More importantly, however, it did not provide for any formal mechanism by which LEAs could normally become aware that such unofficial exclusions were taking place. As unofficial exclusions fell outside the SSFA, there was no requirement for schools to notify the LEA when a pupil was away from school by "agreement". LEAs would therefore generally only learn about unofficial exclusions from parents who contacted the LEA, if at all.

3.17.2 The consequences of LEAs being unaware of unofficial exclusions are far-reaching and potentially catastrophic for the pupil's education. Where a school follows the law and the Assembly Guidance, and when a pupil has "exhausted" the maximum 45 days of lawful fixed term exclusion in one school year, the only option left for a school would be to permanently exclude that pupil. Where unofficial exclusions are used the pupil may continue missing school and those absences may remain undetected indefinitely.

3.17.3 The LEA's ability to deal with unofficial exclusions is therefore dependent upon there being a mechanism by which it is notified of such exclusions and mechanisms by which it can "sanction" the school. It appears from the evidence of the LEA Inclusion Manager (Support Services) at Appendix C that the only current obvious method of identifying the problem is through an ad hoc register sweep. This mechanism is rarely and inconsistently deployed. In the absence of policy and procedure there will be a continuing lacuna where unofficial exclusions continue to occur.

LEAs should be able to apply sanctions to schools that deploy unofficial exclusions as a means of dealing with pupil behaviour.

3.18 When LEA support becomes available

3.18.1 Neither the legislation nor the Guidance required that only pupils with a Statement of Special Educational Needs or permanently excluded pupils should be eligible for support. The school SENCO has discretion when to request additional support and additional funding from the LEA for an individual pupil but it is the LEA that determines if this is forthcoming. This appears to be the policy of the LEA in question, and is doubtless founded in whole or in part, on funding issues.

3.18.2 The consequences of such a policy are that support does not become available until very late in the day for some pupils, possibly after some months, and certainly not at the start of problems. This is particularly the case for pupils who display challenging behaviour regularly, which is not severe enough for permanent exclusion and who do not have a Statement of Special Educational Needs. Such pupils run the risk of 'slipping through the net' if extra support is not available to them early on. In the absence of support for pupils in this situation, schools will be under increased pressure to unofficially exclude or to officially and permanently exclude at a time that the school would ordinarily not choose to do so.

3.19 Identifying and dealing with pupils with Special Educational Needs

3.19.1 The Assembly Guidance distinguished between pupils who have Special Educational Needs and pupils who simply 'misbehaved'. Those who 'misbehaved' were cited as being more appropriately dealt with through discipline and exclusions than with educational support. At the same time the Assembly Guidance recognised that there was some overlap in the needs of such pupils. I am of the opinion that exclusion is a special need in itself and a second fixed term exclusion or a permanent exclusion should automatically trigger an assessment by the Educational Psychologist, especially since the LEA is obligated to find the pupil another school or PRU placement when a child is permanently excluded.

3.19.2 It is therefore important to determine whether pupils displaying behavioural problems have Special Educational Needs and require educational support or whether they are misbehaving and require other means of support or discipline. Pupil A's mother had concerns about her son's behaviour and whether the reason for it was more than purely behavioural from early in his second year at the school. Early in 2003 she queried with the school whether Pupil A had learning difficulties or special needs, but the school believed that this was not the case as Pupil A's behaviour and ability to work varied and in their opinion he appeared to choose when to be disruptive. During the Spring of 2003 Pupil A's mother arranged for her son to see a psychiatrist, who diagnosed him with ADHD.

In June 2003 the school referred Pupil A for a statutory assessment, having progressed through the old Code of Practice. However, as stated above, it was never intended that any support depended on progression through all the stages; some children with severe needs will have a Statement from the start of their schooling.

3.19.3 The five stage Code of Practice (together with an additional two stages from the school's own policy) meant that progression to a Statement of Special Educational Needs was slow in Pupil A's case. The slow progression through the stages may have been further compounded by the fact that he was not at school when he was unofficially excluded. If Pupil A had been identified as having Special Educational Needs earlier, support under the LEA policy would also have become available earlier.

3.19.4 The ability for both schools and LEAs to effectively and appropriately deal with pupils displaying challenging behaviour is dependent upon identifying whether the pupil has Special Educational Needs as early as possible. Where a pupil with Special Educational Needs goes unidentified for a period of time, and a pupil's challenging behaviour becomes constant, the pressure on the school to unofficially exclude or prematurely permanently exclude the pupil will be greater.

4. The Current Legal Framework

Legislation

4.1 On 9 January 2004 those sections of the SSFA which dealt with exclusions in schools were replaced by the **Education Act 2002**¹¹, and the **Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003**¹² (“the new legislation”).

The position under the new legislation is broadly the same as under the SSFA. The following changes, however, are relevant to the Investigation:

4.2.1 Headteachers now have a duty to inform the LEA and governing body of any exclusions amounting to less than six days in one term and must provide details of the period of exclusion and the reasons for it.¹³

4.2.2 Governing Bodies now have a duty to provide the following information to the LEA in each term in respect of all exclusions:

(a) the excluded pupil’s name, age, gender and ethnic group;

(b) whether the excluded pupil has a Statement of Special Educational Needs, is being assessed for such a statement or is receiving support through School Action or School Action Plus pursuant to the SEN Code of Practice for Wales (April 2002);

(c) whether the excluded pupil is looked after by a local authority; and

(d) the reason for the exclusion.¹⁴

4.2.3 Where a pupil’s exclusion amounts to between 6 and 15 days, a governing body’s duty to meet to consider the circumstances in which they were excluded and whether or not they should be reinstated, only applies where the parent or pupil expresses a wish to make representations¹⁵. There is no automatic meeting.

Guidance

4.3 The new legislation was followed by new guidance from the National Assembly for Wales (the new guidance)¹⁶. The differences between the new guidance and the old guidance broadly reflect the changes in the legislation.

4.4 The new guidance refers to unofficial exclusions as “voluntary withdrawals”. It states:

“Influencing or encouraging parents to ‘voluntarily’ withdraw their child from school as a way of dealing with difficult or challenging behaviour is not an appropriate response. Heavy pressure put on parents to withdraw their child, particularly to withdraw a child permanently, denies the child an education, as it is unlikely that a new school place can be arranged quickly...”

“ ‘Voluntary’ withdrawals deny the pupil and the parent the safeguards of access to the exclusion and appeals procedures to which they are entitled. A headteacher who considers a pupil’s behaviour sufficiently difficult to warrant exclusion, either for a fixed period or permanently, should use the procedures described in this guidance. Alternatively, they may wish to discuss the possibility of a ‘managed move’ to another school with the parents and the LEA”

*“LEAs will need to consider what action is appropriate where schools are found to be practising ‘voluntary’ withdrawals”.*¹⁷

4.5 The guidance does not advise LEA’s what action is available to them.

4.6 The new guidance highlights that schools should 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 who are being assessed for a statement.¹⁸

4.7 Just prior to publishing this Report the Welsh Assembly Government issued the Inclusion and Pupil Support Guidance¹⁹. This states that a key aspect of the LEA’s role must be to work with schools to promote positive whole school approaches and to support individual pupils in order to avoid exclusion. In particular LEA’s should offer advice and clear messages on the unacceptability of “voluntary withdrawals”.

4.8 The LEA has also published a new Behaviour Support Plan (May 2005), which states that it “places weight on enhancing the effectiveness of schools to identify, assess and intervene with children presenting with behavioural difficulties at the earliest opportunity”.

Effect of the new Legislation and Guidance

4.9 The new legislation’s requirements for schools and governing bodies to report all exclusions to the LEA, in theory, gives the LEA a more accurate picture of a pupil’s exclusion history, as the LEA will be told of all exclusions, not just those amounting to more than 5 days in one school term.

However, the new legislation does not address the problem of unofficial exclusions, as they are unlawful.

4.10 The new guidance reasserts the fact that it is not appropriate to ask parents to voluntarily keep pupils away from school as a way of dealing with challenging behaviour (ie unofficially exclude them). It also reasserts that it is for the LEA to consider what action is appropriate to deal with schools who do this. Whilst it goes slightly further than the previous Assembly Guidance by stating that schools can discuss the possibility of a managed move with LEAs rather than unofficially exclude, it still does not provide a mechanism by which LEAs will become aware that unofficial exclusions are happening, and it does not identify what action an LEA can take in the context of schools having autonomy.

4.11 The new legislation removes the automatic need for a meeting of the governing body to consider cases where a pupil has been officially excluded for between 6 and 15 days. Such a meeting will only go ahead if the parent or pupil indicates a desire to make representations on the exclusion. Whilst this does not obviously and directly affect cases of unofficial exclusions, it is relevant to the concern that parents and pupils are not aware of their legal rights in relation to school exclusions. This change in the law will effectively mean that only where a pupil or a pupil’s parent has the motivation and understanding to make representations, will the exclusion be considered by the governing body.

¹¹ C.32, adran 52

¹² Rhif 3227 W. 308

¹³ Reg 4(5) The Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003

¹⁴ Rheoliad 5(1) Rheoliadau Addysg (Cymru) 2003 (Gwaharddiadau Disgyblion ac Apeliadau) (Ysgolion Wedi’u Cynnal)

¹⁵ Reg 6(1)(d)

¹⁶ Gwahardd o Ysgolion ac Unedau Cyfeirio Disgyblion C 01/2004 ac 1(A)/2004

¹⁷ Para 11 Rhan 1

¹⁸ Para 13.2 Rhan 1

¹⁹ Welsh Assembly Government Inclusion and Pupil Support Guidance November 2006

4.12 The new guidance states that schools should avoid excluding pupils being supported at School Action or School Action Plus under the SEN Code of Practice. This means that a pupil in Pupil A's position, who has not yet received a Statement of Special Educational Needs, but who is receiving additional support or being assessed in accordance with the SEN Code of Practice, should not be excluded. This guidance is an improvement on the position under the previous Assembly Guidance. However, the impact it will have on unofficial exclusions is questionable, given that schools may be unwilling to recognise that unofficial exclusions are exclusions at all.

4.13 The LEA's new Behaviour Support Plan, "places weight on enhancing the effectiveness of schools to identify, assess and intervene with children presenting with behavioural difficulties at the earliest opportunity". In theory this is correct, but it must be matched with support from the LEA becoming available at the earliest opportunity. There appears to be no shift from the traditional concept of directing resources to resolving the problem when it may be beyond solution.

Summary

4.14 The current legislation and guidance, whilst placing additional responsibilities on schools to report official exclusions to the School Governing Body and LEA, goes no further than the previous framework in preventing unofficial exclusions from happening. The LEA still has a duty to deal with such exclusions, but this is weakened by the absence of formal mechanisms by which LEAs become aware that unofficial exclusions are taking place and clarity as to the sanctions that may be applied to schools operating this unlawful practice.

5. Conclusions and Recommendations

The problem of unofficial exclusions

5.1 Dealing with a pupil who displays consistently challenging behaviour presents many challenges for schools, LEAs and parents alike. It is, however, of paramount importance that the educational provision to meet the needs of pupils are safeguarded and that pupils receive a suitable education, whether within mainstream schooling or otherwise.

5.2 The legal framework relating to exclusions outlines the limitations on excluding pupils from school and the duties of schools and LEAs in following the correct procedures and ensuring that pupils receive a suitable education. Provided that schools exclude pupils in accordance with the legal framework, the safeguards afforded by that legal framework will apply.

5.3 Problems can and do arise when schools do not "officially" exclude pupils in accordance with the legal framework, but instead agree with the parent that the pupil will be "voluntarily" withdrawn from school, as a way of dealing with the pupil's challenging behaviour. These arrangements, which are unofficial exclusions, fall outside of the remit of the legislation dealing with school exclusions. The consequences of unofficial exclusions are serious, with those pupils affected missing out on a suitable education and a deferral of the need to address the issue to a stage when it may be too late. It can also place pupils at risk in a number of other ways.

5.4 In considering how the problem of unofficial exclusions should be dealt with, it is important to understand both:

5.4.1 the circumstances which lead to schools choosing to unofficially exclude pupils or agreeing to ad hoc measures that have such effect; and

5.4.2 how LEAs can monitor and deal with unofficial exclusions.

The circumstances which lead to schools unofficially excluding pupils

5.5 The case of Pupil A has highlighted the factors which may lead to schools unofficially excluding pupils as a way of dealing with challenging behaviour.

5.6 The pupils most "at risk" of unofficial exclusions are those who, like Pupil A, do not have a Statement of Special Educational Needs and who display persistently challenging behaviour, which is not serious enough to warrant permanent exclusion. Depending on the LEA's own policy, these pupils may not qualify for additional educational support from the LEA unless and until their behaviour deteriorates to the point of permanent exclusion or an assessment of their Special Educational Needs. This may mean that appropriate support does not become available for some time. In the absence of such support, schools are faced with a situation whereby they must either permanently exclude a pupil or continue to allow the pupil to attend school, disrupting classes and possibly putting other pupils and staff at risk.

5.7 Schools are faced with a difficult dilemma when deciding how best to deal with “at risk” pupils. A balance must be struck between the need to discipline the pupil and the duty to provide that pupil with a suitable education. Permanent exclusion is a serious step, which is actively discouraged by LEAs and which may not be justified by the pupil’s behaviour at an early stage. In the absence of additional educational support, schools may feel helpless to deal with the pupil and may resort to unofficial exclusions.

5.8 The result of unofficial exclusion is that the pupil may be absent from school for long periods of time, without the governing body or the LEA being aware and without the safeguards and support available for pupils who are officially excluded. Ironically, unofficial exclusions, by removing the pupil from the school environment, may also hinder progression through any stage-based criteria set by the Welsh Assembly Government, in order for additional funding and support to become available.

How LEAs can deal with unofficial exclusions

5.9 The pressure on the school to unofficially exclude in the case of Pupil A was compounded by the fact that there were no clear disincentives in doing so. The new guidance recognises that such unofficial exclusions occur and is very clear that they are not appropriate. LEAs are told to deal with schools who practice unofficial exclusions in an appropriate manner. Yet LEAs have not been given detailed guidance as to what steps they are able to take and it remains unclear as to what sanctions they do have in the face of school autonomy. Also there is no formal mechanism by which an LEA would normally become aware of unofficial exclusions.

5.10 There are a number of incentives which LEAs may consider adopting, which could provide a mechanism for identifying when unofficial exclusions are occurring and dealing with them:

5.10.1 Register audits, should be conducted whereby LEAs periodically and without notice carry out an audit of all attendance registers at a particular school. Patterns of absence indicating unofficial exclusions would become apparent and LEAs could then consider what sanctions to apply and/or what steps to put in place to resolve any problems. The threat of this may be effective in discouraging schools from unofficially excluding pupils.

5.10.2 All absences authorised or unauthorised should be reported to the LEA. The Educational Welfare Service should monitor these reports and intervene whenever the number of half day absences for any pupil exceeds 20.

5.10.3 An awareness raising campaign should be conducted among parents and pupils, to ensure that they understand the legal status of unofficial exclusions. This may lead to more parents refusing to agree to withdrawing their child from school or notifying the LEA if their child has been unofficially excluded, e.g. many schools have home/school agreements in which the school could undertake not to ask parents to keep their child at home unless they intend to exclude immediately.

5.10.4 Clear sanctions should be identified for schools found to be unofficially excluding pupils. This would provide a clear disincentive for schools considering unofficially excluding a pupil.

5.11 The targeting of resources at the “tail end” of the problem seems inappropriate if proactive early intervention could result in resolving behavioural issues before they develop. The report by Estyn “Behaviour in Wales Good Practice in Managing Challenging Behaviour” June 2006 provides advice on good practice to the Welsh Assembly Government for managing pupils behaviour that challenges schools. The report identifies examples of good practice in schools, some of the measures LEA’s take to support schools in managing behaviour, the partnership working that is helping to improve pupils behaviour and to inform promotion of emotional well being and mental health. There are 18 recommendations to Welsh Assembly Government, LEA’s and school’s respectively, which I endorse.

5.12 I am aware that currently a number of local authorities are devolving all their SEN budget directly to schools and others are considering following this trend. Although in theory this would seem to be good practice by removing the sometimes slow progression to appropriate support, it also removes the safeguard of appropriate assessment by qualified professionals for our most vulnerable pupils. As with Pupil A a number of SENCOs question the professional diagnosis of such pupils. Further, LEAs cannot devolve the responsibility for statutory assessment. Safeguards will need to be put in place to cater for such cases and to ensure that monies spent are audited. I will be monitoring carefully this development to ensure children receive the support they need.

Conclusions

5.13 As stated above the case of Pupil A has highlighted a number of risk factors and pressures which can lead to pupils being unofficially excluded. It has also highlighted the inadequacy of the current legal and guidance framework in preventing such exclusions from happening.

5.14 Under the current framework, it would seem that unofficial exclusions are an “easy” and workable solution for schools and parents struggling to deal with pupils who persistently misbehave and for whom no additional educational support is available. Unfortunately, unofficial exclusions cause more problems than they solve. Their “unofficial” nature means that an unofficially excluded pupil will not benefit from the legal safeguards afforded to pupil’s lawfully excluded and can easily miss out on a suitable education. Significantly, the LEAs may not become aware of unofficial exclusions, and consequently the extent of a pupil’s absence from school, unless notified by the parent. This creates a vicious cycle whereby an LEA is not aware of the full extent of the problem with a particular pupil and so cannot take the steps necessary to help that pupil. It also creates a vicious cycle whereby one unofficial exclusion begets further unofficial exclusions. A pupil returning from an unofficial exclusion, with no strategy or support in place, will very likely be promptly excluded again.

5.15 An holistic approach is needed to deal with unofficial exclusions, both to prevent schools from concluding that there is no alternative, and to ensure that instances of unofficial exclusions can be effectively dealt with by LEAs. This will require commitment from Welsh Assembly Government, LEAs, schools and parents alike.

5.16 Many parents and carers are asked to remove their children from school because of behaviour problems. The Minister for Education, Lifelong Learning and Skills, has established a National Review of Behaviour and Attendance which is welcomed. The Review is intended to produce a true picture of the situation in Wales, collect and review good practice in tackling attendance and behaviour issues and produce clear recommendations to take this work forward. As stated above the Estyn Report "Behaviour in Wales Good Practice in Managing Challenging Behaviour" clearly sets out programmes already successfully being used in parts of Wales and makes excellent recommendations to improve services to children and young people. Better and more effective pro active preventative work, assessment and support and multi-agency working should reduce the need felt by schools to unofficially exclude children.

5.17 The overwhelming message from all parties consulted in this investigation is that "prevention is better than cure" and that there is a great need for external funding and support to become available to schools at an early stage. Whilst sound in theory, in practice LEAs will inevitably need to apply limitations and criteria to ensure that such support is administered fairly and to budget. However, greater flexibility would mean that schools, having identified a pupil who is at risk of being excluded, can access the appropriate help as early as possible.

Recommendations

Based upon the sad history of Pupil A and the experiences of the many other pupils who have been unofficially excluded, I recommend that:

Local Education Authorities:

1. Clearly reinforce the message in Circular 47/2006, "Inclusion and Pupil Support" to all schools that unofficial exclusions, that is where parents are asked to remove a child from school voluntarily to avoid exclusion, are unacceptable and clearly state the sanctions that will be used should schools unofficially exclude.
2. Conduct an awareness raising campaign amongst parents and pupils to ensure that they understand that unofficial exclusions have no legal status outlining their rights and what support is available to them and their children. This may include requiring schools to use the school prospectus, home school agreements or other suitable methods of communication.
3. Ensure that all pupils who are permanently excluded or excluded for two fixed term periods in one school year are assessed by the Educational Psychologist.
4. Conduct register audits periodically and without notice of all attendance registers.
5. Review the support available to schools including consideration of:
 - a) the stage at which such support becomes available from the LEA
 - b) additional training to staff in schools to help them improve the behaviour of pupils, the training to include the correlation between difficulties in learning, special needs, disability and challenging behaviour

c) leadership in the implementation of behaviour management programmes

d) greater and effective multi agency partnerships to support schools, parents and pupils

I recommend that the Welsh Assembly Government:

6. Issue guidance to require schools to report all authorised and unauthorised absences to the LEA. The Educational Welfare Service should monitor these reports and intervene whenever the number of half day absences of any pupil exceeds 20.
7. Issue guidance to LEAs as to what sanctions they can impose should schools unofficially exclude pupils.
8. Request the National Attendance and Behaviour Review group to consider this Report and to consider whether they need to make further recommendations to prevent the practice of unofficial exclusions.
9. Ensure children and young people have easy access to independent advocacy services when they are at risk of exclusion or have been officially or unofficially excluded from school.

Statement of Pupil A's Mother

1. I am the mother of Pupil A who attended the school from 5 September 2001 until 29 September 2003. My son was permanently excluded on 29 September 2003, he died later that day aged 13 years old.
2. The school was not the natural choice of school for my son to attend after leaving junior school. My son would naturally have gone to an alternative school. My son would have preferred to go to the alternative school as his friends from junior school were going there. I chose for my son to go to the school for a number of reasons. My older son (Pupil B) attended the school and was about to do his A levels there. I thought it would be a good idea for Pupil A to be at the same school as his brother. I had got to know the teachers at the school during my elder son's time there. Also, my son had experienced some problems during his last two years at junior school, which had resulted in me being called to see the headteacher. My son had a great deal of character, but he did not have strength in his character, I was concerned that he was so easily led and unable to see the consequence of his actions. I therefore wanted him to attend a school, which was close to our home. The alternative school was not an easy trip to and from school and it would have involved my son catching a bus. It made more sense for my son to go to the school that was down the road from us and a school that we were familiar with. As my son was a very sociable boy and very popular; I believed that he would adjust quite easily to the change of school and welcome the opportunity to have even more friends.
3. My son got off to a good start at the school in September 2001. I recall he was proud to go to school and took care over his appearance, ensuring his jacket was buttoned up for example. Around about November 2001 I attended a "New Parents" evening and the impression that I got from the teachers - particularly his head of year was that there were no problems and that he was settling in well, he also talked about how he had enjoyed teaching my elder son. As things turned out my elder son did not attend the school to do his A levels as he was offered a place at the Football Academy in college.
4. As my son progressed through his first year at the school, he started to have problems at school. He was not doing his homework and was not concentrating in lessons. Teacher A and Teacher B at the school contacted me because he had misbehaved and been disruptive in lessons. This bothered me and I willingly co-operated with any suggestions that were put forward. I queried whether they thought he could be dyslexic and discussed the fact that I remembered him being assessed when he was at infants. Teacher A felt that this was not the case and that he was choosing to be disruptive. They had come to that conclusion because he would get on and do work when placed in a separate room. Teacher B mentioned an organisation called NCH Cymru she had read an article in the Echo. I suggested that I should contact them, as I was open to any suggestions of where I might find help.
5. Despite what Teacher A and Teacher B had said, I was opening my mind up to the fact that my son might be in need of special attention as his behavior at home had also become more difficult to manage.

I contacted the Youth Parenting Team at NCH Cymru and arranged to see Mentor B. We met and discussed the challenge of dealing with my son's behaviour and she offered some useful advice that I was able to put into practice. I was very concerned that I was a bad parent, and any meetings that I had at the school always left me riddled with guilt about the fact that I was failing my son by not being a good parent. However when I met with Mentor B, she was pleased that there were boundaries in place and we discussed the fact that my son could just be going through a phase or that it could be something more serious, meaning he could need some kind of additional support in school. The bulk of her advice was to ease up on my son and change my approach to him. Initially I met on a weekly basis with Mentor B, then her colleague Mentor C met with my son once a week during the summer holidays. Mentor C's aim was to discuss with my son the way that he dealt with certain situations. My son seemed to enjoy his discussions with Mentor C and was always ready to give up the hour a week to meet with her. My son had been due to attend a holiday camp - a place that he would go to every year and which he thoroughly enjoyed. I would drop him off at the beginning of the day and then pick him up at the end. His day would be filled with all kinds of activities. That summer my son preferred to stay with his friends from the school. Mentor B suggested that I should allow him this freedom and assured me that it was quite normal for boys to 'chill' together in this way. I was nervous of this as I felt that my son needed structure to his day. So I agreed that he should be given this opportunity to be with his friends during the summer holidays. During the early part of the holidays, my son had an accident in the park, which meant he had to go to A&E. A stone had been thrown at his head. After that he asked if I could book him into an Action camp.

6. Mentor B started working with him on a weekly basis from September 2002. Discussions had already taken place at the end of Year 7 that he would move to a different class upon his return to Year 8. Mentor B and I were not pleased at this prospect as it did not appear to offer him the help he needed. He also did not like the idea as it meant he would be in a different class to his friends. However I did support the school with this decision as I trusted the school and the experience of the teachers and I was of the mind that it was better to co-operate with the school than not. So in September 2002 he entered a new Year 8 group at the School. He did not settle from the outset. Teacher C who was Deputy Head at the time and Teacher D - his head of year, soon contacted me. Various meetings took place, some of them involved Mentor B. Mentor B's suggestion was that she would increase her work with my son. I was told that the school had tried various strategies in order to deal with his disruptive behaviour at school, including putting him in a separate room from the rest of the class. I was extremely bothered about my son and the fact that he was displaying such awful behaviour. I was at a loss to know how to deal with it all. So I willingly did all that the school asked of me. Which meant that when Teacher C asked me during one of the many meetings to keep him at home from 6 December 2002 until the end of term, I readily agreed as I felt it was the only way to ensure that my son would eventually be able to attend school and enjoy the learning that he was desperate for. He was a boy that loved to learn, he had such high ambitions. He wanted to be a lawyer or a chef when he left school. During the holidays and the half term breaks he always attended places that were fun and full of learning. When he was old enough (Years 5 & 6) he attended a youth centre and instead of choosing the sport activities he always opted for the cooking ones or the glass painting or Fimo classes. More often than not, he was the only boy in the cooking class - he loved that and the girls loved having him there, as he would always joke with them.

7. During the meeting, Teacher C started by saying that it was a busy time for the school and that he could no longer allocate his time to my son on the scale that he had already done. He also told me that some teachers were now refusing to teach my son. He informed me that my son was at risk of permanent exclusion but he felt that he could not do that, as he did not have a strong enough case for the governors to support him. I was appalled by what Teacher C was telling me and my instinct was to help the school and do as they were asking. Therefore my co-operation was crucial in order to stop my son from being permanently excluded. Teacher C also asked me to look at the idea of moving my son to another school. He suggested I should explore that avenue and in the meantime he would contact an Officer from the LEA, Officer D to see what help he could offer. I told Teacher C that I would try and arrange for my son to spend a day or so with my parents. I felt that my son might benefit from this, as my father was the sort of person that would encourage him to get involved in the work that he was doing. He showed my son how to chop logs and build walls. My son would also help feed the cows. I hoped that, once I had a chance to talk to my son over the Christmas break, he would be able to return to school in January with a better frame of mind. Teacher C and I agreed to meet again at the beginning of the new term. I trusted Teacher C and believed that he wanted to help my son. I even wrote to him shortly after our meeting thanking him for his help, as I was aware that he was being moved to a different role with the school.
8. Mentor B was not happy that my son was now being sent home in this way. I told her that I felt more comfortable co-operating with the school than not. I told her that I was confident that Teacher C would find the right help for my son. She suggested I contact Officer E at the Educational Welfare Dept of the LEA. I did as Mentor B suggested, Officer E's advice was that although the School were acting improperly, she agreed that it was better to co-operate than not. Officer E also told me that if the school continued to act in this way then her department would have to get involved but for now I was to agree to what she referred to as 'unofficial exclusions'. This gave me the confidence to continue with the approach I was taking. I took comfort from the fact that I had informed the Educational Welfare Dept of what I was doing and I was also co-operating with my son's school. So when the time came to agree to keep my son at home, I was aware that it was not ideal but I felt completely backed by the school in committing to this agreement.
9. When my son returned to the school in January 2003, the same problems were occurring. He was disruptive in class and could not concentrate. Although Mentor B was still working with him she was very concerned that the school were not considering assessing him in order to see if he genuinely was a special needs case. Many times Mentor B and I had expressed our concern prior to this period. But Teacher A, Teacher C and Teacher D felt that this was not an avenue worth exploring, they felt that the necessary help would come from Officer D and a Pupil Referral Unit. His name was mentioned many times. We rapidly reached a time when the school would no longer have my son at the school unless he was accompanied. My husband and I had already been collecting him during the lunch break but now the school felt they could no longer allocate a teacher to 'look after' him all the time. This resulted in Mentor B offering herself as that person. Although she was not happy with the situation, she co-operated as we felt it was better to have my son at school than out of it. Mentor B was uncomfortable with this situation, and her perceived role as my son's "keeper".

My son and Mentor B's relationship broke down as a result of him seeing her as the "baddie". He was embarrassed by her presence in class, which in turn led to worse behaviour. At the end of January my son and I met with the Educational Psychologist. I brought my son into school for the meeting and took him home with me. By now, the 'unofficial exclusions' were happening on a more regular basis. My son spent most of February 2003 out of school. As a result of the time that he had already spent out of school it was now becoming increasingly difficult to make him stay in the house. As I worked, there were some periods in the day that I would have to leave him in the house on his own. On the whole I managed to make sure that someone was in the house with him and sometimes he would come to work with me. On the few occasions that my son would be home on his own, by now he was venturing out of the house. A contributory factor to this change was the fact that another boy from the school was also spending more time out of school than in it. So the two boys would manage to meet up at some point in the day - even if it meant climbing out through the window. On many occasions, the boy's mother and I would have to go looking for the boys, they would head for the woods next to the school as they knew that this was a meeting place for other children from the school.

10. During the time that my son was out of school, he received almost no work from the school. I believe the school sent him homework on no more than a handful of occasions while he was out of school. I was concerned about how to manage his needs at home as I could not teach him. I would encourage him and try to help him with the work the school had sent him. I particularly recall helping my son with a piece of Welsh work and a piece of English work. I recall that he was very proud of the work he had done. I telephoned the school to see how he had done in these pieces of work and was told by Teacher D (head of year) that they had somehow been lost. I did discuss the provision of work for my son with the school, and there was a plan that work should be dropped off at the house. However, the reality was that this rarely happened and there was no follow-up by the school. I got the impression that the teachers were too busy and that supplying work for my son was not a priority. I was very concerned that my son was not getting enough work and when he did get it was very hard to motivate him to actually do the work. So, once I again I phoned the LEA specifically to speak to Officer F, however I never could get through to him. I spoke to Officer F's colleague Officer G and referred to my previous conversation with Officer E. I told him that my son was still out of school and that work was not being set properly by the school. I told Officer G that I was deeply concerned that my son would be permanently excluded, and that he was constantly in and out of school, having to readjust to returning to school every time he went back. The fact that he was not getting enough work, meant that he would also get very behind with the work set, given the level of school he had missed. Officer G told me that no help was available and that I should insist that my son go back to school. He also told me that these "unofficial" exclusions should not be happening. He was aware of my son and referred to him as having EBD (Educational Behaviour Disorder). This was the first time that I had heard that my son might be suffering from a recognised disorder, which I later found out is considered as a special need. I told Officer G that I was having trouble getting him back into the school and that he was not allowed back until they had sought help from Officer D. Officer G suggested that I should consider private tutoring for my son and referred to tutors. Following this I arranged for my son to have some private tutoring at a maths initiative. Although Officer G had not been very helpful I remember taking comfort in the fact that I felt I was doing the right thing in letting the Welfare Dept know what was happening with my son. I found myself in a 'catch 22' situation.

I felt that by contacting the Welfare Dept, the help that my son needed would be accelerated if the LEA heard from me as well as the school. Little did I know at that time, that the school was not giving the LEA the full picture.

- 11.** As things turned out my son only attended a few sessions at the maths initiative, because the sessions were at the weekends, when my son wanted to see his friends, it was also quite costly. I spoke to the Educational Psychologist, again. He did not know that my son was still out of school, having suggested to Teacher A and Teacher D that it would be more beneficial to my son to be at school rather than out of it. The Educational Psychologist told me he would contact Teacher A.
- 12.** At the end of February my son spent some time in school, however he was excluded officially on the 28 February for 5 days. Upon his return in March I started getting daily phone calls from Teacher E (he had taken over from Teacher C). He would ask me to come to the school to collect my son and take him home, as he had been disruptive. By this time I had sought and reserved a place for my son at the alternative school as Teacher C had asked me to look into alternative schools back in December. I had informed Pupil Support Services at the LEA of this and they wrote to me telling me that moving my son to a different school was a serious decision and that I should try and keep my son at the school. Upon receipt of this letter coupled with my thoughts that moving my son to another school was too big a gamble to take and that if he was in need of specialist help then the school would surely already be further down the line to getting the help than a new school would be. On top of the fact that the school was where my son wanted to be. I made the decision to keep my son at the school. The school also reassured me that they were seeking help for my son. During this time I was also wrestling with the thought that my son might be in need of specialist help. Having had four children I always had a feeling that there was some other explanation for his behaviour. So I asked my son's GP for him to be referred and assessed by a psychiatrist.
- 13.** On the 7 March 2003 my son was excluded officially for 15 days. Although I was not happy with the exclusion I remember thinking that I felt more at ease with this exclusion as it was official; which meant that I could access the governors in order to voice my concerns about his education. This was completely new territory for me and I felt very nervous. When Teacher C heard that I was planning on attending the governor's Disciplinary Committee meeting in order to discuss the fifteen day exclusion, he called me a number of times at work in order to deter me from attending the meeting. He told me that there was no need for me to attend and that he would sort things out for me. I felt I had to go to make my appeal against the exclusion and also discuss the number of unofficial exclusions that had already taken place. I wanted to make sure that the governors were aware of the unofficial exclusions and find out what they thought would be the best way forward for my son and his education. I attended the meeting with my brother in law and also a Housemaster at another school. This meeting was the first time I had seen the headteacher. The school said that it could justify my son's exclusions based upon his poor record and that he was under threat of permanent exclusion. When I asked if it was perhaps better to exclude my son permanently than to allow the situation to continue as it was, the headmaster commented that Ms Z (from the LEA) needed another permanent exclusion like "she needed a hole in her head".

Teacher E commented that he didn't think that my son had done anything bad enough to warrant a permanent exclusion and he felt confident that Officer D would find a place for my son at a PRU and that might be the answer. The exclusion was upheld, but the school assured me that help was being sought from the LEA. I left the meeting hopeful that something would be done to get help in place for my son at the school.

- 14.** My son returned to school after the 15-day exclusion, no help was in place for him. So inevitably he was in and out of school throughout April. Anytime that he became too difficult for Teacher E to manage, he would phone me and ask me to collect him, which I readily did. It did not occur to me to refuse to collect my son as I always felt that I needed to support the school but also protect him. On the last day of term before the Easter break in April 2003 I was called into the school three times in one day because Teacher E had called me. I was deeply bothered and my son was himself in such a state that I felt that the time had now come for me to request that he should be permanently excluded. I had been advised that this was the only way that my son would get the help needed. I agonised over this request, it was not an easy request to make. I had spoken to the Special Needs Department at another school; I was told that if I could get the school to permanently exclude my son then he would effectively come with "a pack of money on his back" i.e. from the LEA. Teacher E said he would speak to the headteacher. At the end of the day Teacher E called to say that the headteacher did not think that permanently excluding my son was an option and that he had had a "brainwave". He knew an organisation called the Farm Trust, which had a farm. A place where young people with problems could attend and he thought this might work for my son. I agreed to this. It seemed to be a good alternative to him being permanently excluded and I thought the experience would help rebuild his self esteem. I was aware that there were animals at the farm as it was a place that we had visited with my son and his brother a few years earlier, and as my son loved animals I felt that this would have a positive effect on him. The only other option would have been for Mentor B to accompany my son at the school, but by this stage their relationship had broken down so this was not tenable. Also the possibilities were getting narrower and narrower, and while there were clear benefits to my son being permanently excluded, such as additional funding and support he would become entitled to, as a parent I was still rather uncomfortable with the prospect of him being permanently excluded coupled with the fact that the headteacher was not prepared to do this.
- 15.** Teacher E, my son and I met with the manager who ran the Farm Trust. I was under the impression at this stage that my son would be attending the farm every weekday. I discovered that he would only be attending for one day per week with the possibility of extending this to two days per week. Teacher E told me that I should keep my son home for the other three days of the week until they could come up with a solution. I was concerned, as I didn't know what to do with my son for these three days, short of locking him inside the house as it was becoming increasingly difficult to make him stay at home even if there was someone in the house with him. I was also bothered that my son was being deprived time with his school friends, which I felt was a very normal activity for any boy. But for my son it was an even bigger problem because of the difficulties he was having at school. He attended the farm on some days in May, he went to school for some and then stayed at home for the other days.

On the farm days, the arrangements were that I would drop him off at the station in the morning with the other boys. A private taxi (organised by the farm) would then take the boys to the farm. From the outset I felt uncomfortable about this arrangement as it meant that my son was now in town and I couldn't be sure that he would stay and wait for the taxi. Understandably my son did not welcome the idea of me waiting with him at all as he felt embarrassed so I would usually drive around the corner and keep an eye out of sight. But this meant that I would then get to work much later than I should. The drop off was at around 4pm outside the station. This occasionally caused problems, because the taxi would sometimes come early and my son would not wait for me. On one occasion he caught the bus home, which in itself was fine, but I had no way of knowing that that's what he had done as he did not have a mobile. Gradually I became more uncomfortable with him attending the farm. The manager had already indicated to me that there were boys at the farm that had "bigger problems" than my son i.e. some of them didn't live with their parents on top of the fact that they didn't attend school. I got the feeling that the farm served simply as a place for my son to go to on some days of the week and that he was not progressing in the way I had hoped he would. By now I had started to show my frustration at the fact that my son was still not in school as he should have been. I would speak to either the headteacher or Teacher E very often in order to find out what was happening and where was the help coming from. The name Officer D still kept coming up, I was told that he was the man that "held the answer to my son's education".

16. During one of my conversations with the headteacher, he mentioned that he had a friend that had been a headmaster at another school and that he might be able to spend some time with my son in school. The headteacher said that he needed to get funding for this idea. But in the meantime he would set up a meeting with Teacher F. My son was to meet with Teacher F in the mornings only. I would have to collect my son between 11.30 and 12.00 and I would either take him home or take him to work with me. It seemed to me that Teacher F was not aware of the amount of time my son had spent out of school. I saw him as a valuable help. I believe that if this kind of help had been sought for my son much sooner then he would have benefited greatly from this kind of support. By the time my son met with Teacher F, he had become totally disinterested in school, he had lost the hunger to learn that he once had. By now he was so de-motivated and low that it was very difficult for us to have an affect on him. However I felt that Teacher F was a way forward even at this late stage.
17. During this time I had also been pursuing my need to have my son assessed. We went to see a psychiatrist at the family centre. My son did not want to go and it took me a long time to persuade him to attend with me. I was asked to complete various questionnaires. The school also had to complete a questionnaire, which I hand delivered and collected. When I went back to see the Psychiatrist she informed me that she felt that my son was suffering from ADHD (Attention Deficit Hyperactivity Disorder). She had come to this diagnosis by looking into his inability to concentrate rather than just his behaviour. I was given a number of booklets on ADHD. I read the booklets and did some more research on the Internet. I felt that this diagnosis made sense and described the problems that my son was having.

18. I felt very angry following this diagnosis as Mentor B had suggested to the school many months before that he should be assessed, but the SENCO teacher and Teacher A felt that Mentor B was over reacting. I also felt guilty because I had been a part of setting my son up to fail each time he returned from an exclusion. Suddenly it made sense why he was being so disruptive, obviously he could not concentrate long enough on a task and this would result in him becoming fidgety and attention seeking. He had always been hard work and on the go. I had always had to find a way of occupying him and suddenly I understood why school was so difficult for him. I arranged to see the headteacher to inform him of this diagnosis and to give him the booklets that I had. The headteacher made notes about this, he did not ask for proof of the diagnosis; he simply accepted what I said. I also told him that I was very disturbed about the fact that none of his staff had given any consideration to this and I was bothered about the amount of time that had been lost.
19. At this stage, my son was still attending the farm for two sometimes three days and spending two mornings a week with Teacher F. In some ways, this seemed to be working, but really all the farm did was offer a place for him to go instead of being at home. He was a boy that needed to be in a school environment. He had started the school with such high ambitions for himself. But by now the zest for learning that he had had at the beginning of his time at the school was rapidly ebbing away. It was as if his spirit had been broken. He had such a low opinion of himself; it was very difficult to keep his spirits up. He had always been a happy, fun-loving boy, he loved having a joke and entertaining his peers.
20. The crunch time came when one night he had come home as asked, but then he had arranged for an older boy from the school to come to the house at midnight and together both of them took my car. I became aware of this when the police knocked on the door at around 3a.m. I thought at first that the policewoman had got it wrong as I had seen my son come in. But little did I realise that he had sneaked out. After this incident, I decided that my son needed to get away from the negative influences that were now affecting him. My husband and I decided that he should go overseas for the summer to stay with family. My son had visited the overseas country before and he welcomed the opportunity to go again. I also welcomed the idea as I, myself, had reached a stage when I really couldn't take it any more. It had been so difficult coping with his situation, the school, my job and the fact that I had three other children - two of them quite young. I was aware that this decision would effectively spoil the arrangements that the headteacher had with Teacher F. I felt that two mornings a week was a drop in the ocean and that he would benefit more from a complete change of lifestyle.
21. On the 13 June 2003, I informed the headteacher that my son would be going to the overseas country on the Sunday. The headteacher seemed to welcome my plans as it effectively relieved him of my son. By now, I was less bothered about his education as I was more concerned with building his self esteem, and I knew that he would get the necessary kind of attention together with some tender loving care as well as spending quality time with his father. The headteacher and I discussed the ADHD diagnosis, I informed him that my son would not be given the drug Ritalin until he returned at the end of August and we would talk again at the beginning of September when I expected to hear that the necessary help would be in place for my son bearing in mind the diagnosis.

22. On 15 June, my son went to the overseas country with his father. Whilst he was away, I received his Year 8 report. The teachers generally noted that it was difficult to give him a fair report as he had not attended enough lessons. In July, I also received notification that a statutory assessment to assess him for Special Educational Needs would be activated. I felt relieved about this, as this is what Mentor B had asked for almost a year earlier. Whilst my son was in the overseas country I spoke to him on the phone and e-mailed him many times. He was looking forward to his birthday and was anxious that I send the new volume of Harry Potter to him for his birthday (he had already completed the previous volume). I sent the new book together with various presents and letters from his cousins. My son had been able to keep in touch with some of his school friends via the internet. He was also swimming everyday and playing football. Before my son went to the overseas country he had said that he wanted to lose weight and get a tan. Originally we had planned for him to be in the overseas country right through the holidays, however this became difficult due to financial constraints, so he returned home at the beginning of August. When I met my son at the airport, he had grown so much, and he certainly had achieved his aim in looking really good. He definitely felt much better about himself; he couldn't wait to see his friends.

23. In September 2003 I contacted the headteacher to inform him that my son was back and I wanted to find out what the plan was for his return. The headteacher suggested that he should start in Year 9 and take it from there. I was shocked that the headteacher was still supposedly trying to get help in place for my son. He informed me that the LEA had offered him a place in a Pupil Referral Unit, on the proviso that the school would take a child from the Unit. The headteacher had turned this down. I was surprised that I had not been involved in that process and that I hadn't been consulted in any way about such a decision. At this point, the statement of assessment for Special Educational Needs was in progress, with information being gathered from all the parties involved with my son. This statement would essentially decide what help my son would need. I also made the headteacher aware of the fact that my son had been prescribed Ritalin and that he had started the first course within days of his return from the overseas country. I informed the headteacher that at no stage would my son need to bring any medication to school and that I would supervise my son's intake every morning, which my son agreed to.

24. My son entered Year 9 at the start of September in his usual class form, but without specialist help in place. I was very anxious about his return as I felt that a great deal had been achieved by my son and his family over the summer and really all that was needed now was for that progress to be built on at school. But with nothing in place for my son I felt that yet again he was being set up to fail and all the pressure was on him. As tempted as I was to now refuse to send my son to school until the help was in place, having wrestled with this idea and having discussed it within the family, I felt that I didn't want to start him off on the wrong foot. He also wanted to start Year 9 on the same day as his peers. My son returned to school on, I believe, the 4 September 2003. By the next day, I had a phone call from Teacher E asking me to keep him at home. I arranged to meet with him on 8 September.

25. I met with Teacher E, Teacher G, the SENCO teacher, and an ADHD specialist from NCH. Teacher E told me to keep my son at home until the help was found. I told him that I was not prepared to do this unless it was official. Teacher E agreed to this and said that my son would be excluded for 4 days (until Friday). I was shocked that the information I had given headteacher about ADHD had not been circulated. Teacher G expressed her doubt about the diagnosis and the specialist had to explain that there were different levels of ADHD. My son was excluded for four days starting on 9 September. Here we were more than six months down the line, from when I was first told that "urgent help" was being sought from Officer D. Here was Teacher E still talking about the same man. I was so angry with myself for being so gullible and accepting all that the school had told me. I had taken great comfort in knowing that I was co-operating with everyone at the school. I suddenly realised that I had actually been supporting the school when I should have been supporting my son. I really felt that I had let my son down. On 9 September, I telephoned Officer D, at the LEA. This was the man that had been mentioned to me several times over the last few months by Teacher C, Teacher E and the headteacher - all of them. I told Officer D about my son's situation, I told him that I had been told that he was "the man that held the answer to my son's education". I asked him about the Pupil Referral Units. Officer D told me that he was surprised that I had been told that, he said that he normally dealt with pupils that had been permanently excluded. Furthermore, he said that places in PRUs were only available to pupils who had been permanently excluded. In addition to this, Officer D had not been informed of the number of days that my son had been out of school and was genuinely shocked to hear how many days he had been out of school. His record of my son showed that he had been excluded for only 22 days during the previous school year. He had no knowledge or record of the days when the school had asked me to keep my son at home. He also had no idea that my son had been diagnosed with ADHD. It was clear that any contact from the school to Officer D had not been accurate. I believe that the school had indeed cried for help saying that my son was a naughty and disruptive boy, but the school did not let Officer D know that they were in fact worsening the problem by keeping him out of school. Thankfully Officer D could see that something urgent needed to be done. He understood that I needed to get my son into school and that he needed some kind of help at school. He told me that he had groups of teachers' aides who came into classrooms to work alongside pupils and that this could be provided for my son. I was so pleased that Officer D had taken my son's problems on board, but I was outraged with the school and went to see the headteacher. He made a number of excuses for not getting help, involving money resources, etc.

26. After my conversation with Officer D, things suddenly and rapidly started moving. By 11 September, Officer D was able to confirm that a teacher's aide would be allocated to my son at the school for four days a week for five to six weeks, while the statutory assessment was in its final stages. This was an enormous relief to me. I finally felt that the right help had been found for my son to enable him to have a chance at having the education that he so desperately needed. Without a doubt, that desperate help was suddenly put in place because I had contacted Officer D and made him aware of the extent of the problem.

27. On the Friday of that week, I telephoned the school to ask what was in place for my son's return to school on Monday. I was told that there was no help in place and that my son's exclusion would be extended. I telephoned the secretary to the governors to ask about making representations to the Discipline Committee on my son's exclusion. The secretary to the governors informed me of the rule that if the exclusion was for less than five days, the parent had no right to make representations. My son had officially been excluded for only four days. I felt that this was devious and a way to prevent me from making representations. I was also concerned that this would be the start of another long period of unofficial exclusions. I went to the school and informed the headteacher that if my son was going to be out of school for longer than four days already imposed then I wanted it to be official and in writing. This was the first time that I demanded that the exclusions be made official by putting them in writing. I felt able to demand in this way as I now felt confident that I had tracked down the right help for my son. I realised that I didn't need to be so humble and I could now be more assertive and confident. Eventually I received a letter confirming the exclusion, however the period of exclusion was incorrect, I had to request a corrected letter which I later received. This error reinforced my suspicion that the headmaster was being deliberately devious in order to hinder my request for a meeting with the governors.

28. Once I received the corrected letter I contacted the secretary to the governors and made my request for the meeting. She told me that in cases of short-term exclusions such as this, the school was not obliged to convene a meeting straight away. I am sure that she told me that the school had 55 days from the date of the exclusion to convene the meeting. I asked her why she had not made me aware of this during our previous conversation. She could not answer my question. I found this very frustrating and I strongly felt that the headmaster was deliberately stalling again in order to hinder my request, instead of using the opportunity to meet with the governors as a way of examining my son's education. I was so frustrated, here we were almost a year on, and now official, with my son still out of school not getting the help or education he desperately needed. It was such an awful time. The school would not allow my son back unless specialist help was in place. I was very angry and my son was just confused by the whole thing. The only glimmer of hope that I really clung on to was the fact that Officer D at the LEA was now on the case.

29. At this point I became determined to seek legal advice about my son's time at the school; I spoke at length to a solicitor and arranged to see him on the 9 October 2003 (he could not see me until that date). I also wrote letters on the 16 and 17 September 2003 to Officer F at the LEA and the Chair of the school governors, setting out my concerns about the way that the school had failed to meet my son's educational needs. I hand delivered the Chair of the school governor's letter and Officer G collected Officer F's letter from my office. I never received a reply to either of the letters.

30. On the 18 September 2003, my son and I attended a meeting at the school. In attendance were Teacher E, Ms X (who ran the Unit from which the teacher's aide would come), Mentor A (the teacher's aide) and a counsellor, (who claimed that my son had seen her earlier in the year, when in fact he did not because he was unofficially excluded at that time). My son was asked to join the meeting at the end.

It was arranged that Mentor A would be in all of my son's classes, although she would not be attached to my son. If problems arose in class, Mentor A would remove my son from the class by taking him to work in the library. Mentor A was not able to be in school on Wednesdays, so my son couldn't go to school either. She also had to finish at 3pm, which meant that my son had to finish at that time too. So I agreed to collect him at 3p.m. on the days that he would be in school. My son was to start back at school on Friday 19 September 2003. My son went to school on Friday 19 September as arranged. I felt very nervous for him, hoping very much that he would benefit from this kind of help. Here was a boy that had not been able to complete a whole day at school without me being phoned. He was looking forward to just settling back into a "normal" school life. He knew that the help was there especially for him, he had been away to an overseas country which had helped him feel better about himself. He was also aware that the medication he was taking would also help him to concentrate better in class, so he was hopeful for a better time at school. At the end of the first day, Mentor A was so pleased with him. My son was beaming; he knew that he had done a whole day without being asked to leave. Mentor A told me that she was very impressed with him. My son responded well to the slightest praise, he was so proud of himself. This was a major milestone.

31. The following week, my son went to school every day except for Wednesday as arranged. I noticed all week that there was a lovely change in him, he was definitely responding to being back at school. As each day went by, he would say, "I've done it Mum, I managed another whole day". Gradually, I was getting used to not receiving any phone calls at work. I could stay at my desk for "normal" lengths of time. On Monday and Tuesday of that week, I hounded Teacher E and Officer F to sort out where my son would be going on Wednesdays. Although I had agreed to him staying home on the first Wednesday, I was clear on the fact that I would not agree to any more days. This was an exclusion of sorts, although there was nothing in writing. I realised that this is how I should have been acting all those months ago. I felt so guilty about the way that I had let my son down in allowing the headmaster and his staff to cast him aside as they had been doing. I was so angry with myself for allowing myself to be lulled into trusting these people. On Monday, Tuesday and Thursday of that week, Mentor A came out with my son at the end of the day and told me how well my son had done. My son was responding well and I believe her praise was genuine. This was such an achievement for him.

32. On Friday, 26 September, Teacher E accompanied Mentor A and my son outside to meet me. Teacher E told me that my son had been involved in a "blip" at lunchtime and that a confrontation with three boys had led to him slapping them. My son denied this and said that he had slapped one boy because they were pestering him. I was shocked and bothered, but Teacher E told me to not worry and that it had been dealt with and to bring him to school on Monday as usual. My son was bothered over the weekend; he spent a lot of time with us as a family, instead of wanting to be with his friends. We all went to the UCI, he played on the machines with his sisters.

33. At 8a.m. on Monday 29 September 2003, I received a phone call from Teacher E telling me not to bring my son in because the headteacher wanted to have a meeting. I was surprised, as I had been told that the incident had been dealt with and that it was a mere “blip”. My son stayed at home, then at 10:30a.m. I had a call from the headteacher saying the he was sorry but “enough was enough” and “that too many man hours had been spent on my son”, he was going to permanently exclude him. I was stunned, as this had come out of the blue. Since the specialist help had been in place, I had never even considered that my son was at risk of permanent exclusion. I had not been invited to the meeting, but regretted not going to the school when I received the first phone call. I asked what the trigger for the permanent exclusion had been. He told me that it was the slapping incident on Friday, together with some other incidents, which had allegedly occurred during the week. I had not been made aware of any other incidents that week and had been told that my son was doing well. I tried to call Officer F, Officer D and even Ms Z but no one was available. I was so disgusted that my son’s needs had not been taken account of. I felt that the headmaster had been reckless in making his decision. Why should my son have been dealt with so harshly when he had already suffered by being out of school for so much time, which had in fact contributed to his behaviour worsening. It’s as if he had not wanted the support to work for my son. My son was very disappointed, he questioned what was the point in all that he had achieved during the previous week. I explained that perhaps the exclusion was for the best and perhaps the time had now come for him to put his time at the school behind him and look forward to happier times at a different school. Although this did not convince me I felt that I had to make the permanent exclusion seem like a positive thing rather than a negative one to my son. I was aware that the exclusion totally ripped apart the valuable help that Officer D had arranged and that my son would now be out of school until another school was found for him. I had come to the conclusion that morning that I would have to give up work in order to manage this situation. I couldn’t go on with things the way they were, so something had to go. I knew that it would cripple us financially but I felt that I had to make this decision in order to totally devote my time to getting my son into a different school and helping him with that change.

34. My son went out at around 3p.m. in order to see his friends come out of school. By 4:10pm my son had been involved in a fatal accident. I did not receive anything in writing confirming that he was permanently excluded.

35. Following my son’s permanent exclusion from school in the morning and his death in the afternoon, I felt compelled to still question the Headmaster’s decision to exclude him. I felt that if a headmaster made such an important decision, he would quite naturally want to defend his decision. I had intended to question the school’s ways before my son’s death; I could not see any reason for not continuing with my intention. During the next few days, I asked the solicitor to bring the meeting that we had arranged for the 9th of October forward. I met with him on the 2nd of October. I was aware that there was a tight timescale for requesting a meeting with the governors following a permanent exclusion. I wanted the solicitor to arrange the meeting for me. During these few days, I also had a strong desire to put a face to the name of Officer D. That became difficult, as he wanted to “run it pass the Legal department first”. I did not appreciate his comments so my desire quickly faded.

As time went by it became clear that the school and the governors had no intention of convening the meeting in order to discuss the short term exclusion at the beginning of September and the permanent exclusion. I entered into a great deal of correspondence with the school, the governors and the LEA. I rapidly got the feeling that they were all wanting to hide behind my son’s death. I took my case to the National Assembly. I asked them to consider whether I was entitled to the meeting. The Assembly’s decision was that the meeting should take place. I was very relieved with this decision.

36. I believe that various members of staff at the school and the LEA were negligent in their dealings with my son and I. My son’s needs should have been recognised much sooner. I also believe that the exclusions that were imposed on my son, directly contributed to the deterioration in his behaviour and attitude to school. My family suffered greatly because of the exclusions, we tried very hard to cope with the situation, and it was very difficult and very stressful. But we were determined to help my son through what was, a very difficult time in his life. This is one of the reasons why I felt compelled to bring this situation to the attention of the National Assembly and the Children’s Commissioner. I felt it was my duty as a parent to share my experience in order to try and ensure that other parents and children are not in a similar situation. The other reason is that I owe it to my son, to ensure that the people that failed him are made to see the errors of their ways. Every day I feel the guilt and the shame of letting my son down. This is a feeling that was with me before my son’s permanent exclusion, it is made that much harder to bear by the fact that he has died.

37. I have seen the school’s attendance record for my son for the academic year 2002/2003. As far as I can recall, the days which are marked “C”, and which were not days on which he was attending the Farm Trust or in the overseas country were days when my son was kept at home on the insistence of the school while under threat of permanent exclusion.

Appendix B

Note of evidence given at a meeting with the headteacher and the deputy headteacher at the school.

1. The headteacher did not have much personal involvement with Pupil A throughout his time at the school, and Pupil A was the only pupil he has permanently excluded in the nine years he has been headteacher at the school (although he had permanently excluded several pupils when headteacher of another school). His involvement increased when the former acting deputy head, changed to a different position in Spring 2003.
2. Pupil A had been a troublesome pupil from the moment he started at the school. On the induction day held at the school in the summer before Pupil A started, he had behaved in an "off-the-wall" manner which had disturbed staff. Whilst at the school Pupil A was a powerful figure amongst the pupils with many pupils scared of him. He also had a group of older friends at the school, which was of concern to teachers.
3. The former acting deputy head at the school, dealt with Pupil A personally. He had indicated that it was the Mother of Pupil A's wish to take Pupil A away from the school environment in December 2002, so that Pupil A could go and stay with his grandparents. Pupil A was away for the majority of the Spring and Summer terms 2003, however, and it was accepted that the arrangements whereby Pupil A was kept at home for long periods of time, with hindsight, were totally unacceptable. Such absences would only be appropriate if alternative support were in place. The school made every effort to provide and mark homework for Pupil A while he was being kept home. However, this was not practicable or effective, as only a limited amount of work can be tackled by pupils outside of school. Pupil A went overseas at the end of Year 8 and it was not at all possible to set him work over this period, or during other long extended periods.
4. It was suggested by the Mother of Pupil A and her solicitors, that the school had progressed through the procedures to get a Statement of Special Educational Needs for Pupil A too slowly and that a statement would have been obtained more speedily elsewhere. By way of background, where a pupil displays problems which relate to learning or behaviour, schools in the city go through the five Stages of the SEN Code of Practice. Once the fifth stage is reached, a school can apply to the LEA for a Statement of Special Educational Needs for the pupil.
5. As well as the SEN Code of Practice, the school had its own additional procedures, stages A and B, which needed to be exhausted before the five stage procedures kicked in. The LEA Code of Practice changed during Pupil A's time at the school. In summary, both procedures involved a series of stages. If stage A failed, then stage B would be implemented. If both stages A and B failed, stage 1 of the SEN Code of Practice would come into effect, and so on. At each stage staff of greater seniority would become involved. If a pupil reached stage 5 on the SEN Code of Practice, the school could apply for a formal assessment to determine whether the pupil had Special Educational Needs.
6. In Pupil A's case, the school went through each stage. Progression to each stage of the Code of Practice had to be agreed by the school's Special Educational Needs Co-ordinator and justified by paperwork. On 13 May 2003 the school applied for an assessment of Pupil A's needs. The time it took for this to happen was not a case of the school being slow, but a case of the school following the procedures set by the LEA.

These procedures are overly-bureaucratic and require the school to jump through lots of hoops to get to a position where the pupil and the school can receive help. The whole process can take months, which is not ideal as pupils with behavioural problems need help much quicker. In the school's experience, however, the procedures were effective for pupils with learning difficulties, as opposed to behavioural problems.

7. The school has not had much experience of the SEN Code of Practice, because pupils like Pupil A are rare at the school. There are some pupils at the school with statements, but these relate to learning difficulties, such as dyslexia, rather than behavioural problems. Other schools more accustomed to dealing with pupils like Pupil A would no doubt have a greater insight into how the procedures work in practice.
8. The school took various steps to try to help Pupil A during 2003. It asked the LEA for help on several occasions, to no avail. It was the school's initiative for Pupil A to attend a farm, which it organised and funded. The school also set up counselling sessions for Pupil A with the former headteacher of another school. In June 2003, the Mother of Pupil A informed the school that Pupil A was going to stay with his father's family overseas for the rest of the school year.
9. In July 2003 an officer at the LEA contacted the school to say that a place in a Pupil Referral Unit (PRU) was available for Pupil A, on the basis that the school would take a pupil from another school. At this time Pupil A was overseas and it was agreed that the matter would be re-visited in September. In September 2003 the school contacted the officer at the LEA again and asked about the possibility of a place in a PRU for Pupil A. The officer at the LEA informed the school that there was no placement for Pupil A as the school had not gone through all of the stages in the Code of Practice. In fact, the officer at the LEA was wrong; subsequent events proved that there was a lack of communication within the LEA and it was acknowledged that the school had gone through all of the stages and sent the correct paperwork. It was also an issue that in the LEA, permanent exclusion was a precondition for a PRU placement.
10. The Mother of Pupil A had claimed towards the end of Pupil A's time at the school that Pupil A had ADHD. The school had looked into this previously, but had come to the conclusion that this was unlikely because Pupil A was selective about when he would behave and who he would behave for. For example, he would behave well for the deputy headteacher, but would not behave for younger female teachers.
11. The school's relationship with the Mother of Pupil A turned sour in September 2003. She had spoken to the LEA which had indicated that Pupil A was not receiving support because the school had not submitted the correct paperwork. This was incorrect as the school had submitted the correct paperwork. The mistake was due to a lack of communication between the officer at the LEA and the statementing section of the LEA. The process of collecting information for Pupil A's assessment was ongoing during September 2003. The mother of Pupil A had placed a lot of hope in this assessment and believed that it would have resulted in Pupil A receiving a statement and a great deal of help. The school does not believe that the Statement would have provided Pupil A with more than a couple of hours a week of support.

Support was provided to Pupil A in the form of Mentor A, a teachers' aide, before the statement was finalised and shortly before Pupil A's death. The Mother of Pupil A gave the impression that she expected this level of support to continue once the statement had been finalised, although this would have been unlikely.

- 12.** Every LEA in Wales has a different approach to dealing with pupils like Pupil A. The fundamental problem is that there are not enough strategies to deal with problem pupils early enough. The school does not want to have to permanently exclude pupils at the first sign of trouble as this is against the philosophy of what they are trying to do as educationalists, but in the city permanent exclusion is the only way to get the help needed. The school wants to try other creative strategies.
- 13.** There was and remains greater flexibility in the curriculum to help older pupils, aged 14 and over. The school can offer more vocational work to such pupils. However, there was and is very little flexibility to help a pupil of 11 to 13 years old, as the curriculum requirements are so rigid. Pupil A exhibited worrying behaviours much earlier than most other children with problems. The educational psychologist who saw Pupil A, acknowledged that he did not know what to suggest to do for Pupil A as he had 'reached the end of the line' so young. So far as the school was aware, Pupil A had already started to display problems at primary school.
- 14.** There are National Assembly plans for providing greater help for 3 to 7 year olds by providing intensive support to primary schools and greater inter-agency involvement. These plans are being piloted in a primary school in the city and the indication is that this is working very well in dealing with problems early on. The headteacher of the primary school might be able to provide an insight into how it is working. Whilst it is important to have very early intervention such as this, it was also important to provide support throughout all stages of schooling and to deal with all aspects of the problem. Reference was made to SureStart, which involved a holistic approach to helping young people in deprived areas and included help with parenting issues.
- 15.** The school cannot be sure what additional support could have helped Pupil A. Possibly having the teacher's aide earlier would have helped, but this may not have worked in the long-term, based upon what happened with, a mentor from NCH Cymru, Mentor B. The Mother of Pupil A had set up the help from Mentor B and she attended school with Pupil A. However, this did not work out at all, as Pupil A was embarrassed by her presence and eventually Pupil A had to be physically separated from her. It is therefore possible that the relationship with Mentor A may have gone the same way in time. Another school may have been the answer for Pupil A. With hindsight, a permanent exclusion much earlier may have been preferable. Throughout the school, there were great expectations that Pupil A would behave badly, and a different school would have given him a fresh start without negative expectations, and without his need to "live up to" his brother's poor reputation at the school. Although a PRU was considered and discussed, there is some doubt as to how effective it would have been for Pupil A, as it would have been a case of him being in the company (and influence) of other children with behavioural problems.

- 16.** Counselling would most probably have helped Pupil A. The school would have benefited, and still would benefit from greater access to, a counsellor from Pupil Support Services in the LEA. The counsellor offers counselling to pupils on a one-to-one or group basis. The LEA determines how much time the counsellor spends at a particular school by looking at the number of pupils on the Code of Practice and allocating a proportion of time based on that number of pupils. The school then allocates pupils within the time that the counsellor will be at the school. The counsellor does an excellent job and the school would benefit from more of her time. On occasions, the school has avoided the bureaucracy and paid for the counsellor to spend additional time at the school. Sometimes, however, the counsellor is fully booked, so access to her is still limited. Ideally, it should be at the discretion of the school to decide when counselling is needed and there is an argument for the school having its own counsellor. A school will be best placed to identify at a very early stage a pupil who is likely to deteriorate to the extent of "going through the phases". Yet the system directed that help at the pupil who went through that process, and not the pupil who could be counselled very early on so that the processes need not become engaged. The process should acknowledge the schools' ability to foresee the problem, and should arm schools with the early resource to take effective preventative action.
- 17.** Officer C of the LEA has spoken on the subject of pupils with Special Educational Needs. She has noted that in comparison to similar LEAs, the amount spent on pupils with SEN was similar in the city to other authorities. However, there were many more pupils with statements in the city. She had agreed with the view that better preventative and supportive measures should be in place earlier on in the process, and then fewer pupils would end up with statements.

Note of a meeting with Officer B at Eversheds.

1. Officer B had previously worked in various English LEAs. During this time he had dealt with the issue of “illegal” exclusions, whereby pressure was put on parents to withdraw their children from school on a voluntary basis. The English LEA in question had taken the stance that this was “not on” and had required that in all cases where parents voluntarily withdrew their children from school, a three-way agreement had to be entered into, signed by the parent, school and LEA. If all three parties did not sign the agreement, then that LEA would require the school to take the pupil back. This would enable a parent to object to the arrangement.
2. The greatest challenge is in tracking unofficial exclusions, as there is no official route by which unofficial exclusions will normally be brought to the attention of the LEA. It is difficult to address this problem, especially if unofficial exclusions are with the consent of the parent. Highlighting to parents their rights in respect of exclusions might go some way to address this problem. The LEA will often only become aware of unofficial exclusions if a parent phones in to the Education Welfare Service (“the EWS”). Alternatively the EWS can do register “sweeps” whereby unannounced checks of attendance registers would show up patterns of non-attendance. Some LEAs do this already, but not very often.
3. Schools should abide by the current National Assembly Guidance on inclusion and pupil support and make full use of the EWS. The more the schools cover up problems, the less aware of the extent of the problem the LEA is. The LEA has implemented some changes which are resulting in more pupils being tracked and absence patterns spotted. For example, there is an Exceptional Provision Panel, which has the responsibility for tracking vulnerable pupils who have been permanently excluded, or who have a high number of fixed-term exclusions. In addition, an Exclusions Officer has been appointed, with the role of dealing with exclusion paperwork from schools and attending governors meetings.
4. In an ideal world, problems will come to the LEA’s attention before they reach the Exclusions Officer. Schools have a duty to notify the LEA of attendance records and patterns will be apparent from these. The schools should liaise with the Behaviour Support Team when problems begin to surface. Discussions will then be had about whether the problems amount to Special Educational Needs or social behaviour problems. The message to headteachers should be to follow the National Assembly Guidance. There are instances where exclusions are not conducted in accordance with the National Assembly Guidance. The legislation is basically sound, but to be effective it must be rigorously pursued.
5. Schools will argue that support from the LEA does not come through quickly enough. However, it is not possible for the LEA to establish what resources are necessary unless schools inform it of the extent of the problem. This created a vicious cycle.
6. When a pupil in the LEA is permanently excluded, there are a number of options: They may be placed in another school (although unless there is a strategy in place, this will not always be appropriate). Alternatively, they may be placed in a Pupil Referral Unit, or have individual tuition. For pupils at Key Stage 4 (15-16 years old) there were more options in respect of vocational training or college, but this was not available for younger children. Pupils displaying signs of Educational Behavioural Disorder would be referred for assessment for Special Educational Needs.
7. Swift and early intervention was required, from other agencies as well as from within the LEA, including the Child and Adolescent Mental Health Service. Some schemes, such as the “Strengthening Families” scheme, recognised that problems in school usually indicate problems at home and in the community.
8. Funding was also a problem. When a pupil is permanently excluded the money allocated for that pupil is taken out of the school budget. However, this money is insufficient to pay for the alternative methods of education which the pupil needs.
9. The school and the Mother of Pupil A had expressed concerns about the fact that LEA support kicks in only after a pupil is permanently excluded or obtains a Statement. There are forms of support which kick in prior to this if the National Assembly Guidance is followed. However, it would be most helpful for the resources to be deployed at the start of problems. A lot of the strategies kick in upon Statementing for Special Educational Needs. However, it is important for schools and the LEA to distinguish between social behaviour problems and Special Educational Needs. In England it is not necessary to have a Statement to access behaviour support, as a result of Behaviour Improvement Programmes. However, the problem still persisted that the LEA cannot provide the support unless the school makes it aware of the problem - unofficial exclusions would mean that the LEA would not necessarily find out early on.
10. A national strategy would be necessary to raise the profile of the responsibilities of headteachers, governors, parents and pupils alike.

Appendix D

2002-2003

WEEK BEGINNING	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
2/9/02	X X	I I	/ \	/ \	/ \
9/9/02	/ \	/ \	/ \	/ \	/ \
16/9/02	/ \	/ \	/ \	L \	/ \
23/9/02	/ \	/ \	/ C	/ L	/ \
30/9/02	/ L	/ \	/ \	L \	/ \
7/10/02	/ \	/ \	/ \	/ \	/ \
14/10/02	X X	/ \	/ \	C C	X X
21/10/02	# #	# #	# #	# #	# #
28/10/02	C C	/ \	/ \	/ \	/ C
4/11/02	/ \	/ \	/ \	CP CP	/ \
11/11/02	/ \	/ \	/ C	C C	C C
18/11/02	C C	/ \	/ \	/ \	/ \
25/11/02	L \	/ \	X X	C C	C C
2/12/02	CS CS	CS \	CS \	CS CS	CM CM
9/12/02	CD CD	CD CD	CD CD	CD CD	CD CD
16/12/02	CD CD	CD CD	CD CD	CD CD	X X
23/12/02	XH XH	XH XH	XH XH	XH XH	XH XH
30/12/02	XH XH	XH XH	XH XH	XH XH	XH XH
6/1/03	CM CM	/ \	/ \	/ \	/ \
13/1/03	/ \	C C	C C	C C	C C
20/1/03	CM CM	C \	C C	/ C	C C
27/1/03	C C	C C	L C	CM CM	C C
3/2/03	C C	C C	C C	C C	C C
10/2/03	C C	C C	C C	C C	X X
17/2/03	# #	# #	# #	# #	# #
24/2/03	C C	C C	C C	E E	E E
3/3/03	E E	E E	E E	E E	E E
10/3/03	E E	E E	E E	E E	E E
17/3/03	E E	E E	E E	E E	E E
24/3/03	E E	E E	E E	E E	E E
31/3/03	/ L	X X	C C	/ C	/ C
7/4/03	L \	/ CP	CH CH	CM CM	/ C
14/4/03	# #	# #	# #	# #	# #
21/4/03	# #	# #	# #	# #	# #
28/4/03	CFT CFT	C C	CFT CFT	CH CH	/ \
5/5/03	# #	/ \	CFT CFT	L L	CW CW
12/5/03	CFT CFT	/ \	CFT CFT	C C	CFT CFT
19/5/03	CFT CFT	C C	CFT CFT	CFT CFT	CW CW
26/5/03	# #	# #	# #	# #	# #
2/6/03	CFT CFT	CW CW	CFT CFT	CW CW	C C
9/6/03	C C	CW CW	C C	CW CW	CM CM
16/6/03	CF CF	CF CF	CF CF	CF CF	CF CF
23/6/03	CF CF	CF CF	CF CF	CF CF	CF CF
30/6/03	CF CF	CF CF	CF CF	CF CF	CF CF
7/7/03	CF CF	CF CF	CF CF	CF CF	CF CF
14/7/03	CF CF	CF CF	CF CF	CF CF	CF CF
21/7/03	X X	# #	# #	# #	# #
28/7/03	# #	# #	# #	# #	# #
4/8/03	# #	# #	# #	# #	# #
11/8/03	# #	# #	# #	# #	# #
18/8/03	# #	# #	# #	# #	# #
25/8/03	# #	# #	# #	# #	# #

KEY

X	Inset days (staff only attend school)
I	Staggered start to September term (Pupil A not required to attend school)
/	Pupil A present (am)
\	Pupil A present (pm)
L	Pupil A in school but arrives late
C	Authorised absence
#	School holidays
CP	Pupil A in school (incorrect symbol used)
C	Excluded (incorrect symbol used)
CS	Pupil A in school (under direct supervision)
CM	Meeting at school
CD	Pupil A at home following discussions with mother and staff member
XH	Christmas holidays
C	Sent home after an incident at school
E	Excluded
E	Excluded (incorrectly recorded)
CH	Pupil A kept at home by his mother
CFT	Pupil A at Farm Trust
CW	Pupil A working with a relative
CF	Pupil A with his father

This is an accurate reproduction of Pupil A's school register, however the key has been changed for ease of reading

Notes