



Exclusion Best Practice Guidance

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1. Introduction and Legal Context

- 1.1. This best practice guidance sets out our expectations for all our academies in ensuring we are compliant with legislation governing the exclusion of pupils and in relation to our statutory duties relating to this.
- 1.2. It should be read in conjunction with, and not in place of, statutory guidance from the Department for Education (2017):
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/630073/Exclusion_from_maintained_schools_academies_and_pupil_referral_units_guidance.pdf, which provides a guide to the legislation that governs exclusions, and in conjunction with the Trust's *Behaviour Best Practice Guidance* (2017).
- 1.3. "Inclusion is a journey with a clear direction and purpose: equality of opportunity for all children and young people." (Council for Disabled Children, 2008)
- 1.4. Inclusion is a term used to describe the process of ensuring equality of learning opportunities for all children and young people. It is a process of identifying, understanding and breaking down barriers to participation and belonging. Inclusion is about the quality of their experience; how they are helped to learn, achieve and participate fully in the life of the academy.
- 1.5. Inclusion focuses particularly on those groups of children who have historically been marginalised or who have underachieved. Inclusion does not mean that all learners necessarily learn in the same way or together, but that practices are adapted to take account of all learners' needs.
- 1.6. Educational inclusion is about equal opportunities for all learners, whatever their age, gender, ethnicity, impairment, attainment and background. All children, including those identified as having special educational needs and / or disabilities have the same common entitlement to a broad and balanced academic and social curriculum, which is accessible to them, and enables them to be fully included in all aspects of academy life.
- 1.7. All academies must operate in accordance with the law as set out in the following:
 - Section 51A of the Education Act 2002, as inserted by the Education Act 2011
 - The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
 - Sections 100 to 108 of the Education and Inspections Act 2006
 - Exclusion from Maintained Schools, Academies and Pupil Referral Units in England: Statutory Guidance for those with legal responsibilities in relation to exclusion (2017)
 - The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by Regulations 2014
- 1.8. Under the [Equality Act \(2010\)](#) academies must not discriminate against, harass or victimise pupils because of their: gender, race, disability, social background, religion or belief, or sexual orientation; because of a pregnancy / maternity; or because of a gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices.



2. Equality and Inclusion

- 2.1. All learners should be equally valued in school. The Equality and Human Rights Commission (EHRC) states that “avoiding discrimination and promoting equality supports the agenda of improving attainment and progression for all pupils. Good education and skills are crucial for opening up opportunities and increasing the change of a successful life. In addition, in England, equality and diversity are specified factors that must be considered in Ofsted inspections.
- 2.2. Academies also have wider duties to prevent discrimination, to promote equality and to foster good relations for “an equal society protects and promotes equal, real freedom and substantive opportunity to live in the ways people value and would choose, so that everyone can flourish. An equal society recognises people’s different needs, situations and goals and removes the barriers that limit what people can do and can be.” (EHRC, 2014)

3. A Trust Approach to Exclusion

- 3.1. The vision for Inclusion across the Trust reiterates the Astrea mission, acknowledging that an exceptional education will provide a rich and empowering experience which produces success through wider and academic outcomes and where ‘success’ is defined in terms of the individual learner.
- 3.2. In accordance with DfE statutory guidance (2017) it is the case that where an academy has concerns about a pupil’s behaviour, it should try to identify whether there are any causal factors and intervene early, in order to reduce the need for a subsequent exclusion.
- 3.3. Whilst the Trust supports the decisions of Principals to ensure good discipline which benefits the learning opportunities presented, as per section 3 of DfE (2017), it is expected that exclusion should be a ‘last resort’ and where evidence presented confirms it as “lawful, reasonable and fair”.¹
- 3.4. Any decision of an academy, including exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful (with respect to the legislation relating directly to exclusions and an academy’s wider legal duties, including the European Convention on Human Rights and the Equality Act, 2010); rational; reasonable; fair; and proportionate.
- 3.5. See DfE (2017) Appendix B (A non-statutory guide for head teachers) for a simple overview of exclusion processes, to ensure appropriate processes and procedures are currently in place at academy level.

4. Unlawful Exclusions

- 4.1 As is made clear within the DfE (2017) guidance, “it is unlawful to exclude for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment/ability; the action of a pupil’s parents; or the failure of a pupil to meet specific conditions before they are reinstated, such as to attend a reintegration meeting. However, a pupil who repeatedly disobeys their teachers’ academic instructions could, be subject to exclusion.”

¹ DfE (2017) Exclusion from Maintained Schools, Academies and Pupil Referral Units in England: Statutory guidance for those with legal responsibilities in relation to exclusion



- 4.2 “‘Informal’ or ‘unofficial’ exclusions, such as sending a pupil home to ‘cool off’, are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for short periods of time, must be formally recorded.” (DfE, 2017)
- 4.3 As a rule, academies are “not permitted to place a pupil on a **part-time timetable**. In very exceptional circumstances there may be a need for a temporary part-time timetable to meet a pupil’s individual needs. A part-time timetable must not be treated as a long-term solution”². (DfE, 2016)
- 4.4 There is “widespread lack of awareness and understanding of the law regarding exclusions...**placing challenging pupils on part-time timetables**...with the remainder of time spent at home **(is) also recognised as an unofficial means of exclusion**.”³
- 4.5 Ofsted will record any information received on illegal exclusions as part of its monitoring data on academies; “if inspectors find that a school is using part-time timetables for a student, they will ask the school to show them the time-limited plan to enable the student to be re-integrated quickly to full-time education and evidence of the plan’s success.”⁴ (Ofsted, 2014)
- 4.6 Academies should be aware that “the law does not allow for extending a fixed period exclusion or ‘converting’ a fixed period exclusion into a permanent exclusion”. (DfE, 2017)

5. Monitoring Fixed Period Exclusions – Guidance for Academies

- 5.1 The Principal must, without delay, notify the governing body, the Trust and the local authority of:
- Any permanent exclusion (including where a fixed-period exclusion is followed by a decision to permanently exclude the pupil);
 - Any exclusion which would result in the pupil being excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and
 - Any exclusion which would result in the pupil missing a public examination or national curriculum test.
- 5.2 This is in accordance with Section 51A of the Education Act (2002) and regulations made under that section.
- 5.3 The Principal must also notify the local authority, the Trust and the governing body once per term of any other exclusions not already noted.
- 5.4 As the regulatory body, the Trust is responsible for monitoring the frequency of fixed term and permanent exclusions across all academies.
- 5.5 **It is therefore a requirement for all academies to complete the ‘Notification of Fixed-Term Exclusion’, as per appendix 1, so that academy-based documentation follows a best-practice approach.**
- 5.6 In addition, and on a termly basis, all academies are required to submit a ‘Termly

² DfE (2016) School Attendance

³ Children’s Commissioner (2013) Always Someone Else’s Problem: Office of the Children’s Commissioner’s Report on Illegal Exclusions

⁴ Ofsted (2014) Schools’ Use of Exclusion



Monitoring of Exclusions' return, as per appendix 2; these should be sent to the Head of Data and Systems, Lisa Thompson: lisa.thompson@astreaacademytrust.org.uk and the National Lead for Safeguarding, Nicola Law: nicola.law@astreaacademytrust.org and ensure the Director of Inclusion, Nicola Crossley is copied in: nicola.crossley@astreaacademytrust.org.uk to ensure Executive level quality assurance. **Please note data should be sent securely using password protection, in order to safeguard the personal details of pupils.**

- 5.7 Where pupils are excluded for fixed period up to five days, academies should take reasonable steps to set and mark work.
- 5.8 From the sixth day of exclusion, alternative provision must be arranged; it is the governing body's duty and responsibility to ensure this. It should be noted that 'sixth day provision' is based on a cumulative period of exclusion and requires that an alternative and full-time education is provided.
- 5.9 Academies should have a strategy for reintegrating pupils that return to school following a fixed period exclusion, and for managing their future behaviour, so that their long-term success can be secured.
- 5.10 Points 5.7 to 5.9 inclusive are made in accordance with Section 100 of the Education and Inspections Act (2006), Section 19 of the Education Act (1996) and regulations made under those sections.

6. The Role of the Trust – Quality Assurance of Permanent Exclusion Referrals

6.1. Permanent exclusion should:

- Only be used as a last resort, when all other reasonable approaches have been unsuccessful
- Be in response to persistent and/or an extreme breach of the school's code of behaviour
- Be implemented when allowing the pupil to remain in school would seriously harm the education or welfare of other pupils

6.2. To ensure compliance with the above pre-requisites, and in the event of a permanent exclusion referral being made, the National Lead for Safeguarding, Nicola Law: nicola.law@astreaacademytrust.org is required to undertake a Pre-Exclusion Assessment, as per appendix 3; the documentation produced as part of this process MUST be included in the Permanent Exclusion Documentation as per paragraph 7.

7. Permanent Exclusion Documentation – Guidance for Academies

- 7.1. To ensure compliance with the letter of the law and the ethos of the Astrea approach to inclusion, academies are expected to produce evidence of documentation for scrutiny at Exclusion hearings.
- 7.2. All documentation MUST be with all members of the panel, five school days prior to the hearing.
- 7.3. Suggested papers to be included are referenced in appendix 4 'Exemplar Documentation for Consideration at Exclusion Hearings'.



8. Attendance at Permanent Exclusion Hearings – General Guidance for Boards

- 8.1. The purpose of the Exclusion hearing is for the governing body, or a panel of governors, to have oversight of whether the Principal's decision to exclude was lawful, rational, reasonable, fair and proportionate.
- 8.2. In preparing for a consideration of exclusion hearing, governors, through coordination by the Clerk, if appropriate, should:
- Not discuss the exclusion with any other party
 - Ask for written evidence in advance of the meeting (including witness statements and other relevant information)
 - Circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting
 - Allow parents and pupils to be accompanied by a friend or representative
 - Make reasonable adjustments as appropriate for people attending the meeting
 - Take steps to enable the excluded pupil to attend the meeting, considering their age and understanding. Alternatively, the governing body should consider how the excluded pupil can feed in his/her views by other means; this can have been undertaken during the Pre-Exclusion Assessment, if appropriate.
- 8.3. It is crucial that exclusion hearings are clerked; ideally by the Governing Body's own Clerk. They act as a contact point, arranging the meeting, and collating and distributing any relevant papers in advance of the meeting. Where necessary and on request, an LA representative can be in attendance to provide guidance on statutory compliance.
- 8.4. At the meeting itself, the Clerk should be able to provide impartial procedural advice where necessary; where the Clerk in attendance does not have specialist expertise, it may be appropriate for a representative of the Local Authority to be in attendance to provide this.
- 8.5. The chair of the panel will also have a role in ensuring that the review is held in the correct procedural manner, and will have the crucial role of mediating where necessary.
- 8.6. Minutes should be taken and made available to all parties on request.



9. Attendance at Permanent Exclusion Hearings – Standard Agenda

- 9.1. The meeting will follow a clear agenda which gives everyone an opportunity to have their say. If in attendance, the parent will have an opportunity to put forward their point of view and refer to any written representation.
- 9.2. Refer to appendix 5 for the standard agenda template to be used.

10. Attendance at Permanent Exclusion Hearings – The Role of the Panel

- 10.1. Governors should adhere to the following basic rules:
 - They operate as a corporate body and not through individual action, unless delegated specific tasks
 - Decisions of the Governing Body are made by a majority vote, and all members hold the majority decision
 - The decisions they make should always be in the best interests of the pupils
 - Within their role governors should strive to always uphold the principles of public life, as set out by the Nolan Committee in 1995. These are: selflessness, integrity, honesty, openness, accountability, objectivity and leadership.
- 10.2. With this in mind, the panel's decision must be based upon the 'balance of probabilities'; that is how likely is it that the child did what s/he is alleged to have done and what behaviour policies were not followed, as a result. The panel must consider the evidence for the exclusion itself, but also the personal circumstances of the excluded pupil and how their presence at school will affect the staff and other pupils.
- 10.3. In determining the lawful, rational, reasonable, fair and proportionate response of the Principal, the panel needs to consider:
 - Whether the correct procedures were applied; was the decision legal and fair? Did it comply with the school's behaviour policy?
 - Did the decision comply with the Equality Act 2010? Was the process in line with the SEND Code of Practice?
 - The seriousness of the incident and the appropriateness of a permanent exclusion
 - The likelihood of the incident being repeated, should the pupil be 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 Academy and for how long it was provided
 - Any special educational needs and disabilities (SEND) the pupil may have
 - Any mitigating circumstances
- 10.4. The panel can either:
 - Uphold the permanent exclusion OR
 - Direct the reinstatement of the pupil either immediately or on a specific date
- 10.5. The outcome should be noted on the pupil's educational record, along with copies of all relevant documents.



11. Actions to be Taken Following the Permanent Exclusion Hearing

- 11.1 Following the permanent exclusion hearing, the Clerk to the Governing Body should notify the National Lead for Safeguarding, Nicola Law, of the decision immediately at:
nicola.law@astreaacademytrust.org on **07392 866262**
- 11.2 In accordance with best practice guidance, it is expected that parents are informed of the decision within 24 hours by telephone and an electronic version of the letter, if this mode of communication is appropriate.
- 11.3 To ensure parents are appropriately supported, the National Lead for Safeguarding Nicola Law is responsible for making telephone contact. The purpose of this phone call is to advise of the formal decision of the Governing Body and to signpost parents to additional support; it is not to engage in additional dialogue about the decision.
- 11.4 The Clerk to the Governing Body is responsible for sending the electronic version of the decision letter to parents, if appropriate.
- 11.5 In addition, the original letter informing parents of the decision should be sent, by the Clerk to the Governing Body, as soon as possible within the 24-hour period.



Appendix 1 – Notification of Fixed Period Exclusion

NOTIFICATION OF FIXED PERIOD EXCLUSION

+

Legal surname of pupil: _____ Male / Female (please delete as appropriate)

First name(s): _____ Date of birth of pupil: ____/____/____

Name of parent/guardian/carer: _____

Address: _____

Telephone number: Home: _____ Work: _____

Name and address of other parent/carer entitled to notification: _____

NC Year: R 1 2 3 4 5 6 (please highlight)

Start Date of exclusion ____/____/____ Last day of exclusion ____/____/____ Age when excluded: _____

Number of school days/lunchtimes for this exclusion: _____

Total number of school days/lunchtimes excluded this term: _____

Total number of school days/lunchtimes excluded in the current academic year: _____

Reason for exclusion

PP Physical assault against pupil PA Physical assault against adult

VP Verbal abuse/threatening behaviour against pupil VA Verbal abuse/threatening behaviour against adult

BU Bullying RA Racist abuse SM Sexual misconduct DA Drug and alcohol related DM Damage TH Theft

DB Persistent disruptive behaviour OT Other (use sparingly where incidents are not covered in the categories above)

SEN Code of Practice Stage: (please underline) N/A K Supported EHC plan

Is the pupil undergoing a statutory assessment? YES / NO

Please indicate the most significant special educational need: _____

CAR/EHCP completed? YES / NO

Is the pupil a Looked after Child (LAC)? YES / NO

Is the pupil a carer? YES / NO

Does the pupil have a recognised disability (ADHD, ODD etc)? YES / NO (please delete)

If support agencies (within and/or outside the education service) are currently involved with this pupil, please give details:

Agency: _____ Contact person: _____ Date of referral to agency: _____

Is the pupil due to sit a public examination during the period of exclusion? YES / NO (please delete)

Date: _____ Academy Contact: _____

Governors Informed: Y/N Director of Inclusion Informed: Y/N



Appendix 2 – Termly Monitoring of Exclusions

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T
1	Exclusion Data 2016/2017																			
2																				
3	Name of Child	Year Group of Child	Date of Exclusion	No of days	Total days for child		Reason												Form to parent	Form added to CPOMs/filed
4					Term	Year														
5							PP	PA	VP	VA	BU	RA	SM	DA	DM	TH	DB	O	✓	✓
6							PP	PA	VP	VA	BU	RA	SM	DA	DM	TH	DB	O	✓	✓
7							PP	PA	VP	VA	BU	RA	SM	DA	DM	TH	DB	O	✓	✓
8							PP	PA	VP	VA	BU	RA	SM	DA	DM	TH	DB	O	✓	✓
9																				



Appendix 3 – Pre-Exclusion Assessment Process (PEAP)

Pre-Exclusion Assessment

Date of Assessment: _____ Name of Academy: _____

Name of Child		Year Group	
Date of Entry to the Academy		Date 1 st Issue Recorded	

Ethnic Group		EAL	Y	N
SEND Needs		CLA	Y	N
SEND Category	K / EHC / <u>S</u> / None	Pupil Premium	Y	N

Details of Previous Fixed-Term Exclusions in the Last 12 months:

Date	Duration	Reason

Details of External Support Involved: (to include details of LA-based Inclusion Panels where applicable)

Name	Agency	Date Last Involved	Reason / Outcome	Still Involved?	Date of Next Visit

School-Based Interventions and Strategies:

Date	Duration	Reason

Continue on additional page, if necessary.

Pre-Exclusion Assessment

Continued from previous page:

Details of Previous Fixed-Term Exclusions in the Last 12 months:

Date	Duration	Reason

Details of External Support Involved:

Name	Agency	Date Last Involved	Reason	Still Involved?	Date of Next Visit

School-Based Interventions and Strategies:

Date	Duration	Reason



Pre-Exclusion Assessment



Questions / QA Trail for Safeguarding Lead:

- 1) Does the school have a positive handling policy or are there details included within the Behaviour policy?
- 2) Is the restraint book up-to-date (last 12 months) and does it include full details of incidents involving restraint?
- 3) Is this permanent exclusion based on a disciplinary reason only or has the school identified they are 'unable to meet the needs of the child'?
- 4) What are the details of the family background? Is there any additional relevant contextual information, which could be a factor of the poor behaviour exhibited?
- 5) Are there any safeguarding concerns, which could be raised, following a permanent exclusion?
- 6) Is there evidence of de-escalation strategies and de-brief following a restraint:
 - a. For the child
 - b. For the member(s) of staff involved?
- 7) Is there evidence of work provided and marked for any fixed-term exclusions (FTE) up to 5 days in the last 12 months?
- 8) Is there evidence of an educational provider engaging in teaching activities with any child who has been issued a FTE of 6 days or more in the last 12 months?
- 9) Is there evidence of parental views being sought in the last 6 months?
- 10) Has the school raised the case with the Local Inclusion Panel? What was the outcome?
- 11) Is there evidence of the school complying with the statutory guidance on informing parents about an exclusion?
- 12) Has the family been made aware of the statutory guidance on exclusions and the range of free and impartial advice which is available?

Pre-Exclusion Assessment



Principal Evidence of Self-Evaluation:

Questions ¹	YES / NO	Supporting Commentary as Evidence of Actions Taken
Have I investigated specific incidents with all parties in a sensitive and fair way?		
Have I considered factors that could have contributed to the pupil's behaviour (e.g. SEND or bereavement) and have I taken these factors sufficiently into account?		
Is exclusion the most appropriate and reasonable sanction, and consistent with the academy's behaviour policy?		
Are all the exclusion reasons clearly recorded, including the impact on others? Are they robust?		
Is relevant evidence properly recorded / retained / documented? (E.g. summaries of interviews, past behaviour and support given)		
Have I spoken to the parents to ensure they fully understand the type / scale of the incident?		

Ideally, this document should be completed prior to the PEAP visit and sent to the National Lead for Safeguarding in advance: nicola.law@astreaacademytrust.org; the document MUST be completed and handed in to the National Lead for Safeguarding by the end of the PEAP visit, at the very latest, in order to comply with Trust expectations.

¹ Questions taken from DfE (2017) Exclusion from maintained schools, academies and pupil referral units in England: Statutory guidance for those with legal responsibilities in relation to exclusion



Pre-Exclusion Assessment



Questions for the Safeguarding Lead to ask the Pupil:

Suggested questions are given below but Safeguarding Lead should not be restricted by them, nor is this list complete; it is important that in accordance with the guidance from the DfE, we obtain as much information as the pupil is willing to share. Questions should be tempered as needed.

"The decision to exclude a pupil must be lawful, reasonable and fair...Schools should give particular consideration to the fair treatment of pupils from groups who are vulnerable to exclusion...Disruptive behaviour can be an indication of unmet needs. Where a school has concerns about a pupil's behaviour it should try to identify whether there are any causal factors and intervene early in order to reduce the need for a subsequent exclusion."

"Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and understanding".¹

- 1) What do you like about school?
- 2) Are you happy when you are here?
- 3) Can you describe a time when you have not been happy and what happened?
- 4) When you get angry, what do you do?
- 5) And how do the teachers try to help you?
- 6) Is there anything the teachers could do better to help you when you are angry?
- 7) Can you remember the last time you were excluded from school?
- 8) When was it? Can you remember how many days you were at home?
- 9) When you were at home, what work did you have to do?
- 10) When did this work get marked?
- 11) Can you remember a time when you have been excluded for more than a week?
- 12) When was this? Did you have lessons in a different place or did a teacher come out to teach you?

¹ DfE (2017) Exclusion from maintained schools, Academies and pupil referral units in England: A guide for those with legal responsibilities in relation to exclusion

Pre-Exclusion Assessment



Summary Recommendations

Evaluation of Actions Undertaken by the Academy	YES	NO
The Academy has extensive evidence of a range of support put in place to meet the needs of the pupil for a period longer than a term		
There is evidence of involvement from multiple agencies for a period longer than a term		
There is evidence that the needs of the pupil and the involvement of the parents / carers have been central to all decisions made		
The Academy has met all statutory guidance, without exception		
The pupil's actions have breached the behaviour policy of the Academy and continue to pose a serious threat to the education of pupils or the safety and well-being of staff / pupils / themselves		

I am satisfied that the evidence provided, justifies the case being put forward to the Transition Board / LGB, in order to approve a permanent exclusion for the child named: _____ in Year _____

I am not satisfied that the evidence provided, justifies the case being put forward to the Transition Board / LGB, in order to approve a permanent exclusion for the child named: _____ in Year _____ and my reasons are given below:

Signed: _____ (Nicola Law) Position: National Lead for Safeguarding, Astrea

On completion of the pre-exclusion assessment, all documentation must be sent to the Director of Inclusion for information and sign-off or information and follow-up.

Date documents sent: _____



Pre-Exclusion Assessment



Director of Inclusion Summary Statement

Signed: Nicola Crossley (Nicola Crossley) Position: Director of Inclusion, Astrea Date: _____

On completion of the pre-exclusion assessment, all documentation must be sent to the Director of Inclusion for information and sign-off or information and follow-up. This documentation must also be sent to the Transition Board / Local Governing Body for consideration, in the event of a permanent exclusion hearing.

A guide to the law: 1. Only the head teacher of a school can exclude a pupil and this must be on disciplinary grounds. 12. It is unlawful to exclude or to increase the severity of an exclusion for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet.

Pre-Exclusion Assessment



Academy Response

Signed: _____ Position: _____ Date: _____



Appendix 4 – Exemplar Documentation for Consideration at Exclusion Hearings

Suggested Documentation to Include in the Evidence File	Included ✓ / X
Pre-Exclusion Assessment (PEAP)	
Academy Behaviour Policy	
Attendance Records	
Information of any Special Educational Needs / Disabilities (SEND)	
Confirmation of whether Looked After	
Chronology of Actions	
Description of interventions tried and summary of impact / outcomes	
Phone call logs of action taken	
LA Inclusion panel summary and any recommendations	
Evidence of parent meetings	
Voice of the pupil documented	
Positive handling logs and individual pupil response following the incident, as per the Bound Book	
Evidence of work undertaken by Behaviour Support in school and pupil feedback	
Evidence of letters sent to parents re Fixed Period Exclusions	
For EAL families, evidence of translated documents being sent	
Letter sent re Permanent Exclusion	
Evidence of Emergency Plans or Pastoral Support Plans in place	
Evidence of work provided for any exclusions up to 5 days	
Evidence of 6-day provision and where this has been obtained from	
Evidence of the communication trail between the Local Authority and the Academy	
Academy account and witness statements, if appropriate, relating to the issue which precipitated the permanent exclusion referral	
Evidence of multi-agency involvement, recommendations and feedback	



Appendix 5 – Standard Agenda for Exclusion Hearings

Exclusion Hearing: Standard Agenda	Suggested Timings
Chair opens meeting explaining the role of the panel - to consider the permanent exclusion or reinstatement of the excluded pupil	10 mins
Introductions	
Chair explains the order of the meeting	
The Principal explains why the child was excluded	5 mins
The parents /s and representative ask questions of clarification of the Principal	15 mins
The panel ask questions of clarification of the Principal	
The parents put forward their case	
Questions from the Principal	
Questions from the panel	5 mins
Panel checks with LA representative / expert representative - re any areas where there may be lack of clarity/ more information required or guidance not adhered to; cross-referenced with PEAP documentation	
Principal and parents leave the meeting for panel to review briefly the evidence that was heard and to confirm that all the issues have been resolved/ clarified; this also allow parents/s and Principal a chance to reflect before summing up	10 mins
All parties resume meeting	
Principal sums up	15 mins
Parents sums up	
Chair explains a decision will be made in consideration of statutory guidance and that full reasons for the decision reached will be sent by letter to the parents	
Principal, parents and LA representative / expert representative leave the meeting - panel considers its decision	30 mins



Appendix 6 – Sample Model Letters

MODEL LETTER 1 - From Principal notifying parent of a fixed period exclusion of less than 6 days, and where a public examination is not missed

Dear **[Parent's Name]**

I am writing to inform you of my decision to exclude **[Child's Name]** for a fixed period of **[Period of Exclusion]**. This means that **[Child's Name]** will not be allowed in school for this period.

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

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

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

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

You may want to contact **[Name]** at **[Local Authority Name]** Local Authority on/at **[Contact Details – Address, Phone Number, email]**, who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre on 0808 802 0008 or www.childrenslegalcentre.com . They can offer free legal advice on English Law and policy affecting children and families.

[Name of Child]'s exclusion expires on **[Date]** and we expect **[Name of Child]** to be back in the Academy on **[Date]** at **[Time]**, when I would also like to meet with you to discuss **[Name of Child]**'s reintegration and the support available to ensure a successful return.

Yours sincerely

Principal



MODEL LETTER 2 – From Principal notifying parent of a fixed period exclusion of 6 to 15 days, or where cumulative exclusions in the same term fall within this range, or where a public examination is missed

Dear **[Parent's Name]**

I am writing to inform you of my decision to exclude **[Child's Name]** for a fixed period of **[Period of Exclusion]**. This means that **[Child's Name]** will not be allowed in school for this period.

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

You have the right to request a meeting of the Governing Body at which you may make representations and the decision to exclude can be reviewed. As the length of the exclusion is more than 5 school days (or equivalent) the Governing Body must meet if you request it to do so. The latest date the Governing Body can meet is **[Date Here – no later than 50 school days from the date the GB is notified]**. If you wish to make representations to the Governing Body and wish to be accompanied by a friend or representative please contact **[Name of Contact]** on/at **[Contact Details – Address, Phone Number, email]**, as soon as possible.

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

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

You may want to contact **[Name]** at **[Local Authority Name]** Local Authority on/at **[Contact Details – Address, Phone Number, email]**, who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre on 0808 802 0008 or www.childrenslegalcentre.com. They can offer free legal advice on English Law and policy affecting children and families.

[Name of Child]'s exclusion expires on **[Date]** and we expect **[Name of Child]** to be back in the Academy on **[Date]** at **[Time]**, when I would also like to meet with you to discuss **[Name of Child]**'s reintegration and the support available to ensure a successful return.

Yours sincerely

Principal



MODEL LETTER 3 – From Principal notifying parent of a fixed period exclusion of 16 days or more, or where cumulative exclusions in the same term are 16 days or more

Dear **[Parent's Name]**

I am writing to inform you of my decision to exclude **[Child's Name]** for a fixed period of **[Period of Exclusion]**. This means that **[Child's Name]** will not be allowed in school for this period.

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

As the length of the exclusion is more than 15 school days (or equivalent) the Governing Body must automatically meet to consider the exclusion. At the review meeting you may make representations to the Committee if you wish to do so. The latest date the Governing Body can meet is **[Date Here – no later than 15 school days from the date the GB is notified]**. If you wish to make representations to the Governing Body and wish to be accompanied by a friend or representative please contact **[Name of Contact]** on/at **[Contact Details – Address, Phone Number, email]**, as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the Governing Body of the time, date and location of the meeting.

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

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

You may want to contact **[Name]** at **[Local Authority Name]** Local Authority on/at **[Contact Details – Address, Phone Number, email]**, who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre on 0808 802 0008 or www.childrenslegalcentre.com. They can offer free legal advice on English Law and policy affecting children and families.

[Name of Child]'s exclusion expires on **[Date]** and we expect **[Name of Child]** to be back in the Academy on **[Date]** at **[Time]**, when I would also like to meet with you to discuss **[Name of Child]**'s reintegration and the support available to ensure a successful return.

Yours sincerely

Principal



MODEL LETTER 4 – From Principal notifying parent of a permanent exclusion

Dear **[Parent's Name]**

I regret to inform you of my decision to exclude **[Child's Name]** permanently from **[Date]**. This means that **[Child's Name]** will not be allowed back to this school pending a meeting of the Academy Governing Body.

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

You have a duty to ensure that your child is not present in a public place during school hours during school hours during the first five days of this exclusion, ie. **[dates]**, unless there is a reasonable justification. You could be prosecuted or receive a penalty notice if your child is present in a public place during school hours on those dates. It will be for you to show reasonable justification.

Alternative arrangements for **[Name of Child]**'s education will continue to be made. For the first five school days of the exclusion, we will set work and would ask you to ensure this work is completed and returned promptly to school for marking. From the 6th day of the exclusion onwards, i.e. from **[Date]**, the local authority will provide suitable full-time education.

As this is a permanent exclusion the Governing Body must meet to consider it. At this meeting, you may make representations to the Governing Body if you wish to do so; **[Name of child]** can also attend if wished, and you may ask the governors to reinstate your child in school. The Governing Body have the power to uphold the exclusion, in which case you may make an application against their decision to an Independent Review Panel.

The latest date by which the Governing Body must meet is **[Date Here – no later than 15 school days from the date the GB is notified]**. If you wish to make representations to the Governing Body and wish to be accompanied by a friend or representative then please contact the clerk to the governors as soon as possible on **[Name of Contact] on/at [Contact Details – Address, Phone Number, email]**, as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the Governing Body of the time, date and location of the meeting.

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

You may wish to

- look at the statutory guidance on exclusions:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/630073/Exclusion_from_maintained_schools_academies_and_pupil_referral_units_guidance.pdf



- contact the Coram Children's Legal Centre: www.childrenslegalcentre.com 08088 020 008 - They can offer free legal advice on English Law and policy affecting children and families.
- **[where considered relevant by the Principal, links to local services, such as Traveller Education Services or the local parent partnership (www.parentpartnership.org.uk).]**

I am sending a copy of this letter to the Chair of Governors and to the Local Authority.

Yours sincerely

Principal



MODEL LETTER 5 – From the Clerk to the Governing Body to the parent of a permanently excluded pupil upholding a permanent exclusion

Dear **[Parent's name]**

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

The reasons for the Governing Body's decision are as follows:

- **[the procedure for the permanent exclusion was carried out properly]**
- **there was an accumulation of incidents and/or there was an individual incident serious enough to result in permanent exclusion {more detail on specifics if possible}**
- **based on evidence from the Principal {and the representative from the Local Authority – if applicable}, the Academy had exhausted all the strategies and support that was available {more detail on the specifics if possible}**
- **[Name of child]'s behaviour conflicted with the Academy's Behaviour Policy {more detail on the specifics if possible}**
- **The Governing Body was concerned that if your child remained at [Name of Academy] there would be serious harm to his/her education, safety and/or well-being and to that of other pupils, and to the safety and/or well-being of members of staff {delete / amend this as applicable}}**

You have the right to appeal against this decision. If you wish to appeal, please notify **[name of the clerk to the Independent Appeal panel]** of your wish to appeal. You must set out the reasons for your appeal in writing and send them to **[address]** by no later than **[specify the latest date – the 15th school day after the date of this letter]**. If you have not lodged an appeal by **[repeat latest date]**, your right to appeal will lapse.

You may, at your own expense, appoint someone to make written and/or oral representations to the panel and you may bring with you a friend to the review. Regardless of whether **[Name of pupil]** has a recognised special educational need, you would have a right to require the Academy Trust to appoint, at their own cost, an expert in special educational needs to attend the review to provide expert advice⁵. You must make clear, in any request for such a review, if you wish for such a person

⁵ The DfE guidance on this role says:

155. The SEN expert's role is analogous to an expert witness, providing impartial advice to the panel on how special educational needs might be relevant to the exclusion. The SEN expert should base their advice on the evidence provided to the panel. The SEN expert's role does not include making an assessment of the pupil's special educational needs.

156. The focus of the SEN expert's advice should be on whether the school's policies which relate to SEN, or the application of these policies in relation to the excluded pupil, were legal, reasonable and procedurally fair (in line with the explanations in paragraph 148). If the SEN expert believes that this was not the case he / she should,



to be appointed.

The Review Panel will rehear all facts of the case. If you have fresh evidence to present to the panel you may do so. The panel must meet no later than the 15th school day after the date on which your request for a review is received. In exceptional circumstances, panels may adjourn the hearing until a later date.

In determining the outcome of the review, the panel can make one of three decisions: they may uphold your child's exclusion, recommend that the Governing Body reconsiders their decision, or quash the decision and direct that the Governing Body considers the exclusion again.

If you have not submitted your request for an Independent Review by **[date - i.e. 15 school days from the date on which notice in writing of the governing body's decision was given to parents - notice is deemed to have been given on the same day if it is delivered directly, or on the second working day after posting if it is sent by first class mail.]**, you will lose your right to do so. Please advise if you have a disability or special needs which would affect your ability to attend or participate in such a review. Also, please inform The Clerk to the Independent Appeal Panel if it would be helpful for you to have an interpreter present at the hearing.

You may wish to contact **[Name and contact details]** from the Local Authority Alternative Education Commissioning Service who can provide advice. If your child is receiving support for Special Educational Needs (SEN), is being formally assessed for an Education, Health and Care Plan, or has a statement of SEN, you have access to the SEND Information, Advice and Support Service who may offer support throughout the exclusions process – they can be contacted on **[Contact details]**.

You may also find it useful to contact The Coram Children's Legal Centre on 0808 802 0008 or www.childrenslegalcentre.com. They can offer free legal advice on English Law and policy affecting children and families.

You may also wish to look at

- the statutory guidance on exclusions: exclusion guidance
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/630073/Exclusion_from_maintained_schools_academies_and_pupil_referral_units_guidance.pdf
- guidance on making a claim of discrimination to the First-tier Tribunal
<http://www.justice.gov.uk/tribunals/send/appeals>.

In addition to the right to apply for an independent review panel, if you believe that the exclusion has occurred because of discrimination then you may make a claim under the Equality Act 2010 to

where possible, advise the panel on the possible contribution that this could have made to the circumstances of the pupil's exclusion.

157. Where the school does not recognise that a pupil has SEN, the SEN expert should advise the panel on whether he / she believes the school acted in a legal, reasonable and procedurally fair way with respect to the identification of any special educational needs that the pupil may potentially have, and any contribution that this could have made to the circumstances of the pupil's exclusion.

158. The SEN expert should not criticise a school's policies or actions simply because he / she believes a different approach should have been followed or because another school might have taken a different approach.



the First-tier Tribunal (Special Educational Needs and Disability), in the case of disability discrimination, or the County Court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the pupil was excluded.

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

Yours sincerely

Clerk to the Governing Body



MODEL LETTER 6 – From the Clerk to the Independent Appeal Panel notifying the parent (or the pupil if aged 18 or over) of the outcome of his or her appeal

Dear **[parent's name]**

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

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

Either

- (i) to uphold the exclusion.

or

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

or

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

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

The panel's decision is binding on you, the **[Governing Body of [name of Academy]]** and **[name of LA]** Local Authority.

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

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

Yours sincerely



References

Children's Commissioner (2013) *Always Someone Else's Problem: Office of the Children's Commissioner's Report on Illegal Exclusions* [Online] Available at:

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Council for Disabled Children (2008) *Inclusion Policy* [Online] Available at:

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Department for Education (2016) *School Attendance* [Online] Available at:

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Department for Education (2017) *Exclusion from Maintained Schools, Academies and Pupil Referral Units in England: Statutory Guidance for those with Legal Responsibilities in Relation to Exclusion* [Online]

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/392360/Schools_use_of_exclusion.pdf

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