



# Exclusion Policy

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## 1. Introduction and Legal Context

- 1.1. This policy 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](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* (2019).
- 1.3. Statutory guidance (2017) states that only the head teacher / Principal 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:
  - 1.4.1 Section 51A of the Education Act 2002, as inserted by the Education Act 2011;
  - 1.4.2 The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
  - 1.4.3 Sections 100 to 108 of the Education and Inspections Act 2006;
  - 1.4.4 Exclusion from Maintained Schools, Academies and Pupil Referral Units in England: Statutory Guidance for those with legal responsibilities in relation to exclusion (2017);
  - 1.4.5 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. In particular, exclusions at lunchtime must be recorded as half-day fixed-term exclusions for statistical purposes.

## 2. Equality and Inclusion

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

- 3.1. See also: Section 13: Notifications
- 3.2. Only the Principal (or a person acting in his or her place) has the power to exclude. Further references to the Principal will include anybody acting in his or her place. For the avoidance of doubt, this is understood to mean where another colleague is 'acting up' due to the complete unavailability of the Principal, **not** in circumstances where the Principal is merely off-site.
- 3.3. In considering the exclusion of a pupil, the Principal should ensure that the following range of activities is undertaken:
  - 3.2.1 A thorough investigation of the incident(s), with a written report;
  - 3.2.2 Consideration of all relevant facts and firm evidence to support the allegations;
  - 3.2.3 Consideration of all relevant Behaviour Policies;
  - 3.2.4 Consideration of whether an incident appeared to be provoked;
  - 3.2.5 Ensuring all pupils involved are able to provide witness statements and/or their version of events;
  - 3.2.6 Due regard to the Equality Act (2010).



- 3.4. Before taking the decision to *permanently* exclude a pupil, the Principal will have evidence of a range of strategies that have been attempted, as outlined in the Behaviour Policy.
- 3.5. Only when all other strategies have been exhausted will the Principal consider permanent exclusion, except where a one-off incident of sufficient gravity has taken place.
- 3.6. The Principal may exclude a pupil for up to 45 school days in any academic year, or permanently. Should a pupil be excluded for 15 days in a term, the Statutory Review Committee must meet to consider the exclusion(s), as per Section 19.

#### 4. Part-time Timetables

- 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”<sup>1</sup>. (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.**”<sup>2</sup>
- 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.”<sup>3</sup> (Ofsted, 2014)
- 4.4 For further guidance on part-time timetables, please refer to the **Astrea Attendance Policy Template**.

#### 5. Exclusion of a Pupil who has Special Educational Needs and/or Disabilities

- 5.1. 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.
- 5.2. 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).

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<sup>1</sup> DfE (2016) School Attendance

<sup>2</sup> Children’s Commissioner (2013) Always Someone Else’s Problem: Office of the Children’s Commissioner’s Report on Illegal Exclusions

<sup>3</sup> Ofsted (2014) Schools’ Use of Exclusion



- 5.3. In addition to the approaches on early intervention, set out above, the Principal 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.
- 5.4. The exclusion of a pupil with an EHCP or who is or has been Looked After is a particularly serious decision, and in accordance with DfE guidance on exclusions (2017) should, as far as possible, be avoided. Where the behaviour of these pupils is causing concern, the Principal should request a Pre-Exclusion Assessment (PEAP), so that the team around the child can evaluate current support in place and identify any further support needs, either in-house or through external partners.

## **6. A Trust Approach to Exclusion and the Pre-Exclusion Assessment Process**

- 6.1. 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 pupil.
- 6.2. In consideration of statutory guidance (2017), the Trust takes a proactive approach to exclusions, underpinned by the principles of early intervention: the Pre-Exclusion Assessment Process (PEAP) is what drives this.
- 6.3. The PEAP is a structured conversation held with the Principal or other Senior Leader, in order to discuss the behaviours exhibited and to understand the potential triggers to these.
- 6.4. During the PEAP, the needs of the pupil are assessed and the impact of external and/or additional support evaluated. As part of the evidence collation, the voice of the child is captured, and the Principal is expected to show how, despite the support that has been put in place, exclusion is the only remaining option available.
- 6.5. All Principals across the Trust support the PEAP process and find it beneficial, in the event of an exclusion hearing. The process also supports schools in making recommendations for future practice, so that a reduction in exclusions is secured across the Trust; particularly for the most vulnerable pupils.

## **7. Level 1 PEAP – 'At Risk of Permanent Exclusion' Pupils**

- 7.1. Schools may choose to open a Level 1 PEAP at any point within the school year, as part of their approach to early intervention, and where there are concerns about the behaviour(s) of any pupil;
- 7.2. However, once the exclusion threshold has been reached in respect of a pupil, a level 1 PEAP is to be opened;
- 7.3. The relevant threshold will be 2 fixed-term exclusions OR 10 school days in respect of a primary aged pupil.
- 7.4. The relevant threshold for a secondary aged pupil will be determined on a school-by-school basis by the Executive Director of Inclusion at the start of each academic year, save that the thresholds must not be higher than fifteen days in a term. See section 12 'Secondary Thresholds'.
- 7.5. An Inclusion specialist will, within 20 school days of notification of the threshold having been reached, undertake the PEAP. However, if the cumulative number of days for which



the child will have been excluded in the term is greater than 15, the PEAP will be undertaken within 5 school days in order for it to be available to the review panel.

7.6. **Appendix 1** provides an example of a Level 1 PEAP.

## 8. Level 2 PEAP – Permanent Exclusion for Persistent Disruptive Behaviour

8.1. When a pupil is excluded for more than 15 school days in a term or is permanently excluded for persistent disruptive behaviour, a Level 2 PEAP is undertaken. Where a Level 1 PEAP is already open, this will be graduated to Level 2.

8.2. An Inclusion specialist will, within 5 school days of notification of the permanent exclusion, undertake the PEAP, so that it is ready and available for panellists at the hearing.

8.3. **Appendix 2** provides an example of additional sections included within a PEAP consultation where a permanent exclusion is to be issued.

## 9. Level 3 PEAP – Permanent Exclusion for a Serious One-Off Incident

9.1 When a pupil is permanently excluded for a serious one-off incident, a Level 3 PEAP will be undertaken. Where a Level 1 PEAP is already open, this will be graduated to Level 3.

9.2 Other than for a child with an Education, Health and Care Plan (EHCP), the Principal may apply to the Executive Director of Inclusion for an exemption from the assessment process where s/he can demonstrate that the behaviour could not have been predicted and/or prevented. This application **must** accompany the notification of the exclusion.

9.3 The Executive Director of Inclusion will make a determination on this within 2 school days.

9.4 If the PEAP is to go ahead, an Inclusion specialist will, within 5 school days, undertake the PEAP. The 5 school days will commence from notification without an exemption, or from the Executive Director of Inclusion's refusal to grant an exemption that has been applied for.

9.5 The Principal should satisfy the Inclusion specialist that the behaviour does not arise from a disability and that it could not have been predicted and/or prevented. In these circumstances, there will be a presumption that detailed evidence gathering in respect of interventions will not be necessary.

## 10. The Role of the Executive Director

10.1. At Levels 2 and 3, the requirement for the Executive Director of Inclusion to provide final sign off will arise only if:

10.1.1 The person undertaking the assessment requests it; and /or

10.1.2 The Principal requests it; or

10.1.3 The person undertaking the assessment is **not** content to recommend that the exclusion be presented to a panel.

10.2. Where the Executive Director of Inclusion is the final signatory, s/he will complete this process and return it to the Principal within 2 school days of receipt of the PEAP.





## 11. The Role of Trustees

- 11.1. Trustees are notified of all permanent exclusions and may request further information from Chairs of Panel Hearings in order to understand the nature and rationale for the decision and to ensure the probity of the process.
- 11.2. Wherever possible, a Trustee is invited to the Permanent Exclusion Hearing as part of the panel.

## 12. Format of the Assessment

- 12.1. There is no automatic requirement that a PEAP should require a visit to a school and it is for the person undertaking the PEAP to determine whether a school visit is needed, in the first instance.
- 12.2. In making the decision to exclude, the Principal must have regard to all relevant evidence, as referenced in section 3 of this policy *Responsibilities of the Principal*.
- 12.3. It follows, therefore, that most of the information covered by the PEAP will be available to the Principal at the time that the decision is made.
- 12.4. Where possible, this should be submitted in a single email to the Exclusions inbox: [exclusions@astreaacademytrust.org](mailto:exclusions@astreaacademytrust.org), together with the initiated PEAP document.
- 12.5. An Inclusion specialist will then undertake a **desk-based review** of the documents and, if possible, provide a completed PEAP.
- 12.6. Where necessary, a further email exchange or telephone call will be arranged in order to complete the assessment.
- 12.7. Only where it has *not* been possible to complete the PEAP in this way, will a school visit be required. This is for the person undertaking the PEAP to determine and s/he and the Principal **must** prioritise this.

## 13. Secondary Thresholds

- 13.1. In determining the secondary age thresholds for Level 1 PEAPs, the Executive Director of Inclusion must state a number of fixed-term exclusions per pupil and a number of days (being less than 16). S/he may also make additional provisions, for example in respect of children with SEND or those from a particular ethnic background or those who are Looked After.
- 13.2. The variability of thresholds between schools allows for a risk-based approach to be taken. This is to ensure that inclusion support is targeted to those schools who most need it.
- 13.3. This should take account of:
  - 12.3.1 Permanent exclusions in the previous academic year;
  - 12.3.2 Any permanent exclusions for persistent disruptive behaviour that have been overturned by a review panel;
  - 12.3.3 The outcomes of any Inclusion audits;
  - 12.3.4 Exclusions incurred across specific pupil groups, compared to their peers, in the previous academic year, paying particular attention to those pupils of protected characteristics.



### Illustrative Example

NB – this is purely illustrative; the Executive Director may use the full range of days (1 to 15) in determining the threshold for a school.

School	Context	Threshold	Rationale and implications
School A	No permanent exclusions in the previous academic year; positive inclusion audit findings.	12 days	A child at School A is less likely to be permanently excluded; the higher threshold means that the PEAP is initiated later.
School B	Some permanent exclusions and some audit actions from the previous academic year.	10 days	No change from the approach taken in 2018/19.
School C	A high number of permanent exclusions or significant disparities between groups; actions required from inclusion audits; any concerns over the governance of exclusions.	8 days	A child at School C is at higher risk of eventual permanent exclusion, therefore support is put in place earlier.

## 14. Notifications

14.1. The Principal<sup>4</sup> **must** notify the Trust **immediately** by emailing [exclusions@astreaacademytrust.org](mailto:exclusions@astreaacademytrust.org) of:

- 13.1.1 Any permanent exclusion (including where a fixed-term exclusion is followed by a separate decision to permanently exclude the pupil);
- 13.1.2 Any exclusion which would result in the pupil being excluded for a total of more than 5 school days (or more than 10 lunchtimes) in a term;
- 13.1.3 Any exclusion that would bring the total number of days for which the pupil has been excluded to more than 15 school days in that term;
- 13.1.4 Any exclusion which would result in the pupil missing a public examination or national curriculum test.

14.2. This email **must** be sent with 'High Importance' and, in the case of a permanent exclusion, state 'Permanent Exclusion', 'PX', or 'PEX' as part of the subject line.

14.3. The Principal (or persons delegated) **must** notify the Trust **fortnightly** by emailing [exclusions@astreaacademytrust.org](mailto:exclusions@astreaacademytrust.org) of any other fixed period exclusion not previously notified. However, the Trust strongly recommends that these notifications be sent immediately with 'Normal Importance'.

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<sup>4</sup> For the avoidance of doubt, someone other than the Principal may send notifications / emails with regards to exclusions, but it is the Principal's legal duty to ensure that the notification is made.



- 14.4. Any notification **must** state the name, date of birth and year group of the pupil, as well as details of any specific characteristics, such as SEND / PP / EAL / LAC. The email **must** state the duration of the exclusion or the fact of its permanent nature and **must** give the reason for the exclusion.
- 14.5. The Local Authority must also be notified of these exclusions. It is perfectly permissible for the Principal to send the LA's notification form to the Trust in order to avoid duplication.

## 15. Processing of Notifications

- 15.1. The Safeguarding Officer shall have day-to-day responsibility for monitoring the Exclusions Inbox and **must** immediately forward to the relevant colleague(s) any notification of exclusion.
- 15.2. In the event of a permanent exclusion or an exclusion taking the number of days a pupil is excluded to more than 15 school days in a term, the Safeguarding Officer **must** also notify the Head of Governance and Legal.
- 15.3. The Exclusions Tracker spreadsheet **must** be updated at least weekly, so that real-time data can be provided to Trustees and other stakeholders, on request.

## 16. Responsibility of Academies Following a Fixed Period Exclusion

- 16.1. Where pupils are excluded for fixed period up to five days, academies should take reasonable steps to set and mark work.
- 16.2. From the sixth day of a fixed period exclusion, alternative provision must be arranged by the academy; it is the school's duty to ensure this. Per para 45 of the national guidance, it should be noted that 'sixth day provision' is based on a consecutive period of exclusion, not the sixth day in total that term.
- 16.3. 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.

## 17. The Decision to Issue a Permanent Exclusion

- 17.1. As per statutory guidance (2017, pp.57); **the Principal must take the decision whether to exclude (this cannot be delegated, save as provided for at Section 3.1).**
- 17.2. **Appendix 2** 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.**
- 17.3. Permanent exclusion should:
- 16.3.1 Only be used as a last resort, when all other reasonable approaches have been unsuccessful;
  - 16.3.2 Be in response to persistent and/or a serious one-off breach of the school's code of behaviour;
  - 16.3.3 Be implemented when allowing the pupil to remain in school would seriously harm the education or welfare of the child, other pupils or staff at the school.



## 18.Actions to Take on Issuing a Permanent Exclusion

- 18.1. Upon notifying the pupil and/or parent/carer of the decision to permanently exclude, the appropriate letter and, where relevant, the accompanying text message are to be sent and the permanent exclusion logged onto the school MIS.
- 18.2. Exclusion documentation must then be prepared in readiness for the permanent exclusion hearing.
- 18.3. A work pack or alternative educational provision must be provided, and which is to last for five school days, pending LA provision on the 6<sup>th</sup> day.
- 18.4. The date of the permanent exclusion hearing must be logged onto the school MIS.
- 18.5. All information relating to the permanent exclusion should be logged within the school's MIS to ensure ease of access.
- 18.6. **Appendix 3** provides a checklist for Principals, of actions to be taken, in the event of a permanent exclusion.

## 19.Permanent Exclusion Documentation for Hearings – Guidance for Academies

- 19.1. 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.
- 19.2. All documentation **must** be with parents and all members of the panel, **five school days prior to the meeting**.
- 19.3. Suggested papers to be included are referenced in **appendix 4**: 'Exemplar Documentation for Consideration at Exclusion Hearings'.
- 19.4. 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.
- 19.5. 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".

## 20.Attendance at Permanent / 15+ Exclusion Hearings – General Guidance for the Statutory Review Committee

- 20.1. When a child is excluded permanently or for more than fifteen school days in any term, a panel must meet to consider the reinstating the child.
- 20.2. The purpose of the exclusion hearing is for a review panel to have oversight of whether the facts are established and whether the Principal's decision to exclude was lawful, rational, reasonable, fair and proportionate.
- 20.3. In preparing for a consideration of exclusion hearing, panellists, through coordination by the Clerk, if appropriate, should:
  - 19.3.1 Not discuss the exclusion with any other party;



- 26.3.2 Ask for written evidence in advance of the meeting (including witness statements and other relevant information);
  - 26.3.3 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;
  - 26.3.4 Allow parents and pupils to be accompanied by a friend or representative;
  - 26.3.5 Make reasonable adjustments as appropriate for people attending the meeting;
  - 26.3.6 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.
- 20.4. 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.
- 20.5. At the meeting itself, the Clerk should be able to provide impartial procedural advice where necessary.
- 20.6. 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.
- 20.7. Minutes should be taken and made available to all parties on request.

## 21. Permanent Exclusion Hearings

- 21.1. 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.
- 21.2. **The Chair of the panel must use the exclusion deliberation checklist, as per appendix 5, as Trust policy.** All panellists and the clerk **must** have regard to this checklist and are strongly encouraged to use it.
- 21.3. 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 which 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.
- 21.4. The panel can either:
- 20.5.1 Decline to reinstate the child (therefore, to uphold the exclusion(s)); OR
  - 20.5.2 Direct the reinstatement of the pupil either immediately or on a specific date (as determined by the panel, if necessary in consultation with the school)
- 21.5. The outcome should be noted on the pupil's educational record, along with copies of all relevant documents.



## 22.Actions to be Taken Following the Exclusion Hearing

- 21.1 Following the exclusion hearing, the Clerk to the panel must notify the Deputy Director of Safeguarding, Nicola Law, and the Head of Governance and Legal, Tomas Thurogood-Hyde, of the decision immediately at: [nicola.law@astreaacademytrust.org](mailto:nicola.law@astreaacademytrust.org) and [tomas.thurogood-hyde@astreaacademytrust.org](mailto:tomas.thurogood-hyde@astreaacademytrust.org) respectively.
- 21.2 The letter should be sent as soon as possible and **must** be sent within five school days.
- 21.3 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.

## 23.Updating the MIS following a Permanent Exclusion Hearing

- 22.1 Should the permanent exclusion be upheld by the panel, the pupil **must** remain on roll for 15+2 clear *school days*, from the date in which the letter, as at 21.2, was sent. This is to allow parents / carers the opportunity to apply for an independent review, as is their right in accordance with statutory guidance (2017).
- 22.2. After this date, if no application for independent review has been made, the pupil can be removed from the school roll.
- 22.3. If the permanent exclusion is overturned, you **must** change the permanent exclusion on the school's MIS to "Reinstated from permanent exclusion".
- 22.4. Should an application for independent review be made, the pupil **must not** be removed from the school roll, until the date that an independent review upholds the original decision, or the date on which a re-convened panel (having been required by the independent review) declines to reinstate the child.



## 24. Attendance Considerations<sup>5</sup> Linked to Permanent Exclusions

- 23.1 For every permanent exclusion issued, 5 days absence will be logged.
- 23.2. The Local Authority is legally responsible for providing provision from the 6<sup>th</sup> day of exclusion.
- 23.3. You **must** confirm with the LA where the provision is and whether the pupil will be placed on roll.
- 23.4. There are two codes that may be used for attendance; if the pupil is to be placed on dual roll, pending further provision, the pupil should be coded as 'D' (Dual – Subsidiary) and this code can be used until they come off your school roll. DfE (2019) guidance states that the law allows for the dual registration of pupils, with the example given of those pupils who are attending a pupil referral unit.
- 23.5. If the pupil is immediately being placed on roll at a new provision and this is a permanent move, the pupil should be coded as 'B' (off-site educational activity) and their attendance must continue to be chased and followed up on, until they are removed from your school roll.
- 23.6 The coding of attendance as 'E' should only be used when a pupil has been excluded but there is no alternative provision made for their education. Where alternative provision is made codes should be used as advised above.

## 25. Data Protection

- 24.1 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.
- 24.2 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).
- 24.3 Panellists are also responsible for the security of the information they receive – substantive lapses might constitute a breach of the Code of Conduct.
- 24.4 All emails shared within the Trust (i.e. between Astrea email accounts) **must** be marked "Protect Confidential".
- 24.5. 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:
- 24.5.1 All papers relating to the exclusion shall be password-protected. Passwords will be sent in emails separate to the papers.
  - 24.5.2 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.

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<sup>5</sup> For attendance coding, please refer to DfE (July, 2019) *School Attendance Guidance*:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/818204/School\\_attendance\\_July\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/818204/School_attendance_July_2019.pdf)



Should this not be possible, the password for the papers shall be sent by means other than email (e.g. text).

24.5.3 At the conclusion of proceedings, panellists are asked to delete the email containing papers and any downloaded versions.

24.5.4 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.

24.5.5 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.

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

24.6.1 What information has been lost, stolen, or inappropriately shared;

24.6.2 The circumstances of the above (i.e. time, place, cause); and

24.6.3 What steps were taken to avoid the breach or to remedy it afterwards.

## 26. Independent Review Panels

25.1 If applied for by parents / carers, within the legal time frame, Astrea Academy Trust will, at their own expense, arrange for an independent review panel hearing to review the decision of a panel, not to reinstate a permanently excluded pupil.

25.2 The legal time frame for an application is:

25.2.1. Within 15 school days of notice being given to the parents by the clerk of the panel's decision to uphold a permanent exclusion; or

25.2.2 Where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination, under the Equality Act (2010), in relation to the exclusion.

25.3 If requested by parents / carers in their application for an independent review panel, Astrea Academy Trust must appoint an SEN expert to attend the panel and cover the associated costs of this appointment.

25.4 The SEN expert's role is that of an expert witness, who provides impartial advice to the panel on how the special educational needs of the pupil might be relevant to the exclusion, for example, whether the school acted reasonably in relation to its legal duties when excluding the pupil.

25.5 Parents / carers have a right to request the attendance of an SEN expert at a review, regardless of whether the school recognises that their child has SEN.

25.6 The role of the panel is to review the original panel's decision not to reinstate a permanently excluded pupil, which will include oversight of the circumstances of the exclusion itself.

25.7 In reviewing the decision, the panel must consider the interest 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.

25.8 The panel must apply the civil standard of proof, (i.e. 'on the balance of probabilities' it is more likely than not a fact is true) rather than the criminal standard of 'beyond reasonable doubt'.





25.9 Following its review, the panel can decide to:

25.9.1 Uphold the exclusion decision;

25.9.2 Recommend that the Trust reconsiders the decision; or

25.9.3 Quash the decision and direct that the Trust considers the exclusion again.

25.10 An independent review panel does not have the power to direct the Trust to reinstate an excluded pupil. However, where an independent review panel decides that the Trust's decision is flawed, when considered in the light of the principles applicable on application for judicial review, it can direct it to *reconsider* its decision.

## 27. Special Circumstances

26.1 Exclusions – and the behaviour giving rise to them – are complex and challenging times. It is not possible for guidance to cover all eventualities. For example, this document does not deal directly with rare circumstances such as:

- The results of investigations underway during a fixed term exclusion;
- Withdrawing an exclusion;
- Requests by parents for a review before the statutory threshold;
- A Principal being unavailable to present his or her case for a permanent or 15+ exclusion;
- Police investigations related to an exclusion.

26.2 Principals are always welcome to contact the Executive Director of Inclusion or the Head of Governance and Legal for advice on any areas of uncertainty.



## Appendix 1 – Pre-Exclusion Assessment Process (PEAP)

**Pre-Exclusion Assessment – Level 1**

**Date PEAP Opened by Academy:** \_\_\_\_\_ **Name of Academy:** \_\_\_\_\_

<b>Name of Child</b>	<b>Year Group</b>
<b>Date of Entry to the Academy</b>	<b>Date 1<sup>st</sup> Issue Recorded</b>

<b>Ethnic Group</b>	<b>EAL</b>	Y	N
<b>SEND Needs</b>	<b>CLA</b>	Y	N
<b>SEND Category</b>	<b>Pupil Premium</b>	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

**Pre-Exclusion Assessment – Level 1**

**School-Based Interventions and Strategies:**

Date	Duration	Reason	Impact

**Details of documentation to support child's individual needs:**

Documentation	Date of 1 <sup>st</sup> document	Date of 2 <sup>nd</sup> document	Date of 3 <sup>rd</sup> document
Support Plan (SEN/SEMH)			
Risk Assessment			
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			



### Pre-Exclusion Assessment – Level 1

#### Voice of the Child:

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

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

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

- 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?**

<sup>1</sup> 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 – Level 1

Voice of the Child Date:

Voice of the Child Date:

Voice of the Child Date:



**Pre-Exclusion Assessment – Level 1**

**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 – Level 1**

**PEAP Review Date and Recommendations:**

**PEAP Review Date and Recommendations:**

**PEAP Review Date and Recommendations:**



## Appendix 2 – Additional PEAP Information for Permanent Exclusion Hearings

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

Ideally, this document should be completed prior to the PEAP visit and sent to the Deputy Director of Inclusion in advance: [nicola.law@astreaacademytrust.org](mailto: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.

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

Pre-Exclusion Assessment		
<b>Summary Recommendations</b>		
<b>Evaluation of Actions Undertaken by the Academy</b>	<b>YES</b>	<b>NO</b>
The Academy has extensive evidence of a range of support put in place to meet the needs of the pupil for a period longer than a term		
There is evidence of involvement from multiple agencies for a period longer than a term		
There is evidence that the needs of the pupil and the involvement of the parents / carers have been central to all decisions made		
The Academy has met all statutory guidance, without exception		
The pupil's actions have breached the behaviour policy of the Academy and continue to pose a serious threat to the education of pupils or the safety and well-being of staff / pupils / themselves		
<p><b>I am satisfied</b> 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><b>I am not satisfied</b> 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> <div style="border: 1px solid black; height: 80px; width: 100%; margin-top: 5px;"></div>		
<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 style="text-align: right;">Date documents sent: _____</p>		



### Appendix 3 – Permanent Exclusion Checklist

<b>I have issued a Permanent Exclusion:</b>	<b>✓</b>
Has the pupil been escorted off site?	
Have the relevant staff been instructed to log the PEX on the school's MIS?	
Has the notification letter and accompanying text message been sent out?	
Has work or alternative provision been provided for the first 5 days of the exclusion and is it of quality?	
Has contact been made with the LA to ensure 6 <sup>th</sup> day provision is identified?	
Is attendance being checked, as per normal procedures, whilst the pupil remains on roll?	
Has a date been set for the panel hearing and has this date been logged on the school's MIS?	
Has the PEX hearing pack been collated, redacted as appropriate, and sent to panellists and parents /carers at least 5 days prior to the hearing?	
Has the outcome of the PEX hearing been logged on the school's MIS?	
Has a minimum of 15+2 school days passed before removing the pupil from the school's roll?	
Have all dates been checked to ensure appropriate timescales have been adhered to and is this well-evidenced within the school's MIS?	



## Appendix 4 – Exemplar Documentation for Consideration at Exclusion Hearings

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



## Appendix 5 – Chair’s Exclusion Deliberation Checklist

### Chair’s Exclusion Deliberation Checklist

<b>The Facts</b>	✓
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?	
<b>The Process</b>	
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?	
<b>Discrimination and Intervention</b>	
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?	
<b>The Principal’s decision</b>	
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>	
<b>Considering reinstatement</b>	
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 6 – Sample Model Letters

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

Dear **[Parent's Name]**

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

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

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

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

You may want to contact **[Name]** at **[Local Authority Name]** Local Authority **on/at [Contact Details – Address, Phone Number, email]**, who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre on 0808 802 0008 or [www.childrenslegalcentre.com](http://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 make representations to the Trust's statutory review committee. As the length of the exclusion is more than 5 school days (or equivalent) a panel must meet within fifty school days 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 of the exclusion]**.

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](http://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](http://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 6<sup>th</sup> 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](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](http://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](http://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 15<sup>th</sup> 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 advice<sup>6</sup>. You must make clear, in any request for such a review, if you wish for such a person

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<sup>6</sup> 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 15<sup>th</sup> 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](http://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](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

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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





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