

Exclusion from maintained schools, academies and pupil referral units in England

**A local guide for those with
legal responsibilities in relation to exclusion**

National guidance was updated with effect from 1 September 2017. The main changes are listed below:

	Old Guidance (2012)	New Guidance (2017)
Length	32 pages	61 Pages
Schools		Brings in UTCs
Legislation		1996 Education Act mentioned and “Education ((Provision of Full time Education for excluded pupils)(England)(Amendment)) Regulations 2014
Ages		Applies to pupils under and over school age
Terms		Clarified – school year is 3 terms
Process		Remains unchanged
Governing Bodies		Governing Bodies are now known as the Governing Boards
Page 8		Clarification on when an exclusion starts. Re-iteration that a fixed exclusion cannot be converted into a permanent; a new one will have to be issued. An exclusion decision no longer requires to be from a head or deputy - it can now be anyone who is acting as head e.g. business manager or principal.
Page 9		Clarification on the balance of probabilities
Page11	Statements	EHC Plans
Page 12	Heads must inform of exclusion by post or phone call.	Heads can inform parents of exclusions electronically. Emphasis on starting the 6 th day provision as early as possible.
Page 13		Schools to call parents by phone re: exclusion.
Page 14	Corams can offer legal advice	Corams and ACE can offer legal advice. Traveller and Autism advice are mentioned. These will need to be included on exclusion letters.
Page 15		Clarification that a head must inform the Governors and LA when a PEX follows a FEX

	Old Guidance (2012)	New Guidance (2017)
		(NB conversions are illegal)
Page 16		Clarification that a 6-day provision must come in; whether or not the 6 days comes from one or two consecutive exclusions.
Page 18		Differentiation between maintained and non-maintained schools Governing Board responsibilities. Clarification of a 50-day timescale for review and the need to meet if parents do not request.
Page 19		Clarification about Academy articles
Page 20	Exclusion overturned	Reinstatement
Page 23		Contact details of ACE and Coram's, Traveller Education Services and NAS
Page 25	Headteacher responsible for removing pupil from roll	Governors are now responsible.
Page 31		LA/ academy trust has the responsibility to ensure the clerk follows national advice. Clerk needs to advise parents that they can bring a friend to IRP.
Page 33		Further clarification of SEN expert
Page 35		Clarification of balance of probability
Page 37		Panel to support all to engage. Clarification on decisions that can be made.
Page 38		IRP cannot be affected by parental intention not to return pupil. Public law principles underline the basis of decision. Rules of evidence clarified.
Page 39		Academy trust has a duty to make a payment after quashing clarified.
Page 41		Governing body to be conscientious in reconsidering if ordered. Clarification of timescales and payment.

	Old Guidance (2012)	New Guidance (2017)
Page 43		Clarification of LA in overseeing payments.
Pages 46 - 61		Useful links, none statutory process guides for Head about how to exclude a pupil.

National Guidance regarding Exclusions can be found at:
<https://www.gov.uk/government/publications/school-exclusion>

National Guidance regarding alternative provision can be found at: <https://www.gov.uk/government/publications/alternative-provision>

When should you arrange a Governors Disciplinary meeting?

GB duties toward exclusion reviews (N.B. Lunchtime exclusions count as half a day)

	<=5 days in a term (paragraph 60)	>5days but < 16 days in a term (paragraph 56)	>15 days in a Term (paragraph 55)	Permanent (paragraph 55)	Pupil will miss exam or national curriculum test due to fixed term exclusion (paragraphs 55 & 57)	Decision to refer the student off site, against parental wishes to improve behaviour (paragraph 15)
GB Review	Mandatory on request	Mandatory on request	Mandatory	Mandatory	Mandatory	Recommended
Who can hear the case?	Three Governors	Three Governors	Three Governors	Three Governors	Three Governors or Chair alone or Vice Chair alone.	Three governors
Can parents/carers* request a hearing?	Yes, but they have no right to attend.	Yes	No	No	No	Yes
Who should be invited?	No-one unless GB choose to issue an invitation. Parents can send a letter/report.	1. Pupil 2. Parents/pupil 3. Headteacher 4. Local authority	1. Parents 2. Headteacher 3. LA.	1. Parents 2. Headteacher 3. LA.	Parents, headteacher & LA should be invited but hearing may go ahead in absence if unavoidable.	1. Parents 2. Child 3. Headteacher
Time frame	No time frame	0-50 days after exclusion.	0-15 days after exclusion	0-15 days after exclusion	Before the exam is due but no later than 15 days after exclusion.	Minimum of two days prior to referral offsite
Possible outcomes	Findings may be placed on pupil file. GB cannot direct reinstatement and is not required to meet parents.	Re-instate immediately or on a particular day or uphold (section 66)	Re-instate immediately or on a particular day or uphold (section 66)	Re-instate immediately or on a particular day or uphold (section 66)	Re-instate immediately or on a particular day or uphold (section 66) or allow child to sit exam on site. (section 62)	Governors either agree or refuse. Refer to guidance re Alternative provision.
Information sources for parents	In all cases, parents must be informed that they can get advice from parents in partnership, children's legal centre and local authority inclusion education inclusion team.					
Model letter to be used	Model Letter 1	Model letter 2	Model letter 3	Model letter 4	Model Letter 5	Model Letter 6
Can parent request an independent review?	No	No	No	Yes. Cost to be met by Academy trust or LA. (s.87)	No	No
Redress for discrimination?	In all cases, parents have the right to seek redress for discrimination at First tier tribunal (Special Educational Needs and Disability) or County Court. (section 90). Parents can first go to an independent review panel and subsequently, if they can sustain a discrimination claim, go to First-tier SEND (for disability discrimination) or County Court (for non-disability discrimination). SEND tribunal/County Court can order reinstatement of a permanently excluded child but an IRP cannot.					

*Parents/carers as defined by The Education Act 1996

Day Six Provision

- **Schools are responsible for providing children with full time, suitable education from the sixth day of a fixed exclusion.**
- The local authority is responsible for providing full time education from the sixth day of a permanent exclusion.
- Secondary schools make various arrangements including the Tuition Centre or education within another secondary school. All costs are the responsibility of the school where the pupil is excluded for a fixed period.
- Primary schools are responsible for making arrangements within another school as above or at an alternative provision. Costs are the responsibility of the school.
- Advice can be sought by phoning Pat Vayghan on 020 8227 2652 or Joanne Atkinson on 020 8227 2636

Provision for Looked After Children Excluded from School

- In the extremely rare event of a looked after child being excluded from school, the school is under a duty to secure full-time education from the **first** day.
- The school must inform the Virtual School without delay by phoning Janet Cassford, Virtual Head – Looked After Children on 020 8227 **2584** or Kathy Adams, Business Support Officer on 020 8227 **2691**.
- Looked after children should be fully included in school.
- If the headteacher thinks exclusion could be an option, the school must arrange an urgent review before making the decision and must invite the Virtual School.
- Your inclusion officer can provide advice.
- If the review concludes that there is no other option and decides to exclude **permanently**, the local authority must provide full time education from the first day.

School must urgently contact the Virtual School by phoning Janet Cassford, Virtual Head – Looked After Children on 020 8227 **2584** or Kathy Adams, Business Support Officer on 020 8227 **2691**.

A summary of the governing body's power to direct a pupil off site for the purpose of improving their behaviour

Introduction

Maintained schools have the power to refer a pupil off site for the purpose of improving his or her behaviour. This power is granted under **Section 29A of the Education Act 2002** which states:

The governing body of a maintained school in England may require any registered pupil to attend at any place outside the school premises for the purpose of receiving educational provision which is intended to improve the behaviour of the pupil.

There are also regulations that are applicable. Originally this was the **Education (Educational Provision for Improving Behaviour) (England) Regulations 2010** – this was then amended by the **2012 Regulations**. The explanatory memorandum to the 2010 regulations is very helpful in summarising the powers and duties of the governing body. Paragraph 7.5 provides:

*During the passage of the Education and Skills Act 2008 through Parliament, concerns were raised that the new power would enable governing bodies to remove pupils from the school indefinitely, without regard to the needs of the pupil and whether those needs were being met by the off-site provision. There were particular concerns about the effect this would have on pupils with SEN. **Were the power to be used in this way it could have the effect of a permanent exclusion**, without the governing body having to comply with the statutory exclusions procedures and with the pupils and their parents having no right of appeal.*

Ministers, therefore, agreed to amend the regulations so that safeguards were in place to ensure that the power was not abused. A number of safeguards were introduced to the 2010 Regulations but then amended by the 2012 Regulations. The current safeguards are:

- Governing bodies are the commissioners of off-site education and must ensure that it is suitable.
- At least two days before the imposition of a requirement to be educated off-site, a notice must be provided to the parents and if the pupil has a statement of SEN, also to the LA maintaining a statement. The notice must contain basic information about the requirement – the address of the provision, the amount of time for which it is imposed, and the reasons for imposing the requirement.
- Governing bodies are required to hold review meetings at such intervals as they, having regard to the needs of the pupils, consider appropriate.
- Parents / the LA (where the pupil has a statement) can request a review meeting. On receipt of a request, the governing body **must** carry out a review meeting as soon as is reasonably practicable unless a review has been held in the 10 weeks preceding the request.
- If the school does not act lawfully – then a parent may challenge this via public law remedies, i.e. judicial review at the High Court.
- The school should decide how frequently to meet to consider reviews.
- The use of this power **must be** for the purpose of the pupil receiving education provision which is intended to improve their behaviour. If the power is only being used to educate a pupil off site then this would be unlawful.

Section A: Personal details

Pupil's legal surname:			First name:	
Date of birth:		Gender M/F:	UPN No:	
Address:			ULN No: (if pupil is in Year 9 or above)	
			Postcode:	
Parent/Carer:			Emergency contact details:	
Telephone:				
Mobile:				
School:			Year group:	

Section B – Looked After Children details

Looked After Child	<input type="checkbox"/>	Child in Need	<input type="checkbox"/>	Child Protection	<input type="checkbox"/>
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Responsible authority:			
Contact name/number of responsible officer (virtual school)		Exclusion pack sent	Y / N
Name of social worker:		Exclusion pack sent	Y / N

Section C - SEN details

SEN Status

N – No Special Educational Need	<input type="checkbox"/>	K – School Special Educational Need Support	<input type="checkbox"/>
Q – Under Statutory Assessment	<input type="checkbox"/>	E – Statement /EHC plan	<input type="checkbox"/>

SEN Area of Need

SpLD = Specific Learning Difficulty	<input type="checkbox"/>	MLD = Moderate Learning Difficulty	<input type="checkbox"/>
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SLD = Severe Learning Disability	
SEMHD = Social, Emotional and Mental Health Difficulties	
HI = Hearing Impairment	
MSI = Multi Sensory Impairment	
ASD = Autistic Spectrum Disorder	

PMLD = (Profound & Multiple Learning Difficulties)	
SLCN = Speech, Language & Communication Needs	
VI = Vision Impairment	
PD = Physical Difficulty	

Section D – Exclusion details

Type of exclusion:

Lunchtime	<input type="checkbox"/>	Permanent	<input type="checkbox"/>	Fixed term	<input type="checkbox"/>
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Number of school days missed (Lunch = 0.5 day exclusion)	<input type="text"/>
Will the exclusion affect attendance at any public examinations?	<input type="checkbox"/>
Will the school make suitable arrangements?	<input type="checkbox"/>

Start date of exclusion:	<input type="text"/>	Return date:	<input type="text"/>
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Main reason for exclusion

PP = Physical assault against a pupil Includes fighting, violent behaviour, wounding, obstruction and jostling.	<input type="checkbox"/>	PA = Physical assault against an adult Includes violent behaviour, wounding, obstruction and jostling.	<input type="checkbox"/>
VP = Verbal abuse/threatening behaviour against a pupil Includes threatened violence, aggressive behaviour, swearing, homophobic abuse and harassment, verbal intimidation and carrying an offensive weapon.	<input type="checkbox"/>	VA = Verbal abuse/threatening behaviour against an adult Includes threatened violence, aggressive behaviour, swearing, homophobic abuse and harassment, verbal intimidation and carrying an offensive weapon.	<input type="checkbox"/>
BU = Bullying Includes verbal, physical and homophobic bullying.	<input type="checkbox"/>	RA – Racist abuse Includes racist taunting and harassment, derogatory racist statements, swearing that can be attributed to racist characteristics, racist bullying and racist graffiti.	<input type="checkbox"/>
SM = Sexual misconduct Includes sexual abuse, sexual assault, sexual harassment, lewd behaviour, sexual bullying and sexual graffiti.	<input type="checkbox"/>	DA = Drug and alcohol related Includes possession of illegal drugs, inappropriate use of prescribed drugs, drug dealing, smoking, alcohol/substance abuse.	<input type="checkbox"/>
DM = Damage Includes damage to school or personal property belonging to any member of the school community, vandalism, arson and graffiti.	<input type="checkbox"/>	TH = Theft Includes stealing school property, stealing personal property(from an adult or pupil), stealing from shops and other establishments on a school outing, selling and dealing in stolen property.	<input type="checkbox"/>
PDB = Persistent disruptive behaviour Includes challenging behaviour, disobedience and persistent violation of school rules.	<input type="checkbox"/>	Other Includes incidents which are not covered by the categories above. This category should be used sparingly.	<input type="checkbox"/>

Serious incident form completed

Yes / No (delete as applicable)

Section E: Additional information

Free school meals start date			
Mode of travel (walk, bus, car etc)			
Have you attached 12 weeks' attendance history?		Y / N	
Have you attached the parental exclusion letter?		Y / N	
If the exclusion requires 6th day provision, have you notified the tuition provider directly?		Y / N	
Medical conditions			
Name of doctor		Surgery tel. no.	

Section F – Pupil's ethnicity

Bangladeshi	
Indian	
Pakistani	
Any other Asian background	
Black African	
Black Caribbean	
Any other Black background	
Chinese	
White and Asian	

White and Black African	
White and Black Caribbean	
Any other mixed background	
White British	
Irish	
Traveller of Irish heritage	
Any other White background	
Any other ethnic group	

Nationality: Religion:

Language:

Signature: Headteacher Date:

Please send a copy to your day 6 provider and return to David Botterill, School Improvement Service,
5th Floor, Roycraft House, 15 Linton Road, Barking, IG11 8HE.
david.botterill@lbbd.gov.uk

Model Exclusion Letters

Model letter 1: Notifying a parent of a fixed term exclusion of five days or less in one term and where a public examination is not missed.

Dear **[Parent/Carer]**

I have decided to exclude **[child's name]** for a fixed period of **[specify period]**. This means that **[he/she]** will not be allowed in school between **[date]** and **[date]** but should return to school on **[date]**.

I realise that this exclusion may well be upsetting for you, but please be assured that I have not taken this decision lightly. **[Child's name]** has been excluded for this fixed period because **[reason(s)]**.

Either

[You have a duty to ensure that your child is not present in a public place during school hours unless there is reasonable justification for this. If your child is present in a public place during school hours within the specified dates and without reasonable justification, you may be prosecuted or receive a penalty notice from the local authority. We will set school work for **[child's name]** to be completed on the days specified above. You will be able to collect this on **[date]** from **[details of how to collect]**. Please ensure that the work is completed and returned to us promptly for marking.]

Or

[[Child's name] is a child in care and must receive full time education from the first day of exclusion. Therefore, I have arranged for **[him/her]** to report with you to **[contact details – name, address, phone number, email]** on **[date]** at **[time]**.

You have the right to make representations about my decision to the governing body by contacting **[name]** at **[contact details — address, phone number, email]**. The governing body has no power to direct reinstatement. However, they must consider your representations and may place a copy of their findings on your child's school record.

You and your child are advised to attend a reintegration interview at **[place]** on **[date]** at **[time]**. If this is not convenient, please contact the school to arrange an alternative date and time. The purpose is to discuss how we can manage your child's return to school.

Please let me know if you have a disability or special need which would affect your ability to attend or take part. Please inform me if you require an interpreter. **[Child's name]**'s exclusion expires on **[date]** and we expect **[child's name]** to be back in school on **[date]** at **[time]**.

You should also be aware that if you think the exclusion relates to your child's disability, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability). You can contact them online at <https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability> or you may approach the County Court if you feel discrimination has occurred for another reason.

You also have the right to see a copy of your child's school record. Due to confidentiality restrictions, you need to notify me in writing if you wish to be supplied with a copy.

You can find statutory guidance regarding your child's exclusion online at <https://www.gov.uk/government/publications/school-exclusion>. You may also find it useful to contact Coram Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on **0300 330 5485** or by going online at <http://www.childlawadvice.org.uk>. Alternatively, you can contact ACE Education online at <http://www.ace-ed.org.uk> and their limited advice line service on **03000 115 142** on Monday to Wednesday from 10 am to 1 pm during term time).

If your child has special educational needs, then a local, independent service is also available to advise you. The service is provided by Carers of Barking and Dagenham (Information Advice Support Service (IASS)), 334 Heathway, Dagenham, RM10 8NJ – Phone: **020 8593 4422** – email: carers@carerscentre.org.uk – Online: <https://www.carers.org/local-service/barking> or <https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network/about>. You may also wish to contact the National Autistic Society (NAS) School Exclusion Service (England) on 0808 800 4002 or schoolexclusions@nas.org.uk, or Independent Parental Special Education Advice online at <http://www.ipsea.org.uk/>.

Yours sincerely
[Name]
Headteacher

Model letter 2: Notifying a parent of a fixed period exclusion of more than five days but fewer than 16 days in a term, no public examination missed.

Dear **[Parent]**

I have decided to exclude **[child's name]** for a fixed period of **[specify period]**. This means that **[he/she]** will not be allowed in school between **[date]** and **[date]** but should return to school on **[date]**.

I realise that this exclusion may well be upsetting for you, but please be assured that I have not taken this decision lightly. **[Child's name]** has been excluded for this fixed period because **[reason(s)]**.

Either

[You have a duty to ensure that your child is not present in a public place during school hours unless there is reasonable justification for this. If your child is present in a public place during school hours within the specified dates and without reasonable justification, you may be prosecuted or receive a penalty notice from the local authority. We will set school work for **[child's name]** to be completed on the days specified above. You will be able to collect this on **[date]** from **[details of how to collect]**. Please ensure that the work is completed and returned to us promptly for marking.

From **[date of 6th day]** until the expiry of the exclusion I have arranged for your child to attend full-time education at **[name, address, telephone number, email]**

Or

[[Child's name] is a child in care and must receive full time education from the first day of exclusion. Therefore, I have arranged for **[him/her]** to report with you to **[contact details – name, address, phone number, email]** on **[date]** at **[time]**.

You have the right to contact the school to request a meeting of the governing body, which you may attend, to review my decision. As this exclusion is for more than five school days in a term, should you request it, the governing body must meet within 50 school days of the beginning of the exclusion; you may attend and be accompanied by a friend or representative. If you do wish to make representations or be accompanied, please contact **[name]** at **[address, phone number, email]** as soon as possible.

You and your child are advised to attend a reintegration interview at **[place]** on **[date]** at **[time]**. If this is not convenient, please contact the school to arrange an alternative date and time. The purpose is to discuss how we can manage your child's return to school.

Please let me know if you have a disability or special need which would affect your ability to attend or take part. Please inform me if you require an interpreter. **[Child's name]**'s exclusion expires on **[date]** and we expect **[child's name]** to be back in school on **[date]** at **[time]**.

You should also be aware that if you think the exclusion relates to your child's disability, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability). You can contact them online at <https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability> or you may approach the County Court if you feel discrimination has occurred for another reason.

You also have the right to see a copy of your child's school record. Due to confidentiality restrictions, you need to notify me in writing if you wish to be supplied with a copy.

You can find statutory guidance regarding your child's exclusion online at <https://www.gov.uk/government/publications/school-exclusion>.

You may also find it useful to contact Coram Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on **0300 330 5485** or by going online at <http://www.childlawadvice.org.uk>. Alternatively, you can contact ACE Education online at <http://www.ace-ed.org.uk> and their limited advice line service on **03000 115 142** on Monday to Wednesday from 10 am to 1 pm during term time).

If your child has special educational needs, then a local, independent service is also available to advise you. The service is provided by Carers of Barking and Dagenham (Information Advice Support Service (IASS)), 334 Heathway, Dagenham, RM10 8NJ – Phone: **020 8593 4422** – email: carers@carerscentre.org.uk – Online: <https://www.carers.org/local-service/barking> or <https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network/about>. You may also wish to contact the National Autistic Society (NAS) School Exclusion Service (England) on 0808 800 4002 or schoolexclusions@nas.org.uk, or Independent Parental Special Education Advice online at <http://www.ipsea.org.uk/>.

Yours sincerely
[Name]
Headteacher

Model letter 3: Notifying a parent of a fixed period exclusion of more than 15 school days in total in one term

Dear **[Parent]**

I have decided to exclude **[child's name]** for a fixed period of **[specify period]**. This means that **[he/she]** will not be allowed in school between **[date]** and **[date]** but should return to school on **[date]**.

I realise that this exclusion may well be upsetting for you, but please be assured that I have not taken this decision lightly. **[Child's name]** has been excluded for this fixed period because **[reason(s)]**.

Either

[You have a duty to ensure that your child is not present in a public place during school hours unless there is reasonable justification for this. If your child is present in a public place during school hours within the specified dates and without reasonable justification, you may be prosecuted or receive a penalty notice from the local authority. We will set school work for **[child's name]** to be completed on the days specified above. You will be able to collect this on **[date]** from **[details of how to collect]**. Please ensure that the work is completed and returned to us promptly for marking.

From **[date of 6th day]** until the expiry of the exclusion I have arranged for your child to attend full-time education at **[name, address, telephone number, email]**

Or

[[Child's name] is a child in care and must receive full time education from the first day of exclusion. Therefore, I have arranged for **[him/her]** to report with you to **[contact details – name, address, phone number, email]** on **[date]** at **[time]**.

As the length of the exclusion is more than 15 school days in one term the governing body must meet to consider the exclusion. At this meeting you may make representations. The latest date on which the governing body can meet is **[date here — no later than 15 school days from the date the governing body is notified]**. If you wish to make representations you may be accompanied by a friend or representative. Please contact **[name of contact]** on/at **[contact details — address, phone number, email]**, if this is the case. The Clerk will inform you of the time, date and location of the meeting.

You and your child are advised to attend a reintegration interview at **[place]** on **[date]** at **[time]**. If this is not convenient, please contact the school to arrange an alternative date and time. The purpose is to discuss how we can manage your child's return to school.

Please let me know if you have a disability or special need which would affect your ability to attend or take part at either meeting. Please inform me if you require an interpreter. **[Child's name]**'s exclusion expires on **[date]** and we expect **[child's name]** to be back in school on **[date]** at **[time]**.

You should also be aware that if you think the exclusion relates to your child's disability, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability). You can contact them online at <https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability> or you may approach the County Court if you feel discrimination has occurred for another reason.

You also have the right to see a copy of your child's school record. Due to confidentiality restrictions, you need to notify me in writing if you wish to be supplied with a copy.

You can find statutory guidance regarding your child's exclusion online at <https://www.gov.uk/government/publications/school-exclusion>. You may also find it useful to contact Coram Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on **0300 330 5485** or by going online at <http://www.childlawadvice.org.uk>. Alternatively, you can contact ACE Education online at <http://www.ace-ed.org.uk> and their limited advice line service on **03000 115 142** on Monday to Wednesday from 10 am to 1 pm during term time).

If your child has special educational needs, then a local, independent service is also available to advise you. The service is provided by Carers of Barking and Dagenham (Information Advice Support Service (IASS)), 334 Heathway, Dagenham, RM10 8NJ – Phone: **020 8593 4422** – email: carers@carerscentre.org.uk – Online: <https://www.carers.org/local-service/barking> or <https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network/about>. You may also wish to contact the National Autistic Society (NAS) School Exclusion Service (England) on 0808 800 4002 or schoolexclusions@nas.org.uk, or Independent Parental Special Education Advice online at <http://www.ipsea.org.uk/>.

Yours sincerely
[Name]
Headteacher

Model letter 4: Permanent exclusion

Dear **[Parent's Name]**

I have decided to permanently exclude **[child's name]** from school. This means that **[he/she]** will not be allowed in school from **[date]** unless **[he/she]** is reinstated by the governing body.

I realise that this exclusion may well be upsetting for you. Please be assured that I have not taken this decision lightly. **[Child's name]** has been permanently excluded because **[reason(s)]**.

Either

[You have a duty to ensure that your child is not present in a public place in school hours unless there is reasonable justification for this. You may be prosecuted or receive a penalty notice from the local authority if your child is present in a public place during school hours on the specified dates. If so, it will be for you to show reasonable justification.

For the first five days we will set work for **[Child's Name]** which you will be able to collect on **[date]**. Please ensure it is completed and returned to us promptly for marking.

From **[date of 6th day]** until the expiry of the exclusion the Local Authority has arranged for your child to attend full-time education at **[name, address, telephone number, email]**

Or

[[Child's name] is a child in care and must receive full time education from the first day of exclusion. Therefore, the Local Authority will arrange for **[him/her]** to report with you to **[contact details – name, address, phone number, email]** on **[date]** at **[time]**.

As this is a permanent exclusion the governing body must meet to consider my decision. You may make representations at the review meeting. The governing body may reinstate your child immediately or from a specified date. Alternatively, they have the power to uphold my decision, in which case you can request that the exclusion is reviewed by an Independent Review Panel.

The latest date on which the governing body can meet is **[date here — no later than 15 school days from the date the governing body is notified]**. If you wish to make representations, you may be accompanied by a friend or representative. Please contact **[name of contact]** at **[contact details — address, phone number, email]**, if this is the case. The Clerk will inform you of the time, date and location of the meeting, whether or not you choose to make representation.

Please let me know if you have a disability or special need which would affect your ability to attend or take part. Please inform us if you need an interpreter.

You should also be aware that if you think the exclusion relates to your child's disability, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability). You can contact them online at <https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability> or you may approach the County Court if you feel discrimination has occurred for another reason.

You also have the right to see a copy of your child's school record. Due to confidentiality restrictions, you need to notify me in writing if you wish to be supplied with a copy.

You can find statutory guidance regarding your child's exclusion online at <https://www.gov.uk/government/publications/school-exclusion>.

You may also find it useful to contact Coram Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on **0300 330 5485** or by going online at <http://www.childlawadvice.org.uk>. Alternatively, you can contact ACE Education online at <http://www.ace-ed.org.uk> and their limited advice line service on **03000 115 142** on Monday to Wednesday from 10 am to 1 pm during term time).

If your child has special educational needs, then a local, independent service is also available to advise you. The service is provided by Carers of Barking and Dagenham (Information Advice Support Service (IASS)), 334 Heathway, Dagenham, RM10 8NJ – Phone: **020 8593 4422** – email: carers@carerscentre.org.uk – Online: <https://www.carers.org/local-service/barking> or <https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network/about>. You may also wish to contact the National Autistic Society (NAS) School Exclusion Service (England) on 0808 800 4002 or schoolexclusions@nas.org.uk, or Independent Parental Special Education Advice online at <http://www.ipsea.org.uk/>.

Yours sincerely
[Name]
Headteacher

Model letter 5: Fixed period exclusion during which a public examination or National Curriculum test is due.

Dear **[Parent]**

I have decided to exclude **[child's name]** for a fixed period of **[specify period]**. This means that **[he/she]** will not be allowed in school between **[date]** and **[date]** but should return to school on **[date]**.

I realise that this exclusion may well be upsetting for you, but please be assured that I have not taken this decision lightly. **[Child's name]** has been excluded for this fixed period because **[reason(s)]**.

Either

[You have a duty to ensure that your child is not present in a public place during school hours unless there is reasonable justification for this. If your child is present in a public place during school hours within the specified dates and without reasonable justification, you may be prosecuted or receive a penalty notice from the local authority. We will set school work for **[child's name]** to be completed on the days specified above. You will be able to collect this on **[date]** from **[details of how to collect]**. Please ensure that the work is completed and returned to us promptly for marking.]

If more than 5 days

[From **[date of 6th day]** until the expiry of the exclusion I have arranged for your child to attend full-time education at **[name, address, telephone number, email]**

Or

[[Child's name] is a child in care and must receive full time education from the first day of exclusion. Therefore, I have arranged for **[him/her]** to report with you to **[contact details – name, address, phone number, email]** on **[date]** at **[time]**.

As **[child's name]** is due to sit a public examination during the exclusion period, the governing body must meet to consider the exclusion. Whilst there is no automatic right for an excluded pupil to take an examination or test on the excluding school's premises, the governing body should consider whether it would be appropriate to exercise their discretion to allow an excluded pupil on the premises for the sole purpose of taking the examination or test. At the review meeting you may make representations to the governing body and you may bring a friend or representative. Please contact **[name of contact]** at **[contact details — address, phone number, email]** if you wish to do this.

The governing body must meet before **[date] — before the examination and no later than 15 school days from the date the governing body is notified**, before the examination. If the full governing body cannot meet, the chair or vice chair may consider this situation. Therefore, if you are unable to attend, the meeting will go ahead in your absence. The Clerk will inform you of the time, date and location of the meeting.

You and your child are advised to attend a reintegration interview at **[place]** on **[date]** at **[time]**. If this is not convenient, please contact the school to arrange an alternative date and time. The purpose is to discuss how we can manage your child's return to school.

Please let me know if you have a disability or special need which would affect your ability to attend or take part in either meeting. Please inform me if you require an interpreter at either meeting. **[Child's name]**'s exclusion expires on **[date]** and we expect **[child's name]** to be back in school on **[date]** at **[time]**.

You should also be aware that if you think the exclusion relates to your child's disability, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability). You can contact them online at <https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability> or you may approach the County Court if you feel discrimination has occurred for another reason.

You also have the right to see a copy of your child's school record. Due to confidentiality restrictions, you need to notify me in writing if you wish to be supplied with a copy.

You can find statutory guidance regarding your child's exclusion online at <https://www.gov.uk/government/publications/school-exclusion>.

You may also find it useful to contact Coram Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on **0300 330 5485** or by going online at <http://www.childlawadvice.org.uk>. Alternatively, you can contact ACE Education online at <http://www.ace-ed.org.uk> and their limited advice line service on **03000 115 142** on Monday to Wednesday from 10 am to 1 pm during term time).

If your child has special educational needs, then a local, independent service is also available to advise you. The service is provided by Carers of Barking and Dagenham (Information Advice Support Service (IASS)), 334 Heathway, Dagenham, RM10 8NJ – Phone: **020 8593 4422** – email: carers@carerscentre.org.uk – Online: <https://www.carers.org/local-service/barking> or <https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network/about>. You may also wish to contact the National Autistic Society (NAS) School Exclusion Service (England) on 0808 800 4002 or schoolexclusions@nas.org.uk, or Independent Parental Special Education Advice online at <http://www.ipsea.org.uk/>.

Yours sincerely
[Name]
Headteacher

Model letter 6: Notifying a parent (and local authority in the case of a child subject to an EHC plan or statement of SEN) of a decision to refer a pupil to an alternative provision for the purpose of improving behaviour. (To be sent not less than two days before the start of the placement.)

Dear **[relevant person]** **[Director of Children's Services]**

I have decided to refer **[child's name]** to an alternative provision for the purpose of improving **[his/her]** behaviour for a period of **[specify period]** days. This means that **[he/she]** will not be allowed in school between **[date]** and **[date]** but should return to school on **[date]**.

From **[date]** until the expiry of the referral period I have arranged for your child to attend full-time education at **[name, address, telephone, email]**. You should report to **[name of person]** who will meet you at **[time]** at **[part of provision]**. For the initial period of time, I have agreed an integration programme as follows **[integration programme]**; thereafter the morning session commences at **[time]** and the afternoon session finishes at **[time]**. The provision has breaks at **[times]** for **[length of time]**.

I realise that this referral may well be upsetting for you. Please be assured that I have not taken this decision lightly. **[Child's name]** has been referred off site for this fixed period because **[reason(s)]**. During this time your child needs to improve behaviour and reach the following objectives: **[list the behaviour objectives here]**.

You have a duty to ensure that your child attends this provision unless an absence is authorised. You may be prosecuted or receive a penalty notice from the local authority if your child is absent.

The governing body has a duty to keep this matter under review and have therefore agreed to review the case on **[dates]** at **[times]** at **[venues]**. The provider will produce a written report. However, you **[or the local authority]** have the right to request a review meeting by writing to me at **[address]** and the governing body must organise this unless a meeting has been held in the last 10 weeks.

Please let me know if you have a disability or special need which would affect your ability to attend or take part. Please inform me if you require an interpreter. **[Child's name]**'s referral expires on **[date]** and we expect **[child's name]** to be back in school on **[date]** at **[time]**.

You should also be aware that if you think the offsite referral relates to your child's disability, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability). You can contact them online at <https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability> or you may approach the County Court if you feel discrimination has occurred for another reason.

You also have the right to see a copy of your child's school record. Due to confidentiality restrictions, you need to notify me in writing if you wish to be supplied with a copy.

You can find statutory guidance regarding your child's offsite referral online at <https://www.gov.uk/government/publications/alternative-provision>.

You may also find it useful to contact Coram Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on **0300 330 5485** or by going online at <http://www.childlawadvice.org.uk>. Alternatively, you can contact ACE Education online at <http://www.ace-ed.org.uk> and their limited advice line service on **03000 115 142** on Monday to Wednesday from 10 am to 1 pm during term time).

If your child has special educational needs, then a local, independent service is also available to advise you. The service is provided by Carers of Barking and Dagenham (Information Advice Support Service (IASS)), 334 Heathway, Dagenham, RM10 8NJ – Phone: **020 8593 4422** – email: carers@carerscentre.org.uk – Online: <https://www.carers.org/local-service/barking> or <https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network/about>. You may also wish to contact the National Autistic Society (NAS) School Exclusion Service (England) on 0808 800 4002 or schoolexclusions@nas.org.uk, or Independent Parental Special Education Advice online at <http://www.ipsea.org.uk/>.

Yours sincerely

[Name]

Chair of Governors

Annex E - Agreement re: the Servicing of Permanent Exclusion Hearings by Independent Clerks on behalf of Governing Body Disciplinary Committees

1. Participating Clerks

1.1 Listed below are the contact details of the participating clerk/s. These details should not be shared with parents / guardians or any other unauthorised person / organisation.

- **Ms. Pat Brown** - Tel. 01708 229880 (h), 07885 419818 (m);
email: pat.brown@talk21.com;
address: 171 Howard Road, Upminster, RM14 2UQ.

2. General Issues

2.1 In this document, reference to the Governing Body Disciplinary Committee (GBDC) includes any services provided on its behalf by employees of the school.

2.2 The service provided by independent clerks is on behalf of the GBDC only. It is permissible for the clerk to advise the school / headteacher of any procedural matters in relation to the GBDC hearing.

3. Outline of Service provided by Clerks

3.1 Clerks will provide the following services, as required, under this agreement:

- a) Advise on any procedural aspects relating to the permanent exclusion, as requested / required by the GBDC.
- b) Check any letters to parent/guardian of excluded pupil regarding the GBDC hearing, as requested / required by the school.
- c) Advise the school on the paperwork to be submitted to the GBDC, as requested / required by the school.
- d) Attend the GBDC hearing, be responsible for the smooth running of the hearing, take contemporaneous notes and give advice to the GBDC on procedural matters as appropriate.
- e) Prepare and send the decision letter on behalf of the GBDC to the parent, headteacher and local authority within one school day of the hearing. (**Note:** the school must provide the clerk with letter headed paper.)
- f) Provide the GBDC with the typed minutes of the hearing within five school days of the hearing.

4. General Arrangements

4.1 Following the headteacher's decision to permanently exclude a pupil(s), arrangements will be made on behalf of the GBDC for the following (this will typically be by a member of staff at the school for ease of administration):

- Convene a meeting of the GBDC and make all necessary arrangements for the hearing (e.g. room booking, refreshments etc.)

- Contact a clerk from the list above to ascertain their acceptance of appointment in respect of the case and availability to attend a GBDC hearing.
 - Confirm the clerk's appointment in writing.
 - Write to the parent confirming the arrangements for the GBDC hearing.
 - Collate and distribute all documentation relating to the GBDC hearing to all relevant parties (i.e. the GBDC Members, parent, clerk, headteacher) within the timescales stipulated in the statutory Guidance.
- 4.2 Following the clerk's appointment, he/she will provide the services referred to in Section 3 above and be entitled to the appropriate fee in accordance with the fee structure outlined in Section 5 below.
- 4.3 These arrangements will also apply to any re-hearings necessary as a result of an Independent Review Panel (a) recommending that the GBDC reconsiders its decision; or (b) quashing the decision and directing the GBDC to consider the exclusion again. The same Clerk should be used for the re-hearing unless he/she is unavailable.

5. Financial Arrangements

5.1 Clerk's fees for the service will be as follows: -

- Single permanent exclusion for full service described in Section 3 above - £280 plus £25 expenses (to cover travelling, printing, postage and other incidental costs).
 - Multiple permanent exclusions for full service described in Section 3 above - £150 per additional child.
 - Each additional day(s) required in respect of any single or multiple cases (related to the same incident) for full service described in Section 3 above - £180 plus £25 expenses.
 - For cases where a clerk is appointed and performs any of the duties described in (a) to (c) of Section 3 but, for whatever reason, the case does not progress to a GBDC hearing - £100.
- 5.2 For the avoidance of doubt, in the event that a clerk is appointed but is not required to perform any of the duties described in a) to c) of Section 3, no fee will be payable.
- 5.3 The same fee structure will apply to re-hearings referred to in paragraph 4.3 above.
- 5.4 From 1 September 2013, schools shall be responsible for the payment of any services provided under this Agreement and clerks shall invoice schools directly. Schools will be responsible for ensuring that invoices are paid within 28 days of receipt.

Annex F - Consideration to be given to assembling the evidence pack

PERMANENT EXCLUSION

The meeting of the Governing Body Discipline Committee (GBDC) must be held within 15 school days of receiving notice of the permanent exclusion.

The letter confirming the date and time of the meeting together with the following paperwork should be sent out to all parties at least five school days before the GBDC meeting:

1. Cover sheet – title, date, time, venue, reason for exclusion, attendance list, agenda and possible outcomes (See annex G)
2. The letter notifying the parents of the permanent exclusion – This is included because it sets out the reason for the permanent exclusion, as no new grounds can be brought in.
3. Report of incident / reason for permanent exclusion and witness statements (including any statements from the excluded pupil and other pupils and staff relating to the incident that led to the permanent exclusion). All statements must be signed and dated. However, if it is felt students' names should be blocked out to protect them, it is acceptable to photocopy or type up the statements and retain the originals in the school records.
4. If the excluded pupil is not attending, opportunity should be given for the pupil to submit documentation to ensure his/her views are available by other means.
5. The permanently excluded student's school record, especially when the record has been stipulated as a contributing factor for the permanent exclusion. This should also include the strategies that had been put in place to support the permanently excluded pupil and improve his/her behaviour prior to the permanent exclusion. Positive outcomes to support should also be noted.
6. Information regarding any SEN issues.
7. If there is an Individual Education Plan this will include the pupil's difficulties, the school's strategies, support and reviews, and information on other services involved.
8. A pastoral support programme which may include the involvement of other agencies for pupils who have been, or are at risk of being, permanently excluded.
9. Attendance records.
10. Any other relevant documentation.

As the permanent exclusion has been in breach of the school's behaviour policy, this must be made available for all parties or reference to where it is available, such as the school's website.

The permanent exclusion by the Head and the GBDC meeting must be applied against the following:

- (a) In response to a serious breach, or persistent breaches of the school's behaviour policy; and,
- (b) where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

Annex G – Practical notes regarding the role of the Governors’ Discipline Committee Meeting

The role of the Governors’ Discipline Committee is to act as another ‘set of eyes’ to review the headteacher’s decision to exclude. Exclusions are very serious and the governors will review whether the exclusion has been carried out correctly and takes account of the needs of the pupil. They are not a rubber stamping body.

The following people will attend the meeting:

- The governors, one of whom will act as Chair of the Committee. The committee must be quorate (i.e. there must be a minimum of three governors and maximum of five).
- An independent clerk to take notes and advise on procedure.
- A local authority representative (in the case of a maintained school only).
- The headteacher and/or a senior member of staff.
- The parents or carers – they can be accompanied by a friend or advocate/adviser at the meeting for support.
- The pupil who has been permanently excluded unless they are very young or there are strong reasons against them attending. It is important that the pupil is given every opportunity to have their say.
- Witnesses may be called to give evidence but do not normally remain for the full meeting.

The meeting will follow a clear agenda which gives everyone an opportunity to have their say. The agenda for the meeting will be as follows: -

- Welcome and introductions.
- The reason for the permanent exclusion as set out in the notification letter to the parent/carer confirming the permanent exclusion.
- Headteacher’s or nominated representative’s presentation.
- Questions by the parents and governors.
- Parents’ representation.
- Questions by the headteacher and governors.
- Local authority’s statement (for permanent exclusions).
- Summing up by the school; and
- summing up by the parents.

A letter will be sent to Parents by first class post setting out the Governors’ decision as soon as possible, usually within one school day.

At the conclusion of the meeting, the Chair will ask all parties, except the Clerk, to leave. The Clerk will remain with Governors to make notes of their discussions and decision.

GBDC DECISION

The GBDC must consider, on a balance of probability:

- whether the pupil did what he/she is alleged to have done and what behaviour policies were not followed;
- whether the correct procedures and timescales have been adhered to by the Headteacher;
- if the pupil has been excluded for behaviour outside school, this has to be included in the behaviour policy, referring to wearing the school uniform when the incident took place, i.e. impacting on the reputation of the school community
- the seriousness of the incident, and the appropriateness of the length of the sanction;

- the likelihood of the incident being repeated if the pupil was allowed to return;
- the fairness of the exclusion in relation to any other pupils involved in the same incident;
- any relevant previous misbehaviour;
- the support provided by the school and for how long it was provided;
- parental involvement;
- any special educational needs and disabilities the pupil may have;
- any mitigating circumstances (e.g. being bullied, close family bereavement);
- that the school's behaviour policy states that permanent exclusion is a possible consequence of behaviour such as that alleged;
- how the school's discipline policy is disseminated to pupils and parents.

The GBDC's decision will be to

- **uphold** the exclusion if it agrees with the headteacher's decision; or
- **allow the pupil to return to school** immediately or on an agreed date.

A decision to exclude a pupil permanently should only be taken under the following circumstances:

- a) in response to serious and/or persistent breaches of the school's behaviour policy; and,
- b) if allowing the pupil to remain in school would seriously harm the education or welfare of the pupils or others in the school.