



Exclusion Best Practice Guidance

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| Date | January 2019 |
| Written by | Astrea Academy Trust |
| Review Date | September 2019 |



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1. Introduction and Legal Context

- 1.1. This best practice guidance sets out our expectations for all our academies in ensuring we are compliant with legislation governing the exclusion of pupils and in relation to our statutory duties relating to this.
- 1.2. It should be read in conjunction with, and **not** in place of, statutory guidance from the Department for Education (2017):
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/630073/Exclusion_from_maintained_schools_academies_and_pupil_referral_units_guidance.pdf, which provides a guide to the legislation that governs exclusions, and in conjunction with the Trust's *Behaviour Best Practice Guidance* (2017).
- 1.3. Statutory guidance (2017) states that only the head teacher of a school can exclude a pupil and this must be on disciplinary grounds.
- 1.4. All academies must operate in accordance with the law as set out in the following:
 - Section 51A of the Education Act 2002, as inserted by the Education Act 2011
 - The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
 - Sections 100 to 108 of the Education and Inspections Act 2006
 - Exclusion from Maintained Schools, Academies and Pupil Referral Units in England: Statutory Guidance for those with legal responsibilities in relation to exclusion (2017)
 - The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by Regulations 2014
- 1.5. The law does not allow for extending a fixed period exclusion or 'converting' a fixed period exclusion into a permanent exclusion. If new evidence comes to light during a fixed-term exclusion, a further exclusion (fixed or permanent) may be issued starting immediately after the end of the existing exclusion.
- 1.6. Any decision of a school, including exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful; rational; reasonable; fair; and proportionate.
- 1.7. When establishing the facts in relation to an exclusion the head teacher must apply the civil standard of proof, i.e. 'on the balance of probabilities', it is more likely than not to be true. This is a lower threshold than the criminal standard of 'beyond reasonable doubt'.
- 1.8. Under the [Equality Act \(2010\)](#) academies must not discriminate against, harass or victimise pupils because of their: gender, race, disability, social background, religion or belief, or sexual orientation; because of a pregnancy / maternity; or because of a gender reassignment. For children with a disability, this includes a duty to make reasonable adjustments to policies and practices.
- 1.9. The Principal and review panel must comply with their statutory duties in relation to Special Educational Needs (SEN) when administering the exclusion process. This includes having regard to the SEND Code of Practice (2015).
- 1.10. It is unlawful to exclude for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment/ability; the action of a pupil's parents; or the failure of a pupil to meet specific conditions before they are reinstated, such as to attend a reintegration meeting.



- 1.11. 'Informal' or 'unofficial' exclusions, such as sending a pupil home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for short periods of time, must be formally recorded.

2. A Trust Approach to Exclusion and the Pre-Exclusion Assessment Process

- 2.1. The vision for Inclusion across the Trust reiterates the Astrea mission, acknowledging that an exceptional education will provide a rich and empowering experience which produces success through wider and academic outcomes and where 'success' is defined in terms of the individual learner.
- 2.2. In consideration of statutory guidance (2017), the Trust takes a proactive approach to exclusions, underpinned by the principles of early intervention and the Pre-Exclusion Assessment Process or PEAP is what drives this.
- 2.3. The Trust requires that for pupils who have received two fixed period exclusions in a half-term or for pupils who are at risk of permanent exclusion, a PEAP is undertaken; this is a structured meeting which is documented, as per **appendix 3**, for fixed period exclusions and as per **appendix 4**, in addition, for permanent exclusions.
- 2.4. During the PEAP meeting, the details of the exclusion are discussed, and the needs of the pupil assessed; this includes capturing pupil voice. The impact of external and/or additional support is evaluated and the Principal is expected to show how, despite the support that has been put in place, exclusion is the only remaining option available.
- 2.5. The PEAP meeting and the documentation produced as a result of this, is beneficial to academies, as it evidences the extensive work already done. This is of particular importance in the event of an independent review / tribunal hearing.
- 2.6. The final PEAP documentation, completed in the event of a permanent exclusion, supports academies in making recommendations for future practice, so that we can continue to reduce the number of exclusions across the Trust; particularly for those vulnerable pupils identified in statutory guidance (2017) and referred to in paragraph 3.5 of this document.
- 2.7. The PEAP documentation must be completed by a member of the Central Inclusion Team; this therefore provides academies with evidence of external scrutiny.

3. Equality and Inclusion

- 3.1. All learners should be equally valued in school. The Equality and Human Rights Commission (EHRC) states that "avoiding discrimination and promoting equality supports the agenda of improving attainment and progression for all pupils. Good education and skills are crucial for opening up opportunities and increasing the change of a successful life. In addition, in England, equality and diversity are specified factors that must be considered in Ofsted inspections.
- 3.2. Academies also have wider duties to prevent discrimination, to promote equality and to foster good relations for "an equal society protects and promotes equal, real freedom and substantive opportunity to live in the ways people value and would choose, so that everyone can flourish. An equal society recognises people's different needs, situations and goals and removes the barriers that limit what people can do and can be." (EHRC, 2014)
- 3.3. The SEND Code of Practice (2015) states that schools and colleges should have clear processes to support children and young people, including how they will manage the effect



of any disruptive behaviour, so it does not adversely affect other pupils. The Department for Education publishes guidance on managing pupils' mental health and behaviour difficulties in schools.

- 3.4. Statutory guidance (2017) states that early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have. particular regard should be paid whether disruptive behaviour is an indication of underlying social, emotional and mental health need (SEMH).
- 3.5. 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 with the highest rates of exclusion are: Gypsy/Roma; Travellers of Irish Heritage; and Caribbean pupils.
- 3.6. In addition to the approaches on early intervention, set out above, the head teacher 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.
- 3.7. The head teacher should as far as possible, avoid permanently excluding any pupil with an Education, Health and Care (EHC) Plan or a looked after child.

4. Unlawful Exclusions

- 4.1 As a rule, academies are “not permitted to place a pupil on a **part-time timetable**. In very exceptional circumstances there may be a need for a temporary part-time timetable to meet a pupil's individual needs. A part-time timetable must not be treated as a long-term solution”¹. (DfE, 2016)
- 4.2 There is “widespread lack of awareness and understanding of the law regarding exclusions...**placing challenging pupils on part-time timetables**...with the remainder of time spent at home **(is) also recognised as an unofficial means of exclusion**.”²
- 4.3 Ofsted will record any information received on illegal exclusions as part of its monitoring data on academies; “if inspectors find that a school is using part-time timetables for a student, they will ask the school to show them the time-limited plan to enable the student to be re-integrated quickly to full-time education and evidence of the plan's success.”³ (Ofsted, 2014)

5. Notifying the Trust of Fixed Period Exclusions

5.1 The Principal must, without delay, the Trust and the local authority of:

- Any permanent exclusion (including where a fixed-period exclusion is followed by a decision to permanently exclude the pupil);

¹ DfE (2016) School Attendance

² Children's Commissioner (2013) Always Someone Else's Problem: Office of the Children's Commissioner's Report on Illegal Exclusions

³ Ofsted (2014) Schools' Use of Exclusion



- Any exclusion which would result in the pupil being excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and
- Any exclusion which would result in the pupil missing a public examination or national curriculum test.

5.2 This is in accordance with Section 51A of the Education Act (2002) and regulations made under that section.

5.3 The Principal must also notify the local authority and the Trust once per term of any other exclusions not already noted.

5.4 As the responsible body, the Trust is responsible for monitoring the frequency of fixed term and permanent exclusions across all academies.

5.5 **It is therefore a requirement for all academies to complete the 'Notification of Fixed-Term Exclusion', as per appendix 1, so that academy-based documentation follows a best-practice approach.**

5.6 In addition, and on a termly basis, all academies are required to submit a 'Termly Monitoring of Exclusions' return, as per **appendix 2**; these should be sent to the Head of Data Intelligence, Lisa Thompson: lisa.thompson@astreaacademytrust.org.uk and the Deputy Director of Inclusion (Safeguarding), Nicola Law: nicola.law@astreaacademytrust.org and ensure the Executive Director of Inclusion, Nicola Crossley is copied in: nicola.crossley@astreaacademytrust.org.uk to ensure Executive level quality assurance.

Please note data should be sent securely using password protection, in order to safeguard the personal details of pupils.

6. Responsibility of Academies Following a Fixed Period Exclusion

6.1. Where pupils are excluded for fixed period up to five days, academies should take reasonable steps to set and mark work.

6.2. From the sixth day of exclusion, alternative provision must be arranged; it is the school's duty to ensure this. It should be noted that 'sixth day provision' is based on a cumulative period of exclusion and requires that an alternative and full-time education is provided.

6.3. Academies should have a strategy for reintegrating pupils that return to school following a fixed period exclusion, and for managing their future behaviour, so that their long-term success can be secured.

6.4. Points 6.1 to 6.3 inclusive are made in accordance with Section 100 of the Education and Inspections Act (2006), Section 19 of the Education Act (1996) and regulations made under those sections.

7. Permanent Exclusions

7.1. As per statutory guidance (2017, pp.57); **the Principal must take the decision whether to exclude (you cannot delegate this).**

7.2. **Appendix 4** of this document confirms the key questions Principals should consider when taking the decision to exclude; these questions are required as evidence within the full PEAP documentation and **must only be completed by the Principal.**



7.3. Permanent exclusion should:

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

7.4. To ensure compliance with the above pre-requisites, and in the event of a permanent exclusion referral being made, the Deputy Director of Inclusion (Safeguarding), Nicola Law: nicola.law@astreaacademytrust.org is required to undertake a Pre-Exclusion Assessment, as per **appendix 3** and **appendix 4**; the documentation produced as part of this process MUST be included in the Permanent Exclusion Documentation as per paragraph 7.

7.5. The following parties must be invited to a meeting of the panel and allowed to make representations:

- Parents (and, where requested, a representative or friend);
- The head teacher.

7.6. Parents may request the Local Authority attend the meeting as an observer; that representative may only make representations with the Trust's consent.

8. Permanent Exclusion Documentation – Guidance for Academies

8.1. To ensure compliance with the letter of the law and the ethos of the Astrea approach to inclusion, academies are expected to produce evidence of documentation for scrutiny at exclusion hearings.

8.2. All documentation MUST be with parents and all members of the panel, five school days prior to the meeting.

8.3. Suggested papers to be included are referenced in **appendix 5**: 'Exemplar Documentation for Consideration at Exclusion Hearings'.

8.4. It is not a requirement for data / evidence to be presented in a specific format, for example, evidence of behaviour incidents do not have to be printed from CPOMS.

8.5. Statutory guidance (2017) does not stipulate what documentation should be included other than: "witness statements and other relevant information held by the school such as those relating to a pupil's SEN".

9. Attendance at Permanent/15+ Exclusion Hearings – General Guidance for LECCs and TMBs

9.1. When a child is excluded permanently or for more than fifteen days in any term, a panel must meet to consider the exclusion(s).

9.2. The purpose of the exclusion hearing is for a review panel to have oversight of whether the Principal's decision to exclude was lawful, rational, reasonable, fair and proportionate and to consider reinstatement of the child.



9.3. In preparing for a consideration of exclusion hearing, panellists, through coordination by the Clerk, if appropriate, should:

- Not discuss the exclusion with any other party;
- Ask for written evidence in advance of the meeting (including witness statements and other relevant information);
- Circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting;
- Allow parents and pupils to be accompanied by a friend or representative;
- Make reasonable adjustments as appropriate for people attending the meeting;
- Take steps to enable the excluded pupil to attend the meeting, considering their age and understanding. Alternatively, the panel should consider how the excluded pupil can feed in his/her views by other means; this can have been undertaken during the Pre-Exclusion Assessment, if appropriate.

9.4. It is crucial that exclusion hearings are clerked; ideally by the school's own Clerk. They act as a contact point, arranging the meeting, and collating and distributing any relevant papers in advance of the meeting.

9.5. At the meeting itself, the Clerk should be able to provide impartial procedural advice where necessary.

9.6. The chair of the panel will also have a role in ensuring that the review is held in the correct procedural manner and will have the crucial role of mediating where necessary.

9.7. Minutes should be taken and made available to all parties on request.

10. Permanent Exclusion Hearings

10.1. The meeting will follow a clear agenda which gives everyone an opportunity to have their say. If in attendance, the parent will have an opportunity to put forward their point of view and refer to any written representation.

10.2. **The Chair of the panel must use the exclusion deliberation checklist, as per appendix 6, as the Trust-agreed structure.**

10.3. The panel's decision must be based upon the 'balance of probabilities'; that is that it is more likely than not that the child did what s/he is alleged to have done and what behaviour policies were not followed, as a result. The panel must consider the evidence for the exclusion itself, but also the personal circumstances of the excluded pupil and how their presence at school will affect the staff and other pupils.

10.4. In determining the lawful, rational, reasonable, fair and proportionate response of the Principal, the panel needs to consider:

- Whether the correct procedures were applied; was the decision legal and fair? Did it comply with the school's behaviour policy?
- Did the decision comply with the Equality Act 2010? Was the process in line with the SEND Code of Practice?
- The seriousness of the incident and the appropriateness of a permanent exclusion;
- The likelihood of the incident being repeated, should the pupil be allowed to return;



- The fairness of the exclusion in relation to any other pupils involved in the same incident;
- Any relevant previous misbehaviour;
- The support provided by the Academy and for how long it was provided;
- Any special educational needs and disabilities (SEND) the pupil may have;
- Any mitigating circumstances.

10.5. The panel can either:

- Decline to reinstate the child (therefore, to uphold the exclusion(s)); OR
- Direct the reinstatement of the pupil either immediately or on a specific date

10.6. The outcome should be noted on the pupil's educational record, along with copies of all relevant documents.

11. Actions to be Taken Following the Exclusion Hearing

11.1 Following the exclusion hearing, the Clerk to the panel must notify the Deputy Director of Inclusion (Safeguarding), Nicola Law, of the decision immediately at:

nicola.law@astreaacademytrust.org

11.2 Where possible, the Clerk should provide the parent/carer(s) with an electronic version of the decision letter within 24 hours of the meeting. A hard copy of the letter should be sent as soon as possible and **must** be sent within five school days.

11.3 The school **must** inform the Local Authority of the outcome of the meeting as soon as possible after the decision has been notified to them.



12. Data Protection

Exclusions paperwork always contains personal information and usually contains sensitive personal information about children and others. The Trust expects a high standard of safety to apply this.

Pursuant to data protection law (the Data Protection Act 2018 and subsequent amendments), specific measures **must** be taken to protect the sensitive personal information contained in the evidence bundle and subsequent documents. The information that panellists receive **must not** be shared with others (if in doubt, the clerk will advise).

Panellists are also responsible for the security of the information they receive – substantive lapses might constitute a breach of the Code of Conduct.

All emails shared within the Trust (i.e. between Astrea email accounts) **must** be marked “Protect Confidential”.

The following additional steps **must** be taken to ensure the information is sufficiently protected when shared with panellists, clerks and local authorities outside the Astrea directory:

- All papers relating to the exclusion shall be password-protected. Passwords will be sent in emails separate to the papers.
- If panellists currently share email accounts with family members or other individuals, they are asked to set up individual email accounts for receipt of papers. Should this not be possible, the password for the papers shall be sent by means other than email (e.g. text).
- At the conclusion of proceedings, panellists are asked to delete the email containing papers and any downloaded versions.
- A personal assistant (PA) is considered to be an agent of the panellist and the panellist is responsible for any breach of the Code of Conduct on the part of the PA.
- Panellists will return any printed papers at the conclusion of the meeting for shredding. Should panellists take notes during the meeting, these should be submitted to the clerk for safe-keeping.

Schools and panellists **must** report any breaches of data security by notifying the school’s data protection officer (usually the Schools Business Manager) of:

- what information has been lost, stolen, or inappropriately shared;
- the circumstances of the above (i.e. time, place, cause); and
- what steps were taken to avoid the breach or to remedy it afterwards.



Appendix 1 – Notification of Fixed Period Exclusion

+

NOTIFICATION OF FIXED PERIOD EXCLUSION

| | |
|--------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| Legal surname of pupil: _____ | Male / Female (please delete as appropriate) |
| First name(s): _____ | Date of birth of pupil: ___/___/___ |
| Name of parent/guardian/carer: _____ | |
| Address: _____ | |
| Telephone number: Home: _____ | Work: _____ |
| Name and address of other parent/carer entitled to notification: _____ | |
| _____ | |
| NC Year: R 1 2 3 4 5 6 (please highlight) | |
| Start Date of exclusion ___/___/___ Last day of exclusion ___/___/___ Age when excluded: _____ | |
| Number of school days/lunchtimes for this exclusion: _____ | |
| Total number of school days/lunchtimes excluded this term: _____ | |
| Total number of school days/lunchtimes excluded in the current academic year: _____ | |
| Reason for exclusion | |
| PP Physical assault against pupil | PA Physical assault against adult |
| VP Verbal abuse/threatening behaviour against pupil | VA Verbal abuse/threatening behaviour against adult |
| BU Bullying | RA Racist abuse |
| SM Sexual misconduct | DA Drug and alcohol related |
| DM Damage | TH Theft |
| DB Persistent disruptive behaviour | OT Other (use sparingly where incidents are not covered in the categories above) |
| SEN Code of Practice Stage: (please underline) N/A K Supported EHC plan | |
| Is the pupil undergoing a statutory assessment? YES / NO | |
| Please indicate the most significant special educational need: _____ | |
| CAF/EHCP completed? YES / NO | |
| Is the pupil a Looked after Child (LAC)? YES / NO | |
| Is the pupil a carer? YES / NO | |
| Does the pupil have a recognised disability (ADHD, ODD etc)? YES / NO (please delete) | |
| If support agencies (within and/or outside the education service) are currently involved with this pupil, please give details: | |
| Agency: _____ | Contact person: _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| Date of referral to agency: _____ | |
| _____ | |
| _____ | |
| Is the pupil due to sit a public examination during the period of exclusion? YES / NO (please delete) | |

Date: _____ **Academy Contact:** _____

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



Appendix 2 – Termly Monitoring of Exclusions

| Exclusion Data 2016/2017 | | | | | | | | | | | | | | | | | | | | |
|--------------------------|---------------------|-------------------|------------|----------------------|------|--------|----|----|----|----|----|----|----|----|----|----|---|----------------|---------------------------|--|
| Name of Child | Year Group of Child | Date of Exclusion | No of days | Total days for child | | Reason | | | | | | | | | | | | Form to parent | Form added to CPOMs/filed | |
| | | | | term | Year | PP | PA | VP | VA | BU | RA | SM | DA | DM | TH | DB | O | | | |
| | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | |



Appendix 3 – Pre-Exclusion Assessment Process (PEAP)



Pre-Exclusion Assessment – First Response

Date of PEAP First Response: _____ **Name of Academy:** _____

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

| | | | |
|----------------------|----------------------|----------|----------|
| Ethnic Group | EAL | Y | N |
| SEND Needs | CLA | Y | N |
| SEND Category | Pupil Premium | Y | N |

Details of Fixed-Term Exclusions:

| Date | Duration | Reason |
|------|----------|--------|
| | | |
| | | |
| | | |

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

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

School-Based Interventions and Strategies:

| Date | Duration | Reason |
|------|----------|--------|
| | | |
| | | |



Pre-Exclusion Assessment – First Response

Details of documentation to support child's individual needs:

| Documentation | Date of 1 st document | Date of 2 nd document | Date of 3 rd document |
|----------------------------------------------------------------------------------------|----------------------------------|----------------------------------|----------------------------------|
| Support Plan (SEN/SEMH) | | | |
| Risk Assessment | | | |
| Positive behaviour support plan | | | |
| Positive Handling Plan/Support and Intervention Plan (if appropriate) | | | |
| Individual Timetabling arrangements (if appropriate) | | | |
| Meetings with parents/carers, specifically to discuss child's behaviour and next steps | | | |

Further information:



Pre-Exclusion Assessment – First Response

Voice of the Child:

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

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

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

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

¹ DfE (updated 2016) Exclusion from maintained schools, Academies and pupil referral units in England: A guide for those with legal responsibilities in relation to exclusion (2012)



Pre-Exclusion Assessment – First Response

VOC Date:

VOC Date:

VOC Date:



Pre-Exclusion Assessment – First Response

Voice of the Parents/Carers: *(please record details of any relevant parental liaison including communication with regards to exclusions and reintegration)*

VOP Date:

VOP Date:

VOP Date:



Pre-Exclusion Assessment – First Response

PEAP Review Date and Recommendations:

PEAP Review Date and Recommendations:

PEAP Review Date and Recommendations:



Appendix 4 – Additional PEAP Information for Permanent Exclusion Hearings

| Pre-Exclusion Assessment | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| Principal Evidence of Self-Evaluation: | | |
| | Questions¹ | Supporting Commentary as Evidence of Actions Taken |
| | Have I investigated specific incidents with all parties in a sensitive and fair way? | |
| | Have I considered factors that could have contributed to the pupil's behaviour (e.g. SEND or bereavement) and have I taken these factors sufficiently into account? | |
| | Is exclusion the most appropriate and reasonable sanction, and consistent with the academy's behaviour policy? | |
| | Are all the exclusion reasons clearly recorded, including the impact on others? Are they robust? | |
| | Is relevant evidence properly recorded / retained / documented? (E.g. summaries of interviews, past behaviour and support given) | |
| | Have I spoken to the parents to ensure they fully understand the type / scale of the incident? | |
| <p>Ideally, this document should be completed prior to the PEAP visit and sent to the Deputy Director of Inclusion in advance: nicola.law@astreaacademytrust.org; the document MUST be completed and handed in to the Deputy Director of Inclusion by the end of the PEAP visit, at the very latest, in order to comply with Trust expectations.</p> | | |
| <p>¹ Questions taken from DfE (2017) Exclusion from maintained schools, academies and pupil referral units in England: Statutory guidance for those with legal responsibilities in relation to exclusion</p> | | |

| Pre-Exclusion Assessment | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| Summary Recommendations | | |
| | Evaluation of Actions Undertaken by the Academy | |
| | | YES |
| | | NO |
| | The Academy has extensive evidence of a range of support put in place to meet the needs of the pupil for a period longer than a term | <input type="checkbox"/> |
| | There is evidence of involvement from multiple agencies for a period longer than a term | <input type="checkbox"/> |
| | There is evidence that the needs of the pupil and the involvement of the parents / carers have been central to all decisions made | <input type="checkbox"/> |
| | The Academy has met all statutory guidance, without exception | <input type="checkbox"/> |
| | The pupil's actions have breached the behaviour policy of the Academy and continue to pose a serious threat to the education of pupils or the safety and well-being of staff / pupils / themselves | <input type="checkbox"/> |
| <p>I am satisfied that the evidence provided, justifies the case being put forward to the Transition Board / LECC, in order to approve a permanent exclusion for the child named: _____ in Year _____ .</p> | | |
| <p>I am not satisfied that the evidence provided, justifies the case being put forward to the Transition Board / LECC, in order to approve a permanent exclusion for the child named: _____ in Year _____ and my reasons are given below:</p> | | |
| | | |
| <p>Signed: _____ (Nicola Law) Position: <u>Deputy Director of Inclusion, Astrea</u></p> | | |
| <p><i>On completion of the pre-exclusion assessment, all documentation must be sent to the Executive Director of Inclusion for information and sign-off or information and follow-up.</i></p> | | |
| <p>Date documents sent: _____</p> | | |



Appendix 5 – Exemplar Documentation for Consideration at Exclusion Hearings

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



Appendix 6 – Chair’s Exclusion Deliberation Checklist

Chair’s Exclusion Deliberation Checklist

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| The Facts | ✓ |
| Has the school properly and fully presented a case for the exclusion? | |
| If the facts are disputed, on the balance of probabilities (i.e. more likely than not), did they occur as alleged by the school? | |
| Was the decision based on a breach of the behaviour policy? Are reviewers satisfied that the child knew, or ought reasonably to have known, that his/her behaviour breached the behaviour policy? | |
| The Process | |
| Have the pupil and his/her family been properly notified of the exclusion and the hearing and had an adequate opportunity to represent themselves? | |
| Did the school provide the pupil with an opportunity to provide a statement? If no statement was obtained, has the school satisfactorily explained why not? | |
| Has the school provided statements from witnesses, rather than relying on hear-say? Were the statements credible (i.e. taken in the proper way, signed, dated)? | |
| Have reviewers been given sufficient information and opportunity to make the right decision? Both written submissions and oral testimony made at the hearing constitute evidence and may be taken into consideration. | |
| Has the school provided work for the first five days of the exclusion <u>and</u> had it marked? | |
| Has the Local Authority been advised of the permanent exclusion and put in place educational provision from Day 6 of the exclusion? | |
| Discrimination and Intervention | |
| Are reviewers satisfied that the exclusion was not based on any element of discrimination? If pupil is from an at-risk ethnic or social background (e.g. Black Caribbean, Gypsy/Roma, Traveller, LAC), was this given additional scrutiny? | |
| Has the school properly considered whether the child has Special Educational Needs? Have they considered that disruptive or impulsive behaviour might constitute a social, emotional or mental health need under the SEN Code of Practice? | |
| If the pupil has an EHCP, did the school conduct an emergency annual review? | |
| If the pupil is a Looked-After Child, has the school accessed all the resources available from the council? | |
| In a case of persistent breaches, has the school attempted to identify underlying causes and address them through interventions and support? Have reviewers received sufficient evidence of this? | |
| The Principal’s decision | |
| Is the decision lawful? <i>An example of an unlawful decision might be where the Principal has applied the wrong legal standard or has exceeded his/her powers.</i> | |
| Was the decision fair? <i>An example of unfair decision might be when one pupil is permanently excluded for the same offence as a pupil who was not, where no other differences between the pupils to explain this.</i> | |
| Is the sanction proportionate? <i>Proportionality means that it is the minimum sanction available effectively to achieve the ends required by the school.</i> | |
| Linked to the above, is the decision a last resort? Did the Principal consider alternatives (e.g. managed move) and if rejected, has this been explained? Has the school explained why no other sanction would suffice? Did the school do all it could to mitigate against exclusion or has it satisfactorily argued that the behaviour could not have been foreseen? | |
| Is the decision rational and reasonable? <i>An irrational decision is one that no ordinary and objective person would reasonably make. An example of an unreasonable decision might be one that is unreasoned – for example, if the Principal could not give reasons for his/her decision.</i> | |
| Considering reinstatement | |
| Would reinstatement seriously harm the education or wellbeing of the child or others in the school community? <i>‘Would’ requires a higher level of certainty than ‘might’, ‘could’, ‘is likely to’.</i> <i>‘Serious harm’ requires a higher level of impact than ‘detriment’ – the impact cannot merely be negative, it must be intolerable to reviewers.</i> | |
| Having considered the child’s or parents’ evidence, are reviewers satisfied that any mitigating factors do not excuse/explain the behaviour? This includes bereavement, divorce, family discord, bullying at school, etc.? Did the Principal take these mitigating factors into account? | |
| How large a negative impact will the exclusion have on the pupil’s education and wellbeing (e.g. Year 8 vs. Year 11)? Are reviewers satisfied that this negative impact is justified in the circumstances? | |

If any of these questions cannot be answered with a ‘yes’, reviewers must give serious consideration to reinstatement. If reviewers choose not to reinstate, they must clearly explain their decision despite the school’s failure to meet these thresholds.



Appendix 7 – Sample Model Letters

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

Dear **[Parent's Name]**

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

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

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

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

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

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

Yours sincerely

Principal



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

Dear **[Parent's Name]**

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

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

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

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

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

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

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

Yours sincerely

Principal



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

Dear **[Parent's Name]**

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

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

As the length of the exclusion is more than 15 school days (or equivalent) the Trust's statutory review committee must automatically meet to consider the exclusion. At the review meeting you may make representations to the Committee if you wish to do so. The latest date the panel can meet is **[Date Here – no later than 15 school days from the date the GB is notified]**. If you wish to make representations to the panel 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 panel the time, date and location of the meeting.

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

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

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

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

Yours sincerely

Principal



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

Dear **[Parent's Name]**

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

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

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

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

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

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

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

You may wish to

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



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

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

Yours sincerely

Principal



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

Dear **[Parent's name]**

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

The reasons for the Panel's decision are as follows:

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

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

You may, at your own expense, appoint someone to make written and/or oral representations to the panel and you may bring with you a friend to the review. Regardless of whether **[Name of pupil]** has a recognised special educational need, you would have a right to require the Academy Trust to appoint, at their own cost, an expert in special educational needs to attend the review to provide expert advice⁴. You must make clear, in any request for such a review, if you wish for such a person

⁴ The DfE guidance on this role says:

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

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



to be appointed.

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

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

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

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

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

You may also wish to look at

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

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

the pupil's exclusion.

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

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



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

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

Yours sincerely

Clerk to the Panel



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

Dear **[parent's name]**

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

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

Either

(i) to uphold the exclusion.

or

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

or

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

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

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

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

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

Yours sincerely



References

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