



BERLESDUNA
ACADEMY TRUST

Trust Exclusion Policy

This policy was reviewed by the Board of Trustees on:	15th July 2020
This policy will be reviewed:	Annually
Date to be reviewed:	July 2021

This policy is a mandatory policy for all Berlesduna Academies and must be implemented with no amendments

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Background

This policy deals with the policy and practice which informs the school's use of exclusion. It is written in accordance with the DFE statutory guidance 'Exclusion from maintained Schools, Academies and Pupil Referral Units in England' June 2013, updated in September 2017.

It is underpinned by the shared commitment of all members of the school community to achieve two important aims:

- To ensure the safety and well-being of all members of the school community and to maintain an appropriate education environment in which all can learn and succeed
- To realise the aim of reducing the need to use exclusion as a sanction

The following are the key principles that underpin this policy and must be considered in all decision making:

- permanent exclusion should only be used as a last resort, in response to a serious breach or persistent breaches of a school's Behaviour Policy and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school
- the decision to exclude a pupil must be lawful, reasonable and fair
- particular consideration should be given 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 casual factors and intervene early in order to reduce the need for a subsequent exclusion. In this situation, schools should give consideration to a multi-agency assessment that goes beyond the pupil's educational needs
- all children have a right to an education. Our schools will set and mark work for pupils during the first five school days of exclusion and alternative provision must be arranged from the sixth day.
- where parents dispute the decision of a Local Governing Board (LGB) not to reinstate a permanently excluded pupil, they can ask for this decision to be reviewed by an independent review panel. Where this is an allegation of discrimination (under the Equality Act 2010) in relation to a fixed-period or permanent exclusion, parents can also make a claim to the First-tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination)
- excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and understanding

Introduction

The decision to exclude a pupil will be taken in the following circumstances:

- in response to a serious breach of the school's Behaviour Policy
- if allowing the pupil to remain in the school would seriously harm the education or welfare of other persons or the pupil in the school

Exclusion is an extreme sanction and is only administered by the CEO, Headteacher or Head of School (referred to as Headteacher throughout this document).

Exclusion, whether for a fixed term or permanent may be used for any of the following, all of which constitute examples of unacceptable conduct, and are infringements of the school's Behaviour Policy:

- verbal abuse to staff, pupils or others
- physical abuse to/attack on staff, pupils or others
- indecent behaviour
- damage to property
- misuse of illegal drugs or other substances
- theft
- serious actual or threatened violence against another pupil or a member of staff
- sexual abuse or assault
- supplying an illegal drug

- carrying an offensive weapon
- arson
- unacceptable behaviour which has previously been reported and for which school sanctions and other interventions have not been successful in modifying the pupil's behaviour

This is not an exhaustive list and there may be other situations where the Headteacher makes the judgement that exclusion is an appropriate sanction.

The behaviour of pupils outside of the school can be considered as grounds for exclusion.

Frequently the Headteacher will decide not to use the extreme sanction of the exclusion but will decide that a Pastoral Support Plan should be drawn up to try and avoid the sanction of an exclusion in the future. This might be accompanied by an internal exclusion.

Any decision of a school, 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 a school's wider legal duties, including the European Convention of Human Rights); rational; reasonable; fair; and proportionate.

Headteachers must take account of their legal duty of care when sending a pupil home following the exclusion.

When establishing the facts in relation to an exclusion decision, the Headteacher must apply a civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than a criminal standard of 'beyond reasonable doubt'.

Under the Equality Act 2010 ('the Equality Act') schools must not discriminate against, harass or victimise pupils because of their: sex, race, disability, religion or belief; sexual orientation; because of a pregnancy/maternity; or because of a gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices.

'Informal' or 'unofficial' exclusions, such as sending pupil's home to 'cool off' are unlawful, and must not be used 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.

Exclusion Procedure

Most exclusion is of a fixed term nature and is of short duration (usually between one and three days). The DfE regulations allow the Headteacher to exclude a pupil for one or more fixed periods not exceeding 45 Academy days in any one Academy year.

The Headteacher will normally consult with the Chief Executive where there is a risk of or a need to exclude such that all options can be explored. The decision to permanently exclude will always be discussed with the Chief Executive before being made.

The LGB have established arrangements to review promptly all permanent exclusions from the school and all fixed term exclusions that would lead to a pupil being excluded for more than 15 days in a school term or missing a public examination. The LGB have established arrangements to review fixed term exclusions which would lead to a pupil being excluded for more than five days but not more than 15 days in a school term where a parent has expressed a wish to make representations.

The school cannot extend a fixed-term exclusion, or convert it into a permanent one. Instead, if a longer exclusion is required, the school must issue a new fixed-term or permanent exclusion to begin immediately after the first one ends

Following exclusion, parents must be contacted immediately where possible. A letter will be sent by post giving details of the exclusion and the date the exclusion ends. Parents have a right to make representations to Berlesduna Academy Trust and the school as directed in the letter.

A return to school meeting will be held following the expiry of the fixed term exclusion and this will involve a member of the Leadership Team and other staff where appropriate. During this meeting a Pastoral Support Plan will be drawn up, which will include a review date. During the course of a fixed term exclusion where the pupil is to be at home, parents are advised that the pupil is not allowed on the school premises, and that daytime supervision is their responsibility as parents/carers.

In the following circumstances, the Headteacher must inform both the LGB and the Trust (as the statutory Governing Body) and the Local Authority immediately - this notification must include reasons and duration of any fixed term exclusion:

- a permanent exclusion (including where a fixed period exclusion is made permanent)
- exclusions which would result in the pupil being excluded for more than five school days (or more than ten lunchtimes) in a term
- exclusion which would result in the pupil missing public examinations or national curriculum tests

Once a term, the Headteacher must inform the LGB and the Berlesduna Trust Board, of all other exclusions.

Records relating to exclusions will be stored confidentially.

For a fixed period exclusion of more than five consecutive days, the LGB under the guidance of the Headteacher must agree suitable full-time education. This provision must begin no later than the sixth day of exclusion.

Duty of the Governing Body to Consider Reinstatement of the Pupil – The Pupil Discipline Committee

For all Trust schools the duty to consider parental representation concerning exclusion is delegated to the LGB.

The LGB should form a committee consisting of at least three LGB members and may use members from other LGBs.

In responding to parental representations they must act in accordance with DFE statutory guidance at all times.

Should a parent apply within the appropriate time frame for an independent review of an LGB decision not to reinstate a permanently excluded pupil, then the Trust will arrange for an independent review panel to review the decision. This panel will be required to operate and act within the statutory framework for such a review.

The governing board is **not** required to meet and cannot direct the reinstatement of the pupil for exclusions of more than 5 but fewer than 15 school days in the term, **if the parents do not make representations**

Permanent Exclusion

The decision to exclude a pupil permanently is a serious one. There are two main types of situation in which permanent exclusion may be considered:

- the first is a final, formal step in a concerted process for dealing with disciplinary offences following the use of a wide range of other strategies, which have been used without success. It is an acknowledgement that all available strategies have been exhausted and is used as a last resort
- the second is where there are exceptional circumstances and it is not appropriate to implement other strategies and where it could be appropriate to permanently exclude a pupil for a first or 'one-off' offence. These might include:
 - serious actual or threatened violence against another pupil or a member of staff
 - sexual abuse or assault

- supplying an illegal drug
- carrying an Offensive Weapon (Offensive weapons are defined in the Prevention of Crime Act 1993 as ‘any article made or adapted for causing injury to the person; or intended by the person having it with him for such use by him’)
- arson
- behaviour which poses a significant risk to the child’s own safety

The school will involve the police for any relevant offences. These instances are not exhaustive but indicate the severity of such offences and the fact that such behaviour seriously affects the discipline and well-being of the school.

Removing a Pupils Name from the School Register

The LGB must remove a pupil’s name from the school admissions register if:

- 15 school days have passed since the parents were notified of the governing body’s decision to uphold a permanent exclusion and no application has been made for an independent review panel
- the parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review panel has been made within 15 school days, the Headteacher must wait until the review has been determined, or abandoned, before removing a pupil’s name from the register.

Where a pupil’s name is removed from the school register and a discrimination claim is subsequently made, the First-tier Tribunal or County Court has the power to direct that the pupil should be reinstated.

Independent review Panels

The clerk to the independent review panel should not have served as clerk to the governing board in the meeting at which the decision was made not to reinstate the pupil

Independent review panel members are expected to understand the legislation that is relevant to exclusions and the legal principles that apply

If an independent review panel directs or recommends that a governing board reconsiders whether a pupil should be reinstated, the governing board should do so conscientiously. The governing board may still reach the same conclusion as before, but it may face challenge in the courts if it refuses to reinstate the pupil without strong justification.

The venue for an independent review panel must be accessible to all parties. The LA or academy trust must consider what reasonable adjustments should be made under the Equality Act 2010 to support the attendance and contribution of parties at the review

The LA has a responsibility to ensure that the clerk to an independent review panel follows the statutory guidance

The SEN expert must be someone with expertise and experience of SEN and be considered by the LA or academy trust as appropriate to perform the functions specified in the legislation

When providing details of the role of the SEN expert in an independent review panel, the governing board should explain that:

- There is no cost to parents for this appointment **and**

- Parents must make it clear in any application for a review if they wish for the expert to be appointed

The panel's decision should not be influenced by any stated intention of the parents or pupil not to return to the school. If parents are not considering the reinstatement of the pupil, the panel should acknowledge this but it should not affect the conduct of the panel or its decision. The focus of the panel's decision is whether there are sufficient grounds for them to direct or recommend that the governing board reconsider its decision to uphold the exclusion. Potential outcomes can include:

- Recording the panel's findings on a pupil's educational record
- An acknowledgement by the governing board that it would be appropriate for it to offer to reinstate the pupil

General Factors the School Considers before Making a Decision to Exclude

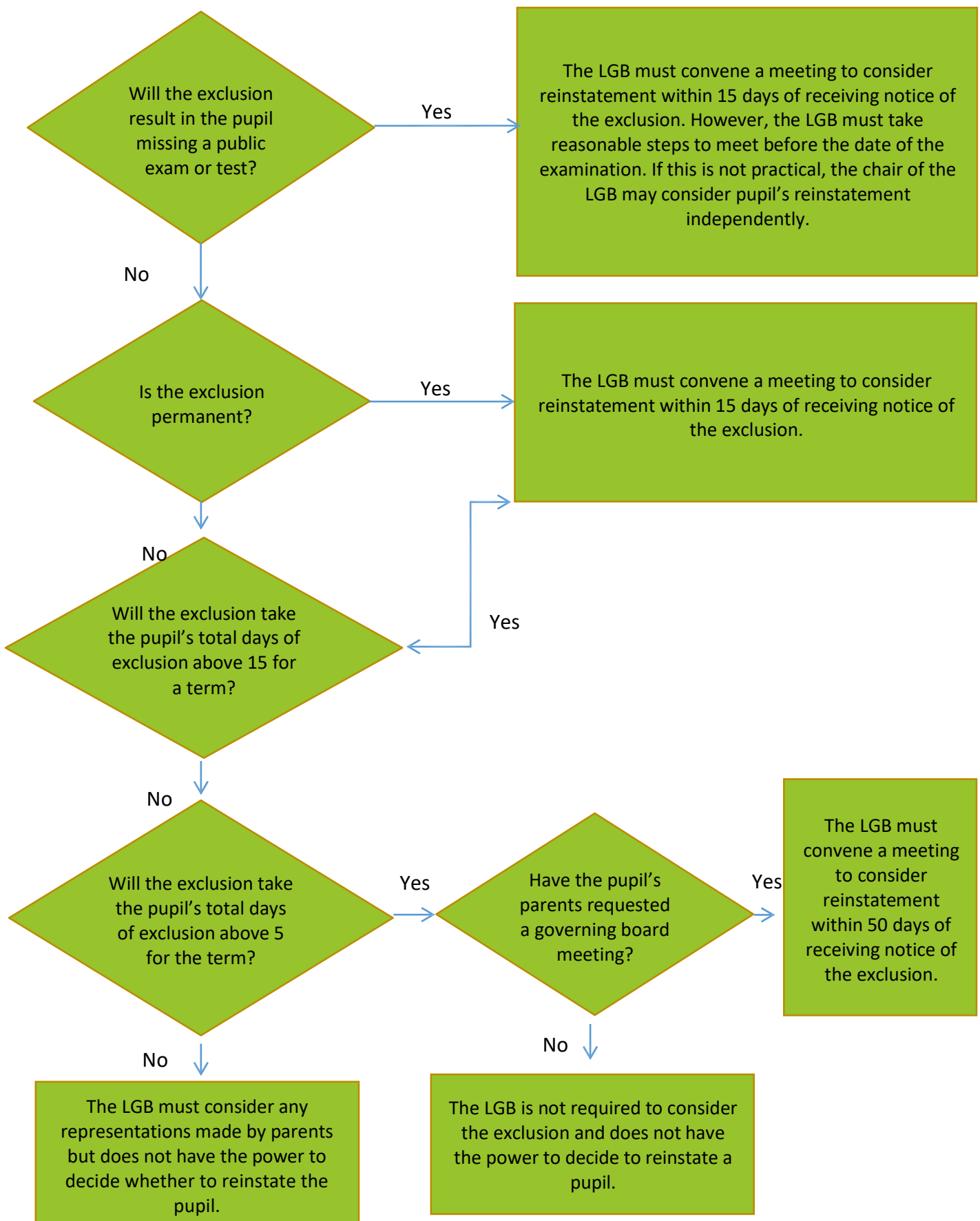
Exclusion will not be imposed instantly unless there is an immediate threat to the safety of others in the school or the pupil concerned. Before deciding whether to exclude a pupil either permanently or for a fixed period the Headteacher will:

- explore a placement at another Trust school or another local school to avoid exclusion– this would include a 'managed move'
- wherever possible, discuss the situation with the Chief Executive in a bid to explore options and appropriate actions
- ensure appropriate investigations have been carried out
- consider all the evidence available to support the allegations, taking into account the
- behaviour Policy, Equal Opportunity and Race Equality Policies
- allow the pupil to give her/his version of events
- explore the wider context, taking into consideration how much the incident may have been provoked (for example by bullying or by racial or sexual harassment)

If the Headteacher is satisfied that on the balance of probabilities the pupil did what he/she is alleged to have done, then exclusion will be the outcome.

Appendix A

Summary of LGB duties



Appendix B – Model Letters

MODEL LETTER 1

From Headteacher 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 **[number of days]**. This means that he/she will not be allowed in school for this period. The exclusion will start on **[date]** until the **[date]**. Your child should return to school on **[date]**.

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

You have a duty to ensure that your child is not present in a public place in school hours during this exclusion on **[specify dates]**. I must advise you that you may receive a penalty notice from the Local Authority if your child is present in a public place during school hours on the specified dates unless there is reasonable justification.

We will set work for **[child's name]** to be completed on the days specified in the previous paragraph. **[Detail the arrangements for this]**. Please ensure that work set by the School is completed and returned to us promptly for marking.

You have the right to make representations about this decision to the Governing Body. If you wish to make representations please contact **[Name of contact]** on/at **[contact details – address, phone number, email]** as soon as possible. Whilst the Governing Body/Management Committee has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's school record.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim under the Equality Act 2010 to the First Tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination).

Making a claim would not affect your right to make representations to the Governing Body.

You **[and your child]** are requested to attend a reintegration interview with me **[alternatively, specify the name of another staff member]** at **[place]** on **[date]** at **[time]**. If that is not convenient, please contact the school to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed. Failure to attend a reintegration interview will be a factor taken into account by a magistrates' court if, on future application, they consider whether to impose a parenting order on you.

You also have the right to see a copy of **[child's name]**'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 **[child's name]**'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 contact **DELETE AS APPROPRIATE Julie Millar-Robinson- 03330 131150 [South & West] or Samia Uddin – 03330 131157 [Mid and N/E]** from the Local Authority Alternative Education Commissioning Service who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre on 0345 345 4345 for education legal advice for those eligible for Legal Aid. Lines are open from 9.00am to 8.00pm Monday to Friday and from 9.00am to 12.30pm Saturday. www.childrenslegalcentre.com

[Child's name]'s exclusion expires on **[date]** and we expect **[child's name]** to be back in school on **[date]** at **[time]**.

Yours sincerely,

[Name]

Headteacher

MODEL LETTER 2

From Headteacher 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 **[number of days]**. This means that he/she will not be allowed in school for this period. The exclusion will start on **[date]** until the **[date]**. Your child should return to school on **[date]**.

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

You have a duty to ensure that your child is not present in a public place in school hours during this exclusion on **[specify dates]**. I must advise you that you may receive a penalty notice from the Local Authority if your child is present in a public place during school hours on the specified dates unless there is reasonable justification.

We will set work for **[child's name]** during the **[first 5 or specify other number as appropriate]** school days of his/her exclusion **[specify the arrangements for this]**. Please ensure that any work set by the School is completed and returned to us promptly for marking.

From the 6th school day of the pupil's exclusion **[specify date]** until the expiry of his/her exclusion we will provide suitable full-time education. **[Set out the arrangements if known at time of writing, if not known say that the arrangements for suitable full time education will be notified shortly by a further letter]**

On **[date]** he/she should attend **[give name and address of alternative provider]** at **[specify the time]** and report to **[staff members name]**.

As the period of exclusion is more than 5 school days in a term, you have the right make representations to the School's Governing Body and request that my decision to be reviewed. The latest date by which the Governing Body must meet is **[specify date – no later than the 50th school day after the date on which the Governing Body were notified of this exclusion]**. If you wish to make representations please contact **[Name of contact]** on/at **[contact details – address, phone number, email]** as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. Also, please inform **[contact]** if it would be helpful for you to have an interpreter at the meeting.

The Governing Body must consider reinstatement where possible. If the pupil has returned to school before the Governing Body meet, they must still place a copy of their findings on the pupil's school record.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim under the Equality Act 2010 to the First Tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination).

Making a claim would not affect your right to make representations to the School's Governing Body.

You and **[child's name]** are requested to attend a reintegration interview with me **[alternatively, specify the name of another staff member]** at **[place]** on **[date]** at **[time]**. If that is not convenient, please contact the School to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed. Failure to attend a reintegration interview will be a factor taken into account by a magistrates' court if, on future application, they consider whether to impose a parenting order on you.

You also have the right to see a copy of **[child's name]**'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 **[child's name]** 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 contact **DELETE AS APPROPRIATE Julie Millar-Robinson- 03330 131150 [South & West] or Samia Uddin – 03330 131157 [Mid and N/E]** from the Local Authority Alternative Education Commissioning Service who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre on 0345 345 4345 for education legal advice for those eligible for Legal Aid. Lines are open from 9.00am to 8.00pm Monday to Friday and from 9.00am to 12.30pm Saturday. www.childrenslegalcentre.com

[Child's name]'s exclusion expires on **[date]** and we expect **[Child's name]** to be back in school on **[date]** at **[time]**.

Yours sincerely,

[Name]

Headteacher

MODEL LETTER 3

From Headteacher 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 **[number of days]**. This means that he/she will not be allowed in school for this period. The exclusion will start on **[date]** until the **[date]**. Your child should return to school on **[date]**.

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

You have a duty to ensure that your child is not present in a public place in school hours during this exclusion on **[specify dates]**. I must advise you that you may receive a penalty notice from the Local Authority if your child is present in a public place during school hours on the specified dates unless there is reasonable justification.

We will set work for **[child's name]** during the **[first 5 or specify other number as appropriate]** school days of his/her exclusion **[specify the arrangements for this]**. Please ensure that any work set by the School is completed and returned to us promptly for marking.

From the 6th school day of the pupil's exclusion **[specify date]** until the expiry of his/her exclusion we will provide suitable full-time education. **[Set out the arrangements if known at time of writing, if not known say that the arrangements for suitable full time education will be notified shortly by a further letter]**

On **[date]** he/she should attend **[give name and address of alternative provider]** at **[specify the time]** and report to **[staff members name]**.

As the period of this exclusion is more than 15 school days in one term the School's Governing Body must meet to consider the exclusion. At the hearing you may make representations to the Governing Body if you wish. The latest date by which the Governing Body must meet is **[specify date – no later than the 15 school days from the date which the Governing Body was notified of this exclusion]**. If you wish to make representations 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 this meeting. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the School. Also, please inform **[contact]** if it would be helpful for you to have an interpreter at the meeting.

The Governing Body must consider reinstatement where possible. If the pupil has returned to school before the Governing Body meet, they must still place a copy of their findings on the pupil's school record.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim under the Equality Act 2010 to the First Tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination).

Making a claim would not affect your right to make representations to the Governing Body.

You and **[child's name]** are requested to attend a reintegration interview with me **[alternatively, specify the name of another staff member]** at **[place]** on **[date]** at **[time]**. If that is not convenient, please contact the School to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed. Failure to attend a reintegration interview will be a factor taken into account by a magistrates' court if, on future application, they consider whether to impose a parenting order on you.

You also have the right to see a copy of **[child's name]**'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 **[child's name]** 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 contact **DELETE AS APPROPRIATE Julie Millar-Robinson- 03330 131150 [South & West] or Samia Uddin – 03330 131157 [Mid and N/E]** from the Local Authority Alternative Education Commissioning Service who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre on 0345 345 4345 for education legal advice for those eligible for Legal Aid. Lines are open from 9.00am to 8.00pm Monday to Friday and from 9.00am to 12.30pm Saturday. www.childrenslegalcentre.com

[Child's name]'s exclusion expires on **[date]** and we expect **[child's name]** to be back in school on **[date]** at **[time]**.

Yours sincerely,
[Name]
Headteacher

MODEL LETTER 4

From Headteacher notifying parent of a permanent exclusion

Dear **[Parent's name]**

I am writing to inform you of my decision to permanently exclude **[child's name]** with effect from **[specify date]**. This means that he/she will not be allowed in this school/PRU unless he/she is reinstated by the School's 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 because **[reason for exclusion- include any other relevant previous history]**.

You have a duty to ensure that your child is not present in a public place in school hours during this exclusion on **[specify dates]** unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the Local Authority if your child is present in a public place during school hours on the specified dates. If so, it will be for you to show reasonable justification.

Alternative arrangements for **[child's name]** education to continue will be made. For the first five school days of the exclusion we will set work for **[child's name]** and would ask you to ensure this work is completed and returned promptly to school for marking. From the sixth school day of the exclusion onwards – i.e from **[specify date]** the Local Authority, will provide suitable full-time education.

[Where the pupil lives in a local authority other than the excluding school's local authority]

I have also **today** informed **[name of officer]** at **[name of local authority]** of your child's exclusion and they will be in touch with you about arrangements for [his/her] education from the sixth school day of exclusion. You can contact them at **[contact details]**

As this is a permanent exclusion the School's Governing Body must meet to consider the exclusion. At the hearing you may make representations to the Governing Body. The Governing Body can either reinstate your child, or uphold the exclusion. If the exclusion is upheld, you have the right to request an Independent Review. latest date by which the Governing Body must meet is **[specify date – no later than the 15 school days from the date which the Governing Body was notified of this exclusion]**. If you do wish to make representations 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 be notified by the Clerk to the Governing Body of the time, date and location of this meeting. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the School. Also, please inform **[contact]** if it would be helpful for you to have an interpreter at the meeting.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to make a claim under the Equality Act 2010 to the First Tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination).

Making a claim would not affect your right to make representations to the Governing Body.

You also have the right to see a copy of **[child's name]**'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 **[child's name]**'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 contact **DELETE AS APPROPRIATE Julie Millar-Robinson- 03330 131150 [South & West] or Samia Uddin – 03330 131157 [Mid and N/E]** from the Local Authority Alternative Education Commissioning Service who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre on 0345 345 4345 for education legal advice for those eligible for Legal Aid. Lines are open from 9.00am to 8.00pm Monday to Friday and from 9.00am to 12.30pm Saturday. www.childrenslegalcentre.com

Yours sincerely,

[Name]

Headteacher

MODEL LETTER 5

From the clerk to the Governing Body to the parent upholding the permanent exclusion

Dear **[parent's name]**

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

The reasons for the Governing Body's decision are as follows: **[give reasons in as much detail as possible, explaining how they were arrived at]**

If you wish for this decision to be reviewed by an Independent Review Panel, please notify **[name of clerk to the review panel or address of Essex County Council's Statutory Appeals Service if the school has subscribed to their services – please contact the Alternative Education Commissioning Service if you are unsure which to use]** of your request. You must set out the reasons for your review in writing, and, if appropriate this may also include reference to any disability discrimination claim you may wish to make. Please send this notice to by no later than **[specify the latest date – the 15th school day after the parents would receive this letter – weekends, bank holidays, school holidays and non-pupil days do not count – please contact the Alternative Education Commissioning Service if you would like us to double check the date you intend to use]**.

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 lodged. In exceptional circumstances panels may adjourn the hearing until a later date.

In determining your 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 **[repeat latest date]**, 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 the hearing. Also please inform **[name of clerk to the review panel]** if it would helpful for you to have an interpreter present at the hearing.

You may wish to contact **DELETE AS APPROPRIATE Julie Millar-Robinson- 03330 131150 [South & West] or Samia Uddin – 03330 131157 [Mid and N/E]** from the Local Authority Alternative Education Commissioning Service who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre on 0345 345 4345 for education legal advice for those eligible for Legal Aid. Lines are open from 9.00am to 8.00pm Monday to Friday and from 9.00am to 12.30pm Saturday. www.childrenslegalcentre.com

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

Yours sincerely,

[Name]

Clerk to the Discipline/Management Committee

Appendix C

Notification of Permanent Exclusion (Essex)

Please submit this form and a completed Appendix A by e-mail or fax on the day that the decision to exclude has been made, together with a copy of the letter notifying the parents of the exclusion and a copy of the Headteacher's report. If the Headteacher's report is not available please send the form and letter now, and submit the report as soon as possible.

Please do not send this information by post

Please ensure that all sections have been fully completed, checked and signed before sending

E-mail: exclusions@essex.gov.uk

Fax number: 01245 436211

School name and telephone number	
Pupil's Surname	
Forename(s)	
Date of Birth	
Gender	Please click to select from a list
Ethnicity	Please click to select from a list
Year Group	
Unique Pupil Number (UPN)	
Last date of attendance	
Attendance percentage	
Date of Headteacher's decision to exclude	
Reason for exclusion Please explain the reason for exclusion in further details	Please click to select from a list

If exclusion is a criminal offence, have the police been informed?	Please click to select		
Is the pupil a Child in Care? If 'Yes', please name the Local Authority and allocated Social Worker	Please click to select		
Parents' or carers' name and address			
Parents' or carers' contact details	Home: Mobile: E-mail (if applicable):		
If parents' live at separate addresses please give alternative contact address and telephone number			
Family home language			
Does the pupil have a Statement/Education Health and Care (EHC) Plan? If 'Yes', please select Category of Need If the pupil has a physical disability please provide basic details	Please click to select Please click to select		
Please give details of any other agencies involved with this pupil please include contact details if possible			
KS1 test results	English	Maths	Science
KS2 test results	English	Maths	Science
KS3 test results	English	Maths	Science

Current levels	Literacy: Reading Writing Speaking Numeracy Number Using and Applying Shape, Space and Measures
	Science: Behaviour:
GCSE's being taken (if applicable) please include predicted grades and exam boards	
UCI Number (exam number)	
Other learning, ASDAN etc.	
Work related learning/work experience	
Previous schools	

Form completed by:

Full Name:

Position within the school:

Date:

Signature:

Risk Assessment Health and Safety

Assessing the risk to Health and Safety	Never	Occasionally	Frequently
Has the pupil been known to threaten other pupils?			
Has the pupil been known to use sexually offensive or threatening language?			
Has the pupil been known to assault another young person?			
Has the pupil been known to threaten staff?			
Has the pupil been known to assault an adult?			
Did any assault(s) lead to actual bodily harm?			
Did the assault(s) use weapons/objects?			
Did the assault(s) lead to medical treatment?			
Has the pupil or adult had time off as a result of assaults/threats?			
Has the pupil been known to damage property?			
Has the pupil committed any criminal offence?			
Has there been any police involvement in previous incidents?			
Has the pupil been known to do him/herself physical harm?			
Has the pupil had to be physically restrained?			
Has the pupil made any allegations against members of staff?			
Has the parent/carer made any allegations against and members of staff?			

Additional Resources or Support (other than routinely available)	Yes	No	Unknown
Full time attendance of an additional member of staff			
Special training for staff?			
Special supervision during breaks, outside activities or particular subject areas?			
Additional staffing 'on hand'			
Support from Social Services or similar?			
Support from mental health agencies?			
Multi-agency support?			
Other (please specify)			

In your professional opinion does this pupil present a significant risk?
If so, summarise your concerns referring to available evidence.

In your judgement, does this pupil require a higher level of risk assessment before proceeding further? Please click to select.

Full Name:

Position within the School:

Date:

Signature:

For County Hall use only;

Date of Governing Body meeting:

Date tuition should commence:

Some points for members of a Governing Bodies Discipline Committee to consider when reviewing the Headteacher's decision to exclude a pupil

- Did the pupil, on the balance of probabilities, commit the breach of the School's discipline policy of which they are accused?
- Would allowing the pupil to remain in school seriously harm the education or welfare of others in the School?
- Did the School evidence that all strategies available had been exhausted prior to the decision to exclude?
- Did the Headteacher have any alternative to exclusion?
- Is the Headteacher's decision in line with the School's published discipline policy?
- Was the decision to exclude based on a serious one off incident, or for an accumulation of offences?
- Is the pupil defined as having Special Educational Needs? Has the pupil received the support as set out in the Statutory Assessment? Has the pupil had a recent annual review? Were the Statutory Assessment Service consulted prior to the decision to exclude?
- Has the pupil been identified as having a disability? If so, has the pupil been treated less favourably than other pupils and have reasonable adjustments been made in regard to their disability?
- Was the incident provoked (for example by bullying, racial or sexual harassment)?
- Are you satisfied that a full and appropriate investigation was undertaken? Has the School interviewed all parties and have you cross referenced the witness statements?
- Did the School apply the correct procedures when excluding the pupil?
- Was the pupil given the opportunity to give their version of events?

Appendix E

Pupil Discipline Committee

Purpose

To review the use of exclusion within the school, including considering the views of the parent of an excluded pupil, and deciding whether or not to confirm exclusions of more than five days or where a pupil would miss an opportunity to take a public examination. With delegated powers.

Quorum

Three governors.

Membership - 3 or 5 members

The membership may be taken from across the Local Governing Bodies of the Trust and must not include the Headteacher or staff governor.

If any governor has a connection with the pupil, or knowledge of the incident that led to the exclusion that could affect his or her ability to act impartially, he or she should step down.

Terms of Reference

1. To consider the actions of the Headteacher in excluding the pupil.
2. To consider representations made by parents and by the LA.
3. To determine whether the pupil should be re-instated immediately; re-instated by a particular date or not re-instated.

The school's case to the Pupil Discipline Committee

The Governing Body (GB) will delegate its functions to consider reinstatement to the Pupil Discipline Committee.

The Headteacher will need to provide the Pupil Discipline Committee with relevant paperwork to support his/her case for exclusion. It is often tempting to provide as much information as possible; however, the Headteacher should ensure that all the information that is provided is relevant. The Pupil Discipline Committee should not be provided with information that is not pertinent to the exclusion. In order to help with this decision, the following checklist should be used.

Type of evidence	Exclusion for a 'one-off' serious incident	Exclusions for cumulative reasons
Details of the incident in question	Must be provided	Must be provided
Statement from the pupil in question	Must be provided	Must be provided
Witness statements	Must be provided	Must be provided
Behaviour log and details of previous incidents	No, unless there is a specific reason to do so	Must be provided

Attendance log	No, unless there is a specific reason to do so	Only if relevant
Details of support provided to pupil	Only if relevant	Must be provided
Reports from any professionals involved with the pupil	Only if relevant	Must be provided
Details of any SEN the pupil may have	Must be provided	Must be provided
Academic reports	No, unless there is a specific reason to do so	Only if relevant
Other information	Only if relevant	Only if relevant

If a pupil has a history of challenging behaviour and is then permanently excluded for a one-off incident (which does not follow the pattern of behaviour which the pupil usually presents with) then the Headteacher needs to exercise care about what information is provided. If details of prior misconduct are provided in the paperwork, the parent(s) could argue that the Committee has been biased by this information. In this instance the pupil's conduct log is irrelevant to the decision to exclude permanently.

All those making representations at the Pupil Disciplinary Committee Meeting should be sent a copy of the School's paperwork, identical to that presented to the Governors. It is good practice for the evidence to be sent at least 5 school days before the date of the meeting, to allow for reading time, consultation and legal advice if desired.

Suggested Agenda

All parties, including the pupil, should be allowed to express their views.

Agenda:

Introductions

Head Teacher's report

Questions to school by the Governing Body, parent(s), Local Authority

Parent(s) representations

Questions to parent(s) by the Governing Body, Headteacher, Local Authority

Local Authority statement

Questions to Local Authority by the Governing Body, Headteacher, parent(s)

Summing up by Headteacher

Summing up by parent

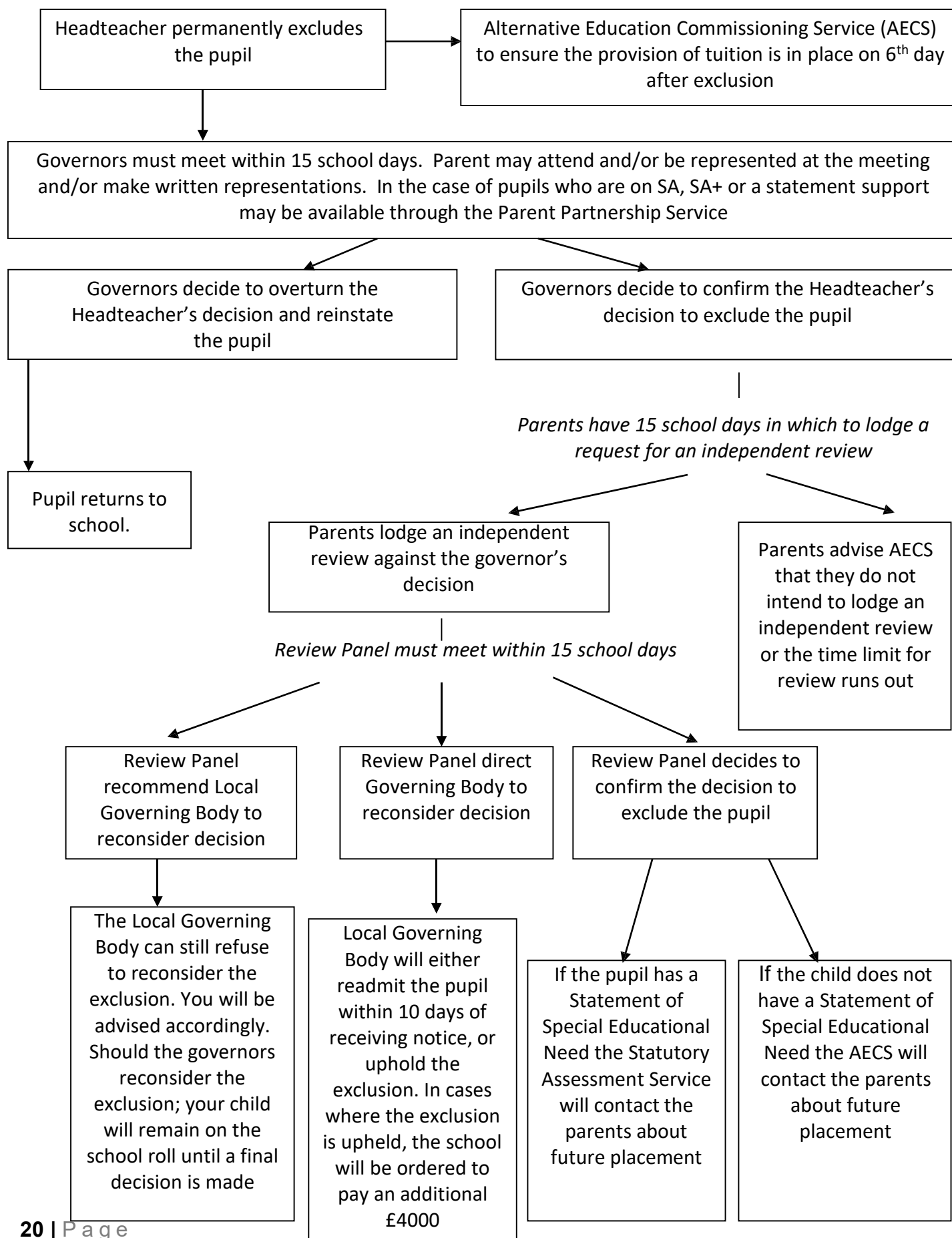
Withdrawal of Headteacher, parent(s) and Local Authority

Consideration of the case by the Governing Body

Decision of the Governing Body

Appendix F

Parents' Guide to the Procedure for Permanent Exclusion



Appendix G – Guidance on Panels

All governors must have attended the appropriate training course within the last 2 years.

If, the original panel of governors upholds the decision to exclude, the parent can appeal and a different panel of governors will convene to consider the matter. If the decision is upheld there is a right of appeal to the Local Authority. The new rules suggest that there is one hearing held by the governors and if the permanent exclusion is upheld the next appeal is heard by an Independent Review Panel.

It is for the Trust, and at the Trust's expense, to arrange for the panel to review the decision, provided the application is made within 15 school days of the notice being given to the parents by the governors.

A panel, consisting of three members, must include one person from each of the following categories:

- a lay member to chair the panel, who has not worked in any school, in any paid capacity, disregarding any experience as a school governor or volunteer
- school governors who have served as a governor for at least 12 months in the last 5 years, so long as they have not been a teacher or Headteacher within that period
- Headteachers or individuals who have been a Headteacher within the last 5 years

The panel can make the following decisions:

- uphold the exclusion
- recommend that the governors reconsider their decision
- quash the decision and direct the governors to consider the exclusion again

In relation to the third point above, governors can only quash the decision when it is deemed to be flawed when considered in light of the principles applicable on an application for judicial review. In deciding this, the panel must only take into account the evidence that was available to the governors when the decision was made. However, this does include any evidence that the panel considers would or should have been available had the governors acted reasonably. Thus, if new evidence is presented to the panel that was not available to the governors at the time of the original hearing the panel can take this into account and request the governors review their decision in light of the new evidence.

When a panel directs a governing body to reconsider the exclusion, under decision 3 above, it has the power to order the Trust to make a payment of £4,000 to the LA, in addition to any funding that would normally follow the pupil.

If it is requested by the parents, the Trust must appoint an SEN expert and cover the costs of such appointment. The parents can request this regardless of whether the child has been recognised as having SEN needs or not.