



Nurturing to Learn

EXCLUSION POLICY

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Types of exclusion

There are three types of exclusion that a school may use:

- Permanent – The pupil will not return to the school.
- Fixed term – This is a temporary exclusion which can be between 0.5 and 45 school days in length. No pupil may be excluded for more than a total of 45 school days in any one academic year.
- Lunchtime - Fixed-term exclusion where the pupil is excluded from the school premises for one or more lunchtimes.

INFORMAL or UNOFFICIAL exclusions, such as sending pupils 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.

Schools need to have policies, procedures and staff training in place that will promote good behaviour and prevent bad behaviour. Such behaviour policies need to be applied consistently and be widely publicised so that all pupils, school staff and parents are aware of the standards of behaviour expected of pupils, and the range of sanctions.

A school's behaviour policy may regulate pupils' behaviour where the pupils are neither on school premises nor in the care of school staff, where it is reasonable to do so. The school's behaviour policy should provide for the circumstances where the school may discipline pupils for inappropriate behaviour outside school.

Permanent Exclusion

Permanent exclusion should usually only be used as a final step when a wide range of other strategies has been tried and failed. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the child.

There may be exceptional circumstances where, in the head teacher's judgement, it is appropriate to permanently exclude a child 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.

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

These instances are not exhaustive but indicate the severity of such offences and the fact that behaviour can affect the discipline and wellbeing of the school community.

The LA must be informed of the exclusion within one school day [via Digital Front Door \(DfD\) on KELS](#), see also 6th school day provision flowchart on page 12/13. If the pupil lives outside the LA in which the school is located, the head teacher must also advise the 'home' LA of the exclusion so that they can make arrangements for the pupil's full time education from the 6th school day of the exclusion.

Days 1 to 5

The school must ensure that the parent is fully informed of their duties in the first five days of exclusion and of the school day from which the pupil will be provided with suitable alternative education by the LA. During the first five school days, the school should send work home for the pupil to complete.

Parents must ensure that the pupil is not present in a public place during school hours without reasonable justification. Parents can be prosecuted, or given a fixed penalty notice of £120 if they fail to do this. The pupil may also be removed from the public place by the police and taken to designated premises. *If the LA is advised that a parent has failed to comply with supervision requirements during the first 5 school days of a permanent exclusion, our School Attendance Service will take further action if, after enquiries / evidence gathering, the relevant officer decides that there are sufficient grounds on which to proceed.*

Day 6

The LA is statutorily responsible for ensuring that full-time provision is made for all permanently excluded Kent resident pupils from the 6th school day of the exclusion. [Provision does not however have to be made for pupils in the final year of compulsory education who have already taken (or missed) their public examinations]. Schools must follow the procedure set out in the 6th school day provision flowchart on page 11/12 to enable the LA to perform its statutory duty.

Fixed term exclusion

Although the law allows for a head teacher to exclude a pupil for up to 45 days in a school year, exclusions should be for the shortest time necessary. Ofsted inspection evidence suggests that 1-3 days is often long enough to secure the benefits of exclusion without adverse educational consequences. Where it is clear that fixed-term exclusions are not being effective in deterring poor behaviour, for example if they are being repeatedly imposed on a pupil in response to the same behaviour, head teachers should consider alternative strategies for addressing that behaviour.

The limit of 45 school days applies to the pupil not the institution therefore any days of fixed-term exclusion served by the pupil in any school or PRU in the same school year will count towards the total. If a pupil transfers to a new school during the academic year, records of the fixed-term exclusions should therefore be transferred promptly to the new school.

A fixed-term exclusion does not have to be for a continuous period: e.g. a pupil may be normally attending school three days a week and a local further education college for the other two; so a five-day exclusion from the school could be for three days in one week and two days in the next week.

Days 1 to 5

The school must ensure that the parent is fully informed of their duties in the first five days of exclusion, of the school days on which the pupil will be provided with suitable education and must attend that provision and of any sanctions that may be imposed for non-attendance.

During the initial period of up to five school days, the parents of the excluded pupil must ensure that he or she is not present in a public place during normal school hours without reasonable justification. Parents can be prosecuted, or given a fixed penalty notice of £120 if they fail to do this. The pupil may also be removed from the public place by the police and taken to designated premises. *If the LA is advised that a parent has failed to comply with supervision requirements during the first 5 school days of an exclusion, our School Attendance Service will take further action if, after enquiries / evidence gathering, the relevant officer decides that there are sufficient grounds on which to proceed.*

The school must ensure that work is set for the pupil to complete during the first five school days of exclusion and that it is marked, unless during that time the pupil will be attending alternative provision (arranged on a voluntary basis by the school).

Day 6

Where a pupil is given a fixed-term exclusion of six school days or longer, the school has a duty to arrange suitable full-time educational provision from and including the sixth school day of the exclusion. *Schools, Academies and PRUs are responsible for monitoring the pupil's attendance from the 6th school day of an exclusion, in conjunction with the Area Inclusion and Attendance Team. It is possible to prosecute for non-attendance from the 6th school day of exclusion if criteria are met.*

All exclusions should be reported to the LA via Digital Front Door (DfD) on KELSI. The LA must be informed of the exclusion within one school day where the exclusion totals > 5 days in a term. The LA should be informed as soon as possible of exclusions of 5 days or fewer in a term.

Reintegration meeting

Whilst the Statutory Instrument requiring a reintegration meeting was revoked as part of the September 2012 revisions to the guidance, it is considered good practice that schools meet with parents and the young person to discuss the issues and reasons for the exclusion and agree a way forward. The purpose of the reintegration meeting should be to support the pupil's reintegration and promote the improvement of his or her behaviour. The pupil should normally attend all or part of the meeting with at least one of his/her parents.

A fixed-term exclusion must not be extended if such a meeting cannot be arranged in time or the parents do not attend.

Lunchtime exclusion

Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period, this is a fixed-term exclusion counted as one half of a school day (1 session). The Secretary of State does not expect to see lunchtime exclusion used for longer than a week, in the long run another strategy for dealing with the problem should be worked out. A lunchtime exclusion for an indefinite period, like any other indefinite exclusion, would not be lawful.

Taking into account the child's age and vulnerability, the head teacher should ensure that a parent/carer has been contacted and is available, if appropriate, to arrange collection and supervision of the pupil during the lunchtime exclusion. Arrangements should be made for pupils who are entitled to free school meals, which may mean providing a packed lunch. The LA must be informed, via DfD, of the exclusion within one school day where the exclusion totals > 10 lunchtimes in a term. The LA should be informed as soon as possible of exclusions of 10 lunchtimes or fewer in a term.

6th day provision

Schools are not required to provide full-time education from day six of a lunchtime exclusion, lunchtime exclusions are not affected by the regulations on day six provision.

Who can decide to exclude a pupil?

Only a head teacher can exclude a pupil. If the head teacher is absent the power rests with the most senior teacher who should make it clear that they are acting in the head teacher's absence.

When is exclusion appropriate?

Advice should be sought from Kent Inclusion and Attendance Adviser if a long-term or permanent exclusion is likely so that all alternatives to exclusion and further support can be explored. A decision to exclude a pupil permanently should only be taken:

- in response to a serious breach or serious breaches of the school's behaviour policy; **and**
- if allowing the pupil to remain in the school would seriously harm the education or welfare of the pupil or others in the school.

When is exclusion not appropriate?

It would not be appropriate to exclude a pupil for minor incidents, poor academic performance, lateness/truancy or pregnancy or to protect victims of bullying by sending them home. Exclusion should also not be used for breaches of school rules on uniform/appearance, unless these are persistent and in open defiance of such rules. Neither would it be appropriate to punish a pupil for the behaviour of their parents, for example, where parents refuse or are unable to attend a meeting.

Exclusion should not be used if there are possible alternative solutions available or there are alternatives being proposed by Kent PRUs, Inclusion and Attendance Service (PIAS) or another support agency.

These could include:

- **Restorative justice**, enabling the offender to redress the harm that has been done to a 'victim'.
- **Mediation**, which may lead to a satisfactory outcome, particularly where there has been conflict between two parties.
- **Internal exclusion**, where the pupil is removed from class but not from the school premises. [Used for the shortest time possible and subject to review. Learning Support Units should not be used to provide internal seclusion].
- A **managed move**, whereby the school could ask another school to admit the pupil, if there is full knowledge and co-operation of all the parties involved (*see your Area's IYFA and Managed Move Protocol*).

[A list of exclusion prevention strategies and good practice is available on KELSI from this link.](#)

Parents should never be pressured into removing their child from a school under threat of a permanent exclusion, nor should the pupil be removed from the school roll to encourage them to find another school place.

Exclusion procedures

Head teachers should carefully follow the procedures set out in law and statutory guidance, which are designed to ensure fairness and openness in the handling of exclusions.

Decision

A decision to exclude should not be taken in the heat of the moment, unless there is an immediate threat to the safety of others in the school or the pupil themselves. Before reaching a decision as to whether to exclude the head teacher should:

- Ensure that a thorough investigation has been carried out.
- Consider all the evidence available to support the allegations, taking into account the school's behaviour and equal opportunities policies, and where applicable the Equality Act 2010 as amended.
- Be satisfied that, *on the balance of probabilities, the pupil did what he/she is alleged to have done.
- Allow and encourage the pupil to give their version of events.
- Check whether an incident may have been provoked, for example by bullying (including homophobic bullying) or by racial/sexual harassment.
- Consider whether the proposed sanction is proportionate in itself and in light of the treatment of any others involved in the incident.
- Consult others if necessary (being careful not to involve anyone who may later take part in the statutory review of their decision e.g. a member of the Governors Review Meeting).
- Keep a written record of the actions taken (and copies of written records made by other members of staff), including any interview with the pupil concerned. Witness statements must be dated and should be signed, wherever possible.
- Be satisfied that the decision to exclude the pupil was lawful, reasonable and procedurally fair, taking account of their legal duties.
- There is no alternative can be found by the school or Kent LA to the exclusion.

*The standard of proof to be applied is the balance of probabilities, i.e. is it more probable than not that the pupil did what he or she is alleged to have done. The 2012 guidance removes the need for there to be more convincing evidence the more serious the allegation.

A head teacher may choose to withdraw the exclusion at any time prior to it being reviewed by the governors.

Appendix 2 is a checklist to assist schools in making a decision in relation to pupil exclusion.

Notification of parents

Whenever a head teacher excludes a pupil, they must notify the parent without delay, ideally by telephone followed up by a letter.

All exclusion cases should be treated in the strictest confidence, only those who need to know the details should be informed of them.

In exceptional cases, usually where further evidence has come to light, a fixed-term exclusion [given 'pending further investigation'] may be extended, or converted to a permanent exclusion, a second letter should be sent to the parents explaining the reasons for the extension/change.

Please refer to the exclusion procedure table on page 10 and the model letters in appendix 1 for further details. The model letters have been changed in line with the revised guidance. It is vital that the school can prove the parent has been notified of their responsibilities for days 1-5 and 6+. The information on Section 104 of the Education and Inspections Act 2006 which has been incorporated into the model letters must therefore be included in your notification letter in full.

Day 6

In the case of an exclusion of >5 days, the parent must be informed of arrangements for 6th day provision, in writing at least 48 hours before the provision is to commence.

Marking attendance registers following exclusion

Where pupils are excluded for a fixed-term and no alternative provision is made before the sixth day of exclusion for them to continue their education, they should be marked absent in the attendance register using Code E. Where alternative provision is made, and it meets the requirements of the pupil registration regulations and pupils attend it, they should be marked using the appropriate attendance code, such as Code B (Education Off-site) or Code D (Dual Registration). Pupils who are permanently excluded and for whom no alternative provision is made before the sixth day, should be marked by the school as absent using Code E, the pupil may not be taken off-roll until the review process has been completed (or the parent has written to confirm no review will be requested, whichever date is the sooner).

Groups with above average rates of exclusion

Nationally the exclusion rates for certain groups of pupils are consistently higher than average. This includes: pupils with SEN; pupils eligible for free school meals; looked after children; and pupils from certain ethnic groups. The ethnic groups highlighted are: Gypsy / Roma; Travellers of Irish Heritage; and Black Caribbean communities. In Kent, children with SEN, both at the stage of SEN Support and EHCP, are far more likely to be excluded.

In addition to the approaches on early intervention set out above, head teachers should consider what extra support might be needed to identify and address the needs of pupils from these groups in order to reduce their risk of exclusion. For example, schools might draw on the support of GRT/ME Team, Early Help or other professionals, to help build trust when engaging with families from Traveller communities.

Pupils with special educational needs

Pupils with a statement of special educational need, with an EHCP or in the process of having a SEN Statement or an EHCP should not be permanently excluded except in the most exceptional circumstances. This is because head teachers/teachers will usually be aware of increasing problems of this cohort of pupils before the situation has escalated and should try every practicable means to maintain placements, including seeking LA and other professional advice and support. Where this process has been exhausted the school should liaise with the LA to arrange an interim annual review of the statement and seek advice from the relevant agencies.

If a head teacher decides to permanently exclude a pupil with a statement of SEN, they should use the period between their initial decision and the Governors Review Meeting to work with the LA to see whether more support could be made available, or whether the statement could be changed to name a

new school. If either of these two options is possible, the head teacher should normally withdraw the exclusion.

It is extremely important that parents of children with SEN who are excluded from school receive advice on the options available for their child's future education.

Disabled pupils

Schools have a legal duty under the Equality Act 2010, not to discriminate against disabled pupils by excluding them from school because of their disability. The Disability Rights Commission has published a Code of Practice, which explains and illustrates the school's duties to disabled pupils, including in relation to exclusions. Schools and governors are strongly recommended to read the Code of Practice. Further information is available at www.equalityhumanrights.com/.

It is unlawful to exclude a pupil for a reason related to their disability without justification. When considering whether or not it is appropriate to exclude a pupil who may be disabled within the meaning of the Equality Act 2010, head teachers should consider the following 4 questions:

1. Is the pupil disabled? (the Act covers pupils with physical or mental impairment including sensory impairments and learning difficulties).
2. Is the exclusion for a reason related to the pupil's disability? (i.e. if there is any connection between the behaviour resulting in the exclusion and the pupil's disability this is considered less favourable treatment for a reason related to a pupil's disability).
3. Would another pupil to whom the reason did not apply be treated in the same way? (If the reason for the exclusion is the pupil's "behaviour" then it is necessary to consider whether or not another pupil who did not behave in that way would be excluded. It is not correct to compare the treatment of the disabled pupil with a non-disabled pupil. Instead the treatment of the disabled pupil should be compared with a pupil who did not behave in the same way).
4. Can the exclusion be justified? (An exclusion of a disabled pupil for a reason related to their disability can only be justified if there is a "material" and a "substantial" reason for it and the head teacher can show that there were no reasonable steps that could have been made to avoid the exclusion.

Further guidance on the definition of disability can be found at:

http://www.direct.gov.uk/en/DisabledPeople/RightsAndObligations/DisabilityRights/DG_4001068

Children in public care/Looked after Children (LAC)

Schools should be especially sensitive to exclusion issues where children in public care are concerned. Schools should try every practicable means to maintain the child in school and should seek the advice from Virtual School Kent (VSK), Inclusion and Attendance Adviser and other relevant professionals. VSK of Social Services should in all cases be involved at the earliest opportunity in working with the school to avoid the need to exclude the pupil.

If a child in public care is excluded, the school may have to inform more people than usual about the exclusion and their right to make representations and appeal. The definition of a parent for the purposes of the Education Acts includes a person who has parental responsibility (which includes the Local Authority where they have a care order in respect of the child) and any person (for example, a foster parent) with whom the pupil lives. These are in addition to the child's birth parents. Even where the Local Authority does not have parental responsibility, the child's social worker should be informed about any exclusion.

Day 6

Although the Education and Inspections Act 2006 only requires full-time education to be provided from the sixth day of any exclusion; the Government recommends that schools and LAs arrange alternative provision from the first day of the exclusion where a pupil in care is excluded.

Race Relations

The law places a general duty on all maintained schools to have due regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between people of different racial groups. The law also places a number of specific duties on schools, including duties to assess the impact of policies and to monitor the operation of those policies on pupils, parents and staff from different racial groups.

As mentioned above, schools are required to assess whether policies that lead to sanctions including exclusion, have a disproportionately adverse impact on pupils from particular racial groups. It is recommended that schools and governors involved in the review of exclusions read the Code of Practice on the Duty to Promote Race Equality and a non-statutory guide The Duty to Promote Race Equality: A Guide for Schools. Further information available via: www.cre.gov.uk

Drug related incidents

Schools should develop a policy on both illegal and legal drugs, including over-the-counter, prescription medicines and volatile substances that could be inhaled. It is for head teachers to decide whether or not to exclude for a drug-related offence, having regard to their published policy and following consultation with their drugs co-ordinator.

In more serious cases an assessment of the incident should be made against the criteria set out in the school's policy and this should be a key factor in determining whether permanent exclusion is an appropriate course of action. Fixed-term exclusions may in some cases be more appropriate than permanent exclusion. The Department has issued revised guidance on drugs and this can be accessed via:

<http://www.education.gov.uk/childrenandyoungpeople/healthandwellbeing/substancemisuse/a0070053/drugs>

EXCLUSION PROCEDURE TABLE

Type	Notify parent/carers	Notify LA & governors	Governors to meet	Decisions open to the governors	Notification of outcome of GRM
Permanent	Immediately by phone, followed by a letter within one school day. Model Letter 4	*Within one school day. Via DfD on KELS!	By the 15 th school day after receiving notice of the exclusion.	Uphold the exclusion or direct reinstatement immediately or by a particular date.	In writing without delay of the hearing. Relevant paperwork should be recorded in the pupil's file for future reference. Model Letter 8
Exclusion resulting in a pupil missing a public examination	Immediately by phone, followed by a letter within one school day. Model Letter 2	Within one school day. Via DfD on KELS!	**Governors should try to meet before the date of the exam and by the 15 th school day after receiving notice of the exclusion.	Uphold the exclusion or direct reinstatement (where practical) immediately or by a particular date.	In writing without delay of the hearing. Relevant paperwork should be recorded in the pupil's file for future reference.
Fixed Term: > 15 days in a term	Immediately by phone, followed by a letter within one school day. Model Letter 3	Within one school day. Via DfD on KELS!	By the 15 th school day after receiving notice of the exclusion.	Uphold the exclusion or direct reinstatement immediately or by a particular date. (not applicable if exclusion has been served – can only annotate school record)	In writing without delay of the hearing. Relevant paperwork should be recorded in the pupil's file for future reference.
Fixed Term: > 5 but not more than 15 days in a term	Immediately by phone, followed by a letter within one school day. Model Letter 2	Within one school day. Via DfD on KELS!	Only if the parent/carers requests a meeting should the governors then meet to consider representations between the 6 th & 50 th school day after receiving notice of the exclusion.	Uphold the exclusion or direct reinstatement (where practical) immediately or by a particular date. NOT IF EXCLUSION BEEN SERVED -CAN ONLY ANNOTATE SCHOOL RECORD	In writing without delay of the hearing. Relevant paperwork should be recorded in the pupil's file for future reference.
Fixed Term: 5 days or fewer in a term	Immediately by phone, followed by a letter within one school day. Model Letter 1	As soon as possible. Via DfD on KELS!	If the parent submits representations, the governors must consider them. Governors can agree to a meeting if the parent/carers wants to meet but no meeting is required.	Governors cannot direct reinstatement.	Although no time limit applies, governors should respond promptly to any representations from the parent. Relevant paperwork and response should be recorded in the pupil's file for future reference.
Fixed Term: Pending investigation	Model letter 6	As above	As above	As above	As above

Type	Notify parent/carer	Notify LA & governors	Governors to meet	Decisions open to the governors	Notification of outcome of GRM
Lunchtime	Model letter 7	Via DfD on KELS!	Please refer to the relevant Fixed-term section depending on the number of sessions.		

*Where the pupil resides out of Kent, the 'home' LA must also be informed (see model letter 5)

**If the Chair decides it is impractical for the governors to meet before the pupil is due to sit the examination, the Chair can consider the exclusion alone. This is the only circumstance in which a Chair can sit alone to review exclusions.

The Governors Review Meeting

Purpose

The governing body is responsible for reviewing the head teacher's decision to exclude a pupil permanently or for a long fixed-term and deciding whether to direct re-instatement, where that is a practical option. The governing body is also responsible for considering any representations made by the parents of excluded pupils following shorter fixed-term exclusions.

The Governing Body

The governing body can delegate some or all of its functions in respect of exclusions to a sub group of governors who would be available to participate in Governors Review Meetings. A minimum of three governors are required for a Governors Review Meeting to take place.

The governing body may wish to nominate a larger pool of governors to draw from in view of the strict deadlines within which Governors Review Meetings must be held.

Any governor with a connection to the pupil, or knowledge of the incident that led to the exclusion that could affect their ability to act impartially, should not serve at the hearing.

It is very important that governors called upon to review exclusions receive training reflecting the most recent guidance, to equip them to discharge their duties properly.

Clerk to the Governors Review Meeting

The governing body should appoint a Clerk to provide advice on the exclusions process and cover the administrative arrangements of the meeting. This could be the Clerk to the whole governing body or a member of the school's administration team.

It is the duty of the Clerk to set up the Governors Review Meeting when notification of a permanent exclusion or any exclusion totalling over 15 days in a term is received from the head teacher or when representations are received from the parent. The Clerk is required to set up the meeting within the prescribed timescales. Governors must invite the parents, head teacher and an LA Officer to the meeting at a time and place convenient to all parties

The LA asks that the Inclusion and Attendance Team is contacted [via DfD on KELSIS](#) within one school day of a decision to permanently or long fixed-term exclude a pupil, so that possible times for the meeting can be identified and kept free.

All papers relating to the case should be circulated at least five working days before the meeting to allow all parties the opportunity to acquaint themselves with the particulars of the case and give it their full consideration.

Papers circulated should include any written statements and a list of those who will be present at the meeting. *If there are serious concerns that there may be any repercussions for any of the witnesses, statements may be anonymised before being copied.*

Attendees:

- At least 3 governors nominated to conduct Governors Review Meetings, one of whom must act as Chair.

- The pupil (if he/she wishes and their parent agrees). Subject to age and understanding
- The parent (and possibly a friend or legal representative).
- The head teacher (and sometimes another member of school staff).
- The LA representative (the *LA representative will endeavour to attend Review meetings for all permanent exclusions*).
- The Clerk to the Governors Review Meeting.

The meeting should be as informal as possible and the Chair should ensure that all parties are given sufficient time to fully state their case.

The LA representative:

The Local Authority representative advises the governors on the LA's view of the appropriateness of the exclusion, *in particular relating to the guidance as set out by the DfE and to the local practices and support available* and to remind governors of areas to consider during their deliberations. The governors can ask the LA representative for specific technical advice, but they must make their decision alone.

Format

Chair introduces all parties, explaining the purpose and format of the meeting and possible outcomes. Detailed minutes must be taken by the Clerk, including during the decision making phase.

School's case

- *Head teacher and other school staff explain why the decision was taken to exclude, the reasons, the investigation of the incident and any pupil support strategies, if relevant.*
- *Parent/Carer can ask questions of the school.*
- *The governors can ask questions of the school.*

Parent/Carer's case

- *Parent/Carer states their views on the exclusion and outlines any issues they feel the governors need to be aware of.*
- *The school can ask questions of the parent.*
- *The governors can ask questions of the parent.*
- *(The LA representative can ask questions to clarify facts at any stage).*

LA advice

- *The LA representative will present their advice and information.*

Summing up

- *The school sums up their case.*
- *The parent/carer sums up their case.*
- *The Chair of the Review meeting should establish with the head teacher and the parent/carer that they have had the opportunity to say all that they wanted to say.*

Reaching a decision

Governors should not get drawn into commenting during the hearing on the appropriateness or otherwise of actions taken by the school, pupil or parent/carer. They must be seen to view the case fully and impartially and consider their position in private once the other parties have withdrawn.

All except the governors and the Clerk withdraw whilst the governors make their decision. The Clerk minutes the decision making process.

Thought needs to be given as to whether the parents are asked to wait for a decision or to return home for notification by telephone. In any event the parents, school and LA should be informed of the decision either in person or by telephone on the day of the meeting, followed by a detailed 'outcome' letter as soon as possible after the meeting, clearly stating the reasons for the decision.

Please refer to the checklist on page 19/20 for detailed information on areas to consider when reaching a decision.

Next steps

Where reinstatement is not practical, i.e. where the pupil has already returned to school at the end of a fixed-term exclusion, the outcome of the Governors Review Meeting should be added to the pupil's school record for future reference.

If the governors direct re-instatement they should discuss with the LA representative what support could be made available to help to ensure that the pupil is successfully re-integrated.

The governors cannot attach conditions to the re-instatement of a pupil, *when considering the date, the LA recommends governors allow time for a reintegration plan to be put in place to support the pupil's return to school.*

In the case of permanent exclusions the pupil remains on the school's roll until all independent review procedures have been completed, the deadline for independent review has passed or the parent has waived their right to such a review and informed the LA accordingly in writing (whichever date is the sooner).

When reviewing an exclusion, governors should not interpret a parent's acceptance of full-time education off-site as signalling agreement with the head teacher's decision to exclude their child. Parents still have the right to make representations to the governing body and this right is not affected in any way by the requirement for suitable full-time provision from the 6th school day of the exclusion.

LA CHECKLIST FOR THE GOVERNORS REVIEW MEETING (For permanent and long fixed-term exclusions)

The governors have to decide whether to re-instate the pupil or uphold the head teacher's decision to exclude. The meeting should be conducted and the decision made in line with the procedures set out in the June 2012 version of the DfE exclusions guidance ("Exclusion from maintained schools, Academies and pupil referral units in England" 2012). Governors should consider both whether the pupil did as is alleged and whether allowing the pupil to remain in the school would harm his/her education/welfare or that of others in the school community.

The governors are reminded that if they uphold the head teacher's decision to permanently exclude and the parent later requests an Independent Review Panel, the Panel will require the governors to justify this decision. Governors must:

- be able to clarify the grounds for the decision,*
- have considered whether the situation meets both of the areas outlined in the preceding paragraph,*
- have considered whether the head teacher's decision to exclude was legal, reasonable and procedurally fair,*
- be clear as to having considered relevant evidence, disregarded irrelevant evidence and properly applied the law.*

The following is a checklist of areas for the governors to consider when reaching their decision. (Not all areas will be applicable to every case).

The incident/s leading to exclusion

Governors should be clear that:

- 1. The exclusion is in response to a serious breach, or persistent breaches, of the school's behaviour policy **and** allowing the pupil to remain in school would seriously harm his/her education or welfare or that of others in the school (Paragraph 15, DfE Guidance 2012)*
- 2. Any incident relating to the exclusion has been investigated thoroughly by the head teacher and witness statements circulated.*
- 3. The allegations were established against the pupil "on the balance of probabilities", i.e. was it more likely than not that the incident took place as described by the school (rather than the criminal standard of 'beyond reasonable doubt').*
- 4. The pupil committed the offence(s) for which they have been excluded and that the severity of the incident warrants a permanent exclusion / this length of fixed-term exclusion.*
- 5. They considered the fairness of the exclusion in relation to the treatment of any other pupils involved in the same incident?*

About the pupil

Governors should consider the pupil's background:

- Are there extenuating circumstances such as family situation, mental health concerns, bereavement, bullying etc?*
- Does the pupil belong to a group with disproportionately high levels of exclusion:*
 - Special Educational Needs (SEN)*
 - Looked After Child (LAC)*
 - Certain ethnic groups, such as Gypsy/Roma, Travellers of Irish heritage and Black*

- Caribbean communities*
- *Free School Meals (FSM)*

If so, governors should carefully consider what specific strategies and support the school has put in place.

About the school's previous strategies

- *What other strategies and sanctions has the school tried before exclusion?*
- *Have they consulted other professionals and agencies in providing support (if appropriate)?*
- *Has the school kept the parent/carer fully informed of any concerns and involved them in any support strategies? Are the parents/carers aware of the school's expectation of pupil's behaviour?*

In addition, for long fixed-term exclusions:

- *Why did the head teacher decide on this particular number of days, and is it justified?*
- *How is the school using the time during the exclusion to address the pupil's problems?*
- *What educational arrangements have the school set up to support the pupil's re-integration?*

GRM Decision Letter Checklist

The Clerk must take detailed minutes of the governor's review meeting (GRM) and must remain with the governors and minute the decision-making process. The minutes must be made available to all parties on request and should form part of the school's paperwork if the parent requests a review of the decision.

The LA has provided a template (see appendix) the Clerk should work with the Chair to prepare the outcome letter. The letter must give detailed reasons for the decision so that the parent can make an informed choice whether or not to request an independent review. The letter must also include a summary of all the factors considered and of points submitted by each party. If an independent review is requested, the independent review panel will expect the governors, to explain how and why the decision was reached. The decision making process must be clearly documented not least because the new guidance allows the panel to direct / ask governors to reconsider the decision in certain circumstances.

The letter must clearly demonstrate what the governors considered, debated and concluded when reviewing the exclusion and in particular in each of the following areas:

The governors decision

Ensure that the outcome of the meeting is clearly stated and that the letter makes clear and detailed reference to each item of evidence governors considered and the decision(s) reached in relation to each, covering submissions from all parties.

Paragraph 15 of the DfE guidance

Has the two-fold test been met?

*Was the permanent exclusion in response to a serious breach, or persistent breaches, of the school's behaviour policy; **and** will allowing the pupil to remain in school seriously harm his/her education or that of others in the school”?*

The incident

Have the governors established whether it is more likely than not that the incident took place as described by the school i.e. 'on the balance of probabilities' (rather than the criminal standard of 'beyond reasonable doubt')?

Does the severity of the incident or the nature of the pupil's behaviour, warrant a permanent exclusion?

Did the governors consider the fairness of the exclusion in relation to the treatment of any other pupils involved in the same incident?

Pupil's background

Were there any extenuating circumstances such as family difficulties, mental health concerns, bereavement, bullying etc.?

Does the pupil fall in to one or more of the groups highlighted as having disproportionately high levels of exclusion?

- *Special Educational Needs (SEN)*
- *Looked After Child (LAC)*
- *Certain ethnic groups, such as Gypsy/Roma, Travellers of Irish heritage and Black Caribbean communities*
- *Free School Meals (FSM)*

If so, was appropriate and sufficient support in place? Were all relevant policies available for consideration and did the school apply those policies legally, appropriately and fairly in relation to the pupil concerned?

We appreciate that the above may be seen to add considerably to the time taken to conduct the meeting and document the outcome but clarity at this stage is in the best interests of all parties.

The Independent Review Panel

Purpose

If the parents of a permanently excluded pupil wish to challenge the decision of the governors, they may request an independent hearing. Details of how to do this and relevant timescales will have been included in the governors' letter to parents following the Governors Review Meeting. Requests for review received after the deadline cannot be accepted.

The purpose of the Independent Review Panel is to review the governing body's decision not to reinstate a permanently excluded pupil. In reviewing the decision the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school.

The panel should apply the following tests

- Whether the head teacher / governors acted outside their legal powers
- Whether the governing body's decision was not one a sensible person would make
- Was the exclusion process so unfair / flawed that justice was not done
- Where these tests have not been met the panel can quash the decision and direct governors to reconsider
- Where they have been met but where evidence / procedural flaws are identified, the panel can ask governors to reconsider
- In all other cases the panel should uphold the exclusion

Membership

The Council is responsible for maintaining a list of suitable Review Panel members and ensuring that they receive training. There will be 3 members on each Review Panel, made up of:

- The Chair, who must be a lay member (someone who has not worked in a school in a paid capacity).
- One member, who must be or have been, a governor of a maintained school for at least 12 consecutive months in the last 6 years (they must not be or have been in the last 5 years a teacher or head teacher).
- One member, who must be or have been within the last 5 years a head teacher of a maintained school.

Where possible, governor and head teacher panel members should have experience of the relevant phase of education e.g. secondary education for those considering secondary school exclusions.

Clerk to the Independent Review Panel

The Review Panel is set up by the Council but is independent from the Education Department and the school. The Committee Section makes all the arrangements for Review Panels.

Once notified of a request for a Review Panel by the parents the Clerk will arrange for the Panel to meet within 15 school days, taking reasonable steps to find out when the parents and other parties are available to ensure that all parties are able to attend. The Clerk serves as an independent source of advice on procedures for all parties. If necessary, the Panel may meet and then decide to adjourn the hearing, having regard to the particular circumstances of the case.

The Clerk will make all written evidence available to all parties five working days before the hearing. Taking account of the circumstances of each case, the Clerk will notify all parties of the deadline for submission of written representations.

SEN Expert

The revised guidance allows the parents to request that an SEN expert be present at the Independent Review Panel meeting (such a request must be made at the same time as the parent requests the review), regardless of whether the pupil is recognised as having special educational needs. The SEN expert's role is analogous to that of an 'expert witness' in a court setting, 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. 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. If the SEN expert believes that this was not the case he / she should, where possible, advise the panel on the possible contribution that this could have made to the circumstances of the pupil's exclusion.

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. 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.

Procedure

The following people are entitled to attend the Review Panel:

- The parents, who may be represented or accompanied by a legal or other representative (if more than one friend or representative wishes to attend, the Clerk should seek the Panel's agreement in advance, having regard to reasonable limit on numbers attending the hearing).
- The pupil should normally be allowed to attend the hearing and speak on their own behalf (if he or she wishes to do so and the parent agrees). *If the pupil does attend, the Panel should be sensitive to their needs and ensure that their view is properly heard. (If the pupil is under 18, they cannot present their own case).*
- The head teacher.
- A governor, who may be represented by a legal or other representative.
- A representative of the LA.
- SEN expert.

Witnesses may be called if they have witnessed the incident or behaviour or investigated the incident and interviewed the pupil but they cannot be compelled to attend. It is not usual for pupil witnesses to attend and they should usually submit their written statements instead.

The Clerk must give all parties details of those attending and their role, and notify them of the order of the hearing. *(Further details will be sent to the parties involved by the Clerk to the Review Panel when a hearing is arranged). The Review Panel will normally be held in a KCC building. The length of the meeting may vary considerably depending on the complexity of the case and the number of witnesses being called however the meeting would not be expected to last more than half a day.*

All parties may put forward new evidence about the event that led to the exclusion, including evidence that was not available to the head teacher or the governors. However, the school may not introduce new reasons for the exclusion. Where the school's case rests largely or solely on physical evidence and the facts are in dispute, the school should make any physical evidence available. Where this is not possible, photographs or signed witness statements are acceptable.

In exceptional cases the Review Panel may decide to adjourn an appeal. The Clerk will ensure that no part of the proceedings takes place unless all Panel members and interested parties are present.

The Decision

The Clerk may remain with the Panel members when the parties withdraw to offer advice on the procedure or law, helping by reference to notes of evidence and recording decisions and the reasons for them.

The Review Panel must decide, on the balance of probabilities (i.e. the civil standard of proof rather than the criminal standard of 'beyond reasonable doubt'), whether the pupil did what he or she is alleged to have done. If more than one incident of misconduct is alleged, the panel should decide in relation to each one. The panel should consider the basis of the head teacher's decision and the procedures followed having regard to:

- Whether the head teacher and governors complied with the law and had regard to the Secretary of State's guidance and in particular the two-fold test in paragraph 15, which states that the exclusion must be in response to a serious breach, or persistent breaches, of the school's behaviour policy **and** that allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.
- The school's published policies on behaviour, equal opportunities, Special Educational Needs, race equality and, if appropriate, anti-bullying policy.
- The fairness of the exclusion in relation to the treatment of any other pupil involved in the same incident.

Following its review the panel can decide to:

- uphold the exclusion decision;
- recommend that the governing body reconsiders their decision, or
- quash the decision and direct that the governing body considers the exclusion again

The panel should apply the following tests

- Whether the head teacher / governors acted outside their legal powers
- Whether the governing body's decision was not one a sensible person would make
- Was the exclusion process so unfair / flawed that justice was not done
 - Where these tests have not been met the panel can quash the decision and direct governors to reconsider
 - Where they have been met but where evidence / procedural flaws are identified, the panel can ask governors to reconsider
 - In all other cases the panel should uphold the exclusion
 -

An independent review panel does not have the power to direct a governing body to reinstate an excluded pupil. However, where a panel decides that a governing body's decision is flawed when considered in the light of the principles applicable on an application for judicial review, it can direct a governing body to reconsider its decision. If the governing body does not subsequently offer to reinstate a pupil, the panel will be expected to order that the school makes an additional payment of £4,000. This payment will go to the local authority towards the costs of providing alternative provision.

The decision of the Review Panel (and the grounds on which it is made) will be communicated in writing to all parties involved by the end of the second school day after the hearing, *and usually by telephone on the day of the meeting.*

Governors being asked / directed to reconsider

In the event that the Review Panel either asks or directs the governors to reconsider their decision, the same (can be others- no firm advice re this given) 3 governors must meet within 10 school days of such notification, with the school, parents and LA representative all being invited. The governors must notify all parties of their reconsidered decision and the reasons for it, in writing and without delay.

Financial penalty

If, having been directed to reconsider their decision the governors do not reinstate the pupil, the Review Panel will order a readjustment to the school's budget in the amount of £4,000. (Academies will be required to pay the Local Authority), this amount is in addition to the usual pro-rata AWPU amount for 'money following' the excluded pupil and in Kent will be used towards the cost of 6th day provision, in the first instance with any remaining to accompany the pupil if he/she is subsequently reintegrated to another Kent school.

Fixed-term exclusion of 5 days or fewer

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

Dear [Parent's Name]

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

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

(for pupils of compulsory school age)

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.

We will set work for [Name of Child] to be completed on the days specified in the previous paragraph as school days during the period of his/her exclusion when you must ensure that he/she is not present in a public place without reasonable justification. [Detail the arrangements for this]. Please ensure that work set by the school is completed and returned to us promptly for marking.

[School/PRU] You have the right to make representations about this decision to the governing body/management committee. If you wish to make representations please contact (Name and contact details of the member of staff in the school dealing with Exclusions, normally the Clerk to the Governing Body) 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 appeal, and/or make a claim, to the First Tier Tribunal, Special Educational Needs and Disability Tribunal (SENDIST). The address to which claims should be sent is: SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN. Your claim must be lodged within 6 months of the date of the exclusion. You may access further information on the following link www.justice.gov.uk/tribunals/send/appeals.

This paragraph applies if the HT chooses to hold a reintegration interview:

You [and your child or pupil'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 [within the next ten days] 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

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 (Name), Inclusion and Attendance Adviser, (Address), (Telephone No) and (email address), who can provide advice. You may also find it useful to contact The Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on 0808 802 0008 or on <http://www.childrenslegalcentre.com/>. The advice line is open from 8AM to 8PM Monday to Friday except Bank Holidays and 24th December to 1st January. You may wish to contact Kent Parent Partnership Service on 01622 755515.

Statutory guidance on Exclusion can be accessed on the following link

www.education.gov.uk/schools/pupilsupport/behaviour/exclusion

[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 HEAD TEACHER (OR TEACHER IN CHARGE OF A PRU) NOTIFYING PARENT(S) OF A PUPIL OF THAT PUPIL'S FIXED PERIOD EXCLUSION OF MORE THAN 5 SCHOOL DAYS (UP TO AND INCLUDING 15 DAYS) IN A TERM.

Dear [Parent's Name]

I am writing to inform you of my decision to exclude [Child's Name] for a fixed period of [Specify Period]. This means that [Child's Name] will not be allowed in school for this period. The exclusion start date is [Date] and the end date is [Date]. Your child should return to school on [Date].

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

[for pupils of compulsory age - next 3 paragraphs]

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 school days [or specify dates if exclusion is for fewer than 5 days] of this exclusion, that is on [Specify Dates] I must advise you that you may be prosecuted or receive a penalty notice from the Local Authority if your child is present in a public place on the specified dates without reasonable justification. It will be for you to show that there is reasonable justification for this.

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

[if the individual exclusion is for more than 5 days]

From the [6th school day of the pupil's exclusion (specify date) until the expiry of his/her exclusion we (For PRUs the local authority) – set out the arrangements if known at time of writing, if not known say that the arrangements will be notified shortly by a further letter.] will provide suitable full-time education. On [Date] he/she should attend at [Give name and address of the alternative provider if not the home/school] at [Specify the time - this may not be identical to the start time of the home/school] and report to [Staff member's name]. [If applicable – say something about transport arrangements from home to the alternative provider. If not known, say that the arrangements for suitable full time education will be notified by a further letter.]

[School/Pru] You have the right to request a meeting of the school's discipline committee/PRU's management committee to whom you may make representations, and my decision to exclude can be reviewed. As the period of this exclusion is more than 5 school days in a term the discipline committee/management committee must meet if you request it to do so. The latest date by which the discipline committee/management committee must meet, if you request a meeting, is [Specify date - no later than the 50th school day after the date on which the discipline committee were notified of this exclusion]. If you do wish to make representations to the discipline committee/management committee, and wish to be accompanied by a friend or representative, please contact [Name of Contact] on/at [Contact Details - Address, Phone Number, Email], as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. Also, please inform [Contact] if it would be helpful for you to have an interpreter present at the meeting.

You should be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you may make a claim to the First Tier Tribunal, Special Educational Needs and Disability Tribunal (SENDIST), The address to which claims should be sent is: SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN. Your claim must be lodged within 6 months of the date of the exclusion. You may access further information on the following link www.justice.gov.uk/tribunals/send/appeals Making a claim would not affect your right to make representations to the discipline committee.

This paragraph applies if the HT chooses to hold a reintegration interview:

You [and your child or pupil'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 [within the next ten days] 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

You have the right to see and have a copy of, your child's school record. Due to confidentiality restrictions, you must notify me in writing if you wish to be supplied with a copy of your 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 contact (Name and Contact details of Inclusion and Attendance Adviser), who can provide advice. You may also find it useful to contact The Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on 0808 802 0008 or on <http://www.childrenslegalcentre.com/>. The advice line is open from 8AM to 8PM Monday to Friday except Bank Holidays and 24th December to 1st January. You may wish to contact Kent Parent Partnership Service on 01622 755515.

Statutory guidance on Exclusion can be accessed on the following link
www.education.gov.uk/schools/pupilsupport/behaviour/exclusion

[Child's name] 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 HEAD TEACHER (OR TEACHER IN CHARGE OF PRU) NOTIFYING PARENT OF A FIXED PERIOD EXCLUSION OF MORE THAN 15 SCHOOL DAYS IN TOTAL IN ONE TERM

Dear [Parent's Name]

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

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

[for pupils of compulsory school age – next 3 paragraphs]

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

We will set work for [Child's Name] during [the first five school days or specify dates] of his/her exclusion [Specify the arrangements for this]. Please ensure that work set by the school is completed and returned to us promptly for marking.

[if the individual exclusion is for more than 5 days]

From the [6th school day of the pupil's exclusion (specify date) until the expiry of his/her exclusion we [For PRUs the local authority - set out the arrangements if known at time of writing, if not known say that the arrangements will be notified shortly by a further letter] will provide suitable full-time education. [Set out the arrangements if known at the time of writing, e.g.] On [Date] he/she should attend [give name and address of the alternative provider] at [specify the time - this may not be identical to the start time of the home/school] and report to [staff member's name]. [If applicable – say something about transport arrangements from home to the alternative provider] [if not known say that the arrangements for suitable full time education will be notified shortly by a further letter]

[School and PRU] As the length of the exclusion is more than 15 school days in total in one term the governing body/management committee must meet to consider the exclusion. At the review meeting you may make representations to the governing body/management committee if you wish. The latest date on which the governing body/management committee can meet is [date here - no later than 15 school days from the date the governing body is notified]. If you wish to make representations to the governing body/management committee 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/management committee of the time, date and location of the meeting. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. Also, please inform [Contact] if it would be helpful for you to have an interpreter present 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 appeal to the First Tier Tribunal, Special Educational Needs and Disability Tribunal (SENDIST). The address to which appeals should be sent is SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN. Your claim must be lodged within 6 months of the date of the exclusion. You may access information on the following link www.justice.gov.uk/tribunals/send.appeals. Making a claim would not affect your right to make representations to the governing body/management committee.

This paragraph applies if the HT chooses to hold a reintegration interview:

You [and your child or pupil'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 [within the next ten days] 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

You also have the right to see and have 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 (Inclusion and Attendance Adviser Name and Contact Details), who can provide advice. You may also find it useful to contact The Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on 0808 802 0008 or on <http://www.childrenslegalcentre.com/>. The advice line is open from 8AM to 8PM Monday to Friday except Bank Holidays and 24th December to 1st January. You may wish to contact Kent Parent Partnership Service on 01622 755515.

Statutory guidance on Exclusion can be accessed on the following link

www.education.gov.uk/schools/pupilsupport/behaviour/exclusion

[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 THE HEAD TEACHER OF A PRIMARY, SECONDARY OR SPECIAL SCHOOL (OR THE TEACHER IN CHARGE OF A PRU) NOTIFYING THE PARENT(S) / CARERS OF THE PUPIL'S PERMANENT EXCLUSION

Dear [Parent's Name]

I regret to inform you of my decision to permanently exclude [Child's Name] with effect from [Date]. This means that [Child's Name] will not be allowed in school/this PRU unless he/she is reinstated by the governing body/the discipline committee (management committee in case of a PRU) or by an appeal panel.

I realise that this exclusion may well be upsetting for you and your family, but the decision to permanently 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].

[For pupils of compulsory school age]

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 school days of this exclusion, ie on [Specify the precise dates] unless there is 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.

[For pupils of compulsory school age]

Alternative arrangements for [Child's Name]'s 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 [This may be different if supervised education is being provided earlier than the sixth day]. From the sixth school day of the exclusion onwards – ie from [Specify the date] the Local Authority [Give the name of the Authority] will provide suitable full-time education. [Set out the arrangements if known at time of writing, if not known say that the arrangements will be notified shortly by a further letter.]

[For pupils of compulsory school age]

[Where 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 [give contact details].

As this is a permanent exclusion the governing body (or management committee in case of a PRU) must meet to consider it. At the review meeting you may make representations to the governing body/PRU management committee if you wish and ask them to reinstate your child in school. The governing body/PRU management committee have the power to reinstate your child immediately or from a specified date, or, alternatively, they have the power to uphold the exclusion in which case you may apply for their decision to be reviewed by an Independent Review Panel. The latest date on which the governing body/PRU management committee must meet is [Specify the date - the 15th school day after the date on which the governing body/PRU management committee was notified of the exclusion]. If you wish to make representations to the governing body/PRU management committee 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/PRU management

committee of the time, date and location of the meeting. Please let us know if you have a disability or special needs which would affect your ability to attend the meeting. Also, please inform **[Contact]** if it would be helpful for you to have an interpreter present at the meeting.

[If you think this exclusion relates to a disability your child has, and you think disability discrimination has occurred, you may raise this issue with the governing body/PRU management committee.]

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 appeal to the First Tier Tribunal, Special Educational Needs and Disability Tribunal (SENDIST). The address to which appeals should be sent is SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN. You may access information on the following link www.justice.gov.uk/tribunals/send.appeals. Making a claim would not affect your right to make representations to the governing body/management committee

You also have the right to see a copy of **[Name of child]**'s school record. Due to confidentiality restrictions, you must 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 contact (Inclusion and Attendance Adviser' Name and Contact Details), who can provide advice on what options are available to you. Additionally, you may find it useful to contact The Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on 0808 802 0008 or on <http://www.childrenslegalcentre.com/>. The advice line is open from 8AM to 8PM Monday to Friday except Bank Holidays and 24th December to 1st January. You may wish to contact Kent Parent Partnership Service on 01622 755515.

Statutory guidance on Exclusion can be accessed on the following link www.education.gov.uk/schools/pupilsupport/behaviour/exclusion

Yours sincerely

[Name]

Headteacher (teacher in charge in case of a PRU)

MODEL LETTER (5) – FROM THE CLERK TO THE GOVERNING BODY (MANAGEMENT COMMITTEE IN CASE OF A PRU) TO PARENT UPHOLDING A PERMANENT EXCLUSION

Dear **[Parent's Name]**

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

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

You have the right to apply for the decision to be reviewed by an Independent Review Panel. You must set out the reasons for requesting the review in writing. Regardless of whether your child has recognised special educational needs, you have the right to request the Local Authority / Academy Trust to appoint an SEN expert to attend the review and provide impartial advice to the panel about how SEN could be relevant to the exclusion. If you wish for an SEN expert to attend the review, please notify the Clerk to the Independent Review Panel at the time of lodging your request. You may also include reference to any disability discrimination claim you may wish to make.

If you intend to request a review, please write to:

The Clerk to the Independent Review
Panel, Corporate Resource Department,
Sessions House,
Maidstone, Kent ME14
1XQ

Or email appeals@kent.gov.uk

by no later than **[specify the latest date – the 15th school day after receipt of this letter]**. If no application has been made for an Independent Review Panel by this date, then you will lose your right to a review.

In addition to the right to apply for an independent review, if you believe that the exclusion has occurred as a result of discrimination, then you may make a claim under the Equality Act 2010 to the First Tier Tribunal (Special Educational Needs and Disability). Your claim must be lodged within 6 months of the date of the exclusion. You may access further information about making a claim on the following link www.justice.gov.uk/tribunals/send/appeals.

The Independent Review Panel can make one of three decisions: they may uphold your child's exclusion; they may recommend that the governing body reconsiders their decision; or they may quash the decision and direct that the governing body considers the exclusion again.

For further sources of information, please contact (Inclusion and Attendance Adviser's Name and Contact Details) you may also find it useful to contact The Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on 0808 802 0008 or on <http://www.childrenslegalcentre.com/>. The advice line is open from 8AM to 8PM Monday to Friday except Bank Holidays and 24th December to the 1st January. You may wish to contact Kent Parent Partnership Service on 01622 755515.

Statutory guidance on exclusions can be accessed on the following link
www.education.gov.uk/schools/pupilsupport/behaviour/exclusion

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

Yours sincerely

[Name]

Clerk to the Governing Body (or clerk to the Management Committee in case of a PRU)

MODEL LETTER (6) - FROM HEAD TEACHER (OR TEACHER IN CHARGE OF A PRU) NOTIFYING PARENT(S) OF A FIXED PERIOD EXCLUSION IN THE FIRST INSTANCE PENDING FURTHER INVESTIGATION/REFLECTION.(SIGNALS POSSIBILITY THAT EXCLUSION MAY BECOME PERMANENT).

{ } brackets to be included/omitted as appropriate

Note: Head teacher should notify parents/carer immediately of the decision to exclude, ideally by telephone. The telephone call should be followed by written notification.

Dear [Parent/Carer Name],

I am writing to inform you of my decision to exclude [child's name] for a fixed period of [specify period] in the first instance to give me an opportunity to investigate the incident fully and decide if he/she should be permanently excluded. [Child's name] has been excluded for this fixed period because reason/s for exclusion I shall be writing to you again in the next few days {following the completion of my investigations} to explain my decision on what should happen next. This means that he/she will not be allowed in school between [date and date]. {This brings the total number of days excluded this term to ...}.

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. We have taken the following steps to try to avoid or to find an alternative to this exclusion:

[state action taken]

[Child's name] has been excluded for this period because [reason for exclusion]

{I am aware of [child's name's] Special Educational Needs. The following steps have been taken to make reasonable adjustments in order to avoid exclusion [state adjustments made].}

[For pupils of compulsory school age]

[If current exclusion is likely to be 5 days or fewer]

You have a duty to ensure that your child is not present in a public place in school hours unless there is reasonable justification for this. 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.

We will set work for [child's name] during this exclusion period. Please ensure that work set by the school is completed and returned to us promptly for marking.

[If current exclusion is likely to be for more than 5 days]

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 school days unless there is a 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.

We will set work for [child's name] during the first 5 days of his/her exclusion. Please ensure that work set by the school is completed and returned to us promptly for marking. From the 6th school day of the of the exclusion [specify date] until the end of the exclusion we will provide for suitable full time education.

[Select from the following 2 paragraphs depending on your decision in the first instance: more than 5 days or this exclusion brings total days of exclusion to 15 days or more in a term.] [More than 5 days]

As the period of this exclusion is more than 5 school days the {Pupil Discipline Committee/Management Committee} must meet if you request it to do so. Alternatively, you may make a written representation. If you request a meeting, the latest date by which the {Pupil Discipline Committee/Management Committee} must meet is [specify date – no later than the 50th school day after the date on which the Pupil Discipline Committee/Management Committee were notified of this exclusion]. To request a meeting please contact the Clerk to the Pupil Discipline Committee/Management Committee [include contact details – address, phone number, email] as soon as possible. Please inform [contact] if you wish to be accompanied by a friend or representative, or if it would be helpful for you to have an interpreter present at the 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.

[Total of 15 days or more in one term]

As the length of the exclusion brings the total number of days excluded to more than 15 school days in one term, the Pupil Discipline Committee/Management Committee} must meet to consider the exclusion. At the review meeting you may make representations to the {Pupil Discipline Committee/Management Committee} if you wish. The latest date on which the Pupil Discipline Committee/Management Committee} can meet is [date here – no later than 15 school days from the date the Pupil Discipline Committee/Management Committee} is notified. Please inform [contact] if you wish to be accompanied by a friend or representative, or if it would be helpful for you to have an interpreter present at the 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.

[For all]

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 appeal, and/or make a claim, to the First Tier Tribunal, Special Educational Needs and Disability Tribunal (SENDIST). The address to which claims should be sent is: SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN. Your claim must be lodged within 6 months of the date of the exclusion. You may access further information on the following link www.justice.gov.uk/tribunals/send/appeals.

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 [Name and Contact details of Inclusion and Attendance Adviser], who can provide advice. You may also find it useful to contact The Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on 0808 802 0008 or on <http://www.childrenslegalcentre.com/>. The advice line is open from 8AM to 8PM Monday to Friday except Bank Holidays and 24th December to 1st January. You may wish to contact Kent Parent Partnership Service on 01622 755515.

Statutory guidance on Exclusion can be accessed on the following link www.education.gov.uk/schools/pupilsupport/behaviour/exclusion

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

Yours sincerely

[Name]
Head
teacher

MODEL LETTER (7) - FROM THE HEAD TEACHER (OR TEACHER IN CHARGE OF A PRU) NOTIFYING PARENT(S) OF A LUNCHTIME EXCLUSION.

{ } brackets to be included/omitted as appropriate

Note: head teacher should notify parent/carer of the decision to exclude, ideally by telephone. The telephone call should be followed by written notification.

Dear [Parent/Carer],

I am writing to inform you of my decision to exclude [child's name] at lunchtime for a fixed period of specify number of days. [Child's name] has been excluded for this fixed period because [reason for exclusion] {this brings the total number of days excluded to ...}

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. We have taken the following steps to try to avoid or to find an alternative to this exclusion [state actions taken].

{I am aware of child's name's Special Educational Needs. The following steps have been taken to make reasonable adjustments for this [state adjustments made].}

{If you decide to have a re-integration interview} You and [child's name] should attend a re-integration interview with me (alternatively specify the name of another staff member) 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 re-integration interview is to discuss how best [child's name]'s return to school at lunchtime can be managed.

(Lunchtime exclusions 'count' as half a day absence, so if the lunchtime exclusion extends for a period in excess of 10 lunchtimes the following paragraph should be substituted)

You have the right to request a meeting of the Pupil Discipline Committee at which you may make representations and the decision to exclude can be reviewed. The latest date the Committee can meet is [date - no later than 50 days from the date the Committee is notified].

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 appeal, and/or make a claim, to the First Tier Tribunal, Special Educational Needs and Disability Tribunal (SENDIST). The address to which claims should be sent is: SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN. Your claim must be lodged within 6 months of the date of the exclusion. You may access further information on the following link www.justice.gov.uk/tribunals/send/appeals.

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.

Statutory Exclusions guidance can be located at Statutory Exclusions guidance

You may wish to contact [Name and Contact details of Inclusion and Attendance Adviser], who can provide advice. You may also find it useful to contact The Children's Legal Centre. They provide free legal advice and information to parents on education matters. They can be contacted on 0808 802 0008 or on <http://www.childrenslegalcentre.com/>. The advice line is open from 8AM to 8PM Monday to Friday except Bank Holidays and 24th December to 1st January. You may wish to contact Kent Parent Partnership Service on 01622 755515.

Statutory guidance on Exclusion can be accessed on the following link
www.education.gov.uk/schools/pupilsupport/behaviour/exclusion

Yours sincerely

[Name]
Head teacher



Head teacher's checklist for pupils with SEN / disability Appendix 2

	Yes	No
<p>Does the pupil have an EHCP or a Statement of Special Educational Needs?</p> <ul style="list-style-type: none"> • Has the Special Needs Officer been contacted? • Has an emergency annual review been called? <p>Not all pupils with EHCPs or statements of special educational needs will have a disability but there is a significant overlap.</p>		
<p>Is this pupil at the stage of SEN Support (formerly school action or school action plus)?</p> <ul style="list-style-type: none"> • Has extra assistance from the LA been explored? 		
<p>Does the pupil have a disability</p> <p>For example, do they have a mental or physical impairment which has a substantial, adverse effect on their ability to carry out normal day to day activities?</p> <p>In law "substantial" means more than minor or trivial In law "long term" means at least a year</p> <p>Not all pupils with a disability will have an EHCP (formerly SEN statement of special educational needs), but many will.</p> <p>"Disability" includes physical disabilities, speech and language needs, memory and ability to concentrate, perception of the risk of danger when these are adverse, long term and substantial</p>		
<p>Has the pupil been treated less favourably?</p> <p>Would a pupil without a disability have been dealt with in the same way? You will need to consider:</p> <ul style="list-style-type: none"> • What is less favourable treatment? • What is the reason for less favourable treatment? • Is the reason directly related to their disability? • Can less favourable treatment be justified? • Is the justification material and substantial? 		
<p>Have reasonable adjustments been made for this pupil?</p> <p>You will need to consider:</p> <ul style="list-style-type: none"> • Would failure to make reasonable adjustments place the pupil at a substantial disadvantage? • Could the need to make reasonable adjustments have been anticipated? • Has the school reviewed policies, practices and procedures (continuing responsibility)? • Does reasonable adjustment involve removal/alteration of physical features? • Does reasonable adjustment involve provision of auxiliary aids/services (SEN framework)? • Have relevant factors been explored and balanced? <ul style="list-style-type: none"> ➤ Need to maintain standards? ➤ Financial resources available? ➤ Cost of taking particular step? ➤ Extent to which it is practical to take particular step? ➤ Extent to which auxiliary aid/services will be provided under SEN framework? ➤ Health and safety requirements? ➤ Interests of other pupils/prospective pupils? ➤ Could the school have been reasonably expected to know about the disability (confidentiality; lack of knowledge)? ➤ Can actions or omissions be materially and substantially justified? 		