



Tower Hamlets Children's Services

Guidance on the use of Pupil Exclusion

**This Guidance is also available on the
Tower Hamlets LGfL website at
www.goo.gl/FfPaSq**

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Introduction

All exclusions should be treated in confidence and only those people who need to know about the exclusion should be told.

This document sets out Tower Hamlets Children's Services guidance on pupil exclusion and updates all previously published pupil exclusion guidance by Tower Hamlets Local Authority. This document is primarily written for local authority maintained schools but the DfE statutory Guidance is equally applicable to Academies and Free Schools. Where there are differences in relation to Academies and Free Schools these are noted in the 'Application of this Guidance' section.

This guidance should be used in conjunction with the latest Department for Education statutory Guidance *Exclusion from maintained schools, academies and pupil referral units in England (2017)*. The DfE document should be regarded as the definitive guidance, which this Tower Hamlets guidance supplements in order to:

1. support schools in complying with their statutory obligations, and
2. help schools make 'reasonable adjustments' to their policy and practice to comply with their Public Sector Equality Duty

For ease of reference the format of this document follows the sequence of sections of the DfE guidance and the relevant DfE paragraph numbers are indicated throughout.

Hard copies of both the DfE guidance and this LA Guidance can be requested from the Pupil Services Team on 020 7364 6150. Alternatively the DfE guidance can be downloaded from:

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

Adherence to the DfE and this Local Authority guidance will ensure that the school's procedures for dealing with unacceptable behaviour and disciplining pupils are fair and consistent. It will also reduce the chance of any successful legal challenge to exclusion at a later stage. However, the guidance is not exhaustive and judgements will need to take account of the

circumstances of individual cases. Schools and governing bodies who depart from the statutory Guidance must be able to explain why they had 'good reason' to do so.

The Local Authority Exclusions Officer should be the first point of contact for any queries head teachers and governors may have regarding exclusions:

Head of Pupil Services
Children's Services
Town Hall
Mulberry Place
5 Clove Crescent
London E14 2BG
Tel: 020 7364 4304
Fax: 020 7364 4311

Links to websites

Links to websites were correct at the time of publication but we cannot guarantee that these links will work all the time and we do not have any control over availability of the linked pages. We are not responsible for the contents or reliability of the linked websites and we do not necessarily support the views expressed within them. If a website link no longer works please let Pupil Services know.

Application Guidance

London East AP (PRU)

Throughout this guidance, references to a school should be read as referring equally to a London East AP, references to the Governing Body refer equally to the Management Committee of a London East AP, and references to a head teacher refer equally to the Teacher in Charge of London East AP, with one exception.

Alternative Provision from Day 6 of an Exclusion

The Teacher in Charge of London East AP is not required to make alternative provision for an excluded pupil from Day 6, although that obligation remains with the Local Authority (DfE statutory Guidance, paragraph 45).

Nursery provision

This Guidance, and the DfE statutory Guidance, is applicable equally to nursery classes in schools and maintained nursery schools, other than that schools and nurseries are not required to make alternative provision from Day 6 of an exclusion for pupils below compulsory school age.

Academies and Free Schools

The DfE statutory Guidance is equally applicable to Academies and Free Schools (other than 16-19 Academies) and where 'head teacher' is used in this guidance it includes the Principal of an Academy or Free School. The main areas where there are differences in procedure or practice in relation to Academies and Free Schools are:

Academies and Free Schools are not required to invite the LA Exclusions Officer to Governors' Pupil Discipline Committee hearings. However, if the parents invite the LA Exclusions Officer he is entitled to attend the hearing (DfE statutory Guidance, paragraph 58 and footnote).

In an LA maintained school a governors' pupil Discipline Committee must have a minimum of three members but in Academies or Free Schools a smaller committee can consider exclusions if permitted by the articles of association (DfE statutory guidance para 54). The LA recommends a minimum of three governors in all cases.

The power of the Chair of Governors in an LA school to consider an exclusion in cases of urgency in limited circumstances does not apply in an Academy or Free School (DfE statutory guidance para 57).

An Academy or Free School is responsible for appointing and paying for the SEN Expert at an Independent Review Panel.

The LA is required to arrange the 6th Day provision for a pupil permanently excluded from an Academy or Free School. This is the responsibility of the 'home' LA, where the pupil lives. (DfE statutory Guidance, paragraph 46).

If an Independent Review Panel orders an Academy or Free School to pay a penalty of £4,000 it is paid to the Local Authority.

Application of this Guidance to 6th Form/Post-16 Pupils

Sixth Form/Post-16 attending maintained secondary schools

This Guidance, and the DfE statutory Guidance, is applicable equally to Sixth Form/Post-16 pupils in maintained schools (including school run 6th form consortiums), with the following exceptions:

Alternative Provision

Schools are not required to make alternative provision from Day 6 of an exclusion for pupils above compulsory school age (although schools may choose to do so), nor for pupils in their final year of compulsory education who do not have any further public examinations to sit. (DfE statutory Guidance, paragraph 49).

Pupils over the age of 18

Letters confirming the exclusion of a pupil over the age of 18 should be addressed to the pupil not to their parents, and the pupil (not their parents) should be invited to the governors' Discipline Committee meeting and the reintegration meeting. The pupil may choose to be accompanied by his or her parents at the pupil's option; pupils are entitled to attend alone if they wish to do so. The decision of the governors' Discipline Committee should also be addressed to the pupil not to his or her parents. The Model Letters should be amended accordingly.

Pupils attending alternative training and educational provision (other than the PRU)

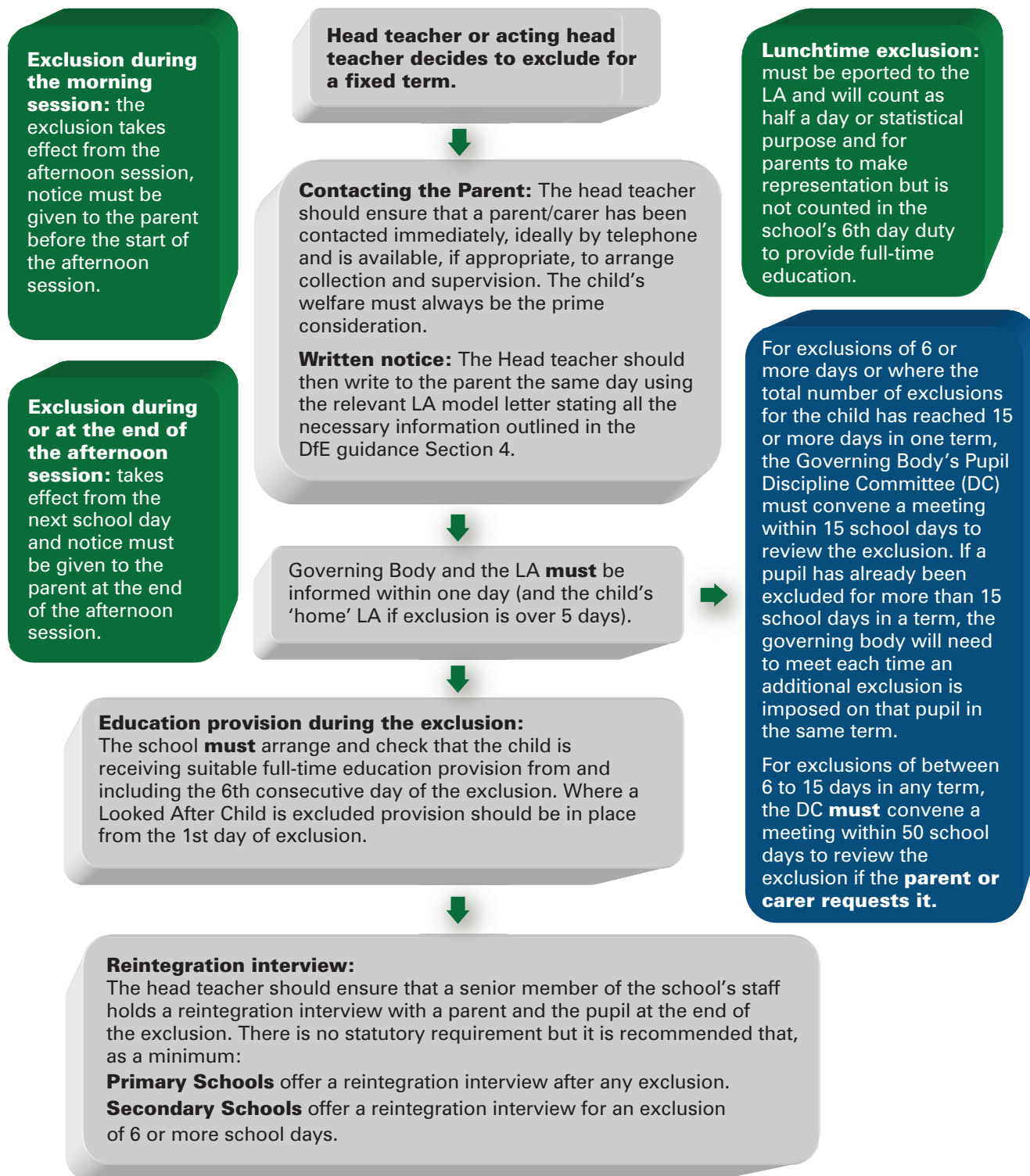
Organisations providing alternative training and educational provision have the power to discipline pupils and should have in place clearly understood rules of conduct and behaviour. The policies should be consistent with the Tower Hamlets 'Statement of shared principles for behaviour policy' (Appendix A).

Providers do not have the legal power to exclude pupils but can require that the pupil is withdrawn from the alternative provision and returned to the secondary school at which they are on roll. The secondary school has the power to discipline (including exclusion) for behaviour of their pupils at alternative education and training provision.

The DfE statutory Guidance does not apply to Further Education colleges. However, Tower Hamlets (and other commissioners of alternative provision) may, under the terms of the placement, require FE colleges to follow the statutory Guidance and the Tower Hamlets guidance for Tower Hamlets pupils placed in 14 – 16 provision at FE colleges.

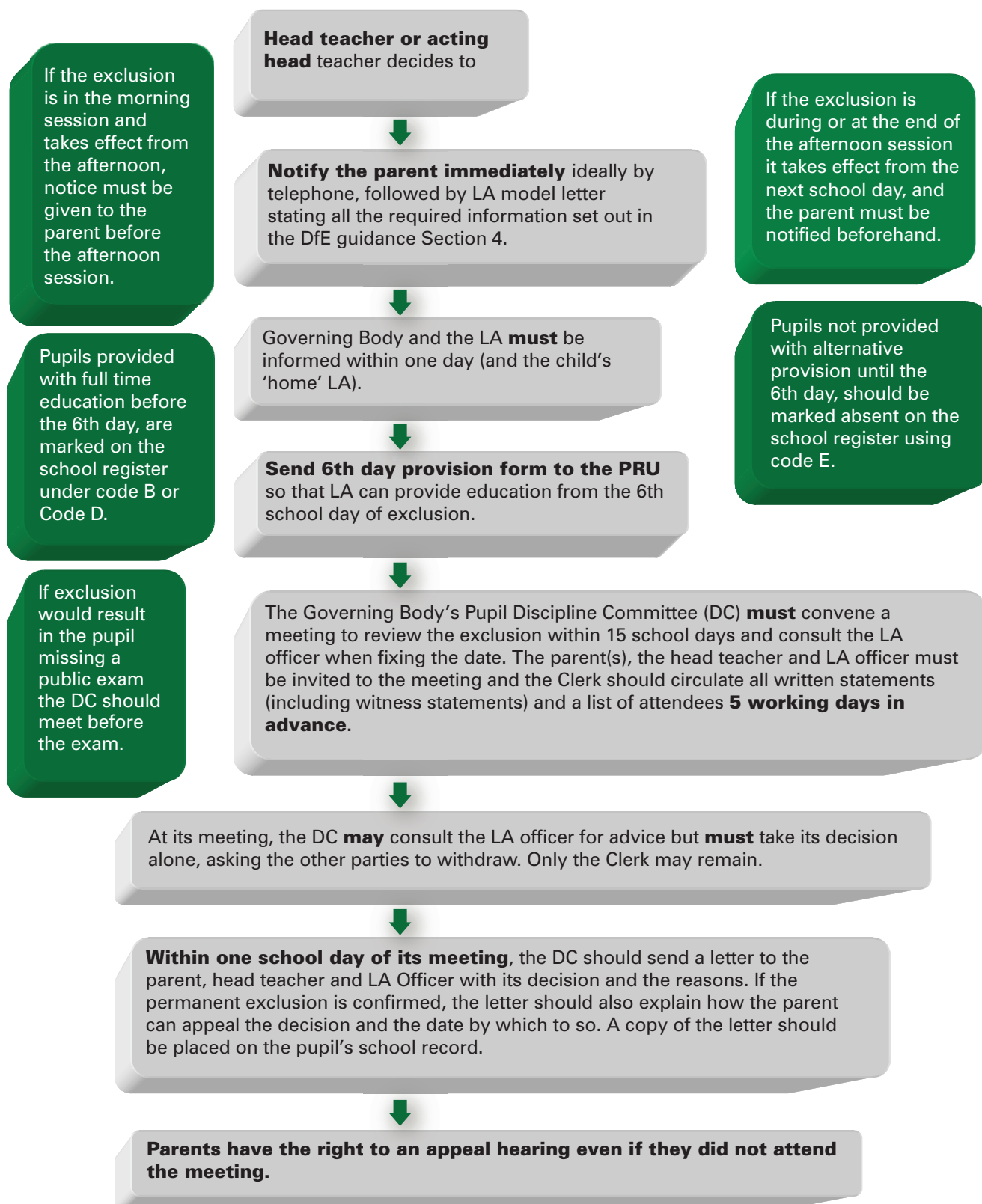
Procedures

Flowchart on the Procedure for Fixed Term Exclusion



Procedures

Flowchart on the Procedure for Permanent Exclusion



Tower Hamlets contacts for advice on exclusions

Terry Bryan

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Kerrigen Marriner

Head of Behaviour Support/Chair of FAP
Head of Behaviour and Attendance Support Service
/Chair of Fair Access Panel
Professional Development Centre
229 Bethnal Green Road
E2 6AB

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Email: Kerrigen.Marriner@towerhamlets.gov.uk

Principal changes in 2017 Statutory Exclusions Guidance

The Department for Education statutory Guidance *Exclusion from maintained schools, Academies and pupil referral units in England* originally came into force on 1st September 2012 and made major changes to law.

In 2017 the DfE revised the document and issued new statutory Guidance with effect from 1st September 2017. All exclusions taking place on or after that date should comply with the 2017 Guidance.

The 2017 revisions were relatively minor and there have been no changes in exclusion law. Changes in 2017 are mainly to clarify the earlier document and to reflect changes in the law and practice since 2012, around SEN terminology.

The principal revisions are:

- clarification that exclusions cannot be extended, or converted from fixed term to a permanent exclusion, except in “exceptional circumstances”. This can include where new evidence comes to light, where a head teacher makes an initial short fixed term exclusion to allow an investigation to be carried out (DfE statutory Guidance paragraph 3).
- Expanded guidance for headteachers and governors on what the ‘balance of probabilities’ means when applying the civil standard of proof (DfE statutory Guidance paragraphs 8 and 65).
- Parents can be notified of their child’s exclusion electronically but only if the parents have previously given their written consent for notifications to be sent that way (DfE statutory guidance paragraph 28).

- If a governing board is directed to reconsider its decision it must take into account the findings of the Independent Review Panel (DfE statutory Guidance paragraph 176).
- Reinforcing the previous guidance that the alternative provision arranged for excluded pupils from ‘Day 6’ must be full time, suitable for the pupil, and enable excluded pupils to achieve good educational attainment on a par with the pupil’s peers in mainstream schools (DfE Consultation Response, page 6).

Minor changes to the model letters are required in consequence.

Promoting positive behaviour and early intervention

DfE Statutory Guidance: Exclusion from maintained schools, academies and pupil referral units in England (2017)

The DfE statutory Guidance starts with the key point that underlying factors can contribute towards poor behaviour. Where a pupil displays continuous disruptive behaviour, schools should try to identify whether there are any causal factors and intervene early in order to reduce the need for a subsequent exclusion. In this situation schools should give consideration to a multi-agency assessment that goes beyond the pupil's educational needs (statutory Guidance Key Points and paragraphs 19 and 22).

Schools should take account of their statutory responsibilities in relation to SEN when administering the exclusion process. It is unlawful to exclude a pupil simply because they have additional needs that the school feels they are unable to meet (statutory Guidance paragraph 12).

Schools and governing bodies should have policies and procedures to promote positive behaviour and early intervention. The School's published behaviour policy and equal opportunities policy will therefore be key documents¹ in the evidence presented to Discipline Committees and Independent Review Panels when exclusion decisions are reviewed. Pastoral Support Programmes (PSP), the use of the Early Help Assessment (EHA) and outside agencies is supported, and schools are encouraged to explore alternatives to exclusion, such as managed moves (statutory Guidance paragraph 15).

Other DfE Guidance

1. DfE guidance – statutory and departmental advice – on behaviour and discipline is on the DfE website (originally published August

2011 but revised versions are regularly published on the website)

<https://www.gov.uk/government/publications/behaviour-and-discipline-in-schools-guidance-for-governing-bodies>

<https://www.gov.uk/government/publications/behaviour-and-discipline-in-schools>

<https://www.gov.uk/government/publications/searching-screening-and-confiscation>

<https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools>

2. *'Internal Exclusion Guidance'* (DfE 2009) [archived] offers guidance on good practice on the use of internal exclusion rooms as immediate, short-term, provision in order that learning and teaching for the majority of pupils can continue uninterrupted. The use of internal exclusion should be reflected in The Guidance is available at:

<http://dera.ioe.ac.uk/712/>

3. The DfE non-statutory guidance – “Drug Advice for Schools”

[https://HYPERLINK "http://www.gov.uk/government/publicatio" \h www.gov.uk/government/publications/drugs-advice-for-schools](http://www.gov.uk/government/publications/drugs-advice-for-schools)

4. Parenting Contracts and Parenting Order “Guidance on Education-related Parenting Contracts, Parenting orders and Penalty Notices” Revised edition 2007 [DfE] [archived]

5. Preventing bullying

<https://www.gov.uk/government/publications/preventing-and-tackling-bullying>

¹ And, if appropriate, anti-bullying, Special Education Needs, and race and disability equality policies.

6. Acceptable Behaviour Contracts

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/219663/asbos9.pdf

7. “The Education of Children and Young People with Behavioural, Emotional and Social Difficulties as a Special Educational Need” (DfE 2007) [archived]

<http://dera.ioe.ac.uk/8410/1/ACFD633.doc>

Tower Hamlets Guidance

Review of behaviour policies – Statement of shared principles for behaviour policy

(together with the other partners in the Behaviour and Attendance Partnership) have agreed on ten common principles that will guide governing bodies in developing and reviewing the behaviour policies for their own schools. This Statement of shared principles for behaviour policy is in Appendix A.

Although no similar common statement has been adopted in the Primary sector, Primary school governing bodies and head teachers may wish to take into account the Secondary sector Statement of shared principles when reviewing their own behaviour policies.

The hierarchy of sanctions and the rewards for good behaviour should both be clear.

Public Sector Equality Duty (PSED)

Under their PSED duties under the Equality Act 2010 schools must ensure that their policies do not indirectly (or directly) discriminate against vulnerable groups of pupils or those with protected characteristics. The statutory Guidance (paragraphs 9, 10 and 11) requires schools to have due regard to the need to:

- eliminate discrimination and other conduct that is prohibited by the 2010 Act;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and

- foster good relations across all characteristics – between people who share a protected characteristic and people who do not share it.

Schools are reminded that pupils with Social, Emotional and Mental Health (SEMH) difficulties (previously referred to as behavioural, emotional and social difficulties, BESD) or ASD may have a Disability under the Equality Act as well as a Special Educational Need. The Equality Act puts a legal duty on schools in these circumstances not to discriminate against pupils with SEMH or ASD because of behaviour related to their disability, and schools must make reasonable adjustments.

‘The Education of Children and Young People with Behavioural, Emotional and Social Difficulties as a Special Educational Need’ – available on the link at the beginning of this section – advises:

“... schools need to be alert to the possibility that behavioural difficulties may mask an underlying disability. Schools should take care to make reasonable adjustments to policies that may discriminate against disabled pupils. A policy that provides an automatic sanction for a particular offence may need to be varied if its application to a disabled pupil might treat him less favourably than another pupil for a reason related to his disability. Schools also need to be alert to the range of ways in which incidents that might lead to an exclusion can be avoided, for example, whole school training on the communication needs of autistic pupils may help to avoid difficulties between staff and students and may be a reasonable adjustment that schools might be expected to make.”

The Equality and Human Rights Commission provides guidance and examples of good and poor practice:

<https://www.equalityhumanrights.com/en/advice-and-guidance/exclusions>

Excluding a disabled pupil for behaviour which arises as a consequence of their disability is likely to result in unlawful disability discrimination unless you can show that the exclusion was a proportionate means of achieving a legitimate aim.

For example:

A pupil with ADHD is excluded for his behaviour including refusing to sit at his desk, distracting other pupils by talking and running around during classes. The pupil has been cautioned previously and the school does not see any other option than to exclude him. This is likely to be unlawful discrimination as he was excluded for behaviour which is related to his disability. It is unlikely to be a proportionate means of achieving a legitimate aim as no other efforts were made to support the pupil to manage his behaviour.

A pupil cannot be excluded because of their disability but they can be excluded because of their behaviour if another pupil without the disability would have been excluded in exactly the same circumstances. It is generally accepted that securing good order and discipline, and the health & safety of the school community, are legitimate aims but schools should be able to demonstrate that exclusion of the disabled is a proportionate means of achieving that. It will be relevant to consider what alternatives there are to exclusion, what support was (or could in future be) given to the pupil, whether their behaviour might improve with that support, and what impact their likely future behaviour would have on other members of the school community.

If a school knows, or could reasonably be expected to know, that a pupil has a disability you have a duty to make reasonable adjustments to your discipline and exclusion policies and practices if needed.

This might include:

- amending your behaviour policy so that behaviour which is a direct consequence of their disability is disregarded;
- setting up an individual 'behaviour management plan' and ensuring all staff are aware of it;
- making reasonable adjustments to manage such behaviour;
- considering alternative, more appropriate punishments; and
- considering alternative, more appropriate punishments; and

- ensuring that a disabled pupil is able to present their case fully where their disability might hinder this.

For example:

A pupil with Tourette syndrome involuntarily yells out and sometimes swears in class as a result of his disability. This behaviour is disregarded by the school and he is not punished when this occurs.

Schools should also be aware of aspects of school uniform policy that may be indirectly discriminatory. A 2011 legal decision (*SG v St Gregory's Catholic Science College [2011] All ER (D) 113 (Jun)*) decided that an Afro-Caribbean boy who was excluded for wearing his hair in 'cornrows' was indirectly discriminated against.

Behaviour policies – Drugs and Weapons

Governing bodies and head teachers may wish to make specific mention in their behaviour policies of the sanctions in relation to drugs and weapons. In framing policies to address these issues bear in mind that a blanket 'zero tolerance' approach may not meet the DfE statutory Guidance on exclusions as head teachers must take into account on each occasion the particular circumstances of the offence and the pupil. Behaviour policies should draw a distinction between **supplying** illegal drugs and the **possession and/or use** of illegal drugs. In the local authority's view the former can be an acceptable reason for permanent exclusion for a one-off or first offence, whilst possession and/or use should normally only lead to permanent exclusion for repeated offences.

Similarly, it might be appropriate to permanently exclude for a first offence of carrying an **offensive weapon**, but that schools need to have regard to the law and guidance on the definition of an "offensive weapon". In particular a distinction needs to be made between a weapon made, adapted or intended to injure a person – such as a knife – and items like trouser belts legitimately in the possession of a pupil but which are then used for a wrongful purpose.

The DfE guidance documents above provide further information.

Behaviour policies – behaviour which may result in exclusion

It is recommended that school behaviour policies should clearly indicate the range of offences for which fixed term and permanent exclusion may be used as a sanction in sufficient detail that pupils and parents can be aware of the likely consequences of their actions, whilst avoiding excessive rigidity and prescription. This is particularly so where schools may wish to impose exclusion as a sanction for disciplinary offences where a wide range of approaches are used in schools in general, for example, setting off a fire alarm. Schools might find it useful to adopt a specific Exclusions Policy.

It is important that exclusion is only imposed as a sanction when this is consistent with the school's behaviour policy. If it is not, or if the exclusion is for a longer period than allowed for in the behaviour policy, there is a risk that the exclusion will be held to be illegal.

Behaviour policies – “3 strikes and you're out” provisions

It is entirely appropriate for the sanctions in a school's behaviour policy to take account of a pupil's previous disciplinary record. However, the DfE statutory Guidance requires each exclusion decision to be made based on the individual facts and circumstances of the case so schools should not adopt graduated sanctions schemes in which a certain number of repeat offences **automatically** trigger. This would preclude the consideration of individual circumstances and could result in the head teacher's exclusion decision being overturned by the governors' Discipline Committee or an Independent Review Panel.

Blanket policies that provide a fixed penalty for a particular offence may breach anti-discrimination legislation by failing to take into account the individual circumstances. The Equality and Human Rights Commission gives this example of indirect discrimination:

A school's blanket exclusion policy of 'three strikes and you're out' is found to be indirectly discriminating against Gypsy and Traveller pupils. Pupils from these communities are facing extreme levels of racially motivated bullying and are retaliating

to the bullying which in turn was not being adequately investigated. The blanket exclusion policy was reviewed and incidents investigated on a case-by-case basis.

Behaviour Policy – prior disciplinary record

It is normal and entirely appropriate that schools take into account a pupil's previous disciplinary record when deciding sanctions for a breach of the behaviour policy. However, it is good practice for the Behaviour Policy to explicitly state this so that pupils and parents are aware of it, and to support the school in any challenge at a Discipline Committee or Independent Review Panel that pupils with equal involvement in an incident have received differential punishments.

Behaviour policy – behaviour outside school

A school's behaviour policy can apply to the behaviour of pupil's outside school premises where it is reasonable to do so. Paragraph 3 of the statutory Guidance addresses this. Typically this will be where the head teacher feels there is a clear link between that behaviour and maintaining good behaviour and discipline within the school, and behaviour that could bring the school into disrepute.

Circumstances can include:

- Misbehaviour on school trips (both within and outside normal school hours)
- Conduct on the courses run by KS4 providers
- Conduct on work experience, or taking part in an educational or sports event at another school or education provider
- Behaviour whilst travelling to and from school, outside the school gates or in close proximity to the school e.g. in local shops
- Behaviour whilst the pupil is wearing school uniform
- Abuse, harassment or intimidation of fellow pupils and staff outside school, including through the internet, social networking sites, mobile phones and by any type of cyber bullying
- Behaviour that affects the reputation of the school

If the misbehaviour took place away from school when the pupil is not in the charge of staff sanctions can only be applied when the pupil is on the school site. In such circumstances the member of staff could indicate to the pupil that s/he has been seen misbehaving and will be punished, but must wait until the pupil is next in school to issue the punishment. An example of this could be where a pupil has misbehaved on a learning placement at KS4 provider.

School behaviour policies will therefore need to state explicitly that pupils will be disciplined for misbehaviour off the school premises, both on school organised activities when staff are present and in certain circumstances when staff are not present. The circumstances when sanctions that can be applied to pupil behaviour off site when staff are not present need to be reasonable and the behaviour policy should make expectations clear. This will avoid the possibility of a head teacher's exclusion decision being successfully challenged on the grounds that the behaviour policy and sanctions only applied on school premises.

The school contract with alternative learning providers should explicitly cover the expected standards of behaviour, the power to discipline and the procedures to be used in the case of pupil misbehaviour. In doing so it should make clear that exclusion, whether on a fixed term or permanent basis, is not covered by the general power to discipline. This is because it is already covered by separate legislation, which reserves the power to apply this particular sanction solely to the school's head teacher or to the teacher in charge of London East AP (or, their absence, the acting head teacher or acting teacher in charge of London East AP). In cases where it proves necessary to remove a pupil from the learning provider placement the pupil must be immediately returned to school so that an appropriate disciplinary sanction can be imposed under the school's behaviour policy. Schools should be explicit about levels of authority which are delegated to staff on educational visits. For residential trips, and particularly for international visits, a contact strategy should be given to a senior leader so that advice for staff is available in a crisis. When schools give briefings and contracts to

pupils and parents about educational visits, residential trips or alternative learning placements they should make clear the expected standards of behaviour.

When reviewing behaviour policies schools should consult "Behaviour and discipline in schools – Advice for headteachers and school staff" regarding behaviour off the school premises (see link to DfE behaviour guidance at the beginning of this section)

Minimising the Risk of Exclusion

In addition to the measures to minimise the risk of exclusion set out in the DfE statutory Guidance, head teachers should also seek advice from the Authority's Behaviour Support Service as well as the Lead Officer for Social Inclusion as to support available within the Local Authority and how it can be accessed. These agencies will be able to provide advice, guidance and training for staff and parents; in order to support the school's efforts to minimise the risk of exclusion by planning and implementing a range of early intervention and prevention provisions.

Some examples of LA funded support include; central training in Early Help Assessment Skills training (EHA, Team Around the Child, Information Sharing), and input into, NQT and support staff training courses. School-based support includes; SEAL (Social and Emotional Aspects of Learning) consultancy, support for LSU managers, 'Improving Behaviour' projects and Behaviour assessments and access to parenting workshops, all of which encourage the use of techniques to reinforce positive behaviour. The Local Authority also funds the Behaviour Support Service to carry out a range of monitoring functions to ensure schools are able to provide adequately for vulnerable children, e.g. attendance and advice at the Annual review of pupils with an EHC Plan and Transition Support.

More intensive support for schools that are judged by Ofsted to be Requires Improvement or below for Personal development, behaviour and welfare is also offered.

Additionally, schools can buy in support for a wide range of interventions, from targeted support for particular groups of pupils/staff to whole-school policy and procedure design.

Further guidance on the use of Alternative Provision is in Appendix N.

To discuss support please contact:

Kerrigen Marriner
Behaviour and Attendance
Support Service

Local Authority Fair Access Protocol

The Tower Hamlets Secondary Schools Behaviour and Attendance Partnership involves secondary schools working collaboratively to address issues surrounding behaviour management, persistent truancy and alternative provision during exclusion. The Partnership operates a Fair Access Protocol (FAP) which seeks to ensure that all schools admit a fair share of pupils who have either been permanently excluded or are at risk of permanent exclusion through the process of a managed move transfer (Paragraph 15 of the DfE statutory Guidance)..

Managed Move Transfers under the Fair Access Protocol

Schools seeking to arrange a managed move transfer for pupils at risk of exclusion must do so in accordance the locally agreed FAP arrangements, which require the completion of Early Help Assessment (EHA) and accompanying evidence that the informed consent has been obtained. This documentation should then be forwarded to both Head of Behaviour and Attendance Support Service and the Head of Pupil Services who between them will decide whether the proposed transfer should proceed.

Parenting Contracts and Parenting Orders

Parenting Contracts and Parenting Orders can be appropriate for pupils at risk of exclusion and schools do not have to wait until a pupil is excluded before considering these.

Parents cannot be required to agree to a Parenting Contract as an alternative to their child being excluded, nor can readmission after an

exclusion be made conditional on a Parenting Contract.

Further guidance on Parenting Contracts and Parenting Orders is available on the link at the beginning of this section.

Acceptable Behaviour Contracts

An Acceptable Behaviour Contract (ABC), in the context of this guidance, is a voluntary agreement drawn up between the pupil responsible for the anti-social behaviour, the school and the police whereby the pupil acknowledges that their behaviour is having a negative impact on the wider community and agrees not to carry on with this behaviour, particularly outside of school. It can often be an effective form of early intervention which can prevent a pupil's anti-social behaviour from escalating.

The ABC can include positive activities that the pupil agrees to complete. Examples include taking part in activities that will help prevent recurrence, such regular attendance at school or attending counselling for alcohol or drugs if these are an aggravating factor for the pupil's anti-social behaviour.

ABCs are most effective with pupils who are on the fringes of disorderly groups, but have not yet entered the criminal justice system, not for an individual who is already entrenched in patterns of anti-social and criminal behaviour.

Schools wishing to explore the use of ABC for individual pupils should, in the first instance, consult with their Police Liaison Officer and the Education Support Worker in the Local Authority's Youth Offending Team (YOT).

Further guidance on Acceptable Behaviour Contracts is available on the link at the beginning of this section.

Removing pupils from the school site

DfE Statutory Guidance: Exclusion from maintained schools, Academies and pupil referral units in England (2017)

By law a pupil can only be excluded from the school premises on disciplinary grounds (statutory Guidance paragraph 1). However, there are other legal powers available to head teachers in certain limited circumstances to remove a pupil from the school site and the local authority's guidance on the use of these powers is below. None of these powers are legally an "exclusion" and they should not be referred to as such. They are not covered by the statutory exclusions guidance.

Schools should take care in using these powers that they do not become 'unofficial' exclusions, which are illegal. Head teachers are recommended to consult the local authority if considering removal from the school site for reasons other than exclusion for a disciplinary offence.

Tower Hamlets Guidance

Removing pupils from a school site for school uniform offences

Pupils may be given permission to leave the site briefly to remedy breaches of the school's rules on appearance or uniform where this can be done quickly and easily. This is not an exclusion but an authorised absence.

Exclusion should not normally be used as a sanction for relatively minor breaches of discipline such as failure to wear the correct uniform unless where breaches are persistent and in open defiance of school rules.

Removal of pupils from school in exceptional circumstances

A pupil accused of a serious criminal offence which took place outside the school's jurisdiction or for which there is insufficient evidence available at this time to warrant formal exclusion may be removed from the school site for a fixed period of absence (with the parents'

approval) or to be educated offsite (with or without the parents' approval) if the head teacher decides this is in the interest of the school community as a whole. This must be reviewed regularly. These are sometimes called (incorrectly) "precautionary exclusions" although they are not formal exclusions on disciplinary grounds under the Regulations or statutory Guidance.

This power to remove pupils from the site for reasons outside the scope of the school's behaviour policy should be used only in the most **exceptional circumstances**. These are not properly exclusions and should not be designated or recorded as such. The exclusion processes set out in the statutory Guidance do not apply and the governors' Discipline Committee does not review them. Any such removal must be kept under periodic review. Head teachers using this power risk facing legal difficulties if the removal is considered to be an 'illegal exclusion', and any use of it should be for as short a time as is needed to enable the head teacher to gather sufficient evidence to decide whether or not to make a formal exclusion.

In most circumstances the head teacher can make an initial short fixed term exclusion while the circumstances are investigated, and then either extend the fixed term exclusion or convert it to a permanent exclusion if the circumstances warrant it.

Any head teacher considering using this power is urged to consult the Local Authority Exclusions Officer and the Local Authority Safeguarding Officer first.

Referring a pupil off-site for educational provision to improve behaviour

Schools have the power to direct a pupil to off-site provision to improve behaviour (statutory Guidance paragraph 15). The DfE have issued guidance for the use of this power, available here:

<https://www.gov.uk/government/publications/alternative-provision>

The focus should be on ensuring that a pupil continues to receive a good education on par depend on what best supports the pupil's needs and potential educational attainment..

This power is separate from the power of schools to direct pupils to attend places other than the school's own premises for the purpose of teaching curriculum subjects, field trips, and such like.

Tower Hamlets guidance on the use of Alternative Provision is in Appendix N.

Removal of pupils on medical grounds

A pupil may be directed off-site for medical reasons if their presence on-site represents a **serious** health and safety risk. The pupil's parents and a health professional should be consulted first. This is not an exclusion but an authorised absence.

Although this power exists primarily with notifiable and contagious diseases in mind the DfE have previously indicated that the power might also be applicable to mental health related issues which, for example, result in violence when a pupil loses self-control. Because of the strong risk of this leading to an illegal exclusion, any head teacher considering exercising this power should:

- Consult the Local Authority Exclusions Officer
- Prepare a health and safety risk assessment
- Consult a health professional

Informal or “Unofficial” Exclusions

“Unofficial Exclusions” are illegal regardless of whether they are done with the agreement of parents (statutory Guidance paragraph 13). Examples of illegal exclusions are where:

- the parent is “advised” to find another school in order to avoid permanent exclusion
- the parent agrees to keep the pupil at home while the school makes arrangements for a managed move

- the parent is informally advised to keep the pupil at home while the school organises a programme of support
- the pupil is sent home for a fixed or indefinite “cooling off period”
- the pupil is not formally excluded nor alternative provision made, but given “study leave” with work set by the school
- disruptive pupils being asked to stay out of school for particular reasons, e.g. for the duration of an OFSTED inspection
- Victims of bullying sent home “for their own protection”
- Pupils sent to another school site's internal exclusion facility without being externally excluded.

The head teacher's power to exclude

DfE Statutory Guidance: Exclusion from maintained schools, academies and pupil referral units in England (2017)

Section 3 of the statutory Guidance deals with the legal powers of the head teacher to exclude a pupil on disciplinary grounds and the use of those powers. Head teachers must take account of this before excluding a pupil and Governors' Discipline Committees must also have regard to this guidance when deciding whether to uphold the exclusion.

This section of the statutory Guidance also deals with the steps head teachers should take before excluding pupils with SEN, disabilities or other additional needs, Looked After Children, or pupils from ethnic groups with disproportionately high rates of exclusion.

The decision to exclude a pupil must be "**lawful, reasonable and fair**" (statutory Guidance Key Points page 6).

The Guidance supports head teachers in the use of exclusion where it is warranted but permanent exclusion "**should only be used as a last resort**" (statutory Guidance Key Points page 6).

Other DfE Guidance

"The Education of Children and Young People with Behavioural, Emotional and Social Difficulties as a Special Educational Need" (DfE 2007)

<http://dera.ioe.ac.uk/8410/1/ACFD633.doc>

Tower Hamlets Guidance

Factors to consider before making a decision to exclude

Schools should make exclusion decisions within the framework of their wider legal responsibilities, that is, in line with the principles of administrative law. Exclusions must be lawful (with respect to the legislation relating directly to exclusions and a school's wider legal duties,

including the European Convention of Human Rights). Exclusion decisions must be "**rational, reasonable, fair, and proportionate**" (statutory Guidance paragraph 6).

Before a decision is made to exclude a thorough investigation must be carried out and all the available evidence considered. Failure to do so will mean that the decision is unlikely to withstand scrutiny and, in the case of a permanent exclusion, lead to the exclusion not being upheld by an Independent Review Panel. In Appendix C the Local Authority has provided detailed guidance for head teachers and senior school staff when investigating disciplinary incidents that could lead to exclusion. This includes a template for recording pupil interviews which schools can use.

In reaching a decision head teachers should also consider whether there are any mitigating or aggravating factors to take into account. A list of some of the factors which head teachers are advised to consider is attached as Appendix D.

Safeguarding and pupil exclusion

Parents are entitled to notice that their child has been excluded so that they can make arrangements to supervise their child during an exclusion, and exclusion must not put a pupil at risk. For this reason head teachers must phone or otherwise make contact with the parents before sending a child home to ensure that the parents can make sure someone is at home. Head teachers have a legal duty of care when sending pupils home when they have excluded them (statutory Guidance paragraph 7). The statutory Guidance (paragraphs 28 and 35) permits parents to be given information about an exclusion by email or text as well as by letter as long as parents have previously given their written consent to be contacted by these methods. These methods should only be used to confirm a telephone conversation with parents or the excluded child may be put at risk.

If parents refuse to co-operate with the exclusion it should not be enforced if it puts the safety of the pupil at risk. In those circumstances the head teacher should discuss the matter with the Attendance and Welfare Service and if necessary seek a parenting order

Pupils' opportunity to participate in exclusion procedures

The statutory Guidance emphasises (paragraph 16) that children should be encouraged and allowed to state their case at all stages of the exclusions process where appropriate, taking account of their age and understanding. Schools and governing bodies are strongly urged to pay due regard to this, both in terms of their procedures for investigating disciplinary incidents and the subsequent review of exclusion decisions. Failure to do so could lead to exclusion decisions being overturned.

Pupils should be asked not only **if** they did something, but **why** they did it.

Recording and retaining evidence

Pupils should be encouraged to write down, sign, date and time their version of events as soon possible. Witness statements from other pupils and staff should be written as soon after the incident as possible, timed, dated and signed. All statements must be retained and presented to the governors' Discipline Committee, even if they appear to be inconclusive or add nothing to the accounts of others. Unsigned/undated statements may be given less weight by governors' Discipline Committees and Independent Review Panels.

Schools should take pupil witness statements in a way which minimises the risk of collusion. Collusion can often happen unintentionally if pupils are left together and unsupervised to write their statements. Witness statements obtained that way should not be relied upon. Anonymous witness statements must be avoided unless there is very good reason; anonymous statements run counter to the principle of natural justice that pupils should know who is making allegations against them so that the evidence can be tested (statutory Guidance paragraph 111). Less weight may be attached to anonymous statements.

Without knowing the identity of the anonymous witness the excluded pupil may be unable to bring these issues to the attention of the governors' Discipline Committee or the Independent Review Panel.

Anonymous witness statements must always be dated so that governors' Discipline Committees and the Independent Review Panels know how long elapsed between writing the statement and the events themselves.

There is no point in anonymising statements when it will be obvious to everyone involved who 'Pupil A' etc is.

Schools need to be aware of their Public Sector Equality Duty to make reasonable adjustments to help pupils make statements and give their version of events.

For example

A school wishes to ask a pupil with autism why he acted aggressively towards other pupils. The pupil finds unfamiliar situations very stressful which has a negative effect on his communication. In order for him to be supported to best explain his actions, the school works with his support worker so he is prepared for the meeting, and the meeting is held in a familiar space.

In some cases CCTV evidence may be available which would shed light on events. If CCTV evidence is used by the head teacher in making an exclusion decision it must be retained and made available to the governors' Discipline Committee (and, where relevant, to any subsequent Independent Review Panel). Head teachers should act promptly to ensure CCTV evidence is preserved. If this is not done the CCTV tapes may be reused and the evidence lost. Any physical evidence should be preserved where possible, but if that cannot be done it should be photographed and the photograph signed and dated. The evidence should be retained for at least 6 months (statutory Guidance paragraph 70) as the school may be required to provide it if the parents lodge a discrimination claim with the First-tier Tribunal or County Court.

Schools should keep a written record of any actions taken, particularly as this will be something that they will need to refer to during the exclusion review process. Failure to keep good quality records and preserve evidence may result in head teachers' exclusion decisions being overturned. The records must also be retained for at least 6 months to comply with statutory Guidance paragraph 74.

Balance of Probabilities (statutory Guidance paragraph 8)

Head teachers should then apply the checklist in Appendix E in order to be satisfied that, **on the balance of probabilities**, the pupil did what s/he is alleged to have done. "Balance of probabilities" is the standard of proof used in civil courts in the UK and is a lower standard of proof than the criminal courts criteria of "beyond reasonable doubt". The idea of a balance, which must tip to one side to prove an allegation, is a straightforward way of visualising this particular aspect of the laws of evidence. If the evidence is such that the head teacher thinks it is more probable than not that the pupil did what was alleged then there is a case for exclusion. If the probabilities are equal then there is not a case for exclusion. However in the case of permanent exclusion, head teachers must be prepared to provide more compelling evidence to substantiate the reasons for this decision.

In these circumstances the evidence needs to show that it is **distinctly more probable than not** that the pupil committed the offence. The quality and extent of the evidence needs to be greater, head teachers may need to dig deeper, and restricted or circumstantial evidence may not be sufficient to substantiate the reasons for a permanent exclusion. In deciding that it is distinctly more probable than not the head teacher is entitled to take into account the pupil's past behaviour.

Deciding the length of a fixed term exclusion

It is the responsibility of the head teacher to decide the length of an exclusion. Governors' Discipline Committees cannot increase it but in certain circumstances they can reduce it. Fixed term exclusions should be for the shortest time

necessary, bearing in mind that exclusions of longer than a day or two make it harder for the pupil to reintegrate into school. OFSTED evidence suggests that using exclusions as a 'short, sharp shock' of 1 to 3 days secures the benefits of exclusion without adverse educational consequences.

Fixed term exclusions do not have to be for a continuous period (statutory Guidance paragraph 1). This allows, for example, a pupil who normally spends two days a week off site still to attend the off-site provision and for the fixed term exclusion days to be before and after the days normally spent off site.

Another possibility is for head teachers imposing short exclusions on several pupils in the same friendship group to phase their exclusion days so that the pupils are not excluded on the same day, minimising the likelihood of them roaming the streets during their exclusion. This may need to be combined with a period of internal exclusion to secure equitable treatment.

Exclusions pending further investigation

There may be exceptional occasions when it is necessary for a head teacher to impose a fixed period exclusion pending further investigation. If the investigation produces evidence that the pupil has committed an offence that would warrant further exclusion or permanent exclusion, a new exclusion will need to be issued. 2017 guidance states that exclusions can no longer be extended by a permanent exclusion once the investigation is completed. In such cases, the initial fixed period exclusion should be for the shortest period necessary to conduct the investigation and should not be continually extended to account for any delay in concluding the investigation. For advice on the appropriate use of this provision head teachers should consult the Local Authority Exclusions Officer.

Head teachers are reminded that they can reconsider their decision to exclude and withdraw it and reinstate the pupil at any time in the exclusion process prior to the governors' Discipline Committee making its decision (statutory Guidance paragraph 5).

Pupils displaying persistent poor behaviour

The statutory Guidance (paragraph 19) recommends that schools consider the use of multi-agency assessments for pupils displaying persistent poor behaviour to help ensure all pupils are treated fairly in relation to exclusion and to avoid potential indirect discrimination under the Equality Act.

SEND Pupils

overturned by governors' Discipline Committees or Independent Review Panels if they do not have regard to their own SEN Policy, the SEND Code of Practice, and the statutory Guidance, paragraphs 12 and 23 to 25.

The local authority's advice is that:

- pupils with an EHC Plan should only be permanently excluded in the most exceptional circumstances, and
- schools should make every effort to avoid excluding pupils at School Action or School Action Plus or with graduated SEN support,
- schools should try every practicable means to keep a pupil with SEN in school,
- schools should make every effort to avoid excluding pupils who are undergoing assessment for an EHC Plan.

Head teacher's reports to governors' Discipline Committees and Independent Review Panels should contain evidence of:

- the measures the school has taken to address a pupil's SEN, and the outcomes of the measures,
- the range of in-house strategies used, both for learning support and pastoral/ behavioural support,
- external agencies engaged

The statutory Guidance requires (paragraph 102) that the information given to an Independent Review Panel includes all policies and documents that the governors' Discipline Committee was required to take into account, with a similar requirement for governors' Discipline Committees to be given all **“relevant information relating to the pupil's SEN”** (statutory Guidance paragraph 61). The Local Authority recommends that head teachers should always include in their report to the governors' Discipline Committee and to any Independent Review Panel:

1. The pupil's SEN Statement or EHC Plan and Annual Review (where applicable).
2. Any multi-agency assessments (which could include a CAF).
3. The school's behaviour, special educational needs, disability equality, race equality, gender equality, and exclusion policies.

Schools are again reminded that pupils with BESD or ASD may have a Disability under the Equality Act as well as a Special Educational Need. Further advice can be found in *'The Education of Children and Young People with Behavioural, Emotional and Social Difficulties as a Special Educational Need'* (DfE 2007) on the link at the beginning of this section.

Victims of discrimination

Before arriving at the decision to exclude head teachers should consider whether the pupil concerned may have been the victim of discrimination.

Bullying or harassment

Head teachers should consider whether bullying or racial or sexual harassment of the pupil led to the pupil's actions (statutory Guidance paragraph 17).

For example, if a pupil had been physically bullied over a period of time and on one occasion the child fought back a decision to permanently exclude that pupil for snapping and retaliating could be argued to be an unreasonable decision.

All cases will depend on their specific circumstances and the argument for a lesser sanction would be stronger if the school were aware of the bullying and had not taken any action to prevent this or comply with its own anti-bullying policy. In this context unreasonable would mean that the decision was one that no other reasonable school would have taken in the same circumstances.

Provocation and retaliation

Head teachers should consider whether provocation or retaliation against racial or other taunts were relevant factors in the pupil's actions. If disciplinary issues arise in connection with persistent failure to comply with school uniform rules head teachers should seek guidance on the legal decisions of the courts in relation to the wearing of religious symbols and clothing.

Religion and belief

Head teachers should consider whether provocation against a pupil's faith or religious beliefs was a relevant factor in the pupil's actions.

Looked after Children (statutory Guidance paragraphs 23 to 25)

Schools should do everything possible to avoid excluding a looked after child. Schools must contact the headteacher of the Virtual School for Looked After Children before making the decision to exclude (statutory Guidance paragraph 24) and, where practicable, a multi-agency meeting takes place to consider the options.

Where a child in the care of Tower Hamlets is at risk of exclusion schools should contact the relevant social worker at the earliest opportunity. You should also contact The Virtual School for Looked After Children.

There are priority arrangements for children in care and contacting the team means these can be put into operation. There is no need to complete a CAF as there will already be a core assessment and PEPs for the child/young person that can be used for referral and information sharing purposes. Prior to any request it is essential that all those working with

the child/young person in care have had a chance to discuss the situation and explore options.

If the child is in the care of another authority it then the relevant social worker from that authority should be contacted immediately and there should be a request for a multi-agency meeting to discuss the way forward prior to any decision.

If as a result there is a need to request support from London East AP then please contact the chair of SIP to discuss the case:
Kerrigen Marriner 020 7364 6456.

1st day alternative education provision for Looked after Children (statutory Guidance paragraphs 48 and 50)

The DfE is concerned that children in care should not miss any education at all and expect that alternative education is in place from the first day of any exclusion for children in care.

Child in Need

If the child has an allocated social worker (from Tower Hamlets or another authority) or is in the process of being assessed by social care please contact the relevant social worker to discuss the situation at the earliest possibility. It is essential that all those working with the child/young person have a chance to discuss the situation and explore options and there should be a request for a multi-agency meeting to discuss the way forward prior to any decision.

It is likely that a EHA will have been completed as part of the referral to social care or that there is an initial assessment or a completed core assessment. These can be updated and used for referral and information sharing purposes.

If as a result there is a need to request support from London East AP then please contact the chair of FAP to discuss the case.

The head teacher's duty to inform parties about an exclusion

DfE Statutory Guidance: Exclusion from maintained schools, academies and pupil referral units in England (2017)

The key elements to section 4 of the DfE statutory Guidance relate to the procedure for notifying fixed and permanent exclusions to parents, the governing body and the local authority and details the information that must be provided. The required information is different to that specified under previous regulations. Reintegration interviews are no longer mandatory but are recommended as part of a strategy for managing the pupil's future behaviour. Schools are required to have a strategy for reintegrating pupils following a fixed term exclusion (statutory Guidance Key Points page 6).

Other DfE Guidance

None

Tower Hamlets Guidance

Model Letters for notifying parents of exclusion

Model letters are in:

Appendix F: Primary schools

Appendix G: Secondary schools

The DfE statutory Guidance no longer provides model letters and schools are recommended to use the local authority models as they make clear to parents their responsibilities for their child's supervision during exclusion and the separate responsibilities of schools and the Local Authority for ensuring arrangements for a pupil's continuing education. These letters comply with the requirements of the DfE statutory Guidance. (The Primary and Secondary letters differ only in the information given regarding alternative provision and reintegration interviews).

If the pupil is over the age of 18 the letters should be amended so that they are addressed to the pupil, and invite the pupil (not their parents) to the governors' Discipline Committee meeting. The decision of the governors' Discipline Committee should likewise be addressed to the pupil not their parents.

Where the exclusion decision is made in the absence of the head teacher by the person acting as head teacher all the correspondence must make clear they are acting in the head teacher's absence.

Notifying the Local Authority of all Exclusions

Schools must notify the Local Authority immediately of all pupil exclusions by completing the Local Authority '*Monitoring of Pupil Exclusions*' form (Appendix H) and emailing to the Pupil Services Team at: exclusions@towerhamlets.gov.uk. Alternatively, the form can be faxed to Pupil Services Team on 020 7364 4311.

The '*Notification of Attendance at London East AP from day six of Exclusion*' form (Appendix I) must also be completed in addition to the '*Monitoring of Pupil Exclusions*' form for permanent exclusions and in cases of fixed term exclusions where the length of exclusion is more than 5 days. This will ensure that full-time education provision is in place for a child from the 6th day of the exclusion. This form must be sent to both Pupil Services and to: Massingham Street London East AP Unit at: day6@londoneastap.org.uk

It is important that the '*Monitoring of Pupil Exclusions*' form and (where applicable) the '*Notification of Attendance at London East AP from day six of Exclusion*' form are submitted promptly to ensure the Local Authority complies with its statutory duties.

Reintegration Interview

The local authority recommends that head teachers arrange a reintegration interview with the parents of any pupil of primary school age who has had a fixed period exclusion of any length, and with the parents of any secondary school pupil excluded for more than 5 days. Secondary head teachers may decide to hold reintegration interviews with pupils excluded for 5 days or less if they wish to, and many secondary schools find it valuable to hold reintegration interviews with all excluded pupils, even if the exclusion was only for 1 day. Pupils should attend for at least part of the interview.

The statutory Guidance (Key Points, page 6) emphasises the importance of schools having a strategy for reintegrating pupils that return to school following a fixed term exclusion

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The governing body's and local authority's duties to arrange education for excluded pupils

DfE Statutory Guidance: Exclusion from maintained schools, academies and pupil referral units in England (2017)

Section 5 of the statutory Guidance sets out the requirements for the continuing education of excluded pupils. A key point is that an excluded pupil is excluded from attending the school but is not excluded from being educated. Exclusion from a school must not mean exclusion from a good education. For the first 5 days of exclusion the school must set work and from the 6th day full time education must be provided. It is the school's responsibility to arrange the '6th Day Provision' for fixed term exclusions and the pupil's 'home' local authority for permanent exclusions.

6th Day Provision does not have to be arranged by either the school or local authority for pupils in the final year of compulsory education who do not have any further public examinations to sit.

Other DfE Guidance

Regulations have clarified that if there are consecutive fixed term exclusions which in total exceed five days the obligation to arrange 6th Day Provision applies even if none of the individual exclusions exceed five days. This is only likely to occur in practice if further information comes to light during the initial period of exclusion.

Tower Hamlets Guidance

Setting work during the first 5 days of an exclusion

Schools remain responsible for educating pupils during the first 5 days of a fixed term exclusion. Parents are expected to co-operate with schools in doing this but are not required to educate their excluded child themselves. Paragraph 49 of the DfE statutory Guidance indicates that during the first 5 days of any exclusion schools should take reasonable steps to set and mark work for pupils. This should

include providing work that is accessible and achievable by pupils outside of school. Schools should ensure that work is sent home and arrange for it to be marked. Parents too have responsibilities to ensure their child is not in a public place during school hours without good cause. Parents can be issued with a fixed penalty notice if they fail to comply with this requirement.

The work set should be appropriate to the excluded pupil's age and aptitude and should be sufficient to engage the pupil for the whole of the normal length of the school day.

Primary pupils

When primary pupils are excluded for more than 5 days the Local Authority will arrange individual tuition. Headteachers should liaise with the Local Authority to arrange this

Secondary pupils

Schools are responsible for commissioning 6th Day Provision for fixed term exclusions. The Local Authority commission the provision for permanent exclusions.

Monitoring of Attendance of Excluded Pupils attending London East AP

Parents are responsible for getting their child to London East AP on time.

It is the school's responsibility to check with the Head of London East AP that an excluded pupil has started attending London East AP on the 6th day of both Permanent and Fixed Term exclusions.

Fixed Term Exclusions: It is the responsibility of the school to monitor attendance and initiate follow-up of non-attendance at London East AP. Failure to attend should be marked as an absence in the register of the excluding school as well as the register of London East AP.

Permanent Exclusions: The attendance of permanently excluded pupils at London East AP will be monitored by London East AP's Attendance & Welfare Advisor (AWA) together with London East AP staff. London East AP's AWA is notified immediately of permanently excluded pupils and facilitates the take-up of the provision and linking with the pupils and parents/carers where required.

Where there is concern about non attendance and/or poor punctuality, referrals are made to the Attendance & Welfare Service for follow-up or the allocated AWA where another AWA is already involved.

Looked after children

The Local Authority supports the government's expectation that Looked After Children, primary and secondary, should be given Alternative Provision from Day One of an exclusion (not from Day 6) (statutory Guidance paragraph 50).

Excluded pupils with an EHC Plan

Parents of excluded pupils an EHC Plan retain their rights to be consulted on the 6th day provision and express a preference for the provision they wish their child to attend (statutory Guidance paragraph 47). Pupils are normally referred to London East AP which is resourced to support pupils with SEN.

The governing body's duty to consider an exclusion

*"A discipline committee is a statutory committee, not a token committee. It is not there to rubber stamp the head teacher's decision. Unless it acts as an independent review body, unless it acts fairly and unless it **appears** to act fairly, it serves no purpose whatsoever"*

R (on the application of A) v Kingsmead School governors and another [2002] EWCA Civ 1822

DfE Statutory Guidance: Exclusion from maintained schools, academies and pupil referral units in England (2017)

The responsibilities of the governing body are detailed in section 6 of the DfE statutory Guidance. This section deals only with the governors' responsibilities for the initial Discipline Committee meeting. The governors' obligation to reconsider its decision if directed to do so by an Independent Review Panel is dealt with separately.

Governors should note the requirement in paragraphs 58 and 59 to invite all parties to the disciplinary hearing at a mutually convenient time. Implicit in this is that the availability of the Local Authority Exclusions Officer must be ascertained before the meeting is arranged.

There is a requirement that minutes are taken at all governors' Discipline Committees and made available to all parties on request (statutory Guidance paragraph 69). This would include making them available to the parents even if the parents did not attend the Discipline Committee hearing. Schools must also retain all the evidence and records of individual exclusions for at least 6 months (statutory Guidance paragraph 74).

In Academies and Free Schools the academy trust is legally responsible for making the arrangements for exclusions to be reviewed (not the local governing body of the individual schools). Trusts can delegate exclusion reviews to local governing bodies but any such delegation must be formally recorded in the trust's Scheme of Delegation.

Other DfE Guidance

None

Tower Hamlets Guidance

Pupils who would miss a public examination or national curriculum test because of an exclusion

The DfE statutory Guidance (paragraph 57) gives the Chair of Governors of an LA maintained the power to make a decision about an exclusion (as 'Chair's Action') when it is not "reasonably practicable" for the governors' Discipline Committee to meet before the date of a public examination or test (including assessed coursework) that the pupil is due to sit. In the Chair's absence the Vice Chair can make the decision (statutory Guidance paragraph 57 footnote). There is no equivalent power at academies and Free Schools. Paragraph 57 of the statutory Guidance says that academies and Free Schools could form a smaller committee in these circumstances if the trust's articles of association allow it.

Governing Bodies also have the power to allow an excluded pupil to enter the school premises for the sole purpose of taking a public examination and the statutory Guidance (paragraph 62) recommends that governors should consider doing this.

It is the local authority's view that missing a public examination should never be the consequence of an exclusion and schools should make arrangements for the pupil to sit the examination regardless, even if arrangements need to be made for the pupil to sit the exam in isolation. Principles of natural justice alone require a pupil to be given the opportunity to sit public examinations

power for governors to order reinstatement of the pupil. However parents do have the right to make “representations” to governors and governors must consider those representations if they are made. Unlike for longer exclusions, how governors consider parents’ representations is not specified and it is up to the governing body to decide how it will do this (statutory Guidance paragraph 60).

Governors are not required to hold a meeting with parents to consider their representations although they could do so in exceptional circumstances. The local authority’s view is that a meeting should not normally be held and the governors’ Discipline Committee should consider the parents’ written representations and the headteacher’s written response without either the parents or the headteacher being present. The Discipline Committee’s discussion must be minuted and parents must be told in writing the outcome of the Committee’s consideration of their representations. There is no statutory timescale for this but the local authority considers it should be done within 50 school days of receiving the parents’ representations.

The Discipline Committee cannot order the reinstatement of the pupil or overturn the exclusion and the Committee is not required to decide whether or not it upholds the headteacher’s exclusion. The Committee can direct that a note of its findings is placed on the pupil’s school records if it considers that appropriate (statutory Guidance paragraph 73).

Training for Governors and Clerks

It is very important that all members of governors’ Discipline Committees attend training on exclusions before sitting on a Discipline Committee for the first time. Experienced Discipline Committee members should attend periodic refresher training as the regulations and best practice guidance changes regularly and governors need to keep their knowledge up to date. Governors’ lack of familiarity with the statutory Guidance has in the past been a factor in Independent Appeal Panels overturning governors’ Discipline Committee exclusion decisions.

Clerks to Discipline Committees need to be able to advise the Committee on all aspects of exclusions procedure and so are also recommended to attend training on exclusion processes. Clerks should not offer their own opinion on the circumstances or merits of the exclusion itself. Clerks should not have a connection with the pupil, or knowledge of the incident that led to the exclusion, and if they do they must not serve as clerk to that Discipline Committee meeting. As this may disqualify clerks who work at the school it may be useful in those circumstances for governing bodies to have a reciprocal arrangement with another school to use each other’s clerks for Discipline Committees.

The Local Authority provides training as part of its governors’ and clerks’ training programme and further details can be obtained from the Head of Pupil Services on 020 7364 4304.

Conflicts of Interest and ‘repeat offenders’

Every care must be taken to avoid bias or the appearance of bias.

Any governor who has a connection with the pupil, or knowledge of the incident that led to the exclusion, should not serve on the Discipline Committee for that exclusion as the connection or prior knowledge could be seen as affecting the governor’s ability to act impartially. For this reason Staff Governors do not normally serve on Discipline Committees.

Wherever possible governors who have been involved in any previous exclusion meetings (for unrelated incidents) for the same pupil should not serve on another Discipline Committee for the same pupil. However, this is not a statutory requirement and in practice with pupil ‘repeat offenders’, and the constraints of governor availability within the statutory timescale, it may not be possible to achieve this. The Local Authority recommends that as far as possible governors should avoid having a Discipline Committee for a ‘repeat offender’ that is identically constituted to that at previous exclusion meetings, even if some members have served on a previous Discipline Committee for the same pupil.

Location and time of Discipline Committee meeting

There is no requirement for the Discipline Committee meeting to be held away from the school premises, and when the meeting is held at the school the excluded pupil is entitled to enter the school for the sole purpose of attending the meeting. Most governing bodies hold meetings at the school for reasons of cost, convenience for all parties, and to encourage attendance by parents and the excluded pupil. There may be occasions when the head teacher feels that a neutral venue is in the best interests of the school community as a whole and the Discipline Committee should then agree to the head teacher's request.

Discipline Committee meetings should take place on a school day..

Breach of statutory timescales

The law on exclusions lays down the time limits within which governors' Discipline Committees must meet to review exclusion decisions. If the Committee has failed to meet inside the statutory time limit it must nevertheless hold the meeting at the earliest opportunity and its decision is not invalidated solely because the meeting took place out of time (statutory Guidance paragraph 59).

If, as a result of breaching the statutory time limit, the pupil has already returned to school the governors would not be able to direct reinstatement even if they wanted to do so. In that situation they can, however, direct that a note be put on the pupil's school record for future reference stating the governors' findings (statutory Guidance paragraphs 67 and 72).

Non-appearance by the parents

If parents have told the clerk that they will not be attending they should be asked by the clerk whether they wish make any written representations. Their response to that question should be recorded by the clerk and advised to the Discipline Committee, and any written representations received considered by the Committee. The Discipline Committee meeting then takes place without the parents being there, but the school should still present its case

in full, and be questioned by the Committee, as if the parents were at the meeting.

It sometimes happens that parents say they will attend but do not appear on the day and send no message to explain their non- appearance. If that occurs the clerk should attempt to call the parents at home and by mobile phone, and check if the parent has left a message at the school. The Local Authority advice is that if the parents cannot be contacted the Committee should wait for 15 minutes after the scheduled start time and then proceed in the parents' absence. If the parents subsequently arrive before the Committee has retired to consider its decision the meeting should be restarted if practicable, otherwise the parents should be invited to join the meeting at that point and be given the opportunity to state their case.

Attendance by the Local Authority Exclusions Officer

The LA Exclusions Officer is entitled to attend all Discipline Committee meetings at Local Authority maintained schools although s/he may not attend shorter fixed term exclusions meetings. The clerk should ensure that meeting dates are not fixed until they have liaised with the Exclusions Officer.

The Local Authority Exclusions Officer is entitled to attend governors' Discipline Committee meetings at Academies and Free Schools (and Independent Review Panels arranged by them) if invited by the parents, and may make representations to the Discipline Committee or Panel with the agreement of the academy trust.

The Discipline Committee can ask the Exclusions Officer for advice at any point, including advice on how the Local Authority would support the reintegration of the pupil if the governors decide that the pupil should return to school. The Exclusions Officer can offer advice at any point in the Discipline Committee meeting on:

- how, in general terms, other schools and the Local Authority have dealt with similar incidents

- the alternative arrangements that will be made for the pupil if the Discipline Committee upholds the exclusion

The Exclusions Officer can draw to the attention of the Discipline Committee any issues where there is lack of clarity, where more information may be needed, or where the statutory Guidance may have been ignored.

The Exclusions Officer cannot give their opinion on whether the misconduct occurred or whether the pupil should be excluded.

Attendance by the excluded pupil: encouraging the pupil to participate

Pupils are entitled to attend the Discipline Committee meeting and governing bodies should actively encourage the pupil to participate and have their say. Pupils should feel that they have a voice and are being listened to.

The statutory Guidance (paragraph 61) requires Discipline Committees to:

- make reasonable adjustments to support the attendance and contribution of pupils at the meeting
- take steps to enable and encourage the excluded pupil to attend the meeting and speak on their own behalf (including providing accessible information or allowing them to bring a friend or representative), taking into account their age and understanding
- identify how they might enable the excluded pupil to feed in his or her views by other means if attending the exclusion meeting is not possible. For example, through the pupil's Social Worker or Home - School liaison worker. However, pupils cannot be forced to attend and parents are entitled, for example, to say that the pupil will attend only to make a statement and not to be questioned by the governors or the school. Unless parents object the governors and the school can ask questions directly to the pupil when he or she is present.

To encourage the pupil to participate Chairs of Discipline Committees should ensure as far as possible that the meeting takes place in an atmosphere where pupils feel relaxed and in which they can speak freely. Chairs should

make the proceedings as informal as possible within the constraints of the legal exclusions process, encourage an atmosphere of relaxed rather than sombre formality, and conduct the process in a fair and transparent manner. Discipline Committees should bear in mind that pupils and parents will probably not be familiar with education jargon – IEP, SEN, LSU, PSP, 'School Action Plus', and so on – and should make efforts to explain these to parents and pupils as they arise. Discipline Committees should bear in mind that many pupils appearing before them will also have learning difficulties and literacy problems so complex formal language should be avoided.

The excluded pupil should always invited to give their viewpoint, it is important that what they say is listened to by Committee members with equal attention to that given to the school's case. Do not give the parents or pupil the impression that listening to the pupil's explanation is a mere formality which will not really affect the governors' decision. If pupils dispute the facts or statements by witnesses the Committee must explore the different views expressed and come to a considered opinion on where the truth lies.

The Committee should ensure, through its questioning of the excluded pupil, that the pupil has a clear understanding of what they are alleged to have done and why they have been excluded for it. The pupil's understanding of this can in some circumstances also be an important factor in the pupil not re-offending.

Committee members should be seen to be even-handed in their questioning of the other parties; do not give the appearance of accepting the head teacher's case uncritically by asking no questions of the school but many of the parents.

Unprofessional behaviour towards a pupil at a Discipline Committee should never be tolerated. Although this has not been an issue in Tower Hamlets, elsewhere incidents such as head teachers shouting at pupils in Discipline Committee meeting and school staff refusing to speak to the pupil or their family before, during or after the meeting have been reported. Complaints are sometimes made that parents arrive at the meeting to find the governors and the head teacher and school staff already in the

meeting room chatting. This is not acceptable. No party (other than the clerk) should be alone with the governors' Discipline Committee at any time. School representatives, the parents and the Exclusions Officer should enter and leave the room together when invited to do so by the clerk.

Making reasonable adjustments to support parents

Governors should make reasonable adjustments to support the attendance and contribution of parties at the meeting (for example, where a parent has a disability in relation to mobility or communication that impacts upon their ability to attend the review or to make representation) (statutory Guidance paragraph 61).

Reasonable adjustments may include providing an interpreter. When arranging the meeting the clerk should check with parents whether they need an interpreter.

Right of parents to be accompanied

Parents (and pupils themselves if they over 18) can ask to be accompanied by a friend (which can be Parents Advice Centre worker) or legal representative and paragraph 58 of the statutory Guidance instructs Discipline Committees to allow such requests. The statutory Guidance lays down no restrictions on who can accompany the parents but in the view of the Local Authority it is inappropriate for serving head teachers or teaching staff from other Tower Hamlets schools to accompany parents to Discipline Committee meetings unless they are a relative of the child concerned.

The clerk should notify the Chair of the Discipline Committee as soon as possible if parents intend to be accompanied by a legal representative so that the school can consider if it too wishes to have legal representation.

Parents are entitled to be legally represented at a governors' Discipline Committee hearing (and at an Independent Review Panel) at their own expense (statutory Guidance paragraphs 27 and 119).

Anonymous witness statements

Natural Justice and general principles of fairness require that pupils and parents **should** know the identity of the people providing statements. Without that the parents and pupil cannot effectively challenge the evidence. The statement may not cover all the relevant issues and the writer of the statement cannot be asked questions about it. If the head teacher considers that exceptionally witness statements should be anonymous, governors' Discipline Committees may, for example, want to assess whether:

- a. there is a history of relationship issues (either positive or negative) between excluded pupils and the pupils whose statements have been presented anonymously. How did they get on with the excluded pupil?
- b. the anonymous witness might be a known liar or exaggerator.
- c. the anonymous witness might simply be reporting what they heard from others rather than what he or she actually observed. Where were they during the incident? How do they know what they are now stating?

Discipline Committees should be prepared to discard anonymous witness statements if they make damaging allegations against the excluded pupil which the pupil cannot reasonably be expected to deal with or respond to without knowing the identity of the person making the allegation.

Witness statements presented by parents

Parents sometimes obtain statements themselves from witnesses and ask for these to be considered by the Discipline Committee. Parents are permitted to do this and any such statements should be considered by the Committee in the same way as any other evidence submitted.

Witnesses

Discipline Committee hearings should be conducted in an accessible, non-threatening, non-adversarial manner (statutory Guidance paragraph 152).

Discipline Committees cannot insist on witnesses appearing at the meeting. Witnesses, either for the school or the parents, attend voluntarily at the request of either the school or the parents. Parents of the excluded pupil will sometimes demand that another pupil attends the meeting to be questioned by the parents. The Local Authority recommends that Discipline Committees should not agree to such requests save in exceptional circumstances, and normally only pupils' written statements should be considered. A pupil could, in any event, attend voluntarily only with the written permission of their parents and their parents should be invited to accompany their child to the meeting (statutory Guidance paragraph 61). Any questioning of them should be carefully controlled by the Chair to prevent intimidation and questions that are not appropriate to the witness's age and understanding. If exceptionally a pupil witness does attend they must be told in advance that they may be questioned about their statement and they must be accompanied by a trusted adult, possibly a learning mentor or similar from their school who knows the pupil well. If possible intimidation is a cause for concern the pupil witnesses and the excluded pupil can be interviewed by the committee separately.

Witnesses should not be present in the Discipline Committee meeting room before they give their evidence (statutory Guidance paragraph 154). There is no requirement for witnesses to stay for the rest of the hearing after they have given evidence and it is at the discretion of the Discipline Committee whether they should be permitted to remain.

Victims

Any alleged victim should be invited to make representations to the Discipline Committee meeting (statutory Guidance paragraph 115 requires this at Independent Review Panels),

but it is up to the Discipline Committee to decide whether the victim should be allowed to attend in person, or to make written representations or through a representative.

Discipline Committees are especially recommended to use written representations when the victim is another pupil (statutory Guidance paragraph 116). The victim's right to make representations does not entitle them to appear at the meeting in person. If they do so they appear as a witness and cannot question the excluded pupil or other witnesses, although they can be questioned themselves.

The clerk should contact the victim to find out if they wish to make representations.

SEN Pupils and Looked after Children (LAC)

Discipline Committees should ensure that they have specifically considered the requirements of the statutory Guidance if the pupil excluded has SEN or is a Looked After Child (LAC). If the pupil has a SEN Statement or EHC Plan this should expressly include whether the support in the Statement or Plan has been provided.

The issues that arise in relation to SEN are often closely related to whether a pupil has a disability but SEN itself is not a disability: many pupils with SEN do not have a disability and some pupils with a disability do not have SEN. Refer to the section 'The head teacher's power to exclude' for more information.

Pupils with a Disability

Discipline Committees should always explore whether the school knew (or should have known) that the excluded pupil had a behaviour-related disability. This should include both whether the school has received expert evidence (eg a professional medical diagnosis), or whether they had been put on notice, formally or informally, that the pupil might be disabled. The question for governors is not only whether the school knew about the disability but whether it ought to have known.

However, governors may conclude that even though the pupil does have a behaviour-related disability there was no discrimination exclusion

was a proportionate means of achieving a legitimate aim.

Discipline Committees should refer to the section 'The head teacher's power to exclude' for further guidance on excluding pupils with a disability..

Has the school tried all relevant and appropriate strategies to avoid exclusion?

This is a key question for Discipline Committees, and before upholding an exclusion they need to be satisfied that:

- the school has taken appropriate steps to intervene early to avoid exclusion
- the school has tried a variety of approaches before resorting to exclusion
- the school has explored alternatives to exclusion in relation to this incident

This does not, however, preclude the school excluding for one-off or first offences if the circumstances are sufficiently serious to warrant it.

These are some of the strategies and alternatives to exclusion which schools may have used and which governors may wish to ask schools about. Parents may also ask about these strategies and challenge the school if the parent considers the school has not explored alternative strategies sufficiently or quickly enough. It is stressed that this is not a checklist which governors should work through in its entirety. It would be highly unusual for all these to be relevant to one pupil, and schools are not expected to have tried all these strategies before excluding. This list is not exhaustive, there are many other possibilities.

General

- How does the school identify at an early stage pupils who are risk of exclusion?
- How does the school support pupils identified as at risk of exclusion, and what was provided in this case?
- How does the school identify pupils from groups at high risk of exclusion? What extra support is given to pupils in these groups?

(Statutory Guidance paragraph 22)
Governors should consider whether the school has offered all reasonable support (not whether every conceivable measure has been taken).

- Has a CAF (Common Assessment Framework) been completed for this pupil, and if so, when? Have CAF recommendations been implemented?
- Has a multi-agency assessment been carried out? (Statutory Guidance paragraph 19)

Parents

- How has the school engaged with the parents?
- Have the parents been co-operative and supportive of the school's efforts?
- If the pupil has an Individual Education Plan (IEP) for SEN have the parents attended the IEP review meetings?
- Has a modified Home-School Agreement been considered?
- Has the school considered Parenting Contracts and/or applying for a Parenting Order?
- Has the 'Strengthening Families, Strengthening Communities' (SFSC) programme been recommended, and with what result?

Internal support – pastoral

- Pastoral Support Programme (PSP)? Outcomes and effectiveness?
- Counselling?
- Changing teaching class/set?
- Nurture group?
- Anger management support?
- Alternative Behaviour Contract (ABC)?
- SEN – Statement/EHC Plan (in force or being considered)? School Action Plus? School Action? Additional support provided?
- Interventions considered and tried? Outcomes? Annual Reviews? Parents' involvement? Has an early/interim review of

the EHC Plan been requested? (Statutory Guidance paragraph 24) Governors should consider whether the school has offered all reasonable SEN support (not whether every conceivable measure has been taken). Statements/EHC Plans are confidential but the SEND Code of Practice (paragraph 9.212) makes clear that governors reviewing a pupil's exclusion are entitled to see a pupil's EHC Plan and related documents to enable them to carry out their responsibilities.

- Has the school identified whether the pupil may have a disability and made 'reasonable adjustments'?
- Was the pupil encouraged to participate in extra-curricular or voluntary activities, and with what result?

Internal support – pastoral

Many pupils facing exclusion also have learning difficulties which may be a factor contributing to their behaviour difficulties. Where this is the case governors may wish to explore the support they have been given to improve their learning.

- Learning Support Unit?
- Learning mentor?
- Amending the curriculum, eg reduced curriculum at KS4, 'personalised curriculum', disapplying National Curriculum?
- Off-site education (part time), eg at college?

External support agencies

- Tower Hamlets Social Inclusion Panel?
- CAMHS (Child and Adolescent Mental Health Services)?
- Behaviour Support Team (LBTH)?
- Educational Psychologist?
- Youth Offending Team?
- Connexions Personal Adviser?
- Social Services?
- Social Worker (especially for LAC)? 'adjustments'?

Off-site provision to improve behaviour

- Has the school considered using off-site provision to improve behaviour? (Statutory Guidance paragraph 15) Refer to Appendix N of this guidance for information on Alternative Provision in Tower Hamlets.

Attendance

Pupils with behaviour difficulties often have poor attendance records as well. Governors should ask about the attendance record and, if it is poor, the steps taken specifically to improve attendance.

- What are the schools processes for poor attendance and how were they applied?
- Attendance and Welfare Advisor (AWA) involvement?
- Is there evidence of 'internal truancy'?

Alternatives to exclusion

- If the pupil has an SEN Statement or EHC Plan naming this school has the school started discussion with the Local Authority on naming another school?
- Internal exclusion?
- Restorative justice and other conflict resolution approaches?
- Mediation?
- Managed Move?

For permanent exclusions

- Is the school saying that it can no longer cope with this pupil and that Permanent Exclusion is a "**last resort**"? (Statutory Guidance first Key Point page 6)

What has the pupil done well?

Governors may wish to ask what the pupil has done well, both before the exclusion, during the exclusion (have they completed conscientiously the work set in the first 5 days? Have they attended London East AP every day, and since return to school (if they have already returned at the date of the Discipline Committee)?

Summing up

It is good practice at the end of the hearing for the Chair of the governors' Discipline Committee to sum up the key points that the Committee will take into account, before the Committee retires to consider its decision. This allows any party present, **particularly the pupil**, to say that something important has been overlooked.

Comparisons with sanctions applied to other pupils

Parents' representations will often draw attention to what they consider is an unduly harsh punishment applied to their child compared to the punishment given to other pupils. Governors should take into account the fairness of the exclusion compared to the treatment of other pupils involved **in the same incident**, but not how pupils involved in unrelated incidents and exclusions were punished. Differential sanctions for pupils involved in the same incident can however be justified by differences in the previous disciplinary record, in the nature and extent of their involvement, and in the differing mitigating or aggravating circumstances applying to each pupil involved (Appendix D).

The Discipline Committee has to consider the facts of the individual exclusion, taking into account the circumstances and the school rules; what happens to others on a different occasion is irrelevant.

Head teacher's reports to the governors' Discipline Committee

A template for the report to the governors' Discipline Committee is included in Appendix J. Head teachers are recommended to keep the evidence in their reports focussed on the specific exclusion and contain detail proportionate to the seriousness of the offence. If the pupil has SEN refer to the section 'The head teacher's power to exclude' above.

All statements taken during the investigation must be presented to the governors' Discipline Committee, even if they appear to be inconclusive or add nothing to the accounts of others.

Withdrawal of decision to exclude

Head teachers are entitled to reinstate the pupil and withdraw their decision to exclude at any time in the exclusion process prior to the governors' Discipline Committee withdrawing to make its decision, for example, if new evidence comes to light during the Discipline Committee meeting. Parents are entitled to ask the head teacher at any point to review their decision to exclude. The Committee can adjourn the hearing to enable the head teacher to consider this request if that would assist all parties.

Procedural errors

Governors should not overturn a head teacher's exclusion decision merely because of technical defects in the procedure leading up to the exclusion. However, if the process was so flawed that important factors were not considered or justice clearly not done this can be grounds for the Discipline Committee to direct reinstatement. Head teachers' exclusion decisions must be procedurally fair (Statutory Guidance paragraph 67).

Decision making

In reaching a decision on whether or not to reinstate a pupil the governing body should consider:

- the interests of the excluded pupil (statutory Guidance paragraph 63)
- the circumstances in which the pupil was excluded (statutory Guidance paragraph 63)
- the interests of other pupils and people working at the school (statutory Guidance paragraph 63)
- whether the decision to exclude the pupil was "**lawful, reasonable and procedurally fair**" (statutory Guidance paragraph 6)
- the head teacher's legal duties (including their need to have regard to the statutory Guidance), (statutory Guidance paragraph 67).

In reaching and explaining their decisions, governors' Discipline Committees must take into account all the evidence presented to them, including representations from the parent, the comments of the pupil, and any advice from the Local Authority Exclusions Officer (statutory Guidance paragraph 64) and consider any relevant information about a pupil's SEN.

Discipline Committees must apply the 'balance of probabilities' test (statutory Guidance paragraph 65). Refer to the section 'The head teacher's power to exclude' for more information.

Statutory Guidance paragraph 63 requires governors' Discipline Committees to take into account, and balance,

- a. The interests of the excluded pupil
- b. The circumstances of the exclusion
- c. The interests of others in the school community, pupils and staff

When considering **the interests of the excluded pupil** governors should consider the impact exclusion will have (especially if the pupil is LAC, SEN or from a vulnerable group) on the pupil's emotional and social well-being, and on the pupil's future educational prospects. There is much evidence nationally that permanently excluded pupils have significantly worse educational outcomes than pupils who have not been excluded. To enable governors to consider the interests of the excluded pupil it is important that they ask the pupil (if present) and the family how they feel about the exclusion, their point of view on what happened, and the future education of the pupil if the exclusion is upheld (e.g. what school will she or he attend? Will she or he be able to do the same GCSEs?). The LA Exclusions Officer can advise on the educational support that the LA can provide. The Discipline Committee should also take into account any reports from other agencies, e.g. social workers, evidence in SEN/EHC Plan reviews, and any statement the pupil made at the time she or he was excluded (statutory Guidance paragraph 17). Discipline Committee Minutes must show that this was discussed and taken into account when making the decision.

It is good practice for the Chair of the Discipline Committee to seek the opinions of the other two members of the Committee before expressing his

or her own opinion to avoid the views of the Chair dominating the decision making.

Governors' Discipline Committees need to state the reasons for their decisions in sufficient detail for the parents and the pupil to be clear why the decision was made; for which offences or behaviour the pupil has been excluded and the Committee's reasons for finding, on the balance of probabilities, that the pupil committed the acts alleged. It is not sufficient merely to state that the Committee found the offence proven and the exclusion appropriate. Governors do not need to recite all the arguments for and against the exclusion, or to explain why on each point they preferred one view rather than the other.

If the pupil is alleged to have committed more than one act there must be a separate finding of fact for each alleged act.

For example:

- If the Committee took into account the past conduct of the pupil it should say so and explain what weight it attached to the previous incidents.
- If there was a clash of evidence on specific allegations state expressly the Committee's findings of fact, e.g. "The Committee found that the pupil did/did not ...", and the weight they attached to the evidence presented.
- If the parent alleges that the length of the exclusion is disproportionate the Committee must state its conclusion explicitly, e.g. "The Committee decided that the length of the exclusion was proportionate."
- If the Committee finds that the head teacher failed to take into account relevant facts, or if the head teacher took into account irrelevant or immaterial information, it should say so and explain what weight they attached to this

A decision template is provided in Appendix M - Decision record of Discipline Committee hearing - on the matters which should be considered before making a decision. The decision record should also be referred to when drafting the letter to parents to ensure that the letter states the reasons for the Committee's decision in sufficient detail for the parents and the pupil to be clear why the decision was made.

The head teacher's duty to remove a permanently excluded pupil from the school register

DfE Statutory Guidance: Exclusion from maintained schools, academies and pupil referral units in England (2017)

Section 7 of the DfE statutory Guidance deals with the technical requirements for removing a permanently excluded pupil from the school roll and how an excluded pupil should be recorded in the school's attendance register while the pupil is excluded and attending 6th day Provision. Schools must notify the LA when a permanently excluded pupil's name is removed from the register (statutory Guidance paragraph 84).

Other DfE Guidance

None

Tower Hamlets Guidance

None

Independent Review Panels

DfE Statutory Guidance: Exclusion from maintained schools, academies and pupil referral units in England (2017)

The purpose of Independent Review Panels is to review the decision of the governors' pupil Discipline Committee to uphold the exclusion. It is therefore essential that the Discipline Committee is represented at the IRP hearing. The headteacher should also attend.

Sections 8, 9 and 11 of the DfE statutory Guidance deals with the role of Independent Review Panels (IRPs) who can hear appeals by parents against permanent exclusions. IRPs (unlike the IAPs who heard appeals up to 31st August 2012) do not have the power to order a pupil to be reinstated. If they do not uphold the school's decision to permanently exclude they can either:

1. **Direct** a governing body to reconsider its decision to exclude, or
2. **Recommend** a governing body reconsiders its decision to exclude

IRPs can **direct** governors to review their decision only if the IRP considers the original decision was flawed by the standards applicable to Judicial Review – that the original decision was illegal, irrational or the procedure was seriously flawed (see paragraphs 148 and 149 of the statutory Guidance). Governors will be **recommended** to review their decision if the IRP identifies flaws in the original decision which were not serious enough to meet the Judicial Review test. If the governing body decides not to change its original decision a financial penalty of £4,000 will be imposed on the school (to be paid to the local authority) if the governing had been **directed** to reconsider. However if the IRP had only **recommended** reconsideration there are no sanctions or consequences if the governing body decides not change its original decision.

Parents have the right to have an independent SEN Expert attend the IRP hearing to give impartial advice to the panel about how SEN might be relevant to a pupil's exclusion, even if the school has not previously identified the pupil

as having SEN. The SEN Expert is appointed by and paid for by the Local Authority and can be an employee of the Local Authority as long as they have not previously been involved with the excluded pupil or any sibling of the excluded pupil or have any other conflict of interest.

IRPs do not deal with fixed term exclusions. The role of IRPs is to *"review the governing body's decision not to reinstate a permanently excluded pupil"* (statutory Guidance paragraph 136). They review the whole case; it is not limited to the grounds for appeal put forward by the parents. Parents who did not attend the governors' Discipline Committee meeting can still attend the IRP hearing and put their case.

The current right of appeal for parents against the governors' decisions on fixed term exclusions for pupils with a disability under the Equality Act to the First-tier Tribunal Health Education & Social Care Chamber, Special Educational Needs and Disability (SEND) (previously called the SEN and Disability Tribunal – SENDIST) is being extended to permanent exclusions. This appeal can be brought even if the case has already been heard by an IRP. Disability can include pupils with Behavioural, Emotional and Social Difficulties (BESD) as a Special Educational Need. The Tribunal has the power to order a pupil to be reinstated at the school. Tribunals can additionally order a wide range of remedies, including directing additional staff training, new guidance and procedures for school staff, providing additional tuition to the pupil, and making a written apology to the pupil.

Other DfE Guidance

None

Tower Hamlets Guidance

The Tower Hamlets IRP

The most common reasons for pupils being reinstated are that permanent exclusion was considered to be a disproportionate response to the offence or that the school had not

exhausted all other strategies to deal with the pupil's behaviour. It would be highly unusual for the IRP to conclude that the pupil did not commit the alleged offence or for a pupil to be reinstated because of a procedural irregularity. All Tower Hamlets IRP members receive training for this role and will be guided by an experienced clerk.

Where pupils had been permanently excluded as a result of their participation in the same incident the IRP should consider combining the appeals or ensuring that the same panel members hear separate appeals (statutory Guidance paragraphs 95 and 97).

New evidence

All parties can put forward new evidence at the IRP hearing, even if it was available at the time of the governors' Discipline Committee meeting but not put in front of the Committee although the school cannot put forward new reasons for the exclusion (statutory Guidance paragraph 132). The IRP can take into account the new evidence in deciding whether to uphold the exclusion or to recommend that the governors **reconsider** the decision (statutory Guidance paragraph 144). However, in considering whether to quash the governing body's decision and **direct** it to reconsider the IRP can only take into account the evidence that was actually available to the governors' Discipline Committee when it made its decision (or which should have been available if the Discipline Committee had acted reasonably) (statutory Guidance paragraph 143).

Governors attendance at IRP

The IRP are primarily reviewing the decision of the governor's Discipline Committee (statutory Guidance paragraph 136). It is therefore essential that a governor from the Discipline Committee is present at the IRP hearing.

The governing body's duty to reconsider an exclusion decision following a review

DfE Statutory Guidance: Exclusion from maintained schools, Academies and pupil referral units in England (2017)

Section 10 of the statutory Guidance addresses the duty of governing bodies to review their permanent exclusion decisions if directed or recommended to do so by an Independent Review Panel (IRP). The circumstances where an IRP can direct or recommend a governing body to reconsider are detailed in the Independent Review Panels section of this guidance.

Only permanent exclusions can be reconsidered by the governing body.

Other DfE Guidance

None

Tower Hamlets Guidance

Financial penalty

If the governing body decides not change its original decision a financial penalty of £4,000 will be imposed on the school by the Independent Review Panel if the governing body had been **directed** to reconsider. This penalty is paid to the local authority towards the general costs of providing alternative provision and is additional to any funding that would normally follow an excluded pupil, including that under the Tower Hamlets Behaviour and Attendance protocol. The local authority is responsible, under section 11 of the statutory Guidance, for making the appropriate financial adjustment to the school's delegated budget or, in the case of an Academy or Free School, for securing payment directly from the Academy or Free School.

There is no financial penalty if it was only a **recommendation** from the IRP to reconsider.

If the governing body offers reinstatement but it is declined by the parent, no financial penalty is payable (statutory Guidance paragraph 174) but

the governing body must still comply with any direction from the IRP to place a note on the pupil's records about (see Pupil's Records below).

Reconsidering the exclusion decision

The governing body must reconvene and reconsider the exclusion within 10 school days of receiving the IRP's decision (statutory Guidance paragraph 171). The governing body must take into account the findings of the Independent Review Panel (statutory Guidance paragraph 176).

The statutory Guidance does not comment on whether this should be done by the same panel of governors who formed the original Discipline Committee or by a different panel of governors. As the parents and school will not be present at the meeting to reconsider the exclusion, and as the reconsideration is limited to the findings of the IRP, the local authority recommends the decision is reviewed by the same governors who made the original Discipline Committee decision. If this is not possible, for example, because one of the original Discipline Committee members is no longer a governor, then another member of the governing body should join the Discipline Committee for the reconsideration meeting to ensure there are at least 3 governors reconsidering the exclusion. It is a legal requirement that any pupil exclusion decision in an LA maintained school must be made by a minimum of 3 governors. In an Academy or Free School a smaller Committee may be permitted by the Trust's articles of association, however the local authority recommends that the Committee should be a minimum of three trustees or governors.

If the IRP found that one or more governors on the original Discipline Committee should not have been members because of, for example, bias or a conflict of interest, then those governors must not take part in the reconsideration and must be replaced with other governors.

The reconsideration meeting is solely for the purpose of reviewing the findings of the IRP and the IRP's **direction** or **recommendation** to reconsider. As the IRP can normally only order reconsideration because of procedural faults in

the original hearing the governing body does not rehear or review the whole case. The governing body must look afresh at the question of reinstating the pupil in light of the findings of the IRP. Therefore no-one other than the Discipline Committee members and their Clerk should be present at the reconsideration meeting. Parents, the school and the LA Exclusions Officer do not attend the reconsideration meeting.

The decision letter from the Independent Review Panel should make clear the reasons why the governors' Discipline Committee has been directed or recommended to reconsider the exclusion. In the rare event that the IRP decision letter is unclear or ambiguous the Discipline Committee should contact the Clerk of the IRP for clarification. This must be done as a matter of urgency as the 10 school days deadline for reconsidering the exclusion must still be complied with.

Notifying the Discipline Committee's reconsideration decision

In the case of either a recommended or directed reconsideration, the governing body must notify the following people of their reconsidered decision, and the reasons for it, in writing and without delay:

- the parents
- the head teacher
- the local authority Exclusions Officer
- where relevant, the 'home authority' if the pupil lives in a local authority other than Tower Hamlets

It is recommended that the decision letter is also copied to the Clerk to the Independent Review Panel although this is not legally required.

The Discipline Committee should set out the reasons for its decision in sufficient detail so that all parties can understand why the decision was made.

Pupil's records

The governing body must place a note on the pupil's records if directed to do so by the IRP. This can include an order that if the pupil is not

reinstated by the governing body after a direction from the IRP to reconsider the exclusion the exclusion will not count towards the rule that an admission authority may refuse to admit a child who has been excluded twice (statutory Guidance paragraph 174).

Pupil reinstatement and possible industrial action

On occasions head teachers and governors may be faced by potential industrial action if the governing body reinstates an excluded pupil following a direction from an IRP. Usually this takes the form of a refusal by staff to teach the pupil concerned. A governors' Discipline Committee should not take this into account when reconsidering its decision, and the head teacher cannot refuse to readmit the pupil if reinstated by the governing body or if directed to do so by a First-tier Tribunal or County Court. Any head teacher faced with this possibility should seek advice from the Local Authority.

Cases concerning industrial action in response to excluded pupils being reinstated have been before the courts on a number of occasions and the law is reasonably settled. A number of general principles emerged:

1. Schools must reinstate a pupil when directed to do so. The school cannot refuse to reinstate the pupil because staff say they will not teach him. The head teacher must do what can be done and make the best arrangements that can be made.
2. Trade Unions have the right to ballot their members over their refusal to teach a violent and/or disruptive pupil.
3. The threat of industrial action is a relevant matter that the head teacher can take into account in deciding how to manage the pupil's reinstatement.
4. "Reinstatement" requires the school's responsibility and obligation to the pupil to be resumed but does not require the head teacher to put the pupil back in the identical position he was before the exclusion. He does not have to be taught in a classroom setting or fully reintegrated into the social life of the school. How far he is reintegrated is a matter for the head teacher's

educational and managerial discretion, taking into account the school as a whole. In particular judges have ruled that teaching the pupil on his own (or a combination of alternative college provision supplemented by teaching at the school) is sufficient to meet the reinstatement requirement. However, a blanket policy of always teaching readmitted pupils in an internal exclusion unit is likely to breach the Equality Act.

5. Offering the reinstated pupil only a restricted curriculum may still meet the school's obligations, depending on the specific circumstances. Each case has to be considered on its merits.
6. Head teachers are expected to make serious attempts to negotiate with the unions and staff and not collude with them in encouraging the industrial action. Head teachers do not have to wait until the ballot has been held and relations with the unions have completely broken down before starting these discussions. Head teachers may, for example, ask the union's members whether they would be prepared to teach the pupil if additional support were available.
7. The head teacher must keep the matter under review. E.g. it should not be assumed that a year 9 pupil who is reinstated and taught in isolation has to continue being taught in isolation for the rest of his school career. The 'threat' posed by the pupil may subside, or the staff's position may change if the pupil makes good progress or the head teacher's negotiations with staff unions may bring about a change in their position. Head teachers will in any event be mindful of the costs involved in teaching the reinstated pupil individually.

Schools may also wish to consider carrying out a risk assessment before reintroducing a reinstated pupil provided that whilst the assessment is being carried out the school makes arrangements for the pupil's continuing education, possibly at London East AP.

Police involvement and parallel criminal proceedings

DfE Statutory Guidance: Exclusion from maintained schools, academies and pupil referral units in England (2017)

Section 12 paragraphs 190 to 194 of the DfE guidance offer guidance to head teachers and governors' Discipline Committees on police investigations related to a potential exclusion. Where a pupil is excluded the governors' Discipline Committee must still meet within the statutory time limits, although in the case of a permanent exclusion an IRP can adjourn its hearing until after all criminal proceedings are concluded.

It should not automatically be assumed that a continuing police investigation prevents the head teacher interviewing the pupil concerned or witnesses. This needs to be discussed with the police for each individual case. The Local Authority's view is that the school's investigation and Discipline Committee hearing should continue unless the police have expressly requested in writing that they should not do so even though this may mean that there is limited evidence. A decision should be reached on the evidence available.

Other DfE Guidance

None

Tower Hamlets Guidance

What does "police involvement" mean?

The statutory Guidance is not specific about this question and this has in the past led schools to delay taking exclusion decisions in the belief that there was continuing police involvement when in fact there was not. It is not uncommon for various parties to report incidents to the Police at the time they happen but for the Police to decide to take no further action, although often the school is not told this. Head teachers need to find out as soon as possible whether Police have started a criminal investigation to establish whether this section of the statutory Guidance applies. That will usually mean that the Police have assigned a Crime Number. In secondary schools the school's resident police officer may be able to help in establishing whether police enquiries are continuing.

Governing body review of school exclusions data

This section does not form part of the guidance on pupil exclusion and there is no equivalent section in the DfE statutory exclusions guidance.

Under the Pupil Exclusions Regulations head teachers are required to give details at least once a term to the governing body and the Local Authority of all exclusions that have taken place, together with the length of the exclusion and the reasons for it. The Local Authority encourages governing bodies to discuss these data with schools as part of the governors' overall responsibility to oversee behaviour and discipline in their school. Governing bodies often leave the detailed analysis and discussions to an appropriate committee. The purpose of exclusions is to improve behaviour, not to punish pupils, so the outcome of a school's exclusion practices ought to be improved behaviour if the exclusion process is working as it ought. Paragraph 19 of the statutory Guidance suggests that the effectiveness of exclusion as a sanction should be reconsidered if a pupil is receiving multiple exclusions or is close to the maximum of 45 days fixed term exclusion in a year.

Head teachers generally give more detailed information than the statutory minimum (and governors are anyway entitled to ask for more detailed reports from the head teacher), and it will be useful for governing bodies to know also about their gender, year group, ethnicity, SEN status and the number of 'repeat exclusions' i.e. individuals who have been excluded more than once this year. For all these data the comparative figures from previous years need to be included in the report so that trends can be identified.

The three key questions that governors should be asking are

- a. "Is exclusion working and are pupils modifying their behaviour as a result?"
The rate of 'repeat exclusions' for the same pupils is an important factor that Ofsted consider.
- b. "Is there evidence of disproportionate exclusions in some groups of pupils which might indicate indirect discrimination?"

- c. "How do our exclusion rates compare to other schools in the Local Authority and national averages?" For example, the proportion of excluded pupils who have SEN or a Disability, or are from specific ethnic backgrounds, or who are eligible for Pupil Premium.

These are also questions that OFSTED will ask. If the number of exclusions is high and the trend upward over several years, either overall or in specific groups of pupils, this suggests that the use of exclusion in the school may need to be reviewed. It can also be one of the triggers for an early Ofsted inspection.

Governors will also want to discuss with the head teacher the extent to which some groups may be over-represented in the exclusion data compared to their numbers in the school. Comparisons by ethnic group, looked after children, pupils on the SEN register, Traveller children and children with disabilities (including pupils with BESD) can all yield apparent differences for governors and the senior staff to explore. Governors could ask how the school is supporting its most behaviourally challenging pupils, for example those identified in the data as having 'repeat exclusions'. For example, if there is apparently a disproportionately high number of black boys and pupils with learning difficulties excluded governors may wish to explore with the head teacher whether the behaviour policy is sufficiently differentiated for those on the autistic spectrum and with moderate learning difficulties, and if there is sufficient awareness by teachers of how to support black boys in the classroom.

Secondary schools in Tower Hamlets all receive an individual annual exclusion analysis report prepared by the Behaviour Support Team. This is sent to the Chair of Governors and the Headteacher and should be used by the school to plan interventions.

Governors should ask about the attendance of excluded pupils at the 'alternative provision' – usually London East AP – from Day 6 of a fixed term exclusion, and if the attendance is poor how the school tackles this.

Internal Exclusion

Most secondary schools use a form of internal exclusion as part of their behaviour and discipline strategy. Various names are used but all will involve pupils spending their day separate from other pupils as a disciplinary sanction. This is different to the learning support provision schools have for teaching pupils separately for educational reasons.

The Local Authority recommends that headteachers' reports to governors on pupil exclusion should include information on the rates, patterns and reasons for internal exclusion and its effectiveness (including 'repeat offenders').

Parents can take disability discrimination claims about the use of internal exclusion for pupils with behaviour-related disabilities to the SEN and Disability Tribunal.

The DfE statutory exclusions guidance does not apply to internal exclusions.

Preparing for Ofsted

Governors should consult “Schools’ use of exclusion – Frequently asked questions” published by Ofsted November 2014

In “Schools’ use of exclusion – Frequently asked questions “ Ofsted identify the data they will look at during an inspection and the key questions they will ask. Governors will be expected to be familiar with this data. The use of exclusion, external and internal, will contribute to the evaluation of Personal development, behaviour and welfare in the school, and the school’s overall grade.

Ofsted will pay close attention to the key questions identified above, and also whether the school has complied with the DfE statutory exclusions guidance, and to any evidence of ‘illegal exclusions’.

If the exclusion rates of pupils with SEN, and those with a Disability which leads to behavioural difficulties, are high (compared to national average) Ofsted are likely to make this a particular focus. Governors will be expected to know why this is and what provision is being made to support their learning and behaviour.

Ofsted will expect to see documented evidence of the work of governors in relation to pupil exclusion and its impact.

Governors are expected to know about the use of offsite Alternative Provision to improve behaviour, its effectiveness in improving behaviour, safeguarding, and the academic progress of the school’s pupils who attend the Alternative Provision. Ofsted may explore how the school monitors the placements and governors should be aware of this. Further information on Alternative Provision in Tower Hamlets is in Appendix N.

Appendices

Appendix A:

Statement of shared principles for behaviour policy (LBTH)

Appendix B:

Graduated use of Alternative Provision (LBTH)

Appendix C:

Guidelines for school disciplinary investigations and interviewing pupils

Appendix D:

Mitigating and aggravating factors

Appendix E:

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Appendix F:

Model exclusion letters (LBTH) – Primary

Appendix G:

Model exclusion letters (LBTH) – Secondary

Appendix H:

Monitoring of Pupil Exclusions form (LBTH)

Appendix I:

Notification of Attendance at London East AP from Day 6 of Exclusion form

Appendix J:

Head teacher's report to the governors' Pupil Discipline Committee

Appendix K:

Governors' Discipline Committee – checklist for Clerks

Appendix L:

Model procedure for governors' Discipline Committee meetings

Appendix M:

Decision record of Discipline Committee hearing

Appendix N:

Alternative provision

Appendix O:

LBTH contacts for further information

Appendix A

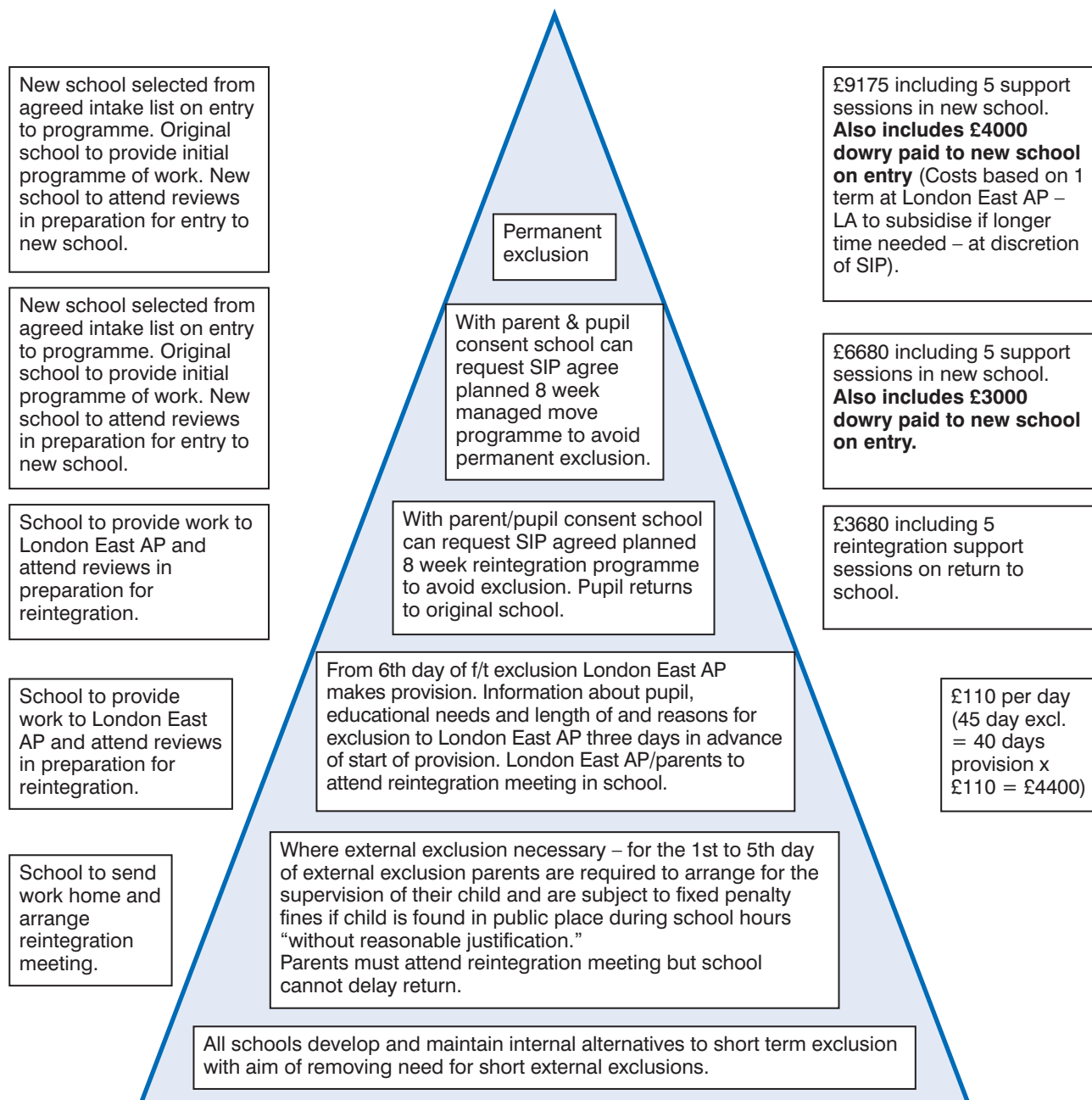
Statement of shared principles for behaviour policy

1. Learners have the right to access learning in a safe, secure and orderly environment, free from bullying, harassment and discrimination.
2. Learners have the responsibility to ensure this right for others.
3. Students and staff in the learning community should demonstrate respect for each other and for themselves.
4. Learners should act as ambassadors for their learning community at all times.
5. The whole learning community (students, parents/carers, staff and other stakeholders) should be listened to and actively engaged in consultation on improving behaviour.
6. Rules and codes of conduct should be clear, agreed, understood and followed by all.
7. Good behaviour should be rewarded and sanctions should be applied consistently.
8. All adults in the learning community should model positive behaviour and this should be promoted through the curriculum.
9. Priority should be given to identifying and supporting vulnerable learners.
10. Learning communities should actively promote community cohesion through their practice and policy.
11. Policies should be monitored and preventative action taken, to ensure there is no disproportionate impact on particular groups in the learning community.

Appendix B

Graduated use of alternative provision

Model of graduated use of alternative provision, providing for a full time alternative education programme from the 6th day of fixed term and permanent exclusions and a structure for supported managed moves.



This scheme would not preclude schools continuing to make planned arrangements between themselves for mutual exchanges of pupils where the pupils, parents and head teachers are in agreement. These would be appropriate where a pupil is capable of an immediate positive new start in a school without a period in London East AP. These mutually supportive arrangements would be cost neutral and would operate outside the Fair Access Protocol.

The LA continues to provide for London East AP provision on non-attendance and medical grounds, placements at the direction of SEN panel (where exclusion is not the issue) and for the cost of Year 11 London East AP Offsite Education beyond the exclusion charges outlined above.

Appendix C

Guidance for school disciplinary investigations and interviewing of pupils

Whilst the Local Authority accepts it is wholly unreasonable to expect schools to conduct a possible exclusion investigation to that of a law enforcement standard, it is important for the investigation to be sufficiently thorough that it may withstand the scrutiny of independent review. The bullet points below provide guidance on how a school can run an investigation in a way that will ensure fairness and social justice.

- Make sure the pupil understands the purpose of the interview and the names of all adults present.
- When interviewing a pupil schools are advised to have two adults present. This is in order that one adult can ask the questions and the other adult can take notes. A template for recording interview notes is recommended. See below. To avoid the interview becoming intimidating it is advisable that only one of the adults present asks questions. Any more than two adults in the room during an interview could be considered to create an intimidating environment for the pupil and so should be avoided.
- When a child is known to have communication or learning difficulties they should be offered support.
- It is advisable to keep a close record of the timings of any interviews and any comings and goings from the room. It may also be helpful to keep a record of where the pupil is between interviews.
- Once it has been established that a pupil is involved, either by their own admission or through information provided by another pupil or adult, it is best to ask the pupil to write a statement in their own words. Pupils may find a writing frame helpful.
- Pupils must be asked for their explanation of events, why they did it, and to explain the circumstances (DfE statutory Guidance paragraph 16).
- Pupils must be asked if there is anyone else who they think the head teacher should interview as a witness to the incident or to any relevant circumstances. It is a matter for the head teacher's professional judgement whether or not to interview a person suggested by the pupil.
- Evidence to governor's Discipline Committees and IRPs may be compromised if it is evident that pupils have colluded in writing their statements. As far as possible try to avoid pupils writing their statements unsupervised. Pupils should write their statements as soon as possible after the incident. It is not a good idea for there to be a long gap between a pupil being interviewed and the pupil writing their statement as this will inevitably allow opportunities for pupils to discuss their statements with each other. Even if there is no deliberate collusion this is likely to influence their recollections of what they witnessed.
- Where a pupil's weak literacy skills would make a written statement of limited value or where a pupil is refusing to cooperate with the statement writing, an adult may take down dictated text for the pupil. As with all statements this will need to be signed and dated by the pupil.
- If the veracity of a pupil's statement is in question because of other information available to the school the pupil should be asked to write a further statement with corrections or more details.

- DfE statutory Guidance requires statements normally to be attributed, signed and dated (statutory Guidance paragraph 111). To avoid confusion and assist in any future scrutiny of the investigation in respect of piecing together the chronology of a series of interviews involving more than one pupil, it may be best to also record the time the statement was written.
- It may be necessary for a further interview to be held to discuss the information available and to try to reach a conclusion about the pupil's involvement through more detailed questioning than written statements permit. As well as a questioner and scribe (as outlined above) it would be appropriate to have an adult present to support the pupil. If appropriate or possible, a parent could be invited. Otherwise a member of the school's pastoral team such as a counsellor or a key worker may be appropriate. Crucially this additional adult should not contribute to the pressure on the pupil, but be there to help the pupil put their case, advise the pupil of the implications of difficult questions and ensure that the interview is conducted in a neutral way that cannot be said, at a later date, to be pressured.
- School staff should be careful not to ask complicated or leading questions. Staff should also be careful that they maintain a neutral tone. Any record of an interview should note the questions asked as well as the answers given.
- Whilst notes from a meeting need to be accurate it is almost impossible for a scribe to keep a verbatim record. It is important that the record is agreed as accurate by all parties. The pupil and their supporter should be shown notes of the interview and be given an opportunity to amend errors or point out omissions. Once the text is agreed it is advisable for it to be signed by all parties and a photocopy given to the pupil's parents as an accurate and agreed account of the meeting.
- Interviews and investigations should not be prolonged. If there is no alternative to a lengthy interview the pupil's parents should be advised.

Pupil interview template

This template can be used for interviewing both for pupils whose conduct is being investigated and pupils who are witnesses.

Pupil name:		Pupil's Year Group/Form:	
Date of interview:			
Place of interview:			
Interview started (time):		Interview finished (time):	
Who was present?			
<p>Record of interview:</p> <p><i>A verbatim record is not required. Where applicable record the question asked as well as the pupil's response.</i></p> <p><i>Pupils whose conduct is being investigated should be invited to give their explanation of events and their actions, and present their case (DfE statutory guidance paragraph 16).</i></p> <p><i>Are there any other people the pupil considers should be interviewed? (It is at the headteacher's discretion whether to interview a person suggested by the pupil.)</i></p>			
Signed:	Interviewer	Date:	Time:
Signed:	Pupil	Date:	Time:
Signed:	Parent/Pupil supporter (if present)	Date:	Time:

The Interview Record should be included in the Headteacher's report to the governors' exclusion review meeting.

Appendix D

Mitigating and aggravating factors

The list below is designed to assist a head teacher in assessing the seriousness of an offence that may lead to exclusion, including permanent exclusion, once satisfied that, on the balance of probabilities, a pupil has breached the school's behaviour policy. This should also help in deciding the severity of sanction to apply in such cases.

The list is not exhaustive and not every factor will be relevant to every case.

Mitigating factors	Aggravating factors
<ul style="list-style-type: none">• The incident was impulsive or committed in the heat of the moment• The incident was provoked, e.g. as a result of persistent bullying or racial abuse)• The general medical, emotional and mental condition of the pupil• New to the school (possible unawareness of school's behaviour code)• The pupil was coerced or encouraged by others, for example peer group pressure• First offence• Previous behaviour and character of the pupil suggest that repetition of the behaviour is unlikely• The pupil has apologised for his/her behaviour• The pupil is repentant and contrite and shows a willingness to assume responsibility for his/her conduct• The pupil cooperated with and assisted the investigation• The pupil admitted the offence• The pupil played a relatively minor role in the incident compared to others• Agreement/readiness to make restitution towards the victim(s)	<ul style="list-style-type: none">• The pupil had failed to heed warnings about similar behaviour in the past• The pupil had been warned of the risk of exclusion• The offence was premeditated• There is a history of similar incidents• There has been witness intimidation• The severity of the physical injury sustained and whether the injury was accidental or deliberately inflicted• The victim was particularly vulnerable, e.g. much younger or weaker than the pupil• The pupil has received significant support from the school in the past to modify behaviour• The pupil encouraged others to behave inappropriately in relation to the offence• The pupil shows no contrition or a willingness to accept responsibility for his/her actions• The pupil did not cooperate with the investigation or worse, actively sought to frustrate and prolong it

Appendix E

Head teacher's exclusion checklist

Name of pupil:

Date of exclusion:

Decision to exclude

Question	Response	Comments
If necessary, clarify exactly what the pupil is alleged to have done.		
Where alleged conduct is a criminal offence, has the school informed the police or other relevant agencies? If not, why not?		
If other pupils were involved in the incident were they treated differently (e.g. not excluded, shorter exclusion)? If so, why?		
For Permanent Exclusions, have you contacted the LA Exclusions Officer prior to excluding?		

Decision to exclude *continued*

Question	Response	Comments
<p>For Permanent Exclusions, would allowing this pupil to remain in the school seriously harm the education or welfare of the pupil or others in the school?</p> <p>Is this the “last resort”? (DfE statutory Exclusions guidance Key points page 4).</p>		<p>Indicate reason for this conclusion.</p>

Evidence

Question	Response	Comments
Is there evidence to support the view that the incident took place?		
Are there written statements from witnesses, victims and the pupil?		All statements must be signed, dated and timed.
Is there a history of conflict between the witnesses and pupil?		Must establish if any reason why witness may not be impartial.
Is it hearsay evidence?		A statement made by a pupil or teacher which relates to what someone else said is hearsay and should be treated with caution.
Was provocation or retaliation against bullying or racial taunts relevant factors to be taken into account?		

Evidence *continued*

Question	Response	Comments
What are the mitigating circumstances?		See LBTH Exclusion Guidance.
What are the aggravating circumstances?		See LBTH Exclusion Guidance.

School policies

Question	Response	Comments
Is the exclusion in line with school's behaviour policy?		Exclusion should normally be in line with school policy.
When was policy last made known to pupils, parents and staff?		Head should publicise it at least once a year.
If incident happened outside school what does Behaviour Policy say about incidents outside school?		
What other policies are relevant in this case?		e.g. Bullying, SEN, Drug, Race equality, Restraint, Equal Opportunity, Disability.
If drugs related, have you consulted LA's drugs co-ordinator?		The decision should also depend on precise circumstances and evidence available.
Is school's drug policy in line with DfE guidance? If not – why not? (Birmingham judgment 2006)		

The pupil

Question	Response	Comments
Has the pupil been able to give his/her version of events? If not, why not?		This should be done before Head decides to exclude as Head should ensure an appropriate investigation is carried out.
Was the misconduct provoked e.g. by bullying, racial or sexual harassment?		
Is the pupil identified as being at particular risk of exclusion?		DfE Guidance identifies certain groups at particular risk of exclusion e.g. SEN, in Care, minority ethnic pupils, travellers, young carers, and from families under stress.

Pupils in care

Question	Response	Comments
How has school tried every practicable means to keep child in school?		
If Social Services or The Virtual School for Looked After Children was not involved, why not?		

Pupils with SEN

Question	Response	Comments
What stage of SEN Code is pupil?		
What consideration was given to moving pupil to next stage of SEN Code?		
What other help has been sought from the LA or other professionals?		
Where appropriate, did school ask LA to consider carrying out a statutory assessment, and what was the result?		
If statemented, (1) When did school seek an interim annual review?		Other than in the most exceptional circumstances, schools should avoid permanently excluding pupils with statements.
(2) Have you checked whether more support could be made available or statement changed to name another school?		Head should do this before meeting of Discipline Committee and withdraw exclusion if either option is possible.

Alternative strategies

Question	Response	Comments
Has there been early intervention?		<i>"In most cases exclusion will be the last resort after a range of measures have been tried to improve the pupil's behaviour."</i> (DfE statutory Guidance).
Where appropriate, have sufficient approaches been tried to improve pupil's behaviour?		
If not, why not?		
If PSP/CAF, how relevant was it?		
How successful had it been?		Any evidence of reviews?
Where appropriate, what consideration was given to: A – restorative justice? B – mediation? C – internal exclusion? D – managed move?		
Is there a Parenting Contract in force? If not have you considered one?		

Incident using restraint

Question	Response	Comments
		See DfE 10/98 and LA Guidance on Pupil Restraint.
What is school's restraint policy?		
When was it last made known to pupil and parents?		
Are staff trained on how to intervene physically?		
Which teachers involved have received training in the proper methods of restraint and received positive handling training?		
Does the pupil have a written handling risk assessment?		

Disability discrimination

Question	Response	Comments
Has the pupil been discriminated against for a reason related to his/her disability?		Refer to separate list of questions for determination.

Religious discrimination

Question	Response	Comments
Has the pupil been discriminated against for a reason related to his/her faith or religious beliefs?		

Racial discrimination

Question	Response	Comments
		<p>It is unlawful to discriminate – directly or indirectly – against someone on racial grounds.</p> <p>Racial grounds means reasons of race, colour, nationality (including citizenship) or ethnic or national origins.</p> <p>Racial groups are defined accordingly e.g. Indians, African Caribbeans, Gypsies, Irish, Pakistanis, Sikhs, Jews, Irish Travellers, Bangladeshis.</p>
Is there evidence that the pupil has been directly discriminated against?		<p>Direct racial discrimination means treating one person less favourably than another on racial grounds.</p>
Is there evidence that the pupil has been indirectly discriminated against?		<p>Indirect racial discrimination means that a requirement or condition applied equally to everyone:</p> <ul style="list-style-type: none"> • can only be met by a considerably smaller proportion of people from a particular racial group; • is to their detriment; and • cannot be justified on non-racial grounds. <p>All 3 parts must apply.</p>
Is there evidence that the pupil has been victimised?		<p>It is unlawful to treat someone less favourably because they are known to have, or are suspected of having:</p> <ul style="list-style-type: none"> • made a complaint of racial discrimination; • planned to make a complaint; or • supported someone else who has made a complaint of racial discrimination or is planning to do so.

Equality Act 2010

Question	Response	Comments
Does the pupil have a 'Protected Characteristic' under the Equality Act?		

Procedures

Question	Response	Comments
Notify the parent/carers of the exclusion by telephone on the day followed by letter sent to arrive no later than the next school day.		Ensure someone is at home to take care of the pupil.
Notify the LA by ensuring that the exclusions monitoring form is completed and sent immediately with a copy of the exclusion letter.		
Made arrangements for the pupil to continue his/her education in the first five days of exclusion by ensuring that work is provided for completion at home.		

Procedures *continued*

Question	Response	Comments
For exclusions of longer than five days, made arrangements for the pupil's continuing education from the 6th day by completing and sending the 'Notification of Attendance at London East AP' form to the LA and London East AP.		
Notified the Chair of School's governors' Discipline Committee of the exclusion.		
Notified the Clerk to the governors' Discipline Committee.		
Ensure that the Clerk has consulted all parties, especially the LA Officer about an agreed date and time for the Pupil Discipline Committee meeting.		
Circulate copies of your report and supporting evidence to all parties concerned at least five school days before the meeting.		
Confirmed with the Clerk that the parents/carers will be attending the Pupil Discipline Committee Meeting.		

Appendix F

Model exclusion letters (LBTH) – Primary

Model Letter One

From head teacher notifying parent of a fixed period of exclusion of less than 6 days, AND where a public examination is not missed.

Parent/Carers Name and Address

Date

Dear *Parent's Name*,

Full Name of Child *D.O.B.* *Year*

I am excluding *[Name of Child]* for a period of *[Days]* school days from *[Start Date]* to *[End Date]*. S/he should return to school on *[Date]*.

Reason for Exclusion

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude your child has not been taken lightly. S/he has been excluded for this fixed period because:

[You must insert the detailed reasons for the exclusion. State whether the child's previous record of behaviour in school has been taken into account]

In reaching this decision I have taken into account the steps that have been taken to manage this behaviour. These include:

[Explain the steps taken to try to avoid this action i.e. the strategies for managing the pupil's behaviour and the agencies that have been involved in this process]

Parent/Carer's Responsibility

You have a duty to ensure that your child is not present in a public place in school hours during this exclusion unless you can show there is reasonable justification for this. If your child is found to be present in a public place during this exclusion without reasonable justification you may be prosecuted or receive a penalty notice (£120) from the local authority.

School's Responsibility

The school will continue to set work for your child during the period of this exclusion *[Please insert what arrangements are in place for this]*. Please ensure that the work is completed and returned to us for marking.

If you are unhappy about the decision or would like further advice

You have the right to make representations to the School Governors' Pupil Discipline Committee. If you wish to make representations please contact the Clerk to the Pupil Discipline Committee on/at *[contact details – address, phone number, email]*, as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. You are entitled to be represented at the meeting (at your own expense) and you may bring a friend with you. Please inform *[Clerk's name]* if you intend to bring a friend or representative or wish to have an interpreter present at the meeting. It is not compulsory for *[Pupil's name]* to attend the meeting but they are invited and the Pupil Discipline Committee would welcome their attendance. *[Pupil's name]* can speak on their own behalf at the meeting if they wish to but they do not have to, although they may be asked questions.

Whilst the governors have no power to decide your child should return to school before the exclusion ends, they must consider any representations you make and may place a copy of their findings on your child's school record.

You also have the right to see a copy of your 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 your child's school record. I will supply you with a copy if you request it. There may be a charge for photocopying.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability) (<http://www.justice.gov.uk/tribunals/send/appeals>). You can contact the Tribunal at HM Courts & Tribunals Service, Special Educational Needs and Disability, 1st Floor, Darlington Magistrates' Court, DL1 1RU, telephone 01325 289350, email sendistquiries@hmcts.gsi.gov.uk.

Making a claim would not affect your right to make representations to the discipline committee. Please see enclosed a leaflet with further information about exclusion from school. The Department for Education's guidance on exclusion is also available here:

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

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

[OPTIONAL PARAGRAPH IF A REINTEGRATION INTERVIEW IS TO BE HELD]

What will happen at the end of the exclusion?

You and your child are requested to attend a reintegration interview with me *[alternatively, specify the name of another staff member]* here at the school on *[date]* at *[time]*. If this is not convenient, please contact the school as soon as possible to arrange a suitable alternative date and time. The purpose of this reintegration interview is to discuss how best your child's return to school can be managed.

We expect to see your child back at the start of school on *[date]*.

Yours sincerely,

[Name]

Head teacher

c.c. Chair of Pupil Discipline Committee
LA Exclusions Officer

Model Letter Two

From head teacher notifying parent of a fixed period of 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.

Parents' Name & Address

Date

Dear *[Parent's Name]*,

Full Name of Child *D.O.B.* *Year*

I am excluding *[Name of Child]* for a period of *[Days]* school days from *[Start Date]* to *[End Date]*. S/he should return to school on *[Date]*.

Reason for Exclusion

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude your child has not been taken lightly. S/he has been excluded for this fixed period because:

[You must insert the detailed reasons for the exclusion. State whether the child's previous record of behaviour in school has been taken into account]

In reaching this decision I have taken into account the steps that have been taken to manage this behaviour. These include:

[Explain the steps taken to try to avoid this action i.e. the strategies for managing the pupil's behaviour and the agencies that have been involved in this process]

Parent/Carer's Responsibility

You have a duty to ensure that your child is not present in a public place in school hours during the first five days of this exclusion unless you can show there is reasonable justification for this. If your child is found to be present in a public place during this exclusion without reasonable justification you may be prosecuted or receive a penalty notice (£120) from the local authority.

School's Responsibility

The school will continue to set work for your child during the first five days of this exclusion *[Please insert what arrangements are in place for this]*. Please ensure that the work is completed and returned to us for marking.

From the 6th day and until the end of this exclusion the school has made the following arrangements for *[Name of Child]* to receive full-time education. *[Insert details of arrangements made, including start date and time, location, transport arrangements (if any) and the name of any staff member who will accompany the child.] [If alternative provision is not known say that the arrangements for suitable full time education will be notified shortly by a further letter which must be received by the parent/carers at least 48 hours before the start of the provision]*

If you are unhappy about the decision or would like further advice

You have the right to request a meeting of the School Governors' Pupil Discipline Committee to whom you can make representations and my decision to exclude can be reviewed. As the length of the exclusion is more than 5 school days the Committee must meet if you request it to do so. If you wish to make representations please contact the Clerk to the Pupil Discipline Committee on/at [\[contact details – address, phone number, email\]](#), as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. You are entitled to be represented at the meeting (at your own expense) and you may bring a friend with you. It is not compulsory for [\[Pupil's name\]](#) to attend the meeting but they are invited and the Pupil Discipline Committee would welcome their attendance. [\[Pupil's name\]](#) can speak on their own behalf at the meeting if they wish to but they do not have to, although they may be asked questions.

Please inform [\[Clerk's name\]](#) if you intend to bring a friend or representative or wish to have an interpreter present at the meeting.

You also have the right to see a copy of your 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 your child's school record. I will supply you with a copy if you request it. There may be a charge for photocopying.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability) (<http://www.justice.gov.uk/tribunals/send/appeals>). You can contact the Tribunal at HM Courts & Tribunals Service, Special Educational Needs and Disability, 1st Floor, Darlington Magistrates' Court, DL1 1RU, telephone 01325 289350, email sendistqueries@hmcts.gsi.gov.uk.

Making a claim would not affect your right to make representations to the discipline committee. Please see enclosed a leaflet with further information about exclusion from school. The Department for Education's guidance on exclusion is also available here:

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

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

[\[OPTIONAL PARAGRAPH IF A REINTEGRATION INTERVIEW IS TO BE HELD\]](#)

What will happen at the end of the exclusion?

You and your child are requested to attend a reintegration interview with me [\[alternatively, specify the name of another staff member\]](#) here at the school on [\[date\]](#) at [\[time\]](#). If that is not convenient, please contact the school as soon as possible to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed.

We expect to see your child back at the start of school on [\[date\]](#).

Yours sincerely,

[\[Name\]](#)

Head teacher

c.c. Chair of Pupil Discipline Committee
LA Exclusions Officer

Model Letter Three

From the head teacher notifying parent of a fixed period of exclusion of 16 days or more, or where cumulative exclusions in the same term are 16 days or more.

Parents' Name & Address

Date

Dear *[Parent's Name]*,

Full Name of Child

D.O.B.

Year

I am excluding *[Name of Child]* for a period of *[Days]* school days from *[Start Date]* to *[End Date]*. Your child should return to school on *[Date]*.

Reason for Exclusion

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude your child has not been taken lightly. Your child has been excluded for this fixed period because:

[You must insert the detailed reasons for the exclusion. State whether the child's previous record of behaviour in school has been taken into account]

In reaching this decision I have taken into account the steps that have been taken to manage this behaviour. These include:

[Explain the steps taken to try to avoid this action i.e. the strategies for managing the pupil's behaviour and the agencies that have been involved in this process]

Parent/Carer Responsibility

You have a duty to ensure that your child is not present in a public place in school hours during the first five days of this exclusion unless you can show there is reasonable justification for this. If your child is found to be present in a public place during this exclusion without reasonable justification you may be prosecuted or receive a penalty notice (£120) from the local authority.

School's Responsibility

The school will continue to set work for your child during the first five days of this exclusion *[Please insert what arrangements are in place for this]*. Please ensure that the work is completed and returned to us for marking.

From the 6th day and until the end of this exclusion the school has made the following arrangements for *[Name of Child]* to receive full-time education. *[Insert details of arrangements made, including start date and time, location, transport arrangements (if any) and the name of any staff member who will accompany the child.] [If alternative provision is not known say that the arrangements for suitable full time education will be notified shortly by a further letter which must be received by the parent/carers at least 48 hours before the start of the provision]*

If you are unhappy about the decision or would like further advice

As the length of the exclusion is more than 15 school days (or equivalent) the School Governors Pupil Discipline 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 Committee can meet is *[insert date here – no later than 15 school days from the date the Committee is notified]*. If you wish to make representations please contact the Clerk to the Pupil Discipline Committee on/at *[contact details – address, phone number, email]*, as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. You are entitled to be represented at the meeting (at your own expense) and you may bring a friend with you. Please inform *[Clerk's name]* if you intend to bring a friend or representative or wish to have an interpreter present at the meeting. It is not compulsory for *[Pupil's name]* to attend the meeting but they are invited and the Pupil Discipline Committee would welcome their attendance. *[Pupil's name]* can speak on their own behalf at the meeting if they wish to but they do not have to, although they may be asked questions.

You will, whether you choose to make representations or not, be notified by the Clerk to the Committee of the time, date and location of the meeting.

You also have the right to see a copy of your 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 your child's school record. I will supply you with a copy if you request it. There may be a charge for photocopying.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability) (<http://www.justice.gov.uk/tribunals/send/appeals>). You can contact the Tribunal at HM Courts & Tribunals Service, Special Educational Needs and Disability, 1st Floor, Darlington Magistrates' Court, DL1 1RU, telephone 01325 289350, email sendistquiries@hmcts.gsi.gov.uk.

Making a claim would not affect your right to make representations to the discipline committee. Please see enclosed a leaflet with further information about exclusion from school. The Department for Education's guidance on exclusion is also available here:

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

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

[OPTIONAL PARAGRAPH IF A REINTEGRATION INTERVIEW IS TO BE HELD]

What will happen at the end of the exclusion?

You and your child are requested to attend a reintegration interview with me *[alternatively, specify the name of another staff member]* here at the school on *[date]* at *[time]*. If that is not convenient, please contact the school as soon as possible to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed.

We expect to see your child back at the start of school on *[date]*.

Yours sincerely,

[Name]

Head teacher

c.c. Chair of Discipline Committee
LA Exclusions Officer

Model Letter Four

From head teacher notifying parent of a permanent exclusion.

Parents' Name & Address

Date

Dear [Parent's Name]

Full Name of Child

D.O.B.

Year

I regret to inform you of my decision to exclude [Name of Child] permanently from [Date]. This means that your child will not be allowed back to this school pending a meeting of the School Governors' Pupil Discipline Committee.

Reason for Permanent Exclusion

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude your child has not been taken lightly. [Name of Child] has been permanently excluded because:

[You must insert the detailed reasons for the exclusion. State whether the child's previous record of behaviour in school has been taken into account]

In reaching this decision I have taken into account the steps that have been taken to manage this behaviour. These include:

[Explain the steps taken to try to avoid this action i.e. the strategies for managing the pupil's behaviour and the agencies that have been involved in this process]

Parent/Carer Responsibility

You have a duty to ensure that your child is not present in a public place in school hours during the first five days of this exclusion unless you can show there is reasonable justification for this. If your child is found to be present in a public place during this exclusion without reasonable justification you may be prosecuted or receive a penalty notice (£120) from the local authority.

School's Responsibility

The school will continue to set work for your child during first five days 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.

From the 6th day and until the end of this exclusion the school has made the following arrangements for [Name of Child] to receive full-time education. *[Insert details of arrangements made, including start date and time, location, transport arrangements (if any) and the name of any staff member who will accompany the child.] [If alternative provision is not known say that the arrangements for suitable full time education will be notified shortly by a further letter which must be received by the parent/carers at least 48 hours before the start of the provision]*

If you are unhappy about the decision or would like further advice

As this is a permanent exclusion the School Governors' Pupil Discipline Committee will meet to consider it. At the review meeting you may make representations to the Committee and ask them to reinstate your child in school. The latest date by which the Committee must meet is *[insert date here – no later than 15 school days from the date the Committee is notified]*. If you wish to make representations please contact the Clerk to the Pupil Discipline Committee on/at *[contact details – address, phone number, email]*, as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. It is not compulsory for *[Pupil's name]* to attend the meeting but they are invited and the Pupil Discipline Committee would welcome their attendance. *[Pupil's name]* can speak on their own behalf at the meeting if they wish to but they do not have to, although they may be asked questions.

You are entitled to be represented at the meeting (at your own expense) and you may bring a friend with you. Please inform *[Clerk's name]* if you intend to bring a friend or representative or wish to have an interpreter present at the meeting.

You also have the right to see a copy of your 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 your child's school record. I will supply you with a copy if you request it. There may be a charge for photocopying.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability) (<http://www.justice.gov.uk/tribunals/send/appeals>). You can contact the Tribunal at HM Courts & Tribunals Service, Special Educational Needs and Disability, 1st Floor, Darlington Magistrates' Court, DL1 1RU, telephone 01325 289350, email sendistqueries@hmcts.gsi.gov.uk.

Making a claim would not affect your right to make representations to the discipline committee. Please see enclosed a leaflet with further information about exclusion from school. The Department for Education's guidance on exclusion is also available here:

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

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

What happens next?

At its meeting the School Governors Pupil Discipline Committee has the power to overturn the exclusion and reinstate your child. This can be immediately or from a specified date. Alternatively, the Pupil Discipline Committee can decide to uphold the exclusion. You will then be able to ask for this decision to be reviewed by an Independent Review Panel.

In the meantime your child's education will continue at *[insert details]*

Yours sincerely

[Name]

Head teacher

c.c. Chair of Discipline Committee
LA Exclusions Officer

Model Letter Five

From the Clerk to the Pupil Discipline Committee to the parent of a permanently excluded pupil upholding a permanent exclusion.

Note: If pupil is not resident in Tower Hamlets a copy of this letter must also be sent to their 'home' Local Authority. Refer to LBTH Exclusions Officer for more information.

Parents' Name & Address

Date

Dear *[Parent's Name]*,

[Full Name of Child]

[D.O.B.]

I am writing to advise you of the outcome of the Pupil Discipline Committee meeting on *[date]* when it considered the decision by the Headteacher to permanently exclude *[name of pupil]*. The Committee, after carefully considering the representations made and all the available evidence, have decided to uphold *[name of pupil]*'s permanent exclusion.

The reasons for the Committee's decision are as follows: *[Set out the reasons for their decision in sufficient detail, explaining how the committee arrived at their decision, so that everyone can understand why the decision was made. Refer to the decision template in Appendix M of the LBTH 'Guidance on the use of Pupil Exclusion' for recommended content of the explanation of reasons.]*

You have the right to ask for this decision to be reviewed by an Independent Review Panel. Your request must be in writing setting out the reasons. Where relevant this should include a reference to how *[name of pupil]*'s special educational needs are considered to be relevant to the exclusion and state whether you want the local authority to appoint an SEN expert. A review application form can be obtained from the LA Exclusions Officer, Town Hall, Mulberry Place, 5 Clove Crescent, London E14 2BG. Telephone 020 7364 4304. It must be returned by *[specify the latest date – the 15th school day after the date of this letter]* or your right to a review will lapse.

The review would be done by an Independent Review Panel. A three member panel will comprise one serving or recently retired (within the last 5 years) head teacher, one serving or recently serving experienced governor and one lay member who will be the Chairperson. The review panel will rehear all the facts of the case – if you have fresh evidence to present to the panel you may do so. The panel must meet no later than the 15th school day after the date on which your appeal is lodged. In exceptional circumstances panels may adjourn a hearing until a later date.

You have the right to require that an SEN expert, independent of the school, attends the review to give impartial advice to the panel on how special educational needs might be relevant to *[name of pupil]*'s exclusion. The expert's role does not include making an assessment of *[name of pupil]*'s SEN. You have this right even if the school has not previously recognised that your child has special educational needs. The SEN expert will be chosen and appointed by the local authority at no cost to you. The appointment of a SEN expert does not affect your right to be represented at the panel by an expert of your choice, or have your expert make written representations to the panel on your behalf, but you would have to pay any costs of your own expert representative. If you apply for the exclusion to be reviewed by the Independent Review Panel you should make clear whether you want the local authority to appoint an SEN expert. You can also bring a friend with you.

Further information on the role of the SEN expert is available in the Department for Education's guidance on exclusion which is available here:

<http://www.education.gov.uk/schools/pupilsupport/behaviour/exclusion/g00208372/statutory-guidance-school-exclusion-2012>

The Independent Review Panel can make one of three decisions:

1. they may uphold your child's exclusion
2. they may Direct the governing body to reconsider its decision to exclude, or
3. they may Recommend that the governing body reconsiders its decision to exclude

The panel can Direct governors to review their decision only if the panel considers the original decision was flawed by the standards applicable to Judicial Review. Governors will be Recommended to review their decision if the panel identifies flaws in the original decision which were not serious enough to meet the Judicial Review test. The panel cannot instruct the school to readmit your child.

In addition to your right to request an independent review panel, if you believe that the exclusion has occurred as a result of discrimination then you may be able to 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 alleging 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. Information on making an application to the First-tier Tribunal (Special Educational Needs and Disability) is available from First-tier Tribunal (Special Educational Needs and Disability) (<http://www.justice.gov.uk/tribunals/send/appeals>). You can contact the Tribunal at HM Courts & Tribunals Service, Special Educational Needs and Disability, 1st Floor, Darlington Magistrates' Court, DL1 1RU, telephone 01325 289350, email sendistquiries@hmcts.gsi.gov.uk.

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

Arrangements will be made for [\[pupil's name\]](#)'s to continue his education. If you live in the Tower Hamlets area this will be by way of an initial placement arranged through the Local Authority's Pupil Referral Unit (London East AP). A representative from London East AP will contact you shortly about these new arrangements. If you have any questions about this please contact London East AP Unit on 020 7791 7720. If you do not live in Tower Hamlets you will be contacted by a representative of your home Local Authority to whom a copy of this letter has been sent.

Yours sincerely

[\[Name\]](#)

Clerk to the Pupil Discipline Committee

c.c. Headteacher
Chair of Discipline Committee
LA Exclusions Officer

Model Letter Six

From the Clerk to the Pupil Discipline Committee to the parent upholding a fixed period exclusion.

Dear [Parent's Name]

[Full Name of Child]

[D.O.B.]

FIXED PERIOD EXCLUSION OF [X] DAYS

I am writing to confirm the decision of the Pupil Discipline Committee at its meeting on [Date].

The Committee considered very carefully the Head teacher's reasons for the exclusion and [if parent/carer attended/wrote] the representations you made against the exclusion. The Committee decided that the Head teacher had followed the appropriate guidance and acted reasonably in excluding [Name of Child]. The exclusion is therefore upheld and [Name of Child] may not return to school until the date specified by the Head teacher.

The reasons for the Committee's decision are as follows: [Set out the reasons for their decision in sufficient detail, explaining how the committee arrived at their decision, so that everyone can understand why the decision was made. Refer to the decision template in Appendix M of the LBTH 'Guidance on the use of Pupil Exclusion' for recommended content of the explanation of reasons.]

A note of the Committee's views on the exclusion, together with a copy of the Head teacher's exclusion letter and the written statements considered at the meeting, will be placed on [Name of Child]'s record.

The Committee's decision is final and there is no further right of appeal.

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

Yours sincerely

[Name]

Clerk to the Pupil Discipline Committee

c.c. Head teacher
Chair of Discipline Committee
LA Exclusions Officer

Model Letter Seven

From the Clerk to the Pupil Discipline Committee to the parent notifying of reduction/reinstatement of a fixed period exclusion.

Parents' Name & Address

Date

Dear *[Parent's Name]*,

[Full Name of Child]

[D.O.B.]

I am writing to advise you of the outcome of the Pupil Discipline Committee meeting on *[Date]* when it considered the Headteacher's fixed term exclusion of *[Name of Child]*.

The Governors discussed the report prepared by the Headteacher that outlined the reasons for the exclusion and detailed the strategies used by the school in supporting *[Name of Child]*.

Having discussed the circumstances of the exclusion and reviewing the support provided, the Pupil Discipline Committee concluded that:

The fixed period exclusion for *[Name of Child]* was not appropriate and he/she should return to school on *[return date]*.

OR

The fixed period exclusion for *[Name of Child]* should be reduced to *[number of days]* and that he should return to school on *[return date]*.

OR

The fixed period exclusion for *[Name of Child]* was not appropriate and that although *[Name of Child]* has now returned to school a note of this decision should be placed on his/her school record.

A note of the Committee's views on the exclusion, together with a copy of the Head teacher's exclusion letter and the written statements considered at the meeting, will be placed on *[Name of Child]*'s record.

We have asked the school to review strategies that are available to the school to support *[Name of Child]*. This must include the setting up of a Pastoral Support Programme in which you will be involved.

Please confirm with the Head teacher the arrangements for *[Name of Child]* to return to school.

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

Yours sincerely

[Name]

Clerk to the Pupil Discipline Committee

c.c. Head teacher

Chair of Discipline Committee

LA Exclusions Officer

Model Letter Eight

From the Clerk to the Pupil Discipline Committee to the parent notifying of reinstatement of permanent exclusion.

Note: If pupil is not resident in Tower Hamlets a copy of this letter must also be sent to their 'home' Local Authority. Refer to LBTH Exclusions Officer for more information.

Parents' Name & Address

Date

Dear *[Parent's Name]*,

[Full Name of Child]

[D.O.B.]

I am writing to advise you of the outcome of the Pupil Discipline Committee meeting on *[Date]* when it considered the Headteacher's permanent exclusion of *[Name of Child]*.

The Governors discussed the report prepared by the Headteacher that outlined the reasons for the exclusion of *[Name of Child]*.

Having discussed the circumstances of the exclusion, the Pupil Discipline Committee concluded that the permanent exclusion for *[Name of Child]* was not appropriate and he/she should return to school on *[return date]*. *[N.B. If the child is not re-instated immediately, this date must be within a 'reasonable' period and governors must be able to justify why the date was set.]*

The reasons for the Committee's decision are as follows: *[Set out the reasons for their decision in sufficient detail, explaining how the committee arrived at their decision, so that everyone can understand why the decision was made. Refer to the decision template in Appendix M of the LBTH 'Guidance on the use of Pupil Exclusion' for recommended content of the explanation of reasons.]*

A note of the Committee's views on the exclusion, together with a copy of the Head teacher's exclusion letter and the written statements considered at the meeting, will be placed on *[Name of Child]*'s record.

We have asked the Head teacher to review strategies that are available to the school to support *[Name of Child]*. This must include the setting up of a Pastoral Support Programme in which you will be involved.

Please confirm with the Headteacher the arrangements for *[Name of Child]* to return to school.

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

Yours sincerely

[Name]

Clerk to the Pupil Discipline Committee

c.c. Head teacher
Chair of Discipline Committee
LA Exclusions Officer

Appendix G

Model exclusion letters (LBTH) – Secondary

Model Letter One

From Head teacher notifying parent of a fixed period of exclusion of less than 6 days, AND where a public examination is not missed.

Parent/Carers Name and Address

Date

Dear *[Parent's Name]*,

Full Name of Child

D.O.B.

Year

I am excluding *[Name of Child]* for a period of *[Days]* school days from *[Start Date]* to *[End Date]*. S/he should return to school on *[Date]*. *[Where the exclusion has been issued pending further investigation, please explain in this in the letter. Please also explain that, before the end of the initial exclusion period, a further letter will follow to confirm the final sanction. If permanent exclusion or a longer fixed period exclusion is likely then forewarn of this in the letter].*

Reason for Exclusion

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude your child has not been taken lightly. S/he has been excluded for this fixed period because:

[You must insert the detailed reasons for the exclusion. State whether the child's previous record of behaviour in school has been taken into account]

In reaching this decision I have taken into account the steps that have been taken to manage this behaviour. These include:

[Explain the steps taken to try to avoid this action i.e. the strategies for managing the pupil's behaviour and the agencies that have been involved in this process]

Parent/Carer's Responsibility

You have a duty to ensure that your child is not present in a public place in school hours during this exclusion unless you can show there is reasonable justification for this. If your child is found to be present in a public place during this exclusion without reasonable justification you may be prosecuted or receive a penalty notice (£120) from the local authority.

School's Responsibility

The school will continue to set work for your child during the period of this exclusion *[Please insert what arrangements are in place for this]*. Please ensure that the work is completed and returned to us for marking.

If you are unhappy about the decision or would like further advice

You have the right to make representations to the School Governors' Pupil Discipline Committee. Whilst the governors have no power to decide your child should return to school before the exclusion ends, they must consider any representations you make and may place a copy of their findings on your child's school record. If you wish to make representations please contact the Clerk to the Pupil Discipline Committee on/at *[Contact Details – Address, Phone Number, email]*, as soon as possible.

You also have the right to see a copy of your 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 your child's school record. I will supply you with a copy if you request it. There may be a charge for photocopying.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability) (<http://www.justice.gov.uk/tribunals/send/appeals>). You can contact the Tribunal at HM Courts & Tribunals Service, Special Educational Needs and Disability, 1st Floor, Darlington Magistrates' Court, DL1 1RU, telephone 01325 289350, email sendistquiries@hmcts.gsi.gov.uk.

Making a claim would not affect your right to make representations to the discipline committee. Please see enclosed a leaflet with further information about exclusion from school. The Department for Education's guidance on exclusion is also available here:

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

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

[OPTIONAL PARAGRAPH IF A REINTEGRATION INTERVIEW IS TO BE HELD]

What will happen at the end of the exclusion?

You and your child are requested to attend a reintegration interview with me *[Alternatively, specify the name of another staff member]* here at the school on *[Date]* at *[Time]*. If this is not convenient, please contact the school as soon as possible to arrange a suitable alternative date and time. The purpose of this reintegration interview is to discuss how best your child's return to school can be managed.

We expect to see your child back at the start of school on *[Date]*.

Yours sincerely,

[Name]

Head teacher

c.c. Chair of Discipline Committee
LA Exclusions Officer

Model Letter Two

From head teacher notifying parent of a fixed period of 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.

Parents' Name & Address

Date

Dear *[Parent's Name]*

Full Name of Child

D.O.B.

Year

I am excluding *[Name of Child]* for a period of *[Days]* school days from *[Start Date]* to *[End Date]*. S/he should return to school on *[Date]*. *[Where the exclusion has been issued pending further investigation, please explain in this in the letter. Please also explain that, before the end of the initial exclusion period, a further letter will follow to confirm the final sanction. If permanent exclusion or a longer fixed period exclusion is likely then forewarn of this in the letter].*

Reason for Exclusion

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude your child has not been taken lightly. S/he has been excluded for this fixed period because:

[You must insert the detailed reasons for the exclusion. State whether the child's previous record of behaviour in school has been taken into account]

In reaching this decision I have taken into account the steps that have been taken to manage this behaviour. These include:

[Explain the steps taken to try to avoid this action i.e. the strategies for managing the pupil's behaviour and the agencies that have been involved in this process]

Parent/Carer's Responsibility

You have a duty to ensure that your child is not present in a public place in school hours during the first five days of this exclusion unless you can show there is reasonable justification for this. If your child is found to be present in a public place during this exclusion without reasonable justification you may be prosecuted or receive a penalty notice (£120) from the local authority.

School's Responsibility

The school will continue to set work for your child during the first five days of this exclusion *[Please insert what arrangements are in place for this]*. Please ensure that the work is completed and returned to us for marking.

From the *[6th school day of the pupil's exclusion]* *[Specify date]* until the expiry of his exclusion we will provide suitable full-time education. On *[Date]* s/he should attend *[Give name and address of the alternative provider]* at *[Specify the time – this may not be identical to the start time of the home school]* and report to *[Staff member's name]*. The school day at *[Name of alternative provider]* starts at *[Specify start time]* and ends at *[Specify end time]*. *[If applicable – say something about transport arrangements from home to the alternative provider]* *[If alternative provision is not known say that the arrangements for suitable full time education will be notified shortly by a further letter which must be received by the parent/carers at least 48 hours before the start of the provision]*

If you are unhappy about the decision or would like further advice

You have the right to request a meeting of the School Governors' Pupil Discipline Committee to whom you can make representations and my decision to exclude can be reviewed. As the length of the exclusion is more than 5 school days the Committee must meet if you request it to do so. If you wish to make representations please contact the Clerk to the Pupil Discipline Committee on/at [\[Contact details – address, phone number, email\]](#), as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. You are entitled to be represented at the meeting (at your own expense) and you may bring a friend with you. It is not compulsory for [\[Pupil's name\]](#) to attend the meeting but they are invited and the Pupil Discipline Committee would welcome their attendance. [\[Pupil's name\]](#) can speak on their own behalf at the meeting if they wish to but they do not have to, although they may be asked questions. Please inform [\[Clerk's name\]](#) if you intend to bring a friend or representative or wish to have an interpreter present at the meeting.

You also have the right to see a copy of your 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 your child's school record. I will supply you with a copy if you request it. There may be a charge for photocopying.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability) (<http://www.justice.gov.uk/tribunals/send/appeals>). You can contact the Tribunal at HM Courts & Tribunals Service, Special Educational Needs and Disability, 1st Floor, Darlington Magistrates' Court, DL1 1RU, telephone 01325 289350, email sendistquiries@hmcts.gsi.gov.uk.

Making a claim would not affect your right to make representations to the discipline committee. Please see enclosed a leaflet with further information about exclusion from school. The Department for Education's guidance on exclusion is also available here:

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

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

[\[OPTIONAL PARAGRAPH IF A REINTEGRATION INTERVIEW IS TO BE HELD\]](#)

What will happen at the end of the exclusion?

You and your child are requested to attend a reintegration interview with me [\[Alternatively, specify the name of another staff member\]](#) here at the school on [\[Date\]](#) at [\[Time\]](#). If that is not convenient, please contact the school as soon as possible to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed.

We expect to see your child back at the start of school on [\[Date\]](#).

Yours sincerely,

[\[Name\]](#)

Head teacher

c.c. Chair of Pupil Discipline Committee
LA Exclusions Officer

Model Letter Three

From the head teacher notifying parent of a fixed period of exclusion of 16 days or more, or where cumulative exclusions in the same term are 16 days or more.

Parents' Name & Address

Date

Dear *[Parent's Name]*,

Full Name of Child

D.O.B.

Year

I am excluding *[Name of Child]* for a period of *[Days]* school days from *[Start Date]* to *[End Date]*. Your child should return to school on *[Date]*.

Reason for Exclusion

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude your child has not been taken lightly. Your child has been excluded for this fixed period because:

[You must insert the detailed reasons for the exclusion. State whether the child's previous record of behaviour in school has been taken into account]

In reaching this decision I have taken into account the steps that have been taken to manage this behaviour. These include:

[Explain the steps taken to try to avoid this action i.e. the strategies for managing the pupil's behaviour and the agencies that have been involved in this process]

Parent/Carer Responsibility

You have a duty to ensure that your child is not present in a public place in school hours during the first five days of this exclusion unless you can show there is reasonable justification for this. If your child is found to be present in a public place during this exclusion without reasonable justification you may be prosecuted or receive a penalty notice (£120) from the local authority.

School's Responsibility

The school will continue to set work for your child during the first five days of this exclusion *[Please insert what arrangements are in place for this]*. Please ensure that the work is completed and returned to us for marking.

From the *[6th school day of the pupil's exclusion]* *[specify date]* until the expiry of his exclusion we will provide suitable full-time education. On *[date]* s/he should attend *[give name and address of the alternative provider]* at *[specify the time – this may not be identical to the start time of the home school]* and report to *[staff member's name]*. The school day at *[name of alternative provider]* starts at *[specify start time]* and ends at *[specify end time]*. *[If applicable – say something about transport arrangements from home to the alternative provider]* *[If alternative provision is not known say that the arrangements for suitable full time education will be notified shortly by a further letter which must be received by the parent/carers at least 48 hours before the start of the provision]*

If you are unhappy about the decision or would like further advice

As the length of the exclusion is more than 15 school days (or equivalent) the School Governors Pupil Discipline 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 Committee can meet is *[insert date here – no later than 15 school days from the date the Committee is notified]*. If you wish to make representations please contact the Clerk to the Pupil Discipline Committee on/at *[contact details – address, phone number, email]*, as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. You are entitled to be represented at the meeting (at your own expense) and you may bring a friend with you. Please inform *[Clerk's name]* if you intend to bring a friend or representative or wish to have an interpreter present at the meeting. It is not compulsory for *[Pupil's name]* to attend the meeting but they are invited and the Pupil Discipline Committee would welcome their attendance. *[Pupil's name]* can speak on their own behalf at the meeting if they wish to but they do not have to, although they may be asked questions.

You will, whether you choose to make representations or not, be notified by the Clerk to the Committee of the time, date and location of the meeting.

You also have the right to see a copy of your 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 your child's school record. I will supply you with a copy if you request it. There may be a charge for photocopying.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability) (<http://www.justice.gov.uk/tribunals/send/appeals>). You can contact the Tribunal at HM Courts & Tribunals Service, Special Educational Needs and Disability, 1st Floor, Darlington Magistrates' Court, DL1 1RU, telephone 01325 289350, email sendistquiries@hmcts.gsi.gov.uk.

Making a claim would not affect your right to make representations to the discipline committee. Please see enclosed a leaflet with further information about exclusion from school. The Department for Education's guidance on exclusion is also available here:

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

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

[OPTIONAL PARAGRAPH IF A REINTEGRATION INTERVIEW IS TO BE HELD]

What will happen at the end of the exclusion?

You and your child are requested to attend a reintegration interview with me *[alternatively, specify the name of another staff member]* here at the school on *[date]* at *[time]*. If that is not convenient, please contact the school as soon as possible to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed.

We expect to see your child back at the start of school on [\[date\]](#).

Yours sincerely,

[\[Name\]](#)

Head teacher

c.c. Chair of Discipline Committee
LA Exclusions Officer

Model Letter Four

From head teacher notifying parent of a permanent exclusion.

Parents' Name & Address

Date

Dear *[Parent's Name]*

Full Name of Child

D.O.B.

Year

I regret to inform you of my decision to exclude *[Name of Child]* permanently from *[Date]*. This means that your child will not be allowed back to this school pending a meeting of the School Governors' Pupil Discipline Committee.

Reason for Permanent Exclusion

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude your child has not been taken lightly. *[Name of Child]* has been permanently excluded because:

[You must insert the detailed reasons for the exclusion. State whether the child's previous record of behaviour in school has been taken into account]

In reaching this decision I have taken into account the steps that have been taken to manage this behaviour. These include:

[Explain the steps taken to try to avoid this action i.e. the strategies for managing the pupil's behaviour and the agencies that have been involved in this process]

Parent/Carer Responsibility

You have a duty to ensure that your child is not present in a public place in school hours during the first five days of this exclusion unless you can show there is reasonable justification for this. If your child is found to be present in a public place during this exclusion without reasonable justification you may be prosecuted or receive a penalty notice (£120) from the local authority.

School's Responsibility

The school will continue to set work for your child during first five days 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.

From the *[6th school day of the pupil's exclusion]* *[specify date]* arrangements have been made for your child to receive suitable full-time education at *[alternative provider]*. On *[date]* s/he should attend *[give name and address of the alternative provider]* at *[specify the time – this may not be identical to the start time of the home school]* and report to *[staff member's name]*. The school day at *[name of alternative provider]* starts at *[specify start time]* and ends at *[specify end time]*. *[If applicable – say something about transport arrangements from home to the alternative provider]* *[If alternative provision is not known say that the arrangements for suitable full time education will be notified shortly by a further letter which must be received by the parent/carers at least 48 hours before the start of the provision]*

If you are unhappy about the decision or would like further advice

As this is a permanent exclusion the School Governors' Pupil Discipline Committee will meet to consider it. At the review meeting you may make representations to the Committee and ask them to reinstate your child in school. The latest date by which the Committee must meet is [\[insert date here – no later than 15 school days from the date the Committee is notified\]](#). If you wish to make representations please contact the Clerk to the Pupil Discipline Committee on/at [\[contact details – address, phone number, email\]](#), as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. It is not compulsory for [\[Pupil's name\]](#) to attend the meeting but they are invited and the Pupil Discipline Committee would welcome their attendance. [\[Pupil's name\]](#) can speak on their own behalf at the meeting if they wish to but they do not have to, although they may be asked questions.

You are entitled to be represented at the meeting (at your own expense) and you may bring a friend with you. Please inform [\[Clerk's name\]](#) if you intend to bring a friend or representative or wish to have an interpreter present at the meeting.

You also have the right to see a copy of your 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 your child's school record. I will supply you with a copy if you request it. There may be a charge for photocopying.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First-tier Tribunal (Special Educational Needs and Disability) (<http://www.justice.gov.uk/tribunals/send/appeals>). You can contact the Tribunal at HM Courts & Tribunals Service, Special Educational Needs and Disability, 1st Floor, Darlington Magistrates' Court, DL1 1RU, telephone 01325 289350, email sendistquiries@hmcts.gsi.gov.uk.

Making a claim would not affect your right to make representations to the discipline committee. Please see enclosed a leaflet with further information about exclusion from school. The Department for Education's guidance on exclusion is also available here:

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

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

What happens next?

At its meeting the School Governors Pupil Discipline Committee has the power to overturn the exclusion and reinstate your child. This can be immediately or from a specified date. Alternatively, the Pupil Discipline Committee can decide to uphold the exclusion. You will then be able to ask for this decision to be reviewed by an Independent Review Panel.

In the meantime your child's education will continue at [\[insert details\]](#)

Yours sincerely

[\[Name\]](#)

Head teacher

c.c. Chair of Discipline Committee
LA Exclusions Officer

Model Letter Five

From the Clerk to the Pupil Discipline Committee to the parent of a permanently excluded pupil upholding a permanent exclusion.

Note: If pupil is not resident in Tower Hamlets a copy of this letter must also be sent to their 'home' Local Authority. Refer to LBTH Exclusions Officer for more information.

Parents' Name & Address

Date

Dear *[Parent's Name]*,

[Full Name of Child]

[D.O.B.]

I am writing to advise you of the outcome of the Pupil Discipline Committee meeting on *[date]* when it considered the decision by the Head teacher to permanently exclude *[name of pupil]*. The Committee, after carefully considering the representations made and all the available evidence, have decided to uphold *[name of pupil]*'s permanent exclusion.

The reasons for the Committee's decision are as follows: *[Set out the reasons for their decision in sufficient detail, explaining how the committee arrived at their decision, so that everyone can understand why the decision was made. Refer to the decision template in Appendix M of the LBTH 'Guidance on the use of Pupil Exclusion' for recommended content of the explanation of reasons.]*

You have the right to ask for this decision to be reviewed by an Independent Review Panel. Your request must be in writing setting out the reasons. Where relevant this should include a reference to how *[name of pupil]*'s special educational needs are considered to be relevant to the exclusion and state whether you want the local authority to appoint an SEN expert. A review application form can be obtained from the LA Exclusions Officer, Town Hall, Mulberry Place, 5 Clove Crescent, London E14 2BG. Telephone 020 7364 4304. It must be returned by *[specify the latest date – the 15th school day after the date of this letter]* or your right to a review will lapse.

The review would be done by an Independent Review Panel. A three member panel will comprise one serving or recently retired (within the last 5 years) head teacher, one serving or recently serving experienced governor and one lay member who will be the Chairperson. The review panel will rehear all the facts of the case – if you have fresh evidence to present to the panel you may do so. The panel must meet no later than the 15th school day after the date on which your appeal is lodged. In exceptional circumstances panels may adjourn a hearing until a later date.

You have the right to require that an SEN expert, independent of the school, attends the review to give impartial advice to the panel on how special educational needs might be relevant to *[name of pupil]*'s exclusion. The expert's role does not include making an assessment of *[name of pupil]*'s SEN. You have this right even if the school has not previously recognised that your child has special educational needs. The SEN expert will be chosen and appointed by the local authority at no cost to you. The appointment of a SEN expert does not affect your right to be represented at the panel by an expert of your choice, or have your expert make written representations to the panel on your behalf, but you would have to pay any costs of your own expert representative. If you apply for the exclusion to be reviewed by the Independent Review Panel you should make clear whether you want the local authority to appoint an SEN expert. You can also bring a friend with you.

Further information on the role of the SEN expert is available in the Department for Education's guidance on exclusion which is available here:

<http://www.education.gov.uk/schools/pupilsupport/behaviour/exclusion/g00208372/statutory-guidance-school-exclusion-2012>

The Independent Review Panel can make one of three decisions:

1. they may uphold your child's exclusion
2. they may Direct the governing body to reconsider its decision to exclude, or
3. they may Recommend that the governing body reconsiders its decision to exclude

The panel can Direct governors to review their decision only if the panel considers the original decision was flawed by the standards applicable to Judicial Review. Governors will be Recommended to review their decision if the panel identifies flaws in the original decision which were not serious enough to meet the Judicial Review test. The panel cannot instruct the school to readmit your child.

In addition to your right to request an independent review panel, if you believe that the exclusion has occurred as a result of discrimination then you may be able to 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 alleging 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.

Information on making an application to the First-tier Tribunal (Special Educational Needs and Disability) is available from First-tier Tribunal (Special Educational Needs and Disability) (<http://www.justice.gov.uk/tribunals/send/appeals>). You can contact the Tribunal at HM Courts & Tribunals Service, Special Educational Needs and Disability, 1st Floor, Darlington Magistrates' Court, DL1 1RU, telephone 01325 289350, email sendistquiries@hmcts.gsi.gov.uk.

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

Arrangements will be made for [\[pupil's name\]](#)'s to continue his education. If you live in the Tower Hamlets area this will be by way of an initial placement arranged through the Local Authority's Pupil Referral Unit (London East AP). A representative from London East AP will contact you shortly about these new arrangements. If you have any questions about this please contact London East AP on 020 7791 7720. If you do not live in Tower Hamlets you will be contacted by a representative of your home Local Authority to whom a copy of this letter has been sent.

Yours sincerely

[\[Name\]](#)

Clerk to the Pupil Discipline Committee

c.c. Head teacher

Chair of Discipline Committee

LA Exclusions Officer

Model Letter Six

From the Clerk to the Pupil Discipline Committee to the parent upholding a fixed period exclusion.

Dear *[Parent's Name]*,

[Full Name of Child]

[D.O.B]

FIXED PERIOD EXCLUSION OF *[X]* DAYS

I am writing to confirm the decision of the Pupil Discipline Committee at its meeting on *[Date]*.

The Committee considered very carefully the Head teacher's reasons for the exclusion and *[if parent/carer attended/wrote]* the representations you made against the exclusion. The Committee decided that the Head teacher had followed the appropriate guidance and acted reasonably in excluding *[Name of Child]*. The exclusion is therefore upheld and *[Name of Child]* may not return to school until the date specified by the Head teacher.

The reasons for the Committee's decision are as follows: *[Set out the reasons for their decision in sufficient detail, explaining how the committee arrived at their decision, so that everyone can understand why the decision was made. Refer to the decision template in Appendix M of the LBTH 'Guidance on the use of Pupil Exclusion' for recommended content of the explanation of reasons.]*

A note of the Committee's views on the exclusion, together with a copy of the Head teacher's exclusion letter and the written statements considered at the meeting, will be placed on *[Name of Child]*'s record.

The Committee's decision is final and there is no further right of appeal.

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

Yours sincerely

[Name]

Clerk to the Pupil Discipline Committee

c.c. Head teacher
Chair of Discipline Committee
LA Exclusions Officer

Model Letter Seven

From the Clerk to the Pupil Discipline Committee to the parent notifying of reduction/reinstatement of a fixed period exclusion.

Parents' Name & Address

Date

Dear *[Parent's Name]*,

[Full Name of Child]

[D.O.B.]

I am writing to advise you of the outcome of the Pupil Discipline Committee meeting on *[Date]* when it considered the Headteacher's fixed term exclusion of *[Name of Child]*.

The Governors discussed the report prepared by the Headteacher that outlined the reasons for the exclusion and detailed the strategies used by the school in supporting *[Name of Child]*.

Having discussed the circumstances of the exclusion and reviewing the support provided, the Pupil Discipline Committee concluded that:

The fixed period exclusion for *[Name of Child]* was not appropriate and he/she should return to school on *[return date]*.

OR

The fixed period exclusion for *[Name of Child]* should be reduced to *[number of days]* and that he should return to school on *[return date]*.

OR

The fixed period exclusion for *[Name of Child]* was not appropriate and that although *[Name of Child]* has now returned to school a note of this decision should be placed on his/her school record.

A note of the Committee's views on the exclusion, together with a copy of the Headteacher's exclusion letter and the written statements considered at the meeting, will be placed on *[Name of Child]*'s record.

We have asked the school to review strategies that are available to the school to support *[Name of Child]*. This must include the setting up of a Pastoral Support Programme in which you will be involved.

Please confirm with the Headteacher the arrangements for *[Name of Child]* to return to school.

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

Yours sincerely

[Name]

Clerk to the Pupil Discipline Committee

c.c. Head teacher

Chair of Discipline Committee

LA Exclusions Officer

Model Letter Eight

From the Clerk to the Pupil Discipline Committee to the parent notifying of reinstatement of permanent exclusion.

Note: If pupil is not resident in Tower Hamlets a copy of this letter must also be sent to their 'home' Local Authority. Refer to LBTH Exclusions Officer for more information.

Parents' Name & Address

Date

Dear *[Parent's Name]*,

[Full Name of Child]

[D.O.B.]

I am writing to advise you of the outcome of the Pupil Discipline Committee meeting on *[Date]* when it considered the Head teacher's permanent exclusion of *[Name of Child]*.

The Governors discussed the report prepared by the Head teacher that outlined the reasons for the exclusion of *[Name of Child]*.

Having discussed the circumstances of the exclusion, the Pupil Discipline Committee concluded that the permanent exclusion for *[Name of Child]* was not appropriate and he/she should return to school on *[return date]*. *[N.B. If the child is not re-instated immediately, this date must be within a 'reasonable' period and governors must be able to justify why the date was set.]*

The reasons for the Committee's decision are as follows: *[Set out the reasons for their decision in sufficient detail, explaining how the committee arrived at their decision, so that everyone can understand why the decision was made. Refer to the decision template in Appendix m of the LBTH 'Guidance on the use of Pupil Exclusion' for recommended content of the explanation of reasons.]*

A note of the Committee's views on the exclusion, together with a copy of the Head teacher's exclusion letter and the written statements considered at the meeting, will be placed on *[Name of Child]*'s record.

We have asked the Head teacher to review strategies that are available to the school to support *[Name of Child]*. This must include the setting up of a Pastoral Support Programme in which you will be involved.

Please confirm with the Head teacher the arrangements for *[Name of Child]* to return to school.

You may want to contact the Local Authority's Exclusions Officer (020 7364 4304) who can provide advice. You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 330 5480 or on <http://www.childrenslegalcentre.com/>. You can also contact ACE Education on 03000 115 142 or <http://www.ace-ed.org.uk>. If you live in Tower Hamlets you can contact the Tower Hamlets Parents' Advice Centre (020 7350 8936).

Yours sincerely

[Name]

Clerk to the Pupil Discipline Committee




c.c. Head teacher
Chair of Discipline Committee
LA Exclusions Officer

Monitoring of Pupil Exclusions form [LBTH]

Exclusion Guidance 2018 | H1

Appendix I

Notification of Attendance at London East AP from Day Six of Exclusion form

		Tower Hamlets Schools Partnership			
Notification of Attendance at London East AP from day six of Exclusion				Monday, 23 April 18	
Please complete the form and email to LA Exclusions Officer at exclusions@towerhamlets.gov.uk and day6@londoneastap.org.uk					
Pupil Details					
First Name:	<input type="text"/>		Surname:	<input type="text"/>	
Date Of Birth:	<input type="text"/>	<input type="text"/>	Class/Form:	<input type="text"/>	Looked After: <input type="text" value="Select"/>
National Curriculum Year:	<input type="text" value="SELECT"/>		Gender:	<input type="checkbox"/> Male <input type="checkbox"/> Female	
Exclusion Details					
Excluded from	<input type="text" value="Select"/>		for	<input type="text" value="Days"/>	Day/s
Day:	<input type="checkbox"/> Day 1	<input type="checkbox"/> Day 2	<input type="checkbox"/> Day 3	<input type="checkbox"/> Day 4	<input type="checkbox"/> Day 5
provision will be	<input type="text" value="Select"/>				
Will attend	<input type="text" value="Select"/>				
Start day of exclusion	<input type="text"/>				
Start Date at PRU	<input type="text"/>				
Last day of the exclusion	<input type="text"/>				
Total number of day(s) provision at the PRU / Cost =	<input type="text" value="#VALUE!"/>		<input type="text" value="#VALUE!"/>	(number of days @ £110)	
** This amount will be charge whether or not the child engages at the PRU					
Additional Details					
<input type="text"/> (name of member of school staff) will accompany the pupil to the meeting on the first day of attendance at the PRU and will bring with them appropriate work for the pupil to undertake while at the PRU.					
<input type="text"/> <input type="text" value="Select"/> have also been told to attend this meeting with					
Name of Head teacher:	<input type="text"/>				
Signature:			<input type="text" value="Day"/> <input type="text" value="Month"/> <input type="text" value="Year"/>		
Name of school contact if not the Head teacher:	<input type="text"/>				
Please give any other key information relating to the pupil and/or exclusion that may have a bearing on the placement or grouping of the pupil and what provision the PRU should make to meet the pupil's needs, including any health and safety considerations.					
<div style="border: 1px solid black; height: 80px; width: 100%;"></div>					

Appendix J

Head teacher's report to the governors' Pupil Discipline Committee

STRICTLY CONFIDENTIAL

Fixed Term/Permanent Exclusion Report for

1. Introduction

This is the Head teacher's report to the governors' Pupil Discipline Committee to support the decision made to fixed term/permanently exclude the above.

2. Details of Pupil

Name:

DOB:

Year:

Address:

3. Previous School(s)

Give details of previous schools and the dates between which the pupil attended.

4. Reason for Exclusion

Detail the incident that led to the exclusion. Include:

- the pupil's statement
- the victim's statement
- all witness statements
- any other documentation considered
- any CCTV evidence
- any physical evidence e.g. weapon
- mitigating/aggravating factors that influenced the decision

5. Details of Previous Exclusions

Date	Reason	Length (days)

6. A History of Behaviour in the School and Action Taken

Date	Incident	Action taken

7. Educational progress

Include educational progress to date as well as the arrangements in place for the pupil's continuing education.

8. Strategies to avoid Exclusions

Give a timeline of the strategies used and their effectiveness.

9. Involvement of other agencies (i.e. implementation of PSP)

Include a copy of the PSP/IEP and evidence of any other support strategies used by the school.

10. Report from Behaviour Support Teacher (if applicable)

11. Report from SENCO (if applicable)

12. Home liaison

13. Conclusion

Add concluding remarks and copies of the relevant school policies as follows:

- SEN policy
- school's discipline and behaviour policy
- equal opportunities policy
- anti bullying policy
- special educational needs policy
- race and disability equality policy

Appendix K

Governors' Discipline Committee – checklist for Clerks

Preparations for the Governors' Discipline Committee	Yes	No
Have you convened the Pupil Discipline Committee within the statutory timescales?		
Have you invited the parent(s), the pupil, head teacher and Local Authority Exclusions Officer to the meeting, consulting about a time convenient to all parties?		
Have you booked a room for the hearing?		
Have you asked for any written representations (including witness statements) from all parties involved in advance of the meeting?		
Have you contacted the victims (if any) through the school and asked if they wish to make representations at the governors' Discipline Committee.		
Ensure that all the paperwork is ready for distribution 5 days beforehand, including: <ul style="list-style-type: none">• information about the procedure• the school's rules and behaviour and anti-bullying policies• the school's equal opportunities policy and (if relevant) the SEN Policy, race and disability equality policies• details of the case, with documentation of circumstances that led to the exclusion• previous behaviour and work record, previous exclusions and other disciplinary measures.		

Before the hearing	Yes	No
Check that the Committee members have no connection with the family or incident.		
Check that confirmation has been received from LA Exclusions Officer of his attendance.		
Check that Committee members have not been involved in any previous exclusion meetings or governor warning panels for the pupil concerned (<i>It may not be possible to have a panel where no governor has served on a previous Discipline Committee for this pupil but having the same panel must be avoided</i>).		
Arrange for an interpreter or access for disabled people if this is needed.		
Check you have mobile phone number of parents to contact them in the event of any last minute changes.		
If possible check the papers (consulting the Head) for areas needing clarification or endorsement.		
Written evidence must be sent out to all parties in advance. This should be done at least five working days before the hearing.		
Check with the parents whether they will be attending.		
Check with the parents whether the pupil will be attending.		
Check with the parents if they will be accompanied.		
If the parent wishes to bring more than one friend or adviser, check with the Chair/LA Officer to see if this is acceptable.		
Check if the alleged victim wishes to give evidence.		
Before the hearing the clerk must give all parties details of those attending and their role.		

At the hearing	Yes	No
Ensure that copies of the DfE and LA Guidance on pupil exclusion is available to the Committee.		
Bring copies of the agenda/procedure for all those attending.		
Before bringing the family, school and LA Officer into the room check that the all parties have received and brought the paperwork (have spare copies in case).		
Ask the Chair to explain how the meeting is to be conducted and confirm that the papers have been received.		
Ask how the parent wishes to be addressed. (Some Chairs prefer to do this themselves.)		
After the Chair has opened the meeting, the Chair should explain the running order.		
Have you taken sufficient notes to be able to remind the Discipline Committee of all the evidence that has been presented? Your notes also need to be sufficient for you to prepare minutes of the meeting.		
<p>When a decision is reached make sure you are clear about the Discipline Committee's reasons. Before the meeting concludes check with the panel the following if it is not clear:</p> <ul style="list-style-type: none"> • Committee's findings on whether the pupil committed the alleged acts. If the pupil is alleged to have committed more than one act there must be a separate finding for each alleged act • Whether the Committee found any significant procedural errors • Was the Committee satisfied that the school had used all appropriate early intervention measures and strategies to avoid exclusion? Record any specific issues reviewed • Was the Committee satisfied that the exclusion was in accordance with the school's Behaviour Policy? • If the pupil has SEN, a disability, or is a Looked After Child (LAC), record any specific discussion by the Committee on the DfE statutory Guidance relevant to these circumstances • Committee's findings on whether the length of the exclusion is proportionate and that they have taken into consideration any representations by the parents on this question. • Did the Committee take into account the pupil's previous disciplinary record in arriving at their decision? 		

At the hearing <i>continued</i>	Yes	No
<ul style="list-style-type: none"> For Permanent Exclusions: <ul style="list-style-type: none"> Reasons why Discipline Committee were satisfied that the exclusion falls within the DfE guidelines on the appropriateness of permanent exclusion as a sanction Reasons why the Discipline Committee were satisfied that allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school 		

After the meeting	Yes	No
Have you written to the parents with the Discipline Committee's decision, including the reasons, within one school day?		
Have you informed the LA Officer immediately of the decision and sent a copy of the Discipline Committee's letter?		
Prepare minutes of the meeting for the Chair to sign. These do not need to be circulated to other attendees but all parties are entitled to have a copy of the minutes if they specifically request them (including the parents even if they did not attend the meeting).		

Appendix L

Model procedure for governors' Discipline Committee meetings

xxxxxxxxxxxxxx School Governing Body

Pupil Discipline Committee Hearing

1. Welcome and introductions by the Chair of Discipline Committee, who will explain the purpose and conduct of the meeting (including the decisions the Committee can take).
Chair to check if an interpreter is required.
2. The school will put its case, explaining the circumstances and reasons for the decision to exclude the student.
3. The parents and/or their representative may ask questions of the school, their representative, and their witnesses.
4. The Governors panel may ask questions of the school, their representative, and their witnesses.
5. The parents and/or their representative will put their case, making clear any differences of opinion.
6. The school may ask questions of the parents, their representative, and their witnesses.
7. The Governors panel may ask questions of the parents, their representative, and their witnesses.
8. Advice from the LBTH Exclusions Officer (if attending).
9. The panel may ask questions of the LBTH Exclusions Officer (if attending).
10. The Chair will ask the pupil, if present, if they wish to say anything more.
11. The Chair will ask if anyone else has anything more they want to say.
12. Summing up by the school (without introducing new evidence).
13. Summing up by the parents and/or their representative (without introducing new evidence).
14. Concluding comments from the Chair of the Discipline Committee.
 - The Chair will summarise the key points that the Discipline Committee will take into account when it makes its decision.
 - The chair will ask the parents if they are satisfied they have been able to present their case fairly.
 - Chair confirms when Discipline Committee will issue its decision.

All parties except the governors' Discipline Committee and Clerk will leave the room and a decision will be made which will be confirmed in writing.

Appendix M

Decision record of Discipline Committee hearing

Clerks and Discipline Committee members are recommended to use this decision record template during their decision-making to ensure that they have considered all relevant matters when arriving at their decision. The decision record can be incorporated into the Minutes as part of the 'record of evidence'. The decision record should also be used when drafting the letter to parents giving the decision of the Discipline Committee. The statutory Guidance (paragraph 75) requires that the letter should "set out the reasons for their decision in sufficient detail to enable all parties to understand why the decision was made". It is not necessary to include the decision record in its entirety in the letter to parents although parents are entitled to request a copy of it.

Not every heading will be relevant in all exclusions. The template should be adapted as necessary.

Pupil Name:	Date of Birth:	Year:
<p>Record of the hearing</p> <ol style="list-style-type: none"> 1. Summarise representations made by (a) the school (b) the parents (c) witnesses (if any) (d) the Local Authority Exclusions Officer (if present). 2. If the pupil was present at the hearing summarise any statement they made. If the pupil was not present were the pupil's views provided at the hearing? 3. On the balance of probabilities did the pupil commit the alleged misconduct? 4. What evidence did governors take into account in deciding whether the pupil committed the alleged misconduct? (Indicate what weight was given to the principal evidence, and where evidence was disputed state expressly the Committee's findings. State whether the pupil's previous behaviour record was taken into account and what weight was given to it.) 5. Did the pupil's conduct breach the school's behaviour policy? 6. Summarise the support given to the pupil by the school, both academic and to improve behaviour, including the involvement of external agencies and of Alternative Provision. 7. Does the pupil have Special Educational Needs or a Disability or other 'protected characteristic' under the Equality Act 2010? If so <ol style="list-style-type: none"> a. What evidence was considered regarding SEN and Disability and the support given by the school? b. Did the school have regard to the SEND Code of Practice and the school's own SEN, Disability and Equality policies? c. If the pupil has a Disability or other 'protected characteristic' did the school make 'reasonable adjustments' to comply with the Equality Act 2010? 8. Were there any procedural defects? If so what weight did governors give to these? 9. Were there any relevant mitigating or aggravating circumstances? 10. Reasons why exclusion (and its duration) was an appropriate and proportionate sanction taking into account the sanctions in the school's behaviour policy, the seriousness of the misconduct, and (where applicable) the sanctions imposed on other pupils involved in the same incident(s). 11. Did the headteacher's decision to exclude comply with the Secretary of State's guidance? If the Committee finds that the head teacher failed to take into account relevant facts, or if the head teacher took into account irrelevant or immaterial information, it should say so and explain what weight they attached to this. 12. For Permanent Exclusions, did the exclusion comply with paragraph 15 of the Secretary of State's guidance? State the reasons for that conclusion for both parts of the test. 		

Decision

Either (A) Uphold the exclusion

Or (B) Direct reinstatement of the pupil. If reinstatement is directed state if immediate or on a particular date.

If reinstatement is not practical the Committee must still decide whether the decision to exclude was justified on the evidence (see paragraph 63 of the Secretary of State's guidance)

Signed:

Name:

Date:

Copy to be placed on the pupil's educational record

Appendix N

Alternative Provision

(A) Alternative Provision prior to exclusion

The local authority expects all schools to consider the use of alternative provision for pupils who are disaffected or at risk of permanent exclusion where this would be an appropriate support or intervention for the pupil. Governors' Discipline Committees should review whether alternative provision has been considered by the school for all exclusions. The Pupil Exclusion statutory Guidance (paragraph 24) requires this for pupils with additional needs, SEN Statements/EHC Plans and Looked After Children.

Schools have the legal power to require a pupil to attend off-site alternative provision temporarily for education, in order to improve their behaviour, and the Department for Education have issued statutory guidance on the use of this power ("Alternative Provision – Statutory Guidance", current version available on DfE website). However, the LA would advise that a full discussion is had with the family and securing their informed consent is the best practice.

Schools can also use the 'managed move' procedure to transfer a pupil to another mainstream school or alternative education provider permanently when there is a reasonable assumption that a change of school or provision will have a positive impact, but this must be with informed parental consent. The Pupil Exclusion statutory Guidance (paragraph 14) makes clear that schools must not use the threat of exclusion to influence parents to agree to a managed move or alternative provision. It is illegal to use alternative provision as a form of "unofficial exclusion" (Pupil Exclusion statutory Guidance paragraph 13). The procedure for managed moves has been agreed by the Tower Hamlets Behaviour and Attendance Partnership and is detailed in the Tower Hamlets Fair Access Protocol.

Under statutory guidance schools are responsible for commissioning places at alternative provision. In Tower Hamlets secondary schools have agreed, through the Behaviour and Attendance Partnership, that the local authority will commission full time places in alternative provision on their behalf. For both full time alternative provision in KS4 and for part time placements over 2 days a week it has been agreed that an application will first be made to the Social Inclusion Panel (SIP).

The local authority has contracts with the Pupil Referral Unit, City Gateway and Tower Hamlets College for full time alternative placements. Further information on the provision offered is available in the local authority's 'Alternative Provision Directory'. The procedures for accessing alternative provision via the local authority are set out in the Fair Access Protocol. It is a requirement that a CAF has been completed to ensure there is a thorough assessment and understanding of the case prior to, and to support, transition.

When the local authority commissions full time alternative provision it will only commission places with providers who have been quality assured by the local authority. When SIP approves a part time placement over 2 days it will also ensure that the provider the school intends to commission is one of those which have been quality assured. The quality assurance includes the provider's safeguarding and health and safety procedures, their quality of teaching and learning, and their pupil achievement and standards. The full scope of the quality assurance is in the local authority's 'Alternative Provision Directory' and meeting the quality assurance standard is a prerequisite for the provider being included in the Directory.

Local authority quality assurance evaluates the quality and consistency of the provider overall but it does not guarantee that the provision is appropriate for the needs of any particular pupil. It is for schools initially to determine, after an assessment of a pupil's needs, whether an alternative provision is likely to meet a pupil's personal and social needs, will improve motivation, self-confidence, attendance and engagement, and provide high quality education which enables educational attainment to be on a par with peers, particularly in English, Maths, and IT. This will then be referred to the local authority Social Inclusion Panel for verification that the request for alternative provision is justified, is appropriate to the needs of the pupil, and that there is informed consent from the parents.

Pupils at alternative provision will usually remain 'Dual Registered' between the school and the alternative education provider. The full registration requirements are in the Fair Access Protocol. Schools are responsible for a pupil's academic and vocational achievement, attendance (jointly with the provider), and welfare and safety, while at alternative provision and schools must have procedures in place for monitoring this. Schools must not rely on the local authority to monitor pupil outcomes. Ofsted inspections of the referring school will evaluate the effectiveness of alternative provision, including safeguarding and the academic progress of pupils, how effective the alternative provision is at improving behaviour, learning and attendance, and how the referring school monitors the placement.

For a pupil placed permanently in alternative provision i.e. the Pupil Referral Unit Key Stage 4 programme or City Gateway, **the pupil comes off the roll** of the referring school and the local authority therefore takes responsibility for monitoring the placement and outcomes.

For placements of **two days a week or less** the school is solely responsible for commissioning and quality assuring the alternative provision. These placements are not required to go via the Social Inclusion Panel. When commissioning direct the school is responsible for ensuring the reasons for the alternative provision are transparent and justified, that the family have given informed consent, that the provision is appropriate, that all standards are met, including safeguarding, and for the ongoing monitoring of these. Ofsted's evaluation of the referring school's use of alternative provision will be the same as for longer placements. The local authority strongly advises schools to only use those providers that the authority has approved and included in the 'Alternative Provision Directory'. If a **school chooses to use a provider not approved by the local authority** it will not have the protection of the independent review of providers to support this arrangement.

(b) Alternative Provision after exclusion – primary and secondary pupils

For Fixed Term Exclusions of 6 days or more the school is responsible for commissioning full time alternative placements ('6th Day Provision'). (In Tower Hamlets the Secondary Behaviour and Attendance Partnership has currently agreed that the schools will use London East AP for this provision because of the additional safeguards this brings in terms of quality assurance: the LA facilitates this on their behalf. This situation rarely arises for Primary schools and so the LA assists them in making suitable arrangements. Special Schools should consult the LA's SEN Team on an alternative arrangement, if it is considered that London East AP is not an appropriate provision for the pupil concerned.

For permanent exclusions the local authority is responsible for commissioning alternative placements from day 6 (Pupil Exclusion statutory Guidance paragraphs 43 - 49). Permanently excluded pupils remain dual registered until any review by an Independent Review Panel [IRP] has been concluded, or until 15 school days after exclusion if the parent does not apply for an IRP review (Pupil Exclusion statutory Guidance paragraphs 79 - 82).

Notwithstanding local partnership arrangements, the school remains responsible for monitoring the quality and effectiveness of the provision as well as the pupil's attendance, whilst they remain dual registered. The Department for Education emphasise that exclusion from school must not mean exclusion from a good education. Ofsted evaluation of the school will include its commissioning and monitoring of post-exclusion provision in the same way as other alternative provision. Schools are strongly advised to use the provision agreed by the partnership and not to use any provision outside those listed in the 'Alternative Provision Directory'.

Schools should also take into account the Pupil Exclusion statutory Guidance on commissioning placements earlier than Day 6 for Looked After Children (paragraphs 45). The Authority provides for this to be arranged from as early as Day 1, from London East's Short Stay Provision at Harpley Centre, 21 Tollet Street, E1 4EE.

Appendix O

LBTH contacts for further information

Pupil Services

Head of Pupil Services

Terry Bryan

Children's Services

5th Floor, Town Hall

Mulberry Place

5 Clove Crescent

E14 2BG

📞 020 7364 4304

📠 020 7364 4311

Lead Pupil Exclusions and Access Officer

(Exclusions, FAP and 6th Day Provision)

Serena John-Baptise

📞 020 7364 6150

📠 020 7364 4311

Specialist AWA for Children Missing Education

Brendan Mulcahy

📞 020 7364 3426

Behaviour Support Service

Head of Behaviour Support Service

Kerry Marriner

📞 020 7364 6456

Co-ordinator Social Inclusion

Sue Dawn

📞 020 7364 6263

Anti Bullying Lead

Liam Mcquade

📞 020 7364 6263

Behaviour Support Team Admin Officer

Carol Stuart-Evans

📞 020 7364 6476

London East AP

Head of London East AP

John Bradshaw

📞 0207 791 7720

Attendance and Welfare Advisor

Jacqui McCreanor/Noorjahan Rashid

📞 020 7364 3427

Healthy Lives Adviser – Drugs and Alcohol

Kate Smith

📞 020 7364 6433

Youth Offending Team

Billy Finnegan

📞 020 7364 2041

Virtual School for looked After Children

David Cregan

📞 020 7364 5094

PA to Headteacher & Administrator

Virtual School for LAC

Kay Gormley

📞 020 7364 6304

Clerk to the Independent Appeal Panel

Stephen Payne

PO Box 367

Cuffley

Herts

EN6 4JE

📞 01707 695252

Parents Advice Centre

30 Greatorex Street

London

E1 5NP

📞 020 7364 6489

Equality and Human Rights Commission

Fleetbank House

2-6 Salisbury Square

London

EC4Y 8JX

www.equalityhumanrights.com

✉ correspondence@equalityhumanrights.com

📞 0808 800 0082

Textphone: 0808 800 0084

Special Educational Needs and Disability Tribunal (SEND)

HM Courts & Tribunals Service,

Special Educational Needs and Disability,

1st Floor,

Darlington Magistrates' Court,

DL1 1RU

📞 01325 289350,

✉ sendistquiries@hmcts.gsi.gov.uk.

<http://www.justice.gov.uk/tribunals/send/appeals>

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Ministerial and Public

Communications Division

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