



Coit Primary Exclusions policy

June 2020
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Covid 19 Exclusion Temporary Changes May 2020 onwards

Changes to the school exclusion process during the coronavirus (COVID-19) outbreak

This statutory guidance describes the temporary changes we have made to the school exclusion process due to coronavirus (COVID-19).

The new regulations change some of the procedures that must be followed in relation to an exclusion, to give greater flexibility to schools, parents and local authorities during the coronavirus (COVID-19) outbreak. They apply to all maintained schools, academies (including alternative provision academies but excluding 16 to 19 academies) and pupil referral units (PRUs).

The normal arrangements and procedures that must follow a decision to exclude on disciplinary grounds are described in the 2017 statutory guidance 'Exclusion from maintained schools, academies and pupil referral units in England'. They are unchanged except as noted below.

The term 'governing board' used throughout this guidance includes the governing body of a maintained school, the management committee of a PRU or an academy trust.

Important dates

The arrangements come into force on 1 June 2020 and will apply to all exclusions occurring from then until 24 September 2020 (inclusive of those dates). The arrangements also apply to:

- *permanent and fixed term exclusions occurring before 1 June which have not yet been considered by the governing board of the school*
- *permanent exclusions occurring before 1 June which have been considered by the governing board, if they have chosen not to reinstate the pupil and the time limit to apply for a review of this decision has not passed*
- *permanent exclusions occurring before 1 June where a parent (or pupil aged 18) has requested a review of a governing board's decision, but this has not yet happened*

Any exclusions covered by the arrangements will continue to be subject to them after 24 September 2020, until the procedures for scrutiny of the exclusion have been exhausted.

An exclusion should be taken as having 'occurred' on the first day of the exclusion (not the date when the decision to exclude was made or communicated).

Remote access meetings

When governing boards or independent review panels (IRPs) have to meet to consider an exclusion, they can do so via telephone or video-conference software ('remote access') as long as certain conditions are met.

The conditions are that it is not reasonably practicable for the meeting to take place in person, within the usual timescales, because of coronavirus (COVID-19), and that the governing board (or arranging authority, if the meeting is an IRP) is satisfied that:

- *all the participants agree to the use of remote access*
- *all the participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, if a live video link is used*
- *all the participants will be able to put across their point of view or fulfil their function*
- *the meeting can be held fairly and transparently via remote access*

It is the responsibility of the school governing board (or the arranging authority in the case of an IRP meeting) to make sure these conditions are met before a meeting takes place.

The governing board or arranging authority should assess the facts of the case, the circumstances in which a meeting in person could be expected to take place, the needs of the intended participants (as far as this is possible), and the latest public health guidance when determining whether it would be reasonably practicable to meet in person.

1. Aims

Our school aims to ensure that:

- › The exclusions process is applied fairly and consistently
- › The exclusions process is understood by governors, staff, parents and pupils
- › Pupils in school are safe and happy
- › Pupils do not become NEET (not in education, employment or training)

2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#).

It is based on the following legislation, which outline schools' powers to exclude pupils:

- › Section 52 of the Education Act 2002, as amended by the Education Act 2011
- › The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- › Sections 64-68 of the School Standards and Framework Act 1998

In addition, the policy is based on:

- › Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for excluded pupils
- › Section 579 of the [Education Act 1996](#), which defines 'school day'
- › The [Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) \(Amendment\) Regulations 2014](#)

3. The decision to exclude

Only the Executive Headteacher, or acting Headteacher, can exclude a pupil from school. A permanent exclusion will be taken as a last resort.*

1. *Only the head teacher of a school can exclude a pupil and this must be on disciplinary grounds. A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed-period exclusion does not have to be for a continuous period.*
2. *A fixed-period exclusion can also be for parts of the school day. For example, if a pupil's behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period. The legal requirements relating to exclusion, such as the head teacher's duty to notify parents, apply in all cases. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a governing board meeting is triggered.*
3. *The law does not allow for extending a fixed-period exclusion or 'converting' a fixed-period exclusion into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further*

fixed-period exclusion may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period

3a Off Rolling

Our school is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

“...the practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil.”

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

3b Factors to take into consideration before an exclusion

A decision to exclude a pupil will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, **and**
- If allowing the pupil to remain in school would seriously harm the education or welfare of others

Before deciding whether to exclude a pupil, either permanently or for a fixed period, the Executive Headteacher will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the pupil to give their version of events
- Consider if the pupil has special educational needs (SEN)

3c SEN Additional Notes

Statutory guidance to the head teacher on the exclusion of pupils with Education, Health and Care plans (EHC plans)¹ and looked after children

As well as having disproportionately high rates of exclusion, there are certain groups of pupils with additional needs who are particularly vulnerable to the impacts of exclusion. This includes pupils with EHC plans and looked after children. The head teacher should, as far as possible, avoid permanently excluding any pupil with an EHC plan or a looked after child.

Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs. In relation to looked after children, schools should cooperate proactively with foster carers or children's home workers, the local authority that looks after the child and the local authority's virtual school head.

Where a school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with an EHC plan or a looked after child, it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEN. Where a pupil has an EHC plan, schools should consider requesting an early annual review or interim/emergency review.

3d Equality Act 2010

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

In carrying out their functions, the public sector equality duty means schools must also have due regard to the need to:

- eliminate discrimination, harassment, victimisation, and other conduct that is prohibited by the Equality Act;
- advance equality of opportunity between people who share a protected characteristic and people who do not; and
- foster good relations between people who share a protected characteristic and people who do not share it.

These duties need to be complied with when deciding whether to exclude a pupil. Schools must also ensure that their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion. Provisions within the Equality Act allow schools to take positive action to deal with particular disadvantages, needs, or low participation affecting one group, where this can be shown to be a proportionate way of dealing with such issues¹.

4. Definition

For the purposes of exclusions, school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

5. Roles and responsibilities

5.1 The Executive Headteacher

Informing parents

The Executive Headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- Information about parents' right to make representations about the exclusion to the governing board and how the pupil may be involved in this
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The Executive Headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- › The start date for any provision of full-time education that has been arranged
- › The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- › The address at which the provision will take place
- › Any information required by the pupil to identify the person they should report to on the first day
- › Written notification of the information mentioned above can be provided by delivering it directly to the parents, leaving it at their usual or last known home address, or posting it to that address. Notices can be given electronically if the parents have given written agreement for this kind of notice to be sent in this way.

Alternative Provision

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

Informing the governing board and local authority

The Executive Headteacher will immediately notify the governing board and the local authority (LA) of:

- › A permanent exclusion, including when a fixed-period exclusion is made permanent
- › Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- › Exclusions which would result in the pupil missing a public examination

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the Executive Headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the Executive Headteacher will notify the governing board and LA once a term.

5.2 The governing board

Responsibilities regarding exclusions is delegated to [Exclusion's Committee pupil (see section 6)].

The governing board has a duty to consider the reinstatement of an excluded pupil (see section 6)

Within 14 days of receipt of a request, the governing board will provide the secretary of state and Sheffield LA' with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the governing board will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

5.3 The LA

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

6. Considering the reinstatement of a pupil

The GB exclusion committee will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a fixed-term exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term

- It would result in a pupil missing a public examination

If requested to do so by parents, [The GB exclusion committee will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination, The GB exclusion committee will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the chair of the governing board (or the vice-chair where the chair is unable to make this consideration) will consider the exclusion independently and decide whether or not to reinstate the pupil.

The GB exclusion committee can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date

In reaching a decision, The GB exclusion committee will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Executive Headteacher followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the pupil's educational record.

The GB exclusion committee] will notify, in writing, the Executive Headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, [The GB exclusion committee] decision will also include the following:

- The fact that it is permanent
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
 - The date by which an application for an independent review must be made
 - The name and address to whom an application for a review should be submitted
 - That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil's SEN are considered to be relevant to the exclusion
 - That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require Sheffield LA appoint an SEN expert to attend the review
 - Details of the role of the SEN expert and that there would be no cost to parents for this appointment
 - That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
 - That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review
- That if parents believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to 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 6 months of the date on which the discrimination is alleged to have taken place

7. An independent review

If parents apply for an independent review, the [LA] will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by [The GB exclusion committee] of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governors category and 2 members will come from the Executive Headteacher category.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or Executive Headteachers during this time
- Executive Head teachers or individuals who have been a Executive Headteachers within the last 5 years

A person may not serve as a member of a review panel if they:

- Are a [member of the [LA/ or governing board of the excluding school
- Are the Executive Head teacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the [LA/ or the governing board, of the excluding school (unless they are employed as a Executive Headteacher at another school)
- Have, or at any time have had, any connection with the [LA/], school, governing board, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

8. School registers

A pupil's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made, the governing board will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

9. Returning from a fixed-term exclusion

Following a fixed-term exclusion, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

The points below are suggestions only and should be adapted to your school's specific circumstances.

- Agreeing a behaviour contract with the pupil and the parent
- Putting a pupil 'on report' for a fixed period of time agreed with the parent and pupil
- Internal isolation dependent on the reason for exclusion and the pupil's needs

10. Monitoring arrangements

[Executive Headteacher] monitors the number of exclusions every term and reports back to the governors. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by the Executive Headteacher every year. At every review, the policy will be shared with the governing board.

11. Links with other policies

This exclusions policy is linked to our

- Behaviour policy
- SEN policy and information report
- Anti-Bullying policy
- Equalities policy

Appendix 1: Independent review panel training

The [LA] must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of a review panel
- The duties of Executive Headteacher, governing boards and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act

Appendix Two Exclusion Letters

Letter 1 FIXED TERM EXCLUSION EXAMPLE LETTER

Date

Parent/Carer of

Address

Dear Parent/Carer

Fixed Term Exclusion of ? Days - Re: Pupil name, year group and DOB

I am writing to inform you of my decision to exclude (**Pupil Name**) from school for a fixed period of ? days. This means that pupil he/she will not be allowed in school for this period. The exclusion begins on (**day of week and date**).

I realise that this exclusion may be upsetting for you and your family, but the decision to exclude (**Pupil Name**) has not been taken lightly.

(**Pupil Name**) has been excluded for this fixed period because **reason for exclusion**

Your Responsibility

It is your responsibility as the parent/carer (delete as appropriate) to ensure that your child is not present in a public place in school hours during this exclusion between (**Dates**) unless there is a reasonable justification for this. I must warn you that you may receive a penalty notice from the local authority if your child is found in a public place during normal school hours on the specified dates without reasonable justification.

The School's Responsibility

The school will set work for (**Pupil Name**), to be completed during the period of their exclusion as specified below.

On the first day of exclusion your child will be expected to:

- reflect upon their behaviour and prepare for the reintegration meeting in which they will be required to consider the incident, how they might make amends and how to avoid this happening again.
- catch up on any outstanding school work.

Please ensure that your child undertakes this reflection and catches up on any work which is outstanding. Depending on the length of the exclusion. after the first day your child will be provided with a pack of materials to work on at home up to the fifth day of exclusion. The school will ensure you receive appropriate work for the period of the exclusion. Please ensure that work set by the school is completed and returned promptly for marking, and that your child is in the care of yourself or a responsible adult during school hours.

Your Rights

- A. **If the total days of exclusion are below five days in any one term** you **may** make representation to the Governing Body who will consider these but the Governing body does **not** have the authority to overturn the exclusion. At **(SCHOOL NAME)** representation for this level of exclusion will be considered by the Chair of Governing Body
- B. **If the total days of exclusion take the total number of days above 5 but below 15 days in any one term** parents **can** request a Governing Body Meeting*. This meeting will be held within 50 days of the parent receiving the exclusion notice. A representative of the local authority will also attend if requested.
- C. **If the total days of exclusion take the total number of days above 15 days in any one term or if the exclusion is permanent** the Governing Body* **must** convene a meeting to consider reinstatement. A representative of the local authority will also attend.

Number of days **(Pupil Name)** has been excluded this Autumn/Spring/Summer term **YEAR** is ? days.

If you wish to make representations please contact our Chair of Governors, **Governor Name**, at the school address as soon as possible.

Reintegration Meeting

You and your child are requested to attend a reintegration interview with **Staff Names on Date and Time**. If that is not convenient, please contact the school to arrange a suitable alternative date and time. The purpose of the reintegration interview is to be clear what the school, yourself and your child can all agree to ensure a successful reintegration.

Impartial Information

This can be accessed through: Coram Children's Legal Centre: www.childrenslegalcentre.com or Tel: 08088 020 008.

Statutory Guidance on Exclusions

<http://www.education.gov.uk/schools/pupilsupport/behaviour/exclusion>

You may want to contact the Sheffield Exclusion's Team at Moorfoot Building on 2736197 or 2735750.

Yours sincerely

Headteacher

*The Governing Body in these cases is likely to mean a subcommittee of at least three Governors.

Copies to:

Letter 2

This letter may be appropriate, depending on the seriousness of the incident if a fixed term exclusion requires further investigation.

Date

Parent/Carer of

Address

Dear Parent/Carer

Fixed Term Exclusion of ? Days - Re: Pupil name, year group and DOB

I am writing to inform you of my decision to exclude **(Pupil Name)** from school for a fixed period of ? days. This means that pupil he/she will not be allowed in school for this period. The exclusion begins on **(day of week and date)**.

I realise that this exclusion may be upsetting for you and your family, but the decision to exclude **(Pupil Name)** has not been taken lightly.

(Pupil Name) has been excluded for this fixed period because **reason for exclusion**

Further Investigation

Due to the serious nature of the incident I will continue to investigate and gather information, during the fixed term exclusion period in order to ensure the matter has been dealt with appropriately. Please note that should additional evidence/information come to light in that time, which I was not in possession of at the time of making the decision to fixed term exclude (Pupil's Name), I reserve the right to review the matter in light of the new evidence/information; and I may decide the appropriate decision is to permanently exclude (Pupil's Name) in light of that evidence/information. In line with the current legislation any such decision would not be made until the fixed term exclusion has concluded and you would be informed accordingly in writing.

Your Responsibility

It is your responsibility as the parent/carers **(delete as appropriate)** to ensure that your child is not present in a public place in school hours during this exclusion between **(Dates)** unless there is a reasonable justification for this. I must warn you that you may receive a penalty notice from the local authority if your child is found in a public place during normal school hours on the specified dates without reasonable justification.

The School's Responsibility

The school will set work for **(Pupil Name)**, to be completed during the period of their exclusion as specified below.

On the first day of exclusion your child will be expected to:

- reflect upon their behaviour and prepare for the reintegration meeting in which they will be required to consider the incident, how they might make amends and how to avoid this happening again.
- catch up on any outstanding school work.

Please ensure that your child undertakes this reflection and catches up on any work which is outstanding. Depending on the length of the exclusion. after the first day your child will be provided with a pack of materials to work on at home up to the fifth day of exclusion. The school will ensure you receive appropriate work for the

period of the exclusion. Please ensure that work set by the school is completed and returned promptly for marking, and that your child is in the care of yourself or a responsible adult during school hours.

Your Rights

- D. If the total days of exclusion are below five days in any one term** you **may** make representation to the Governing Body who will consider these but the Governing body does **not** have the authority to overturn the exclusion. At **(SCHOOL NAME)** representation for this level of exclusion will be considered by the Chair of Governing Body

- E. If the total days of exclusion take the total number of days above 5 but below 15 days in any one term** parents **can** request a Governing Body Meeting*. This meeting will be held within 50 days of the parent receiving the exclusion notice. A representative of the local authority will also attend if requested.

If the total days of exclusion take the total number of days above 15 days in any one term or if the exclusion is permanent the Governing Body **must** convene a meeting to consider reinstatement. A representative of the local authority will also attend.

Number of days **(Pupil Name)** has been excluded this Autumn/Spring/Summer term **YEAR** is ? days.

If you wish to make representations please contact our Chair of Governors, **Governor Name**, at the school address as soon as possible.

Reintegration Meeting

You and your child are requested to attend a reintegration interview with **Staff Names on Date and Time**. If that is not convenient, please contact the school to arrange a suitable alternative date and time. The purpose of the reintegration interview is to be clear what the school, yourself and your child can all agree to ensure a successful reintegration.

Impartial Information

This can be accessed through: Coram Children's Legal Centre: www.childrenslegalcentre.com or Tel: 08088 020 008.

Statutory Guidance on Exclusions

<http://www.education.gov.uk/schools/pupilsupport/behaviour/exclusion>

You may want to contact the Sheffield Exclusion's Team at Moorfoot Building on 2736197 or 2735750.

Yours sincerely

Headteacher

Letter 3

PERMANENT EXCLUSION EXAMPLE LETTER

Date

Parent/Carer of

Address

Dear Parent/Carer

PERMANENT EXCLUSION - Re: Pupil Name, Year Group and DOB

I regret to inform you of my decision to permanently exclude **(Pupil Name)** with effect from **(Date)**. This means that **(Pupil's Name)** will not be allowed in this school/this PRU unless he/she is reinstated by the governing body/the discipline committee/(PRU only) the local authority. Alternative arrangements for **(Pupil Name)**'s education to continue will be made.

Why?

I realise that this exclusion may well be upsetting for you and your family, but the decision to permanently exclude **(Pupil's Name)** has not been taken lightly. **(Pupil's Name)** has been excluded because **(Reasons for the exclusion)** which is/or

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

Your responsibility

It is your responsibility **(according to recent legislation)** as the parent/carers to ensure that your child is not present in a public place in school hours during this exclusion between **(Specify dates)** unless there is reasonable justification for this. I must warn you that you may receive a penalty notice from the local authority if your child is found in a public place during normal school hours on the specified dates without reasonable justification.

School's Responsibility

For the first five school days of the exclusion we will set work for **(Pupil's Name)** and would ask you to ensure this work is completed and returned promptly to school for marking **(this may be different if supervised education is being provided earlier than the sixth day)**.

From the sixth school day of the exclusion onwards – i.e. from **(Specify the date)** the Sheffield Local Authority will provide suitable full-time education. **(Set out the arrangements if known at time of writing, if not known say that the arrangements will be notified shortly by a further letter or by phone)**. You can contact Genine Nuttall on 2736197 or Sarah Kelly on 2735750 – who work in the Exclusions Team.

(Where pupil lives in a local authority other than the excluding school's local authority) I have also today informed **(Name of officer)** at **(Name of local authority)** of your child's exclusion and they will be in touch with you about arrangements for his/her education from the sixth school day of exclusion. You can contact them at **(Give contact details)**.

Governing Body

As this is a permanent exclusion the governing body must meet to consider it. At the review meeting you may make representations to the governing body if you wish and ask them to reinstate your child in school. The governing body has the power to reinstate your child immediately or from a specified date, or, alternatively, they have the power to uphold the exclusion in which case you if you dispute the outcome of the decision you have the right to an independent review. The latest date by which the governing body must meet is **(Specify**

the date – the 15th school day after the date on which the governing body was notified of the exclusion). If you wish to make representations to the governing body and wish to be accompanied by a friend or representative please contact **(Name of Contact)** on/at **(Contact Details – Address, Phone Number, email)**, as soon as possible. Your child is also entitled to attend the meeting and speak on his / her behalf, taking into account your child's age, understanding and how they may feel about giving their view. You will, whether you choose to make representations or not, be notified by the Clerk to the governing body of the time, date and location of the meeting. Please advise if you have a disability or special needs which would affect your ability to attend the meeting. Also, please inform **(Contact)** if it would be helpful for you to have an interpreter present at the meeting.

I must also draw your attention to sources of relevant free and impartial advice:

The Department for Education guidance on exclusions:

<http://www.education.gov.uk/schools/pupilsupport/behaviour/exclusion/a0076478/previous-exclusion-guidance>

The Coram Children's Legal Centre:

www.childlawadvice.org.uk 0300 330 5485

Where considered relevant by the Headteacher, information on the Traveller Service or the Sheffield Special Educational Needs and Disability Information Advice and Support (SENDIAS) 2736009 or ssendias@sheffield.gov.uk

Yours sincerely

(Name)

Copies

Letter 4

EDUCATION ACT 2002 CONSIDERATION BY THE GOVERNING BOARD DISCIPLINE COMMITTEE OF THE REINSTATEMENT OF [insert name of pupil] FOLLOWING PERMANENT EXCLUSION

Dear

I am writing to let you know the outcome of the meeting of the Discipline Committee of the Governing Board of [] School which was held on [insert date] to consider the reinstatement of [insert name of pupil].

I regret to have to tell you that, in light of all the available evidence, the Committee has decided to uphold the exclusion. Accordingly, [insert pupil name]'s permanent exclusion from [insert school name] School has been confirmed.

I appreciate that this decision will be very disappointing for you and I have set out the reasons below.

In coming to this decision the Committee was assisted by the Statement of Case prepared by [insert name], [Headteacher/Principal], and the bundle of documents circulated in advance of the meeting. The Committee also heard evidence from [Headteacher/Principal] and [insert names of any other witnesses] and from you [and insert names of parental representatives/witnesses] on behalf of [pupil name]. [insert name] from the Local Authority was also in attendance.

The Committee also had regard to the Department for Education's statutory Guidance, "*Exclusion from maintained schools, academies and pupil referral units in England*" dated September 2017.

The Committee firstly had to decide whether [insert pupil name] had behaved as alleged by the [Headteacher/Principal]. We noted that the reason for the permanent exclusion was [insert reason given by the Headteacher/Principal].

[insert the findings of fact made by the GBDC]

The Committee therefore agreed with the [Headteacher/Principal] that, on the balance of probabilities (ie it is more likely than not), [insert name of pupil] had behaved as alleged.

Next, the Committee had to decide whether [headteacher/principal's name] decision was lawful, rational, reasonable, procedurally fair and proportionate.

[insert detailed reasons about your findings for each decision]

Finally the Committee had to consider the interests and circumstances of [insert pupil's name], including the circumstances in which s/he was excluded, and have regard to the interests of other pupils and people working at the school.

[insert details of the factors you took in to account and how you felt the balance lay]

[Finally reiterate your decision and explain whether it was a unanimous or majority decision]

You have the right to ask the [Local Authority] [Academy Trust] to arrange an independent review of this decision. You must make this request by [insert date] (15 school days from the date on which this letter is given to you.) [You have the right to request an independent review panel even though you did not make a case to or attend the meeting at which the governing body considered the exclusion.]

An independent review panel does not have the power to direct a governing body to reinstate an excluded pupil. It can however decide to:

- uphold the decision to exclude;

- recommend that the governing board reconsiders its decision; or
- quash the exclusion and direct that the governing board considers the exclusion again (where the panel decides that a governing board's decision is flawed when considered in the light of the principles applicable on an application for judicial review).

Where a panel quashes the exclusion and directs reconsideration by the governing board, the panel also has the power to order that the school makes an additional payment of £4,000 if the governing body does not offer to reinstate the pupil within 10 school days of receiving notice of the panel's decision. This payment will go to the local authority towards the costs of providing alternative provision.

The independent review panel can also direct the school to put a copy of the panel's decision letter on your child's school record.

This information is not in any way intended to discourage you from appealing as it is your legal right to appeal against the decision to permanently exclude your child. However, you need to be aware of the decisions that an Independent Review Panel can reach.

You can request an appeal form to help you from the, Democratic Services, Town Hall, Sheffield, S1 2HH (schoolappeals@sheffield.gov.uk). [Although please note that academies may make their own arrangements for a hearing once the Local Authority notifies them of an appeal.]

You should set out the grounds on which your appeal is being made and, if appropriate, you should also include a reference to how [insert name of pupil]'s special educational needs are considered relevant to the exclusion. You should also include any written evidence together with your application for review.

As indicated in the form, you also have the right to require the [Local Authority/Academy] to appoint an SEN expert to attend the review and advise the review panel regardless of whether your child has recognised Special Educational Needs. You **must** make it clear in the application form for review if you wish an SEN expert to be appointed.

An SEN expert's role is to provide impartial specialist advice to the independent review panel on how special educational needs might be relevant to the exclusion, which advice is based on the evidence provided to the panel. The SEN expert's role does not include making an assessment of your child's special educational needs and the focus of their advice will be on whether the school's policies which relate to SEN, or the application of those policies in relation to your child, were lawful, reasonable and procedurally fair, including with respect to the identification of any undiagnosed SEN that your [son/daughter] may potentially have, and any contribution this could have made to the circumstances of [his/her] exclusion. There would be no cost to you for the appointment of an SEN expert.

You may, at your own expense, appoint someone to make written and/or oral representations to the Panel, or you may bring a friend/relative/support or advice worker to the review.

I must also draw your attention to sources of relevant free and impartial advice:

The Department for Education guidance on exclusions:

<https://www.gov.uk/government/publications/school-exclusion>

The Tribunal Service guidance on making a claim of discrimination to the First-tier Tribunal (Special Educational Needs and Disability):

<https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability>

Impartial advice for parents can also be accessed from various organisations, including:

The Coram Children's Legal Centre:

www.childlawadvice.org.uk Tel: 0300 330 5485

ACE Education:

[where considered relevant by the head teacher: Links to local services, such as Traveller Education Services, the Information Advice & Support Services Network (formerly known as the local parent partnership), (<https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network/about>), The National Autistic Society (NAS) School Exclusion Service (England) (schoolexclusions@nas.org.uk) Tel: 0808 800 4002), or Independent Parental Special Education Advice (<http://www.ipsea.org.uk/>).]

In addition to your right to apply for an independent review, if you believe that the exclusion has occurred as a result of discrimination then you may make a claim under the Equality Act 2010 to the First-Tier Tribunal (Special educational Needs and Disability) in the case of disability discrimination, or the County Court, in the case of other forms of discrimination. Any such claim brought under the Equality Act 2010 should be lodged within six months of the date on which the discrimination was alleged to have occurred, ie the date that [insert pupil's name] was excluded.

Yours sincerely

Chair of the Governing Body Discipline Committee

Glossary

The term '**must**' refers to what head teachers/governing boards/academy trusts/local authorities and parents are required to do by law. The term '**should**' refers to recommendations for good practice as mentioned in the exclusions guidance.

In this document and in the exclusion guidance, '**parents**' refers to parent(s)/legal guardian(s)/foster carer(s) of pupils under 18, as well as to pupils over 18, and the term '**governing board**' includes the governing body of a maintained school, the management committee of a PRU and the academy trust of an academy.

Fixed-period exclusion: when a pupil is barred from the school for a fixed amount of time (including exclusions during lunchtime).

Permanent exclusion: when a pupil is permanently barred from the school premises.

Alternative provision: This refers to the education arrangements made for excluded pupils to continue to have a suitable, full-time education whilst they are excluded from school or cannot attend school for another reason. In some circumstances, alternative provision can be used where a child has not been excluded, including alongside mainstream or special education, or for a placement to address poor behaviour.

Arrangements for my child after exclusion

Will my child still receive an education?

Schools should take reasonable steps to set work for pupils during the first five days of a fixed-period exclusion.

From the sixth day of an exclusion, suitable full-time education must be arranged for pupils of compulsory school age (primary and secondary school age), except for Year 11 pupils (final year of secondary school) whose final exams have passed. In the case of a fixed-period exclusion of more than five school days, it is the duty of the school to arrange this education,

unless the school is a PRU (in which case the local authority should make arrangements). If a parent wishes to raise a concern about lack of, or the quality of, education arranged during a fixed-period exclusion (and their child is still of compulsory school age), they may follow the school's official complaints procedure.

In the case of a permanent exclusion, arranging suitable full-time education is the duty of the local authority for the area where the pupil lives. If a parent wishes to raise a concern about lack of, or the quality of, education following a permanent exclusion (and their child is still of compulsory school age), parents should complain to the local authority where they live. If parents are unsure about which local authority they need to speak to, they should ask the school for advice.

Relevant Documents

Exclusion from maintained schools, academies and pupil referral units in England September 2017