# Ysgol Gynradd
# Tonysguboriau
# Primary School




# Exclusions Policy

CYFLAWNI TEGWCH A RHAGORIAETH MEWN ADDYSG A GWELL LLES I BAWB

EQUITY AND EXCELLENCE IN EDUCATION AND ENHANCED WELLBEING FOR ALL

# Management of Exclusions from Schools and Pupil Referral Units

Guidelines on the procedures and protocols set out by Welsh Government and the Local Authority

## Access and Inclusion Service

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# Introduction

When making decisions regarding exclusions and administering the exclusion procedures and appeals process head teachers, teachers in charge of a Pupil Referral Unit (PRU), governing bodies, Local Authorities and independent appeal panels must, by law, have regard to the Welsh Government guidance set out in *Exclusions from schools and pupil referral units* (guidance document 294/2024 - April 2024). There is a strong expectation that this guidance will be followed unless there is good reason to depart from it. The guidance is not exhaustive, and judgements need to take account of the circumstances of individual cases.

These procedures apply to all maintained schools, including nursery schools and PRUs, and all learners in them, including any who are below or above compulsory school age. Although there will be times when an exclusion may be deemed to be the appropriate sanction for misbehaviour, this guidance is set out to ensure that exclusions are carried out in a fair and equitable manner and to ensure that interventions are implemented to improve behaviour without solely relying on persistent sanctioning.

This LA guidelines document provides RCT schools with an overview of the salient features of the guidance. It is designed to support schools and governing bodies in managing any exclusions appropriately with due regard both to the legal obligations set out by Welsh Government and to the expectations of the local authority.

Repeated or prolonged exclusions are likely to have negative effect on a learner's education and attainment. Such pupils are liable to become disengaged and subsequent sanctions will likely become less not more effective. WG guidance sets out that exclusions should be for the shortest possible period as the longer a pupil is out of school the harder it will be to reintegrate them back into mainstream education. Indeed, repeated and lengthy exclusions are likely to lose their impact and not deter further misbehaviour but serve to create greater disengagement.

Schools should also be particularly mindful of the effect of exclusions on more vulnerable learners and the increased risks that they may face. Such pupils would include those with additional learning needs (ALN) including social, emotional, and behavioural difficulties and those who are looked after.

Although the order of these local authority guidelines closely follows that of the WG guidance some elements have been brought together to clarify procedures in an abbreviated and simplified form. They are specifically aimed at meeting the needs of schools within RCT taking into account the protocols and procedural expectations set out by the Local Authority (LA). Further important and relevant information is set out in the LA Managed Moves Protocol and Fair Access Protocol documentation.

Additional advice regarding reducing and managing exclusions should be sought from officers within Access and Inclusion who will be able to give specific guidance and support in relation to individual cases and provide training for both schools and governors.

## Definitions and glossary

**'Fixed-term exclusion'** (FTE) – a sanction that precludes a learner from attending an individual school for a limited period

**'Permanent exclusion'** (PEx) – a sanction that precludes a learner from returning to an individual school unless reinstated by the governing body or the appeal panel

**'Relevant persons'** - all those who must be formally notified of any exclusions and who share rights under the appeals protocols. These are:

- the parent/carer, if the learner is of primary school age or below
- both the parent/carer and learner, if the learner is of compulsory secondary school age
- the learner, if over compulsory school age (normally 16)

**'Parent/carer'** - anyone who has parental responsibility for, or care of, a learner, which includes guardians and corporate parents. Where a learner is the subject of a care order, the local authority will have parental responsibility for the child.

**'Pupil referral unit'** (PRU) - throughout these guidelines, references to a school should be read as referring equally to a PRU. In particular, where the term 'head teacher' is used this also refers to the teacher in charge of a PRU. Where WG guidance applies differently to PRUs then this will be indicated separately.

**'Pupil Discipline Committee'** (PDC) - the school's governing body's pupil discipline and exclusions committee. In PRUs this comprises members of the management committee.

**'Independent Appeals Panels'** (IAPs) - set up by the LA to examine cases of learners who are permanently excluded if the relevant persons wish to dispute the decision of the discipline committee.

**'Fair Access Protocol Panel'** (FAPP) – the body, run in co-ordination between the LA and the schools, that administers the placement of 'hard to place' more vulnerable pupils including those via managed moves and following permanent exclusion.

The **'Exclusion Prevention and Intervention Teacher'** (EPIT)- the LA officer whose role is to guide schools in managing exclusions appropriately and to support schools in seeking to reduce both the number and length of exclusions. The EPIT also serves as the parental contact within the LA and should be named as such in any exclusion letters (see Appendix A).

**'Education Other Than at School'** (EOTAS) – the agency that supports schools in providing appropriate provision for learners excluded for individual periods longer than 15 days including permanent exclusions (see Section 2.2).

## Behaviour Policies

Schools must have policies and procedures in place that promote good behaviour and prevent poor behaviour. A school's behaviour and attendance policy should be seen as an integral part of its curriculum, as all schools teach values as well as skills and knowledge.

The policy should be trauma-informed, underpinned by the **United Nations Convention on the Rights of the Child (UNCRC)** and must be based on clear values such as respect, fairness and inclusion, and reflect the school's overall aims and its social, moral and religious education programmes. These values should be the basis for the principles underlying the school's behaviour and attendance policy.

The principles should include promoting self-discipline and respect for others, and the importance of listening to all members of the school community, including the learners. They should be relevant to every member of the school community, including staff and parents and carers. Section 4 of **Inclusion and Pupil Support** provides further guidance on behaviour policies.

The policy should also embed a children's rights approach, tie in with the school's approach to emotional and mental wellbeing, advance equality of opportunity between learners, and tackle inequalities and discrimination.

When revising their behaviour policy, schools should ensure there are opportunities for learners to participate in making decisions about any revisions made.

Schools should raise awareness of the school complaints policy when consulting with children, young people and parents and carers about the behaviour policy.

Schools must assess the impact of their proposed or existing policies, procedures and practices in accordance with their specific duties under the **2010 Act.**

In assessing the impact of their behaviour policy, schools and governing bodies should monitor their exclusions data to ensure that they are not disproportionally excluding groups of learners with protected characteristics.

The duty to make reasonable adjustments also applies to school policies. Schools must ensure reasonable adjustments have been made to the school behaviour policy to avoid indirect disability discrimination and discrimination arising from disability.

They should be relevant to every member of the school community, including staff and parents/carers as promoted within RCT's Trauma Informed, Restorative Approaches and Well Being projects.

**Important School Policies:**

- Behaviour and Attendance
- Substance Misuse
- Equalities Plan and Policy
- School Exclusion Policy

## Summary

This guidance covers the exclusion of learners from schools and pupil referral units (PRUs), the procedures for appealing against an exclusion and steps to take to maintain the education of excluded learners.

1. **Use of exclusion**

   General guidance on deciding whether or not a learner should be excluded and the arrangements for their education during and after exclusions. This is relevant to the work of headteachers, discipline committees and independent appeal panels.

2. **Procedure for excluding a learner: role of headteacher**

   Guidance for headteachers and teachers in charge of PRUs on procedures to be followed when they decide to exclude a learner.

3. **Responsibilities of the discipline committee**

   Guidance on the work of the discipline committees of governing bodies and PRUs, which must review all permanent and serious fixed-term exclusions.

4. **Independent appeal panels**

   Guidance on the establishment of and support for independent appeal panels, which consider appeals against permanent exclusions that have been endorsed by the discipline committee.

5. **Police involvement and parallel criminal proceedings**

   Guidance on exclusion decisions and appeals in cases of police involvement and possible parallel criminal proceedings.

6. **Procedures and reintegration following exclusion**

   Guidance on the steps that need to be taken immediately following an exclusion and for maintaining the longer-term provision of education for excluded learners.

The guidance revises that currently contained in 'Exclusion from schools and pupil referral units', Guidance document 255/2019. The guidance is in 7 parts. Information for children and young people can be found in 'Are you being excluded from school?'

## The Legal Framework

The guidance is based on the:

- Education Act 2002
- Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003
- Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003
- Education (Pupil Exclusions and Appeals) (Wales) (Miscellaneous Amendments) Regulations 2004
- Government of Maintained Schools (Wales) Regulations 2005
- Education (Reintegration Interview) (Wales) Regulations 2010
- Equality Act 2010 ("the 2010 Act")
- Education (Pupil Referral Units) (Management Committees etc.) (Wales) Regulations 2014
- Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) (Amendment) Regulations 2024

## 1. Use of exclusion

### 1.1 The decision to exclude

**1.1.1** A decision to exclude a learner should be taken only:

- in response to serious breaches of the school's behaviour policy and
- if allowing the learner to remain in school would seriously harm the education or welfare of the learner or others in the school

**1.1.2** Only the headteacher or teacher in charge of a PRU can exclude a learner. If they are absent from school, then the most senior teacher may exercise the power of exclusion, though they should make clear that they are acting in the headteacher's absence. The headteacher or teacher in charge cannot routinely, or on an ad hoc basis, delegate the power to exclude to another teacher.

**1.1.3** A decision to exclude a learner permanently is a serious one. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies that have been tried without success. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the learner and should normally be used as a last resort.

**1.1.4** There will, however, be exceptional circumstances where in the headteacher's judgement it is appropriate to permanently exclude a learner for a first or one-off offence. These might include:

- serious actual or threatened violence against another learner or a member of staff
- sexual abuse or assault
- supplying an illegal drug
- use or threatened use of an offensive weapon

**1.1.5** In most cases it would be appropriate for schools to inform the police if they believe such a criminal offence has taken place. There may be cases where this approach is appropriate for learners excluded for a fixed term. Schools should also consider whether or not to inform other agencies, for example, the youth offending team and social workers.

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

### 1.2 Drug-related exclusions

**1.2.1** In making a decision on whether or not to exclude for a drug-related offence the headteacher should have regard to the school's published policy on substance misuse and should consult the appropriately trained members of the school staff. The decision, however, will also depend on the precise circumstances of the case and the evidence available. In some cases fixed-term exclusion may be more appropriate than permanent exclusion. In more serious cases, an assessment of the

incident should be made against criteria set out in the school's policy. This should be a key factor in determining whether permanent exclusion is an appropriate course of action.

**1.2.2** Details on developing and implementing substance misuse policies are contained in Guidance for substance misuse education.

**1.3 Factors to consider before making a decision to exclude**

**1.3.1** Exclusion should not be imposed in the heat of the moment, unless there is an immediate threat to the safety of others in the school or the learner concerned. Before deciding whether to exclude a learner, either permanently or for a fixed term, the headteacher should:

- ensure that an appropriate investigation has been carried out
- consider all the evidence available to support the allegations (the more serious the allegation and thus the possible sanction, the more convincing the evidence substantiating the allegation needs to be)
- take account of the school's behaviour and equal opportunities policies
- take into account the age of the learner and, where applicable, the 2010 Act (including, for example, any disabilities the learner may have)
- allow the learner to give their version of events
- check whether the incident may have been provoked, for example by bullying or by racial or sexual harassment
- if necessary consult others, but not anyone who may later have a role in reviewing the headteacher's decision, for example a member of the discipline committee
- keep a written record of the incident and actions taken

**1.3.2** The standard of proof to be applied is the 'balance of probabilities', meaning if it is more probable than not that the learner did what they are alleged to have done, the headteacher or teacher in charge may exclude the learner. However, the more serious the allegation and thus the possible sanction, the more convincing the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard of 'beyond reasonable doubt' to be applied.

**1.3.3** Where a police investigation leading to possible criminal proceedings has been initiated, the evidence available to the headteacher may be very limited. However, it should be possible for the headteacher to make a judgement on whether to exclude the learner. See section 5 of this guidance, which deals with those circumstances in more detail.

### 1.4 When exclusion is not appropriate

**1.4.1** Exclusion should not be used for:

- minor incidents, such as failure to do homework
- poor academic performance
- lateness or truancy
- pregnancy
- ill health
- breaches of school uniform rules or rules on appearance, including jewellery and hairstyle (see, for example, the Equality and Human Rights Commission guidance Preventing hair discrimination in schools)
- punishing learners for the behaviour of their parents or carers, for example where parents or carers refuse or are unable to attend a meeting
- protecting victims of bullying by sending them home

**1.4.2** In addition, schools need to consider whether it is appropriate to exclude learners with additional learning needs (ALN) or learners with a disability and whether the exclusion would be regarded as discrimination.

### 1.5 Supporting children: alternatives to exclusion

**1.5.1** Exclusion should not be used if alternative solutions are available. Examples include the following.

- Pastoral support programmes (PSPs) may be appropriate where learners who are not responding to schools' general actions to combat disengagement and disaffection are in need of longer-term intervention. PSPs are plans that help schools to understand why learners are behaving in specific ways and support learners to better manage their behaviour. PSPs should be drawn up using a multi-agency approach (including the learner and parents or carers) and reviewed on a regular basis
- Restorative justice gives offending learners the opportunity to redress the harm that has been done to a victim and enables all parties with a stake in the outcome to participate fully in the process. All professionals need to be involved in the process and all parties must consent to participate.
- Internal exclusion can be used to diffuse situations that require a learner to be removed from class, where the situation may not require exclusion from the school premises. The exclusion could be to a designated area within the school, with appropriate support, or to another class on a temporary basis.

**1.5.2** Sometimes practices that are referred to as time out, chill out or isolation, including the use of sensory tents, meet the definition of seclusion if the child or adult is put in a room and not able to leave of their own free will. It is not recommended

that children should be secluded in any setting (see Reducing restrictive practices framework).

**1.5.3** Internal exclusions may continue during break periods. Schools should, however, ensure that learners have opportunity to rest and engage in play (article 31 of the UNCRC states that every child has the right to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts).

- Managed moves can be used where a school feels that it can no longer manage the behaviour of a particular learner, and it is in the best interests of the child. The school may arrange, normally through the local authority, for another school to take over the learner's education. This should only be done with the full knowledge and cooperation of all parties involved, including the parents or carers and the local authority. Where the parent/carer and/or learner do not feel that the managed move is an option they wish to explore, then, the headteacher, parent or carer and the learner together need to look for other possible solutions that meet the needs of the learner (further information about managed moves can be found in Effective managed moves: A fresh start at school for children and young people).

Parents or carers should never be pressured into removing their child from school under threat of a permanent exclusion, nor should learners be deleted from the school roll to encourage them to find another school place. Regulation 8 of the Education (Pupil 10 Registration) (Wales) Regulations 2010 details the only lawful grounds for deleting a learner's name from the school roll.

Schools should provide children, their parents or carers, and young people with accessible information about managed moves to enable them to make an informed decision about whether they consider a managed move would be in the best interest of the child or young person.

### 1.6 Unlawful exclusions

**1.6.1** If a headteacher is satisfied, on the balance of probabilities, that a learner has committed a disciplinary offence and needs to be removed from the school site, formal exclusion is the only legal method of removal.

**1.6.2** Unlawful exclusions, more commonly referred to as informal or unofficial exclusions, are unlawful regardless of whether they are done with the agreement of parents or carers. Unlawful, unofficial or informal exclusion refers to:

- sending learners home for disciplinary reasons, but not following the procedures required for formal exclusion
- learners being sent home for either short periods of time or for longer indefinite periods which can sometimes result in the learner not returning to school at all

For example, where a learner is sent home for disciplinary reasons for part of a school day, the school may view this as a 'cooling off' period and not take action to

exclude the learner formally. There is no basis in law for this and the relevant regulations do not state a minimum length of exclusion, so if a learner is sent home, even for short periods of time, this must be formally recorded as an exclusion.

**1.6.3** In every instance where a learner is sent home for disciplinary reasons, headteachers must formally record and specify the length of the exclusion (for reporting purposes this should be recorded as a half day, whole day or lunchtime (equivalent to quarter of a day)). They should ensure that:

- they are meeting their legal duty of care towards learners, and that parents and carers are formally notified of the exclusion
- child protection issues are taken into account, for example bearing in mind the learner's age and vulnerability, that a parent or carer is at home and the learner is not placed at risk by, for example, being left to wander the streets
- work is sent home or alternative provision is arranged.

**1.6.4** The very fact that unlawful exclusions are not recorded means that it can be extremely difficult to identify instances of this practice. If a learner is excluded unlawfully they are unlikely to have educational provision made for them.

**1.7 Length of fixed-term exclusions**

**1.7.1** The regulations allow headteachers to exclude a learner for one or more fixed terms not exceeding 45 school days in any one school year. However, individual exclusions should be for the shortest time necessary, bearing in mind that exclusions of more than 2 days make it more difficult for the learner to reintegrate into the school. Inspection evidence suggests that 1 to 3 days is often long enough to secure the benefits of exclusion without 11 adverse educational consequences. Exclusions may not be given for an unspecified period, for example until a meeting can be arranged. Such a practice amounts to an unlawful exclusion, for which no legal arrangements exist.

**1.7.2** The limit of 45 days applies to the learner and not to the institution. Any days of fixed term exclusion served on the learner in any school or PRU in the same school year will count towards the total. It is important, therefore, that when a learner transfers to a new school during the current academic year, records of any fixed-term exclusions a learner has received during the current academic year are transferred promptly to the new school.

**1.7.3** A fixed-term exclusion does not have to be for a continuous period. For example, a learner may normally attend school 3 days a week and a PRU for the other 2; so a 5-day exclusion from the school could be for 3 days in one week and 2 days in the following week.

**1.7.4** A learner who exceeds 45 days of fixed-term exclusions within a school year does not automatically proceed to a permanent exclusion. The 45-day 'limit' has been placed in Regulations to avoid ineffective use of fixed-term exclusion.

**1.7.5** Discipline committees must convene when a learner exceeds 15 days fixed-term exclusion within a term. If a learner's total number of days of fixed-term

exclusion exceeds 15 school days in one term, any subsequent fixed-term exclusion or fixed-term exclusions of the learner in the same term would again trigger the discipline committee's duty to consider the circumstances of the exclusion.

**1.7.6** As the decision to exclude should not be taken lightly the governing body may consider it appropriate to convene to consider a situation where there has been 25 to 30 days of fixed-term exclusion within the school year, regardless of whether the exclusions occurred in different terms. If schools look to adopt this approach when a learner reaches 25 to 30 days, it could provide for an additional safeguard from a learner accruing 45 days and another opportunity for schools and local authorities to reassess any support plans in place.

**1.8 Setting and marking work**

**1.8.1** The school's obligation to provide education continues while the learner is still on the roll. The name of a permanently excluded learner should remain on the school roll until the appeals procedure is completed, or until the time for appeals has expired without an appeal being lodged. It may be removed earlier if the parents, carers or learner give notice in writing that they do not intend to appeal.

**1.8.2** In all cases of more than a day's exclusion, work should be set and marked. Headteachers must arrange for work to be provided as soon as a learner is excluded for a fixed term. Parents or carers should arrange for the work to be collected and returned. The school must ensure the work is marked and that further work is set until the learner returns to school. Letters to parents, carers or learners informing them of the exclusion must include the arrangements for setting and marking work.

**1.8.3** Where a school provides online learning for learners who have been excluded, it must ensure the learner has access to the required digital technology. Where this is not the case, schools must provide work that does not require access to digital technology.

**1.8.4** The governing body is responsible for ensuring that the school complies with these requirements. Headteachers should have a written policy on arrangements for receiving 12 learners back into school after a fixed-term exclusion. The policy should include the requirement set out in the Education (Reintegration Interview) (Wales) Regulations 2010, which places a duty on a headteacher to request a reintegration interview with a parent or carer of a learner of compulsory school age who has been excluded:

- from a primary school for any fixed period
- from a secondary school for a fixed period of 6 or more school days

**1.8.5** The policy should include receipt of work completed during the exclusion. However, failure to complete work does not constitute a reason for refusing to allow the learner to return to school.

**1.8.6** Partnership agreements between local authorities and each of the schools it maintains must set out the responsibility of the school for the setting and marking of work for excluded learners.

**1.8.7** Where a headteacher is considering excluding a learner for more than 15 school days in any one term, whether permanently or for a fixed term, they should put in place plans to address the difficulties the learner is experiencing and secure their continuing education. The Welsh Government expects local authorities and schools to work toward ensuring all learners excluded for more than 3 weeks receive full-time and appropriate education. Where, in exceptional cases, this is not possible owing to the circumstances of an individual learner, there should be in place plans for full-time, appropriate provision with regular reviews of progress.

**1.8.8** The school therefore must initiate early contact with the local authority, ideally before the learner is excluded, to discuss how to provide an appropriate package of full-time education for the learner that will facilitate reintegration into the school at the end of the exclusion. The school needs to involve other relevant agencies such as education social work and education psychology services, social services or medical services in this process. The school and the local authority need to discuss how the cost of providing education for the learner will be met. The school would usually be expected to meet some of the costs.

### 1.9 Lunchtime exclusion

**1.9.1** Some learners' behaviour can be particularly difficult at lunchtime. Where this is the case, it may be possible, through discussion and agreement with the parent or carer, to arrange for the learner to go home for lunch. If this is not feasible, provision exists to exclude the learner for the duration of the lunchtime, placing the legal responsibility for the learner back with the parent or carer.

**1.9.2** Where lunchtime exclusion is used it should be a short-term measure only, with regular review of whether it continues to be an appropriate approach. Lunchtime exclusion must be treated as equivalent to one-quarter of a school day. If these quarter days add up to more than 5 school days in a school term, including when they are added to other fixedterm exclusions, this will then entitle the relevant person to make representations to the governing body.

**1.9.3** Where a learner is kept in the school during lunchtime, but away from other learners, this will not count as a formal exclusion but as an internal exclusion. Arrangements must be made for learners who are entitled to free school meals. This may mean providing a packed lunch. Where internal exclusion is used, schools should ensure learners have opportunity to 13 rest and to engage in play (article 31 of the UNCRC states that every child has the right to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts).

### 1.10 Removal of learners for specific lessons

**1.10.1** Learners may be removed from a class, on a one-off basis, as part of a school's range of sanctions against disruptive behaviour. Learners should not, however, be removed regularly from specific lessons as a way of dealing with disruptive behaviour unless other suitable arrangements are made for the learner's education. In these circumstances the situation should be discussed with the parent or carer and learner, and the school should review the arrangements regularly, with a

view to the learner returning to the lessons. Removal of learners for specific lessons is not classified as an exclusion.

### 1.11 Removal of learners from school in exceptional circumstances

**1.11.1** There may be exceptional circumstances in which headteachers need to remove learners from the school site when exclusion would be inappropriate. An example is where a learner is accused of committing a serious criminal offence that took place outside the headteacher's jurisdiction or where there may be insufficient evidence to warrant exclusion.

**1.11.2** A headteacher can authorise leave of absence for a fixed term, with the parents' or carers' agreement. Alternatively, exercising powers delegated to the governing body (or management committee for PRUs) under section 29(3) of the Education Act 2002 gives the governing body the power to direct a learner to attend educational provision elsewhere (without parental approval, although the parents or carers should be notified).

**1.11.3** However, such educational provision elsewhere must be arranged for the purposes of receiving any instruction or training included in a curriculum for those learners by virtue of the Curriculum and Assessment (Wales) Act 2021 or the Learning and Skills (Wales) Measure 2009 and should not be continued for longer than is absolutely necessary. Whether the learner has been granted leave of absence or is being educated elsewhere, the school must ensure that the learner's full-time education continues while off-site. Any such arrangements do not amount to an exclusion from school on disciplinary grounds and should be kept under periodic review involving the parents or carers. Where there is sufficient evidence to enable a headteacher to consider exercise of the power to exclude, the Welsh Government would expect the headteacher to consider exercising that power, rather than the power in section 29(3) of the Education Act 2002, or authorising leave of absence. It is important that in the exceptional circumstances where the section 29(3) power or authorised leave of absence is used, the headteacher's actions and arrangements are documented to remove any possibility of this being construed as an unlawful exclusion.

**1.11.4** If exclusion sometime later remains a possibility, the headteacher should make the parents or carers aware of this at the outset. The more time that passes the more likely it is that the exclusion will be regarded as an improper exercise of the power. The section 29(3) power should not be used to direct learners off-site for educational provision or training to improve their behaviour.

### 1.12 Removal of learners on medical grounds

**1.12.1** Headteachers may send a learner home, after consultation with the learner's parents or carers and a health professional (such as a school nurse) as appropriate, where because of a diagnosed illness such as a notifiable disease the learner poses an immediate and serious risk to the health and safety of other learners and staff. This is not an exclusion but an authorised absence and should be recorded as such in the attendance register. It should be for the shortest possible time. If difficulties persist, the headteacher should seek medical advice.

**1.12.2** Health and safety considerations, including a risk assessment, can contribute to a school's case for exclusion, but cannot in themselves be grounds for exclusion, which can only lawfully be for disciplinary reasons. Similarly, learners cannot be sent home on health and safety grounds for their own protection because they are being bullied.

### 1.13 Parental cooperation

**1.13.1** If a parent or carer refuses to cooperate with a formal exclusion by sending the excluded learner to school or refusing to collect or arrange collection of the learner at lunchtime, the school must have due regard for the learner's safety in deciding what action to take. An exclusion should not be enforced if doing so may put the safety of the learner at risk. If efforts to resolve the issue with the parents or carers are unsuccessful, the school should consider whether to contact the Education Welfare Service and seek the advice of the local authority about available legal remedies.

### 1.14 'Voluntary' withdrawals: suggesting parents or carers remove a learner from the register

**1.14.1** Influencing or encouraging parents or carers to 'voluntarily' withdraw their child from school as a way of dealing with difficult or challenging behaviour is not an appropriate response. Heavy pressure put on parents or carers to withdraw their child, particularly to withdraw a child permanently, denies the child's right to an education (see section 1.18, paragraph 1.18.1 in relation to articles 28 and 29 of the UNCRC), as it is unlikely that a new school place can be arranged quickly. In the case of learners encouraged to leave school towards the end of Year 11, it can mean that they become 'lost' to the work and training environment and increases their risk of becoming socially excluded.

**1.14.2** 'Voluntary' withdrawals deny the learner and the parent or carer the safeguards of access to the exclusion and appeals procedures to which they are entitled. A headteacher who considers a learner's behaviour sufficiently difficult to warrant exclusion, either for a fixed term or permanently, should use the procedures described in this guidance. Alternatively, they may wish to discuss the possibility of a 'managed move' to another school with the parents or carers and the local authority.

**1.14.3** Local authorities will need to consider what action is appropriate where schools are found to be practising 'voluntary' withdrawals.

### 1.15 Behaviour outside school

1.15.1 Learners' behaviour outside school, on school business, for example on school trips, away school sports fixtures or work experience placements is subject to the school's behaviour policy. As such any incidence that occurs in these circumstances should be dealt with as if it had taken place in school. For behaviour outside school, but not on school business, a headteacher may exclude a learner if there is a clear link between that behaviour and maintaining good behaviour and discipline among the learner body as a whole. This will be a matter of judgement for

the headteacher. Learners' behaviour in the immediate vicinity of the school or on a journey to or from school can, for example, be grounds for exclusion.

**1.15.2** Schools must act reasonably both in relation to expectations of learners' behaviour and in relation to any measures determined for regulating behaviour by learners when off the school site and not under the control or charge of a member of staff. Schools need to decide what to take into account in deciding whether or not a sanction in a particular case is reasonable.

**1.15.3** Schools may find it helpful to relate whatever factors they decide to use to a set of overall objectives that make clear why a policy for regulating behaviour off school premises is being applied. Such objectives might be to:

- maintain good order on transport, educational visits or other placements such as work experience or college courses
- secure behaviour that does not threaten the health or safety of learners, staff or members of the public
- provide reassurance to learners who may feel threatened or intimidated by the behaviour of a small minority of their peers
- provide reassurance to members of the public about school care and control over learners and thus protect the reputation of the school
- provide protection to individual staff from harmful conduct by learners of the school when not on the school site

**1.15.4** School staff who intervene to control the behaviour of learners on public transport or in public places should be mindful of the fact that they are not empowered to use measures beyond their normal common law powers as citizens.

**1.15.5** Section 4 of Inclusion and pupil support provides further guidance on behaviour and conduct outside of school.

**1.16 Learners with additional learning needs**

**1.16.1** An upper-tier ruling made in 2018 means that schools are required to demonstrate that the decision to exclude a learner with a recognised condition that is more likely to result in a tendency to physical abuse was a proportionate means of achieving a legitimate aim and that they had made the appropriate reasonable adjustments in respect of managing the learner's behaviour.

**1.16.2** Statutory guidance on identifying, assessing and making provision for learners with ALN, including those with behavioural, social and emotional needs, is provided in the Additional Learning Needs Code for Wales. Schools must have regard to this guidance. Where it is brought to its attention, or otherwise appears to a maintained school (including a PRU), that a child at the school may have ALN, the school must (subject to certain exceptions) decide whether the child has ALN and, where required, prepare and maintain an individual development plan (IDP) for the child.

**1.16.3** Other than in the most exceptional circumstances, schools should avoid permanently excluding learners with an IDP. They should also make every effort to avoid excluding learners who are engaged with a process under the ALN system, such as where a decision is being made or an IDP is being prepared.

**1.16.4** In most cases, the headteacher will be aware that the school is having difficulty managing a learner's behaviour well before the situation has escalated. Schools should try every practicable means to maintain the learner in school, including seeking local authority and other professional advice and support through an IDP or, where appropriate, asking the local authority to prepare or maintain an IDP. For a learner with a local authority-maintained IDP, where this process has been exhausted, the school should liaise with their local authority about initiating a formal review of the learner's IDP.

**1.16.5** Where a learner is permanently excluded, the headteacher should use the period between their initial decision and the meeting of the discipline committee to work with the local authority to see whether more support can be made available or whether the IDP can be changed to name a new school. If either of these options is possible, the headteacher should normally withdraw the exclusion.

**1.16.6** It is extremely important that parents or carers of learners with ALN who are excluded from school receive advice on the options available for their child's future education. Schools should advise parents or carers that advice and information on ALN is available from the local authority.

**1.17 Equality**

**1.17.1** Schools should operate in line with the principle of equality and non-discrimination as set out in article 2 of the UNCRC.

**1.17.2** The 2010 Act consolidates and replaces the previous discrimination legislation for Wales, England and Scotland. It also strengthens the law to support progress on equality. The Equalities and Human Rights Commission have developed detailed Codes of Practice. The protected characteristics

**1.17.3** The 2010 Act protects learners from discrimination based on protected characteristics. The relevant protected characteristics are disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

**1.17.4** Disability includes disability related to both mental impairments and physical impairments. Under the 2010 Act a person with a disability is someone who has-a physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

**1.17.5** Learners with ALN may be considered to have a disability under the 2010 Act. This includes learners who have neurodevelopmental conditions such as autism. It is not necessary to have a diagnosis to be considered a disabled person.

**Definitions of discrimination**

**1.17.6** Under the law, there are different categories of discrimination with differences in the legal framework surrounding them. 'Direct discrimination' happens when a learner is treated less favourably than others in comparable circumstances because of a protected characteristic.

Direct discrimination is generally unlawful. 'Discrimination by association' is a form of direct discrimination that occurs if, for example, a school treats a learner less favourably because of that learner's association with another person who has a protected characteristic.

'Discrimination by perception' is another form of direct discrimination where a learner is treated less favourably because the learner is wrongly thought to have a particular relevant characteristic or is treated as if they do have that characteristic.

'Indirect discrimination' occurs when a provision, criterion or practice is applied equally to all but has the effect, or would have the effect, of placing learners of one or more protected groups, for example disabled learners, at a substantial disadvantage as a result. Indirect discrimination is unlawful unless it can be shown to be a proportionate means of achieving a legitimate aim.

'Discrimination arising from disability' occurs when a disabled learner is treated unfavourably, not because of the learner's disability but because of something arising from, or in consequence of, their disability. For example, this could be where a learner needs to take a period of disability-related absence, and the treatment cannot be justified by showing that it is 'a proportionate means of achieving a legitimate aim'.

'Victimisation' is where a learner is treated unfavourably because they have taken action in respect of discrimination, for example by bringing a complaint of discrimination under the 2010 Act or by giving evidence for a peer. Victimisation is unlawful.

'Harassment' is any unwanted conduct related to a relevant protected characteristic or unwanted conduct of a sexual nature, that has the purpose or effect of violating a person's dignity, or creates an intimidating, hostile, degrading, humiliating or offensive environment for them. The relevant protected characteristics are disability, race and sex. Harassment is also unlawful.

**1.17.7** To decide whether a school has treated a learner with a protected characteristic less favourably a comparison must be made with how the school has treated learners who do not have that protected characteristic or would have treated them in similar circumstances. For example, if the school's treatment of a disabled learner places that learner at a disadvantage compared with non-disabled learners then it is likely that the treatment will be less favourable. Exclusions

**1.17.8** The 2010 Act does not prohibit schools from excluding learners with a protected characteristic but does prohibit schools from excluding learners because of their protected characteristic (for example, excluding a disabled learner because of

their disability or because of their racial group) or discriminating unlawfully during the exclusions process. This applies to permanent and fixed-term exclusions.

**1.17.9** It is direct discrimination to exclude a learner because they are perceived to have a protective characteristic or because they are associated with someone with a protective characteristic.

**1.17.10** It is also unlawful to exclude a learner with a protective characteristic for behaviour that a learner without a protective characteristic would not be excluded for. For example, if a disabled learner is excluded for behaviour connected to their disability this could be unlawful discrimination arising from disability unless the school can justify the exclusion as being a proportionate means of achieving a legitimate aim. Whether or not the school has complied with its duty to make reasonable adjustments for the learner will have an impact on whether or not the exclusion can be justified. The 2010 Act requires schools to make reasonable adjustments for disabled learners both to the exclusions process and to the disciplinary sanctions.

**1.17.11** Regulation 4(1)(c) of the Equality Act 2010 (Disability) Regulations 2010 provides that a tendency to physical or sexual abuse of other persons is not to be treated as amounting to an impairment under the definition of disability under the 2010 Act.

**1.17.12** The intention of the provision is to avoid providing protection for people where the effect of their condition might involve anti-social or criminal activity that impacts on others. However, the effect of the provision means that children with certain conditions that give rise to a tendency to physically abuse others and who are, for example, excluded from school because of physical aggression, are not protected against disability discrimination that is related to that aggressive tendency.

**1.17.13** In 2018, the Upper Tribunal (Administrative Appeals Chamber) ruled (C & C v. Governing Body of a School and others [2018] UKUT 269 AAC) that regulation 4(1)(c) should be read as not applying to children in education who have a recognised condition that is more likely to result in a tendency to physical abuse or that it should be disapplied in such cases. Recognised conditions include autism.

**1.17.14** The ruling means that schools are required to demonstrate that the decision to exclude a learner with a recognised condition that is more likely to result in a tendency to physical abuse was a proportionate means of achieving a legitimate aim. Schools also have to demonstrate that they had made any appropriate reasonable adjustments in respect of managing the learner's behaviour, even if their behaviour was a result of their condition.

**1.17.15** The 2010 Act applies to all activities covering school life and means that everything a school does must be non-discriminatory. It requires schools to review and possibly revise their policies, practices, and procedures to ensure that they do not discriminate against learners with a disability. For example, policies that lead to a higher proportion of learners from particular racial groups being excluded will be unlawful indirect discrimination unless the application of the policy can be justified.

**The Public Sector Equality Duty**

**1.17.16** Section 149 of the 2010 Act imposes a general duty on the governing body of a school in carrying out its functions to have due regard to the need to:

- eliminate discrimination, harassment, victimisation, and any other conduct prohibited by the 2010 Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

**1.17.17** Having due regard means consciously thinking about the 3 aims of the general duty as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by schools. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

**1.17.18** Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and those who do not share it involves having due regard, in particular, to the need to tackle prejudice, and to promote understanding.

**1.17.19** Each element of the duty could impact directly or indirectly on learners with protected characteristics so schools should review their behaviour and equality policies to ensure that they address the issues that they are meant to address.

**1.17.20** The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 imposes specific duties on school governing bodies to enable better performance of the general duty under section 149, including:

- to collect, assess and publish information about their compliance (or otherwise) with the general duty (regulation 7)
- to decide on certain specific objectives (referred to as "equality objectives") that are designed to enable them to better perform the general duty and publish these objectives (regulation 3)
- to review their equality objectives at least once every 4 years (regulation 4)

**1.17.21** In addition, school governing bodies are required to make a strategic equality plan (SEP). The SEP is intended to be a means of including the various things the regulations require, so there can be a single point of access to the public. The SEP must contain a statement setting out a description of the school, the school's equality objectives, details of the steps the school has taken or intends to take in order to fulfil its objectives, how long it will take in order to fulfil its objectives, and details of arrangements it has made or intends to make to comply with the regulations. The SEP can be revised or remade at any time (regulation 14).

**1.17.22** Governing bodies should consider whether to include an objective related to reducing exclusions.

**Appeals where discrimination is alleged.**

**1.17.23** Appeals against permanent exclusion where disability discrimination is alleged to have taken place will be heard by the independent appeal panel. Claims alleging disability discrimination in respect of fixed-term exclusions will be heard by the Education Tribunal for Wales. Schools will be required, in disability discrimination claims, to demonstrate that their actions are justified and that no reasonable adjustments could have been made to prevent the incident that led to the exclusion. Since many disabled learners will also have ALN, 20 schools may wish to consider the action they have taken to address those needs in this context. Claims alleging discrimination other than disability are heard by a county court. Guidance

**1.17.24** The Equality and Human Rights Commission has a number of guidance documents to assist schools in understanding and complying with their duties under the 2010 Act, including in relation to exclusions. The Welsh Government strongly recommends that schools and those involved in exclusion decisions and appeals read the guidance and the code of practice, which is available on the Equality and Human Rights Commission website.

**1.18 United Nations Convention on the Rights of the Child (UNCRC)**

1.18.1 The best interest of the child, in line with the UNCRC, needs to be at the core of any decision to exclude and any subsequent exclusions procedures. Particularly relevant are the following articles:

- Article 2: Non-discrimination
- Article 3: Best interests of the child
- Article 12: Participation and respect for the views of children and young people
- Article 23: Rights of children with a disability
- Article 28: Right to Education
- Article 29: Aims of Education
- Article 31: Leisure play and culture
- Article 37: Inhumane treatment and detention

**Article 2**

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

**Article 3**

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her wellbeing, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

**Article 12**

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

**Article 23**

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

**Article 28**

1. States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

a) make primary education compulsory and available free to all

b) encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need

c) make higher education accessible to all on the basis of capacity by every appropriate means

d) make educational and vocational information and guidance available and accessible to all children

e) take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

**Article 29**

1. States Parties agree that the education of the child shall be directed to:

a) the development of the child's personality, talents and mental and physical abilities to their fullest potential

b) the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations

c) the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own

d) the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin

e) the development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

**Article 31**

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

**Article 37**

States Parties shall ensure that:

a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age

b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time

c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the

child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances

d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

### 1.19 Learners who have a social worker, including looked-after children, and previously looked-after children

**1.19.1** Children who have a social worker are especially at risk of low attainment in school. Schools should be especially sensitive to exclusion issues where children have a social worker. Schools should try every practicable means to maintain the learner in school and should seek local authority and other professional advice as appropriate. Local authority children's services departments should in all cases be involved at the earliest opportunity in working with the school to avoid the need to exclude the learner.

**1.19.2** In cases where a looked-after child is excluded, anyone who is acting as a parent or carer will have the right to make representations and to appeal. The definition of a parent for the purpose of section 576 of the Education Act 1996 is broadly drawn and includes a person who has parental responsibility or has care of the child. This will include the local authority where they have a care order in respect of the child and any person (for example a foster parent) with whom the child lives. These are in addition to the child's birth parents. This means that there could be more than 2 parents or carers whom the school must notify about exclusions and who will have the right to make representations and appeal.

**1.19.3** Even where the local authority does not have parental responsibility, the child's social worker should be informed about any exclusion. The designated teacher for looked after children will be able to advise on the legal status of learners in public care in the school. For further guidance see Making a difference: A guide for the designated person for looked after children in schools.

**1.19.4** Where previously looked-after children face the risk of being excluded, the school should engage with the child's parents or carers and take advice from relevant professionals to develop strategies to support the learner.

### 1.20 Role of the Welsh Government

**1.20.1** The Welsh Government provides guidance on exclusion, to which headteachers, teachers in charge of a PRU, governing bodies, local authorities and independent appeal panels must have regard.

**1.20.2** The Welsh Government considers, while each of the above should have regard to this guidance, that all parties should adopt a proactive approach to exclusions within their areas and work closer to determine a simplified and accessible system to reduce burden on services, schools, and families.

**1.20.3** The Welsh Government can consider complaints about a discipline committee's operation of the exclusion procedure but has no power to overturn the exclusion or to consider complaints about the decision of an independent appeal panel. Further information can be found in remedies after the appeal hearing.

## 2. Procedure for excluding a learner: role of headteacher

### 2.1 Informing the 'relevant person' about the exclusion.

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

**2.1.2** Whenever a headteacher or teacher in charge of a PRU excludes a learner, the 'relevant person' must be notified without delay, ideally by telephone or other reasonable method, and this should be followed up by a letter within one school day.

**2.1.3** The 'relevant person' is defined by regulations and the definition is referred to in the introduction to this document. Under the regulations, notification of an exclusion must be sent to parents or carers of learners where the learner is below the age of 11 (normally in primary school), to both the parents or carers and the learner where the learner is of compulsory school age but aged 11 and over, and to the learner alone where the learner is above compulsory school age.

**2.1.4** In exceptional circumstances, where the headteacher feels it is essential that the learner be required to leave the school premises immediately, a check should be made with the parent or carer to ensure that the learner is not left unsupervised.

**2.1.5** Where a learner is excluded from school with immediate effect during the morning session, this counts as an exclusion of half a school day for the purposes of determining the length of the exclusion. Where the learner is excluded during the afternoon session, the day of the exclusion should be disregarded for the purposes of calculating the length of the exclusion.

**2.1.6** When the parent or carer or learner should be notified in writing depends on when the learner is excluded, as follows:

• where the learner is excluded during the morning session, written notice should be given before the start of the afternoon session

• where the learner is excluded during the afternoon session, written notice should be given by the end of that afternoon session

**2.1.7** Letters of notification of exclusion must state: • for a fixed-term exclusion, the precise period of the exclusion • for a permanent exclusion, the fact that it is a permanent exclusion • the reason or reasons for the fixed-term or permanent exclusion • the parent's or carer's and learner's right to make representations about the exclusion to the discipline committee • the person whom the parent/carer and/or learner should contact if they wish to make such representations (normally the Clerk to the discipline committee)

**2.1.8** Letters should also confirm:

- the latest date by which the discipline committee must meet to consider the circumstances in which the learner was excluded (except where the exclusion is for fewer than 6 school days in any one term in the case of a maintained school or fewer than 25 school days in any one term in the case of a PRU, and would not result in the learner missing a public examination)

- the parent's or carer's right to see and have a copy of the learner's educational record upon written request to the school as outlined in regulation 5 of the Pupil Information (Wales) Regulations 2011

- in the case of a fixed-term exclusion, the date and time when the learner should return to school (in the case of a lunchtime exclusion the number of lunchtimes for which the learner is being excluded and, if applicable, the arrangements for the learner to receive free school meals)

- if the exclusion is permanent, the date it takes effect and any relevant previous history

- the arrangements made for enabling the learner to continue their education, including the setting and marking of work (it is the parent's or carer's responsibility to ensure that work sent home is completed and returned to school)

- the name and telephone number of an officer of the local authority who can provide advice

- if appropriate, that the parent or carer will be invited to attend a reintegration interview and that a parent's or carer's failure to attend a reintegration interview will be a factor taken into account by a court when deciding, on any future application, whether to impose a parenting order on the parent or carer

**2.1.9** Appendix A of this guidance includes 4 model letters for notifying parents or carers and learners of fixed-term and permanent exclusions.

- Model letter 1: for fixed-term exclusions of fewer than 6 days and where a public examination is not missed.

- Model letter 2: should be used for fixed-term exclusions of between 6 and 15 days (single or cumulative) or where a public examination is missed.

- Model letter 3: for fixed-term exclusions (single or cumulative) of 16 days or more.

- Model letter 4: for permanent exclusions.

**2.1.10** Letters may need to be translated into other languages, where parents' or carers' first language is not English or Welsh. In the first instance it should be established whether someone in the family or a representative can provide a translation or interpretation for the family.

**2.1.11** The details of all exclusion cases should be treated in the strictest confidence by all those involved in the process.

**2.1.12** In exceptional cases, usually where further evidence has come to light, a fixed-term exclusion may be extended or converted to a permanent exclusion. In such cases the headteacher must write again to the parents, carers or learner explaining the reasons for the change. The headteacher may choose to withdraw an exclusion that has not yet been reviewed by the discipline committee. The statutory time limits in which the discipline committee hearing must take place will begin at the date at which it is informed of the change from fixed term to permanent unless all parties agree to keep to the date previously agreed for the hearing on the fixed-term exclusion.

**2.1.13** Where learners are excluded for a fixed term and no alternative provision is made before the sixteenth day of exclusion for them to continue their education, they should be marked as an authorised absence in the attendance register using Code E. Where alternative provision is made, and it meets the requirements of the learner registration 26 regulations and learners attend it, they should be marked using the appropriate code, such as Code B (educated off-site) or Code D (dual-registered).

**2.2 Informing the discipline committee and the local authority**

**2.2.1** The headteacher must without delay (and should within one school day) inform the discipline committee and the local authority of:

- permanent exclusions
- exclusions that will result in the learner being excluded for more than 5 school days or 20 lunchtimes in any one term
- exclusions that will result in the learner missing a public examination

**2.2.2** Fixed-term exclusions totalling 5 or fewer school days, or 20 or fewer lunchtimes (quarter days), in any one term, and where the learner is not missing a public examination, must be reported to the discipline committee and local authority once a term.

**2.2.3** For a permanent exclusion, if the learner lives outside the local authority in which the school is located, the headteacher must also advise the home local authority of the exclusion so that they can make arrangements for the learner's full-time education from and including the sixteenth school day of exclusion. It is essential that the home local authority is speedily and fully informed of the details of the exclusion so that they are in a good position to ensure that appropriate provision is in place within the statutory time limits.

**2.2.4** Exclusion reports must include:

- the learner's name, age, date of birth, gender and ethnicity
- whether the learner has a school-maintained IDP, a local authority-maintained IDP or is engaged in the IDP process such as a decision being made or an IDP being prepared

- whether the learner is in local authority care
- the length of the exclusion
- the reason for the exclusion.

**2.2.5** The teacher in charge of a PRU must give similar information to the local authority.

**2.2.6** In the case of a looked-after child from another local authority area, the 'home' local authority should be informed.

**2.2.7** One (or for a number of infringements, more than one) of the following exclusion codes or terminology should be used when informing the local authority of an exclusion:

- Physical assault against a pupil
- Physical assault against an adult
- Persistent disruptive behaviour bullying
- Racist abuse
- Sexual misconduct
- Verbal abuse or threatening behaviour against a pupil
- Verbal abuse or threatening behaviour against an adult
- theft
- Damage
- Drug and alcohol related

## 3. Responsibilities of the discipline committee

### 3.1 The discipline committee

**3.1.1** The governing body must establish a discipline committee, under the Government of Maintained Schools (Wales) Regulations 2005. The role of the committee includes reviewing the use of exclusion within the school. The committee has to be made up of 3 or 5 governors, drawn from members of the governing body and not including the headteacher or any associated pupil governor. The governing body should aim to include a range of different types of governor. They should also take account of the need for members of the discipline committee to meet quickly when a learner has been excluded.

**3.1.2** It is important that discipline committee members who are called upon to review exclusions receive training to equip them to discharge their duties properly and in line with equality duties. The Welsh Government would expect the local authority to organise a training session for members on exclusions issues and for members to make every effort to attend. Welsh Government has published School

Governors' guide to the law which includes guidance about attendance, behaviour and exclusions.

**3.1.3** The governing body (or the discipline committee if the governing body so determines) must appoint a Chair to the discipline committee. The Chair cannot be a person employed to work at the school. The governing body must also appoint a Clerk to the discipline committee. The Clerk should provide advice on the exclusion process and handle the administrative process. The quorum for a meeting of the discipline committee is 3. Where a governor has a connection with the learner or the incident, which might reasonably raise doubts about their ability to act impartially, they should not serve at that particular hearing. To avoid having to call full governing body meetings at short notice a pragmatic way would be for the governing body to determine its membership of the discipline committee, and at the same time agree a priority list of governors as substitutes. The governing body must then delegate responsibility to the chair (or vice chair) to contact those priority governors in the agreed priority order in an emergency. This must be carefully recorded. This option meets the requirement in the regulations as the full governing body will have decided the membership of the committee and the priority of any reserves.

**3.1.4** At one meeting the discipline committee may consider more than one exclusion as long as they comply with the statutory time limits within the regulations relating to each one.

**3.1.5** If exclusion would result in the learner missing a public examination, the discipline committee must (so far as is practical for them to do so) meet before the date of the examination. If, exceptionally, in the case of a fixed-term exclusion the Chair of the committee does not consider it practical for the committee to meet before the time when the learner is due to take the public examination, the Chair alone may consider the exclusion and decide whether or not to reinstate the learner (these are the only circumstances in which the Chair can sit alone to review an exclusion). In such cases the parent/carer and/or learner has the right to make written and oral representations to the committee or, as the case may be, the Chair. If possible, the Chair should hear details from a local authority officer on how other comparable cases within the local authority have been dealt with.

**3.1.6** In some cases, depending on the nature and seriousness of the exclusion, the discipline committee may exercise its discretion to allow an excluded learner on the premises for the sole purpose of taking a public examination. There is no automatic right for an excluded learner to take a public examination on the excluding school's or PRU's premises; this is entirely at the discipline committee's discretion.

**3.2 Discipline committee meetings to consider exclusions**

**3.2.1** On receiving notice of an exclusion from the headteacher: the discipline committee:

a) must, in the case of one or more fixed-term exclusions totalling 5 school days or fewer in any one term, consider any representations from the parent or carer and learner but cannot direct reinstatement (see Model letter 1 in Appendix A) but they can put a record of their considerations on the learner's

educational record. The Chair of the discipline committee may agree to convene a meeting if the parent or carer requests a meeting to discuss the exclusion. While no statutory time limits apply to the consideration of such exclusions, the Chair should consider responding promptly to any request from the parent or carer. the Clerk, or where a clerk has not been appointed, the Chair:

b) must, in the case of one or more fixed-term exclusions totalling more than 5 but not more than 15 school days in any one term, convene a meeting between the sixth and the fiftieth school day after receiving the notice of exclusion, to consider the exclusion, if the parent/carer and/or learner expresses a wish to make representations to the discipline committee. The meeting may direct reinstatement (see Model letter 2 in Appendix A)

c) must, in the case of a permanent exclusion, or one or more fixed-term exclusions (including lunchtimes) totalling more than 15 school days in any one term, convene a meeting between the sixth and fifteenth school day after the date of receipt to consider the exclusion (see Model letters 3 and 4 in Appendix A)

d) must, in the case where a learner is to miss a public examination (so far as is practical for them to do so) convene a meeting before the date on which the learner is due to take the examination and, in any event, no later than as outlined in paragraphs b and c above (see Model letter 2 in Appendix A)

e) must invite the parent/carer and/or learner, headteacher and a local authority officer to the meeting at a time and place convenient to all parties (within the statutory time limit)

f) should ask for any written statements (including witness statements) in advance of the meeting

g) should circulate to all parties, including the learner if it is known that they are to attend the meeting, within 5 school days of the meeting any written statements (including witness statements) and a list of persons who will be present at the meeting

h) must offer the opportunity for the views of the excluded learner to be considered at the meeting, irrespective of their age

**3.2.2** Where a meeting of the discipline committee has previously been convened and further exclusions take place within the same term, the discipline committee is required to meet in relation to each exclusion to assess the effectiveness of the support plans put in place for that learner.

**3.2.3** The discipline committee should conduct the meeting along the lines of the principles and procedures set out in the conduct of the appeal hearing. Under regulations that came into force in January 2004, learners of all ages have the right to have their view heard at both the discipline committee meeting and the independent appeal panel hearing. This may be in person, in writing or any other practical format.

**3.2.4** The discipline committee should allow the parent/carer and/or learner to be accompanied by a friend or legal representative at their request.

**3.2.5** Where learners of compulsory school age are not accompanied by their parents or carers the local authority should endeavour to obtain the services of an advocate to speak on behalf of the learner. This is particularly important where learners may be considered not to have sufficient maturity or capacity to represent themselves effectively.

**3.2.6** The committee must comply with the statutory time limits and are not relieved of their legal obligation to carry out the relevant duty if they fail to comply. Accordingly, their decision will not be invalid simply on the grounds that it was made out of time.

**3.2.7** The discipline committee's role is to only review exclusions imposed. Only the headteacher has the power to exclude. The discipline committee cannot increase the severity of an exclusion, for example by extending the period of a fixed-term exclusion or by imposing a permanent exclusion in substitution for a fixed-term exclusion.

**3.2.8** The discipline committee can uphold an exclusion or direct the learner's reinstatement, either immediately or by a certain date. If the discipline committee cannot direct reinstatement because the period of exclusion has expired and the learner has returned to school, they can place a copy of their findings on the learner's school record. The discipline committee should bear in mind that, in the case of a permanent exclusion, if an appeal is lodged against the committee's decision the independent appeal panel will not just review the committee's decision, it will rehear all the facts of the case including any fresh evidence.

**3.3 Procedure at the discipline committee meeting**

**3.3.1** The local authority is not required (and it may not be practical) to send a representative to all discipline committee meetings in its area. However, the local authority should send a representative to all permanent exclusion meetings and to longer fixed-term exclusion meetings if possible. The local authority can make a statement to the discipline committee, for example about how other schools in the area have dealt with similar incidents and to advise on alternative arrangements for the learner to continue their education if the exclusion is confirmed.

**3.3.2** The discipline committee may ask the local authority officer for specific technical or procedural advice. However, the discipline committee should make its decision in private, asking the other parties to withdraw. The Clerk may stay with the committee to help them with reference to his notes of evidence and in wording their decision. The Chair should clarify the limited role of the Clerk at the beginning of the hearing.

**3.3.3** The discipline committee should decide whether to direct reinstatement. In reaching their decision the committee should consider:

- any representations made by the parent or carer, the learner, the headteacher and the local authority officer

- issues where there is a lack of clarity or where more information may be needed, or where guidance appears to have been ignored

- whether the headteacher has complied with the exclusion procedure and has had regard to the Welsh Government's guidance before deciding to exclude the learner

- appropriate school policies, including the school's published behaviour policy, equal opportunities policy, anti-bullying policy, and race equality policy

**3.3.4** In the case of permanent exclusion, the discipline committee should normally satisfy itself that all other strategies to improve a learner's behaviour have been tried and have not been successful. Particular consideration should be given to the use of PSPs.

**3.3.5** Where the discipline committee decides that the learner should be reinstated, the discipline committee should then decide if reinstatement is practical. Practical, in this sense, refers to the individual circumstances and needs of a learner, rather than issues such as financing of support for the learner within the school. If reinstatement is practical the discipline committee should then decide if the learner should be reinstated immediately or by a specific date. Normally, a learner would be reinstated immediately or no more than 5 school days after the decision date. If the discipline committee decides to direct reinstatement, it should discuss with the local authority whether extra short-term support would help to ensure successful reintegration.

**3.3.6** If the discipline committee decides to confirm a headteacher's decision to exclude for more than 15 school days, it should be satisfied that there are suitable arrangements for the learner to continue their education while away from school. It will not be sufficient for the learner simply to continue to do work at home with no supervision, and the discipline committee should ensure that extra support (for example home tuition) or, if appropriate, specialist services (for example counselling) are being arranged.

**3.3.7** Where reinstatement is not practical, for example because the learner has returned to school following the expiry of a fixed-term exclusion or because the parent/carer and/or learner makes clear they do not want reinstatement, the discipline committee must consider whether the headteacher's decision to exclude the learner was justified based on the evidence. The outcome of their review should be added to the learner's educational record for future reference.

### 3.4 After the meeting

**3.4.1** The discipline committee must without delay inform the parent/carer and/or learner, the headteacher and the local authority of their decision. This should be done in writing within one school day of the hearing, stating the discipline committee's reasons. The committee may not attach conditions to any direction it may give to the headteacher to reinstate the learner. However, this does not prevent a school from following good practice in reintegrating the learner.

**3.4.2** Where the discipline committee decides not to direct a headteacher to reinstate a permanently excluded learner, its letter to the parent/carer and/or learner must also include:

- the reason for the decision
- their right to appeal to an independent appeal panel, together with the name and address of the person to whom any notice of appeal should be sent (normally the Clerk to the independent appeal panel)
- the date by which any notice of appeal should be lodged (15 school days after the day on which notice in writing was given of the discipline committee's decision; where the notice is sent by first class post it is treated as having been given on the second working day after it was posted)
- that any notice of appeal must set out the grounds on which the appeal is made
- that any claim of discrimination should also be set out in the notice of appeal

**3.4.3** Model letter 5 (in Appendix A) can be used for notifying parents/carers and/or learners of a decision to uphold a permanent exclusion.

**3.4.4** A note of the discipline committee's views on the exclusion should be placed on the learner's school record, along with a copy of the headteacher's exclusion letter and other relevant papers. However, if the learner is reinstated the school is under no obligation to comply with any request from parents or carers to delete details of the exclusion from the learner's record. Indeed, where the exclusion is a matter of fact, meaning where it has been served or partly served, it would not be lawful to delete details of it from the learner's educational record.

**3.5 Pupil referral units**

**3.5.1** The PRU's management committee must establish a pupil discipline committee to review fixed-term and permanent exclusions from PRUs and consider any representations made by parents/carers and/or learners. In the case of:

- one or more fixed-term exclusions (including lunchtimes) totalling more than 15 school days in any one term, or
- where a learner is to miss a public examination, or
- permanent exclusions

a PRU discipline committee has the same duties and powers as a governing body discipline committee (as detailed in the discipline committee section) and must also comply with the same timescales. A model letter is contained in Appendix A (Model letter 3).

In the case of one or more fixed-term exclusions totalling 15 school days or fewer in any one term, the discipline committee must consider any representations from the parent or carer and learner but cannot direct reinstatement (see Model letter 1 in

Appendix A) but they can put a record of their considerations on the learner's educational record.

The Chair of the discipline committee may agree to convene a meeting if the parent or carer requests a meeting to discuss the exclusion. While no statutory time limits apply to the consideration of such exclusions, the Chair should consider responding promptly to any request from the parent or carer.

## 4. Independent Appeal Panels

### 4.1 Notifying parents or carers and learners

**4.1.1** When a permanent exclusion is upheld by the discipline committee, the information to be included in the committee's decision letter (see Model letter 5 in Appendix A) to the parent/carer and/or learner is set out above in the after the meeting section.

**4.1.2** The local authority should also write to the parent/carer and/or learner as soon as possible after the discipline committee hearing, but within 3 working days at the latest, indicating the latest date by which an appeal may be lodged. This will be 15 school days from the day on which the parent/carer and/or learner is given notice in writing of the discipline committee's decision. The letter must also include the name and contact details of the person to whom any notice of appeal should be sent (normally the Clerk to the appeal panel) and explain that the notice of appeal must be in writing, setting out the grounds on which it is made.

**4.1.3** The day on which the parent/carer and/or learner is given notice is taken to be the second working day after the date of posting by first class post of the discipline committee's decision letter, or, where the notice is hand delivered, the date of delivery (unless a different date of receipt can be demonstrated).

**4.1.4** Any appeal made after the latest date for lodging an appeal will be out of time and should be rejected by the local authority.

**4.1.5** A notice in writing given by the parents or carers of learners aged under 11 or by learners above compulsory school age to the local authority that states that they do not intend to appeal will be treated as final. For learners of compulsory school age and aged 11 and over, such a notice from the parents or carers will be treated as final whether or not the learner has given such notice in writing. A notice received only from learners aged 11 and above, but of compulsory age, will also be treated as final.

**4.1.6** Parents, carers or the learner have a right to an independent appeal panel hearing even if they did not make a case to, or attend, the discipline committee.

### 4.2 The timing of the hearing

**4.2.1** An appeal panel must meet to consider an appeal no later than the fifteenth school day after the day on which the appeal was lodged. However, if necessary, the panel may then decide to adjourn the hearing if, having regard to the particular

circumstances of the case, they consider that it would not be appropriate for them to proceed to determine the appeal. This might include circumstances where more information is awaited. The panel may adjourn on more than one occasion if necessary.

**4.2.2** In exceptional circumstances, the local authority has discretion to extend the date of the appeal hearing to a date later than the fifteenth school day, for example where the parent/carer and/or learner requires further time to prepare for the appeal hearing. However, any agreement to an extension is at the discretion of the local authority and each request should be considered on its merits. If a later hearing date is set the panel will be deemed to have adjourned the hearing.

**4.3 Combined appeals**

**4.3.1** If the issues raised by 2 or more appeals are the same or connected, the panel may decide to combine the hearings if it considers that it is expedient to do so. In such cases the panel should check that no party objects to this approach. The panel must be aware of possible conflicts of interests between the parties involved.

**4.3.2** The panel has discretion to combine the appeals or refuse any request for combination but must take all the relevant considerations into account, including any views expressed by the parties. In particular, where learners have been permanently excluded as a result of their participation in the same incident, and their participation and mitigation are not substantially different, the appeal panel may consider it is appropriate to combine all the appeals arising out of the incident. The panel should consult the parties (including the discipline committee as well as the parents, carers, or learner) before deciding to combine appeals. Where the panel decides not to combine appeals, or it is impracticable to do so, then to avoid unfairness and inconsistency, it is recommended that the same panel members hear the appeals. A panel that has decided to combine or not to combine hearings arising out of the same incident must be prepared to justify the way that it has reached that decision and should record its reasons for doing so. Such a decision is subject to judicial review.

**4.3.3** Where a decision is made to hear appeals separately and the same panel members are not available, the panel should take practical steps to ensure that similarities or differences in the cases can be considered by different panels considering the cases arising from the incident. Decisions about combining appeals should be taken by the panel, and not by the Clerk to the panel or by the local authority that set up the panel. A panel is not required to tell legally represented parties, who do not ask for combining, that appeals may be combined.

**4.4 Composition of independent appeal panels**

**4.4.1** The local authority must constitute the independent appeal panel and should appoint a Clerk. All panels will constitute 3 or 5 members as follows:

- a lay person (the chair)
- education practitioners (1 for 3-member panels, 2 for 5-member panels), and

- school governors (1 for 3-member panels, 2 for 5-member panels)

The lay person will be the Chair. A 'lay person' is someone without personal experience in the management of a school or the provision of education, other than in a voluntary capacity or as a school governor. Education practitioner will be a headteacher or other person currently working in education or education management. School governor will be a governor who must have served for 12 consecutive months within the last 6 years and have not been a headteacher or teacher during the last 5 years.

**4.4.2** Whenever possible panel members considering:

- a primary school exclusion should have experience of that phase of education
- a secondary school exclusion should have experience of secondary education, and
- an exclusion from a special school should have experience of that area of education

The lay member should have the necessary skills and qualities to chair the panel effectively.

**4.4.3** Whenever possible, to maintain a wider education view, at least one of the members of the panel should be working outside the area covered by the local authority that manages the school of the excluded learner.

**4.4.4** The following persons are disqualified from serving as a member of an appeal panel:

- any member of the local authority or of the governing body of the school in question or management committee of the PRU in question
- the headteacher of or any teacher at the school or PRU in question or any person who has held that position within the last 5 years
- any person employed by the local authority, other than as a headteacher or a teacher
- any person who has or has had, at any time, any connection with the local authority or the school or PRU, or with any person falling within the preceding 2 bullet points that might reasonably be taken to raise doubts about their ability to act impartially
- any person who has or has had, at any time, any connection or association with the learner in question or the incident leading to the learner's exclusion that might reasonably be taken to raise doubts about their ability to act impartially

**4.4.5** All prospective panel members should declare any such conflict of interest at the earliest opportunity.

**4.4.6** Doubts about impartiality may arise from the panel member having worked closely with the headteacher or governing body of the excluding school, or from being a teacher or governor of a school (or PRU) to which the learner might be admitted if the exclusion is confirmed. If local authorities have difficulty finding within their own authority area serving education practitioners and governors who feel they are able to act impartially they may need to recruit more than one panel member from neighbouring local authorities.

**4.4.7** Local authorities should ensure that all panel members and Clerks receive suitable training and that the Chair is trained in the specific chairing skills the panel requires. Local authorities will wish to identify and train sufficient chairs, members and Clerks to ensure they can arrange hearings within the necessary timescale and should establish a clear procedure for selecting potential panel members. In appointing the Chair local authorities should look to individuals with prior experience in appeal panel work and, where possible, with a legal background.

**4.4.8** The local authority must indemnify the members of an appeal panel against any reasonable legal costs. Local authorities are required to advertise for lay members of appeal panels. Financial costs reasonably and properly incurred by members of an appeal panel in attending an appeal meeting will be covered by the Local Government Act 1972. Payments will be at a rate determined by the local authority.

**4.5 Role of the Clerk**

**4.5.1** The Clerk provides an independent source of advice on procedure for all parties. The Clerk should not have served as Clerk to the discipline committee hearing.

**4.5.2** Following training, clerks should be allowed to develop experience in the conduct of appeals. If the Clerk has not received legal training, and no member of the panel is legally qualified, the local authority should consider whether the panel might benefit from an independent source of legal advice, especially where the appellant or the school is legally represented.

**4.6 In advance of the hearing**

**4.6.1** The local authority must take reasonable steps to find out when the parent/carer and/or learner and others entitled to attend the hearing would be available to ensure that all parties are able to attend. They must also arrange a suitable venue for hearing the appeal, taking into account neutrality, and suitable access and provision of additional facilities for any attendees with disabilities. Appeals must be heard in private. Appeal hearings should never be held at the excluding school.

**4.6.2** The following are entitled to attend a hearing and present their case, either in writing or orally, and to be represented:

- the parent or carer (if the learner is not above compulsory school age) and learner

• the headteacher (where an excluding headteacher has left the school, the appeal panel may use its discretion in deciding whether to invite them to make representations)

• a nominated governor

• a nominated local authority officer All the above parties, as well as the governing body, may be represented by a legal or other representative. The parent or carer and learner may also be accompanied by a friend.

**4.6.3** An excluded learner of any age has the right for their view to be heard in an independent appeal panel, which may be in person, in writing or other practical form.

**4.6.4** Local authorities should provide children, their parents or carers, and young people with accessible information about their right to appeal to the independent appeal panel together with information about the appeal process and where children, their parents, and young people can access support when appealing an exclusion.

**4.6.5** The panel cannot compel witnesses to attend the hearing.

**4.6.6** Where learners of compulsory school age are not accompanied by their parents or carers, the local authority should endeavour to obtain the services of an advocate to speak on behalf of the learner. This is particularly important where learners may be considered not to have sufficient maturity or capacity to represent themselves effectively.

**4.6.7** The Clerk should remind the parent/carer and/or learner of their right to be accompanied by a friend or represented at the hearing by a legal representative or advocate. If the parent/carer and/or learner wishes to bring more than one friend or representative, the Clerk should seek the panel's agreement in advance, having regard to a reasonable limit on numbers attending the hearing.

**4.6.8** The Clerk should also ascertain whether an alleged victim (for example, in the case of an exclusion for bullying) wishes to be given a voice at the hearing either in person, through a representative or by submitting a written statement. Their role would be that of a witness and they would not be able to question any of the parties.

**4.6.9** The Clerk must give all parties details of those attending and their role and notify them of the order of hearing. All parties should keep the others informed, through the Clerk to the panel, of who will attend and what witnesses (if any) will be called.

**4.6.10** The Clerk should circulate all written evidence to all parties 5 working days before the hearing. This must include the statement of decision by the discipline committee and the notice of appeal from the parent/carer and/or learner which gives the grounds for the appeal and any discrimination claim. The headteacher, governing body and local authority may also make written representations. If any of the parties intend to raise matters or produce documents at the hearing that are not covered by the statement of decision or the notice of appeal, they should be asked to submit these to the Clerk in good time before the hearing.

**4.7 Conduct of the appeal hearing**

**4.7.1** It is for the appeal panel to decide how to conduct the proceedings, which should be reasonably informal so that all parties can present their case effectively. Tape-recording of the hearing should be avoided unless there is good reason to and all parties agree.

**4.7.2** In opening the appeal hearing it is helpful for the Chair to outline the procedure to be followed and to explain to all parties that the panel is independent from both the school and the local authority. The panel needs to have regard to legislation and to Welsh Government guidance in its conduct and in reaching its decision.

**4.7.3** Following introductions, the Clerk should explain the order in which the parties entitled to be heard will state their case (as previously notified to them) and that there will be an opportunity for questioning by the other parties after each presentation. The Chair should then lead the panel in establishing the relevant facts. Panel members may wish to ask questions to clarify an issue or to elicit more information. Questions from the panel should generally be taken at the end of each party's statement and following questioning by the other parties. The Clerk may be called on to give legal or procedural advice to the appeal panel during the course of the hearing and when they retire to consider their decision.

**4.7.4** Sufficient time must be allowed for each party to put their case forward. The panel should ensure that the parent/carer and/or learner is given the opportunity to comment on relevant information obtained from the local authority or governing body. Care must be taken to ensure that no party attending the hearing is present alone with the appeal panel in the absence of any other party.

**4.7.5** If the parent/carer and/or learner appears to be having difficulty in presenting their case, the Chair should intervene to assist them to ensure that their case is established and that factual matters not in dispute are clearly identified. The Chair should assist parents, carers or learners whose first language is not English or Welsh or who have literacy problems and who may not have understood all the paperwork.

**4.7.6** If necessary, the school and/or local authority should arrange for the services of an interpreter where the parents or carer of an excluded learner do not speak or have a good understanding of English or Welsh. Correspondence and documentation relating to the exclusion should, where possible, be translated into their first language. In such cases the school or local authority should arrange for an interpreter to be present at any meetings with the parent or carer about the exclusion.

**4.7.7** An appeal cannot continue if the number of panel members drops below 3 at any stage. In this event the panel may need to adjourn until its quorum is restored. Once an appeal has begun, no panel member may be substituted by a new member for any reason. Accordingly, where a member cannot continue as a result of illness, death or other unavoidable reason, a new panel will normally have to be constituted. In the case of a 5-member panel, however, the panel may continue in the event of a death or illness of 1 (or even 2) of its members, provided all 3 categories of member

are still represented. If a panel is reduced to 4 members and is deadlocked, the Chair has the casting vote.

**4.8 Evidence and witnesses**

**4.8.1** Where the school's case rests largely or solely on physical evidence, and where the facts are in dispute, then the physical evidence, if practicable, should be retained and be available to the panel. Where there are difficulties in retaining physical evidence, photographs or signed witness statements are acceptable.

**4.8.2** All parties may put forward new relevant evidence about the event that led to the exclusion, including evidence that was not available to the headteacher or the discipline committee. All parties should be given the opportunity to respond to any such new evidence that has been put forward. The school may not, however, introduce new reasons for the exclusion.

**4.8.3** To reach a decision, the panel will generally need to hear from those directly or indirectly involved. The governing body may wish to call witnesses who saw the incident that gave rise to the exclusion. These may include any alleged victims or any teacher, other than the headteacher, who investigated the incident and interviewed learners.

**4.8.4** The panel is required to consider the view of the excluded learner which may be either in person, in writing or any other practical form.

**4.8.5** Where adult witnesses are unwilling to appear in person or are unavailable, the panel must rely on their written statements, copies of which will have been circulated to all parties by the Clerk before the hearing. If any witnesses are going to appear in person, all parties need to know the details in advance of the day of the hearing.

**4.8.6** In the case of witnesses who are learners of the school, it will normally be more appropriate for the panel to rely on written statements. Learners may appear as witnesses if they do so voluntarily and with their parent's or carer's permission. Panels should be sensitive to the needs of learner witnesses to ensure that the learner's view is properly heard.

**4.8.7** All written witness statements must be attributed and signed, unless the school has good reason to wish to protect the anonymity of learners, in which case they should at least be dated. The general principle remains that an accused person is entitled to know the substance and the source of the accusation. The panel must consider what weight to attach to written statements, whether made by adults or learners, as against oral evidence. They should bear in mind that a written statement may not encompass all the relevant issues and that the author cannot be questioned.

**4.8.8** The calling of character witnesses is at the discretion of the panel but should be allowed unless there is good reason to refuse. It is for the panel to decide whether any witnesses, having given evidence, should stay for the remainder of the presentation of the case. On some occasions this would help the informality of the proceedings but there could also be objections which the panel will need to consider.

In any event it should be made clear that after giving their evidence they will not be allowed to give further evidence.

**4.9 Reaching a decision.**

**4.9.1** In considering an appeal, the panel should decide on a balance of probabilities whether the learner did what they are alleged to have done. In other words, it is more likely than not that the learner did what they are alleged to have done. The more serious the allegation and therefore the possible sanction, the more convincing the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard of 'beyond reasonable doubt' to be applied, but it does mean that when investigating more serious allegations, headteachers should have gathered and taken account of a wider range of evidence (extending in some instances to evidence of the learner's past behaviour if relevant to the allegation) in determining whether it was more probable than not that the learner committed the offence. If more than one incident of misconduct is alleged, the panel should decide in relation to each one.

**4.9.2** The panel should consider the basis of the headteacher's decision, and the procedures followed having regard to:

- whether the headteacher and discipline committee complied with the law and had regard to the Welsh Government guidance on exclusion in deciding, respectively, to exclude the learner and not to direct that they should be reinstated (while the law states that the panel must not decide to reinstate a learner solely on the basis of technical defects in procedure prior to the appeal, procedural issues would be relevant if there were evidence that the process was so flawed that important factors were not considered. Particularly important areas to consider are whether an appropriate PSP had been put in place or whether the educational provision specified in an IDP had been provided.

- the school's published behaviour policy, equal opportunities policy, anti-bullying policy, race equality policy, or any other relevant policy

- the fairness of the exclusion in relation to the treatment of any other learners involved in the same incident

**4.9.3** Having satisfied themselves as to these issues, the panel should consider whether to overturn the exclusion. If they do so, they should then decide whether this is an exceptional case where reinstatement is not a practical way forward.

**4.9.4** In deciding whether or not to uphold the exclusion decision and whether or not to direct reinstatement, the panel must balance the interests of the excluded learner against the interests of all the other members of the school community.

**4.9.5** Where a parent or carer appeals against permanent exclusion and makes a claim alleging discrimination, the appeal panel must consider whether there has been discrimination under the 2010 Act.

**4.9.6** Where a parent or carer appeals against permanent exclusion and makes a claim alleging disability discrimination, the appeal panel must consider whether the learner is disabled and whether there has been discrimination within the meaning of the 2010 Act. Any extra costs incurred in proving a disability would need to be met by the local authority or school rather than the parents or carers. It is strongly recommended that appeal panels consider the advice and guidance provided by the Equality and Human Rights Commission regarding the school's obligations towards learners under the 2010 Act, including in relation to exclusions. Schools and those involved in exclusion decisions or appeals are strongly recommended to read the code of practice, which is available on the Equality and Human Rights Commission website.

**4.10 The decision**

**4.10.1** The appeal panel's decision shall be based on a majority agreement with a second or casting vote held by the Chair. An appeal panel may:

- uphold the decision to exclude
- overturn the decision to exclude and direct reinstatement
- decide that because of exceptional circumstances or other reasons it is not practical to give a direction requiring reinstatement, but that it would otherwise have been appropriate to give such a direction

**4.10.2** If the panel directs reinstatement, the date specified must be reasonable in the circumstances. Unless there is a compelling reason, the date of reinstatement should be no more than 5 school days from the decision date. The panel may not attach conditions to the reinstatement of a learner.

**4.10.3** In some cases it will not be practical for the panel to direct reinstatement because the parent/carer and/or learner has made clear they do not want it, or because the learner has become too old to return to the school.

**4.10.4** There may also be exceptional cases where the panel considers that the permanent exclusion should not have taken place, but that reinstatement in the excluding school is not a practical way forward in the best interests of all concerned. This could include situations where there has been an irretrievable breakdown in relations between learner and teachers, between the parents or carers and the school, or between the learner and other learners involved in the exclusion or appeal process.

**4.10.5** In such situations and before deciding that exceptional circumstances exist, the panel should try to establish what efforts have been made to address the breakdown in relations. Balancing the interests of the learner and the whole school community may suggest that reinstatement would not be the most sensible outcome in such cases. In considering whether exceptional circumstances exist the panel should consider representations from the governors, the headteacher, the parent or carer and the learner.

**4.10.6** In any case, where the panel decide that reinstatement would have been justified but is not practical, they should indicate this in their decision letter and give details of the circumstances that made them decide not to direct reinstatement. Such a letter should be added to the learner's school record for future reference.

### 4.11 Record of the proceedings of an appeal panel

**4.11.1** The Clerk to an appeal panel should take minutes of the proceedings, the attendance, the voting and the decision in a format approved by the local authority. The Clerk should aim to finalise the minutes within 5 working days of the meeting and for these to be approved by as many of the panel members as possible. The minutes are not public documents but should be retained by the local authority for a period of at least 5 years as they may need to be considered by a court or by the Public Services Ombudsman for Wales.

### 4.12 After the hearing

**4.12.1** The panel is independent. Its decision is binding on the parent/carer and/or learner, the governing body, the headteacher and the local authority. The panel cannot revisit its decision once made.

**4.12.2** The panel must let all parties know its decision and the grounds on which it is made by the end of the second working day after the hearing. Model letter 6, provided in Appendix A, is for notifying the parent or carer of the decision of the panel. The decision letter should give the panel's reasons for its decision in sufficient detail for the parties to understand why the decision was made.

**4.12.3** If the appeal panel upholds the permanent exclusion, the Clerk should immediately report this to the local authority. If the learner is of compulsory school age, it is for the local authority in whose area the learner lives to make arrangements as quickly as possible for the learner to continue in suitable full-time education. If the learner lives outside the area of the local authority arranging the appeal, the Clerk should make sure that the home local authority is also informed immediately of the position. The home local authority should already be aware of the exclusion as the headteacher must notify the home local authority of the exclusion within one school day of the exclusion (see Informing the discipline committee and the local authority').

**4.12.4** Where the exclusion is upheld, the Clerk should also advise the parent or carer to contact the appropriate person at the home local authority about arrangements for their child's continuing education. The headteacher should remove the learner's name from the school roll the day after the conclusion of the appeal.

**4.12.5** Where the panel directs reinstatement it should immediately inform the headteacher of the decision and specify the date on which the learner must be readmitted.

**4.12.6** Details of an exclusion may not lawfully be deleted from the learner's educational record even if reinstatement is directed. The governing body must, however, comply with any parent's or carer's request to append their appeal statement to the learner's record. It will be for the governing body to decide what details of the local authority exclusion are included in the learner's school record.

Copies of the principal correspondence might be included and possibly the minutes of the discipline committee and appeal panel hearings, if the discipline committee and appeal panel respectively agree to this.

**4.12.7** Where an appeal panel is regularly directing that a school reinstate permanently excluded learners it should draw this to the attention of the local authority. The local authority should discuss the underlying issues with the headteacher about the way in which exclusion is being used within the school.

### 4.13 Remedies after the appeal hearing Complaint to the Public Services Ombudsman for Wales

**4.13.1** A parent/carer and/or learner can complain to the Ombudsman. The grounds of complaint would be maladministration by the appeal panel. The Ombudsman has the power to make recommendations. The Ombudsman has no powers to direct reinstatement or to order a fresh appeal hearing, though a fresh appeal hearing could be recommended. It would be for the local authority to decide whether to accept the Ombudsman's recommendation, although it would normally be expected to comply. Complaint to the Welsh Ministers

**4.13.2** The Welsh Ministers can consider complaints about a discipline committee's operation of the exclusion procedure but has no power to overturn the exclusion or to consider complaints about the decision of an independent appeal panel. Judicial review

**4.13.3** If the parent, carer, learner, governing body or local authority consider that the panel's decision is perverse, they may apply to the High Court for a judicial review. This must be done promptly and usually no later than 3 months from the date of the decision. If a judicial review were granted, the court would consider the lawfulness of the panel's decision. If it found the panel's decision to be unlawful or unreasonable (in the narrow legal sense of 'unreasonable', meaning irrational or perverse) it could quash the decision and direct the local authority to hold a fresh appeal hearing before a newly constituted panel.

## 5. Alleged criminal offences, police involvement and parallel criminal proceedings

### 5.1 Introduction

**5.1.1** A school-related incident may also be the subject of a police investigation, which may subsequently result in criminal proceedings. This can mean that the evidence available to headteachers, teachers in charge of PRUs, discipline committees and independent appeal panels is very limited. They may not, for example, be able to hear relevant witnesses or to consider relevant material. Additionally, it may not be known whether a criminal charge is to be brought, and if a charge has been brought, the eventual outcome of any court proceedings may be uncertain.

**5.1.2** It should be remembered that while the police and courts apply the criminal standard of proof ('beyond reasonable doubt'), the headteacher, discipline committee and the independent appeal panel must, when making a decision to exclude or uphold an exclusion, apply the civil standard of proof ('the balance of probabilities').

### 5.2 Headteachers' decision to exclude and consideration of the circumstances by the discipline committee

**5.2.1** A headteacher should not postpone their decision to exclude a learner simply because of the possibility that criminal proceedings might be brought in respect of the same incident. In these circumstances, a judgement must be made on the basis of the evidence available. Relevant considerations include the fact that:

- a serious allegation has been made against the learner by another learner or member of staff at the school which is the subject of a police investigation that may result in criminal proceedings being brought

- pending the conclusion of any such criminal proceedings, the learner's continued presence in the school may have an adverse effect on the complainant and other potential witnesses, and on the promotion of good order and discipline at the school generally

**5.2.2** Where a headteacher excludes a learner in circumstances such as those outlined in the preceding paragraph, the school's discipline committee also has no power to postpone their meeting to consider the learner's exclusion. In deciding whether to direct the headteacher to reinstate the learner, the discipline committee may therefore be subject to the same constraints as regards the availability of witnesses and other relevant information and will have to consider the case on the same basis.

### 5.3 Arrangements for appeal hearing in parallel criminal proceedings cases

**5.3.1** Where a discipline committee decides not to direct a headteacher to reinstate a permanently excluded learner in the circumstances described in the preceding paragraph, the parent/carer and/or learner must be notified of their decision and of their right to appeal in accordance with section 3 of this guidance. Any appeal must be lodged no later than 15 school days after the day on which written notification of the discipline committee's decision was given to the parent/carer and/or learner (see notifying parents or carers and learners) and the appeal panel must meet to consider the appeal no later than 15 school days after the day on which the appeal was lodged.

**5.3.2** Upon first meeting, the appeal panel must consider, taking into consideration any representations made by the parties and on the advice of their Clerk, whether they can proceed to determine the appeal or adjourn the hearing pending the outcome of any police investigation and/or any criminal proceedings that may be brought. The mere fact that parallel criminal proceedings are in progress will not of itself determine whether the hearing should be adjourned. Relevant factors for the panel to consider will include:

• whether it would be helpful to know what charge, if any, is to be brought against the learner (bearing in mind that if there is to be no charge it may help the learner's case or, if a charge is brought, the learner may be inhibited in presenting their case)

• whether relevant witnesses and documents are available

• the likelihood of delay if the hearing were adjourned and the effect it may have on any complainant, the excluded learner or the school itself

• whether an adjournment or declining to adjourn, might result in injustice

**5.3.3** If the panel do decide to adjourn, the local authority should take steps to ensure the learner's continuing education pending the hearing. The Clerk will be responsible for monitoring the progress of any police investigation and criminal proceedings and for reconvening the panel at the earliest opportunity when the hearing can proceed to final determination.

**5.3.4** If necessary, the panel may adjourn more than once. The same panel members should reconvene on each occasion (subject to the considerations referred to in the conduct of the appeal hearing section above). Where the panel reconvenes following the disposal of any criminal proceedings it should have regard to any information about them relevant to the issues the panel has to determine. In doing so it needs to bear in mind that even if the learner has been acquitted of any charge relating to the conduct for which they were excluded, such acquittal might be attributable, for example, to a legal technicality and does not necessarily mean that the exclusion should be automatically overturned.

## 6. Procedures and reintegration following exclusion

### 6.1 Introduction

**6.1.1** Local authorities have important lead roles in establishing flexible, creative strategies that meet the individual needs of learners permanently excluded from school. Reintegration into the mainstream setting should be considered and encouraged wherever at all possible. Excluded learners should only be educated outside mainstream schools where there are significant problems that are better addressed in a different environment.

**6.1.2** Local authorities should consider the designation of specialist staff to assist the reintegration and support of excluded learners. This might include a local authority officer to oversee individual packages or the use of mentors and specialised learning support staff.

**6.1.3** Local authorities should consider whether their behaviour support plans (BSPs) adequately meet the needs of excluded learners. Many local authorities need to expand provision to ensure a full timetable for the majority of entitled learners and should examine the options, including contracting-out provision to the voluntary

sector or further education colleges where cost-effectiveness, quality and provision is appropriate to learners' needs.

**6.1.4** PSPs will continue to be the main vehicle through which schools and local authorities should plan and review the education of learners in danger of exclusion or who have already been excluded.

### 6.2 Full-time and appropriate provision

**6.2.1** Part-time provision is often inadequate to meet the educational needs of excluded learners and to ensure continuity of education. It also leaves some of these learners unsupervised for significant periods of a normal school day. Such learners are often drawn into crime as a result. Local authorities should ensure that all learners receive fulltime education 15 days after being excluded, either at another school or, where necessary, making use of a PRU or other alternative provision.

**6.2.2** While the Welsh Government believes that this should remain the aim it recognises that in some cases learners may need to be phased into full-time education. Some learners may have become so disengaged from education, or their current circumstances may be such, that a rapid reintroduction to full-time education is unlikely to prove successful. For these learners the plans for their future education should cover specifically how the move to full-time education is to be achieved.

**6.2.3** Normally, learners excluded for more than 15 days from the date at which the exclusion is upheld by the discipline committee should receive a full-time and appropriate education. This should cover both those excluded for a fixed-term and permanently excluded learners. Local authorities and schools should look carefully at how to meet this commitment by making best use of existing and additional resources provided.

**6.2.4** 'Full-time' means that the amount of supervised education should mirror that provided by mainstream schools in the area. An average school week might amount to some 25 hours, so excluded learners should receive around 5 hours of supervised education or other activity a day. A full timetable for an excluded learner may, however, look significantly different from that provided in a mainstream school. There is no single model of provision that will suit the needs of every learner.

### 6.3 Reintegration meetings for fixed-term exclusions

**6.3.1** The Education (Reintegration Interview) (Wales) Regulations 2010, which came into force on 5 January 2011, require headteachers of schools to request in specified circumstances parents or carers of learners excluded for a fixed term to attend a reintegration interview at the school.

**6.3.2** The request for interview applies to all fixed-term exclusions for primary-school learners but only fixed-term exclusions of 6 or more days for secondary-school learners. Reintegration interviews need to take place within 15 school days of the last day of the exclusion period.

**6.3.3** A request for interview is not required if the first day of exclusion is within the last 10 days of the last term of the school year or if the headteacher expects the

learner to leave school for a reason unconnected with their behaviour before the end of the required 15- day period for the interview.

**6.3.4** The headteacher must give notice in writing to the parent or carer stating the date, time and duration of the reintegration interview and the purpose of the interview. The notice must also inform the parent or carer that if the local authority apply for a parenting order, the Court will be under a duty when deciding whether to make a parenting order in respect of a parent or carer, to take into account a failure by the parent or carer without reasonable excuse to attend a reintegration interview when requested to do so. The notice must be given no later than 6 school days before the date of the reintegration interview.

**6.3.5** The headteacher must try to arrange the interview for a date and time that is convenient to the parent or carer. The interview date suggested by the headteacher should be a school day, but the interview can be held on a non-school day if the headteacher and parent or carer agree.

**6.3.6** The reintegration interviews provide the opportunity to:

- emphasise the importance of parents or carers working with the school to take joint responsibility for their child's behaviour
- discuss how behaviour problems can be addressed
- explore wider issues and any circumstances that may be affecting the learner's behaviour • reach agreement on how the learner's education should continue, how best they can be reintegrated and what measures could be put in place to prevent further misbehaviour

**6.3.7** Schools will have to offer reintegration interviews and parents or carers will be expected, though not required, to attend them. If a parent or carer does not attend this should not affect the learner's return to school. An exclusion cannot be extended because a parent or carer did not attend a reintegration interview.

**6.3.8** Further information on reintegration interviews can be found in section 4 of Inclusion and pupil support.

### 6.4 First steps following permanent exclusion

**6.4.1** In the case of a permanent exclusion the learner remains on the roll of the school until:

- any appeal is determined
- the time limit for an appeal has expired without an appeal being brought
- the parent or carer has told the local authority in writing that no appeal is to be brought

**6.4.2** While the learner is on the roll of the school it is the responsibility of the school, in conjunction with the local authority, that their education continues. As in the case of longer fixed-term exclusions, it may be necessary for the school to seek the help of the local authority that maintains the school. If the school from which the learner

has been permanently excluded closes and a new school opens which has the same the catchment area, the decision to permanently exclude the learner is carried over to the 'new' school and remains binding. Therefore the learner cannot reapply for entry into the new school.

### 6.5 Funding to follow learners

**6.5.1** The transfer of money to follow a permanently excluded learner is discussed in detail in transfers within the local authority. In essence, the money is removed from the excluding school's budget at the point at which the exclusion is upheld by the independent appeal panel. Alternatively, if there is no appeal, the money is removed on the final date on which an appeal could have been made. The learner will remain on the excluding school's roll until that time and the school remains responsible for the learner's education.

**6.5.2** As local authorities will need to aim for excluded learners to receive full-time education 15 days after the date on which the exclusion was upheld by the discipline committee. Local authorities will need to negotiate at an early stage after exclusion with the excluding school over the additional support they may need to provide to support the learner while they remain on the excluding school's roll. This will be dependent on the type of provision and the length of time for which this needs to be provided.

### 6.6 Assessment and planning

**6.6.1** Once a permanent exclusion has been upheld by the discipline committee the local authority should assess the learner's needs and how these might be met (even though the exclusion might be overturned at appeal). Once the learner is removed from roll, the local authority is responsible for ensuring that suitable education is made available. In cases where the school from which the learner has been excluded is maintained by a different local authority, this will be the home local authority.

**6.6.2** If the appeals procedure is followed, the PSP or reintegration plan should be reviewed at the end of the process. This will not remove the need for excluded learners to receive full time education in the interim.

**6.6.3** In developing plans, the excluding school should provide information about:

- reasons for exclusion
- the learner's educational achievements
- steps that have been taken to address the learner's behavioural problems
- other agencies involved
- whether the learner had an IDP

**6.6.4** Some local authorities find it useful to consider future arrangements for the learner through a panel that either deals only with exclusions or is responsible for coordinating services for all learners out of school. The panel might include:

- education social work service
- social services, if applicable (especially if the learner is looked after by the local authority or is on the child protection register)
- educational psychologists
- staff from PRUs
- admissions and ALN policy staff
- headteachers or teachers in charge of PRUs

**6.6.5** Local authorities will need to balance having all the relevant interests represented with the need for a panel meeting as soon as possible after exclusion. Other agencies, such as the youth service, careers service, youth offending team and the child and adolescent mental health service should be invited to join where appropriate. A named local authority officer should be charged with taking forward the action agreed.

### 6.7 Reintegration plans and pastoral support programmes

**6.7.1** An individual reintegration plan (or transition plan) should be drawn up by the panel, or whoever else within the local authority is responsible for arranging education outside school, for each excluded learner. The plan may be an adaptation of an existing PSP or may remain as a separate but linked element. For learners with ALN, it should be linked to their IDP.

**6.7.2** Schools and local authorities should look carefully at how to meet the needs identified in individuals' plans by using their resources both creatively and flexibly, making best use of existing and additional resources provided. Multi-agency strategies and provision should be fully considered in the development of a full individual timetable. Consideration should be given to whether learners need regular input from a teacher to address their key skills. The amount of input should be agreed according to the individual needs of the learner.

**6.7.3** A named local authority officer should ensure that the plans are reviewed in accordance with the timetable. A panel can undertake this role but the precise arrangements are for local authorities to determine, as they hold ultimate responsibility for making provision.

**6.7.4** The local authority should liaise with the parents or carers, the learner and the receiving school about the plan, where appropriate agreeing action with the learner. The plan should include:

- the steps to be taken for reintegration into school, including action to be taken by a PRU or other provider to address the learner's problems and ensure a smooth return to mainstream or special school or transition into post-16 education and training (this should cover both pastoral and educational targets for reintegration)
- a timetable for reviewing the reintegration plan (not less than once a month)

- the name of the school to which the learner will return
- a programme of reintegration with the named school, increasing contact with the school the learner is to return to or the college or training provider
- the date for return to the school or entry to post-16 education and training

**6.7.5** Where it is considered that reintegration into mainstream is appropriate and possible, consideration should be given to:

- support arrangements to be put in place by the local authority and school
- time-tabling implications
- the views of the learner
- the parents' or carers' views
- specific measurable attainable relevant time-bound (SMART) targets
- monitoring and review arrangements
- learning and behaviour targets for individual development plans
- the nomination of a key worker in the local authority and school
- multi-agency involvement and key areas of responsibility
- home–school liaison

### 6.8 Involving and supporting parents and carers

**6.8.1** It is important that local authorities involve parents or carers at an early stage and discuss any arrangements for their child's placement in another school. Efforts should be made to discuss this in an environment where parents and carers feel comfortable and able to express their views. The needs of the parent or carer and family should be considered and appropriate support identified as available. Some parents and carers may choose to apply for a place at another school without involving the local authority. In many cases parents and carers benefit from advice and support from the local authority and help with the application. Helping parents or carers to find a school that is suitable to the learner's needs also benefits the local authority, which has a clear interest in making sure the reintegration is successful.

**6.8.2** Parents or carers of learners out of school are often isolated. The parents or carers should be regularly informed of progress and encouraged to help implement the learner's plans. The local authority should consider whether the family requires additional support, such as a resource room or parenting skills training and how this can best be achieved (in particular, which other agencies should be involved).

### 6.9 Immediate return to mainstream or special school

**6.9.1** Excluded learners should only be educated outside the mainstream where there are significant problems that need to be addressed in a different environment. For many permanently excluded learners the best course of action is for them to rejoin a mainstream or special school within a matter of days or weeks. The longer a

learner is out of school the more difficult it is for them to be reintegrated. For those who are permanently excluded from primary schools, rapid reintegration into a mainstream or special school environment is particularly important. Most primary-aged learners excluded from school should be reintegrated within one term.

**6.9.2** For a small number of learners approaching the end of compulsory schooling it may be unrealistic to expect them to make a successful return to school. In these circumstances the local authority should, through the PSP, arrange a programme of study and experience designed to lead to further education, training or employment.

**6.9.3** Quick reintegration is easier where authorities and schools cooperate closely over the admission of permanently excluded learners, for example by operating a voluntary 50 arrangement whereby schools agree that if they exclude a learner, they will accept another excluded learner.

**6.9.4** The School admissions code makes it clear that admission authorities should not refuse to admit a child on the basis of their behaviour elsewhere.

**6.9.5** The Code also makes it clear that schools should not refuse to admit a child thought to be potentially disruptive or to exhibit challenging behaviour, on the grounds that a decision about whether a child has ALN should first be made.

**6.9.6** The School admissions code recognises that some undersubscribed schools may find that they have been required to admit an undue proportion of children with a recent history of challenging behaviour, which may have led to a permanent exclusion from another school. Admission forums should discuss how local admission arrangements might allow all schools to admit a more even share of such children, including children excluded from other schools, and to agree protocols for the admission of hard-to-place children. Consideration should be given to the guidance in Effective managed moves: A fresh start at school for children and young people. Admission authorities must have regard to their admission forum's advice.

**6.9.7** The School admissions code sets out that all admission authorities must have protocols in place for admitting children they consider hard to place. All need to play their part in ensuring that these children, especially the most vulnerable, are admitted to a suitable school as quickly as possible. This includes, potentially, admitting children to schools that are already full.

**6.9.8** There is a balance to be struck between finding a place quickly in an undersubscribed school or in one facing challenging circumstances, and finding a school place that is appropriate for the child. The protocol should therefore ensure that no school, including those with places available, is asked to take an excessive or unreasonable number of children who have been excluded from other schools.

**6.9.9** If following admission, a learner is found to be seriously and persistently disruptive, then the school may consider disciplinary action, including temporary and, ultimately, permanent exclusion procedures. However, it is important to note that learners with challenging behaviour may be disabled as defined in the Equality Act 2010 and, therefore, require reasonable adjustments to be made for them in the school or require ALN support.

**6.9.10** Local authorities and the governing body of a maintained school have a statutory duty under section 86(2) of the School Standards and Framework Act 1998 to comply with parental preferences on school admissions. However, this duty does not apply when a learner has been permanently excluded from 2 or more schools. The requirement to comply with parental preference is disapplied for a period of 2 years following the second exclusion.

**6.9.11** It is recommended that local authorities establish protocols for equity when considering the integration of learners from other schools (including those permanently excluded). This should recognise the needs of the individual school, but also the right of the learner to attend a mainstream school if the PSP has been agreed to be appropriate and possible.

**6.9.12** It is strongly recommended that the local authority designate a coordinator for managed transfers who will not only have an overview of individual cases, but who can 51 consider the perspective of individual schools and local authority provision as a whole. This coordinator may work more successfully in close liaison with headteachers to establish mutually effective protocols.

### 6.10 Incentives to mainstream schools to accept excluded learners

**6.10.1** Rapid reintegration of excluded learners into mainstream schools is a significant challenge for both schools and learners. The local authority should make help available for the receiving school to ensure that the reintegration is successful. Support may be in terms of local authority services, for example, through a behaviour support team that agrees to provide a specified level of support if the learner's problems reoccur. Local authorities should also consider offering financial incentives to schools receiving excluded learners, which can then be used to fund extra classroom support or to buy in local authority or other services to help meet the learner's needs. This should be separate from the transfer of learner-related funding from excluding schools to accepting schools under the School Funding (Wales) Regulations 2010 and the Education (Amount to Follow Permanently Excluded Pupil) Regulations 1999 (as amended) (see transfers within the local authority). It is for local authorities to decide the level of financial incentives, depending on local needs and resource constraints.

### 6.11 Educational achievement

**6.11.1** The Welsh Government collects learner-level data on the educational achievement of learners, including those being educated out of school. At all times local authorities must know how many learners are being educated out of school.

**6.11.2** Arrangements should be made to ensure that learners have every opportunity to gain internal recognition or external accreditation and, where possible, Key Stage 4 public examinations.

**6.11.3** Learners should have all elements of their individualised educational package formally accredited wherever possible, for example ASDAN Youth Achievement Awards, Duke of Edinburgh's Awards, GCSEs, vocational qualifications and certificates of education. Where formal accreditation is not possible there should be

internal recognition of individual learner achievements. These should be recorded and kept in individual learner progress files.

### 6.12 Providing education out of school for excluded learners

**6.12.1** Provision of education otherwise than at school (EOTAS) offers a range of flexible strategies for providing appropriate education for excluded and other learners. Curriculum

**6.12.2** Curriculum flexibility enables local authorities and schools to ensure that more time is spent on activities aimed at addressing learners' individual needs. However, every effort should be made to ensure that all learners receive sufficient education to maximise their opportunities to acquire formal accreditation. Delivery of this education should consider the need for diverse learning styles, differentiation and a modified curriculum.

**6.12.3** For some learners, extra time spent on improving literacy and numeracy competencies will be beneficial. This will help them to learn more effectively in a mainstream setting, and in due course, access a wider curriculum. Consideration should also be given to providing a balance between individual and group work and adapting this as far as possible to the individual learner's needs.

**6.12.4** The main forms of EOTAS are as follows.

#### Part-time attendance at a mainstream school

**6.12.5** It is open to the local authority to arrange part-time education at a mainstream school. This should generally be combined with any of the other arrangements set out below (see further information about part-time timetables). Local authorities should bear in mind the desirability of ensuring that all excluded learners maintain some contact with mainstream education. For learners aged 14 to 16 years this might be through some post 16 provision.

#### Pupil referral units

**6.12.6** Provision for excluded learners is often made through PRUs. This provision should be both flexible and creative in meeting the needs of individual learners and mainstream schools. The provision should enable staff and learners to work safely and productively to meet individual targets set in PSPs and/or IDPs. Consideration should be given to multi agency working, for example sharing premises, wherever this would benefit learners further.

#### Voluntary organisations

**6.12.7** Some local authorities contract other bodies to provide education out of school, including voluntary organisations, and also place learners in units run by voluntary bodies. Such contractual arrangements can be an effective way for local authorities to meet their duty to provide education out of school.

#### Further education colleges

**6.12.8** Further education colleges may be an appropriate option for many learners in Years 10 or 11. Further education colleges are able to provide either part- or full-time further education for learners of compulsory school age. Some colleges have developed special part-time programmes to ease the transition to post-16 education and training, which are likely to be of particular interest to learners with difficulties. The local authority remains responsible for the cost of making provision in the further education sector for excluded learners and remains accountable for the performance of their duty to provide education.

**Work placements**

**6.12.9** Older learners are likely to benefit from spending one day a week on a work placement, perhaps studying for a vocational qualification. This can help to equip them with broader life skills. Such provision should always be carefully planned and closely monitored. Special courses to develop work-related skills run by agencies such as the careers service, youth service and voluntary organisations might also be included in the timetable.

**Individual and home tuition**

**6.12.10** Individual tuition, particularly at the learner's home, is not usually well suited to meeting the needs of learners who have been permanently excluded but may be of use in the short term when carefully coordinated with other education services. Some local authorities have found that an integrated PRU and tuition service is a flexible use of resources and gives home tutors professional and social support. It can also help to provide additional curriculum flexibility at the PRU.

**Part-time timetables and reduced hours**

**6.12.11** While reduced hours or part-time timetable, can help learners reintegrate into a school after a long absence or be a means of preventing greater absence, they have the overall effect of reducing time in school for learners and can have a negative impact on learner progress and wellbeing. In addition, part-time timetables can place pressures on families and have the potential to further disengage learners from education.

**6.12.12** Reduced hours should only be used in exceptional circumstances as a short-term measure, generally for no longer than 6 weeks, with the intention of the learner returning to full-time education as soon as feasible. Where a longer-term arrangement is required, the local authority should provide EOTAS.

**6.12.13** Reduced hours should never be used as a means of managing behavioural issues. All learners are entitled to a full-time education and access to the curriculum. In addition, schools are required to deliver the curriculum, other than where exceptions apply.

**6.12.14** Reduced hours arrangements should be recorded in a plan as a formal arrangement between the parents or carers, the child and the school, for example as part of a reintegration plan following exclusion (see Exclusion from schools and pupil referral units section 6.7) or a managed move arrangement (see Effective managed moves: A fresh start at school for children and young people; appendices include a

managed move agreement form and a managed move outcome form). Reduced hours can also be recorded in a pastoral support plan or BSP, where the learner has one.

**6.12.15** Prior to pursuing a reduced timetable, parents or carers, learners and the local authority (such as the education welfare service or inclusion service) should be fully consulted. Reduced timetables developed by the school without local authority involvement and parental agreement can be construed as an unofficial exclusion. This is unlawful as the parent or carer has not requested leave for their child and/or the school could be regarded as preventing the learner from accessing the curriculum.

**6.12.16** When considering placing a learner on a reduced timetable, the school should:

- be satisfied that a reduced timetable is an appropriate intervention given the needs of the learner (there must be a clear and evidenced rationale for considering a reduced timetable as an intervention aimed at supporting the learner to transition back to full-time education)
- evaluate the support already implemented and consider the need for any additional interventions (this could include additional behaviour support where a learner is, for example, returning to school after a long period of time due to being excluded from school)
- have a clear rationale for the proposed education arrangements, such as EOTAS or blended learning provision, considering the needs of the learner
- consult with the learner, their parents or carers and the local authority to gain agreement to pursue a reduced timetable
- ensure, where a learner has an IDP, that the number of hours of support set out in the IDP will be met so that schools, PRUs and local authorities continue to meet their statutory obligations
- ensure a reduced timetable would not impact on travelling and transport arrangements in a way that would make it difficult for the learner to access to education
- ensure that arrangements for a reduced timetable would not discriminate against a learner's access to free school meals
- be satisfied that suitable arrangements would be in place to ensure the safeguarding and care of the learner during the period when they would otherwise have been expected to be in school, and secure written agreement from the parents or carers about who is responsible for the welfare of the student for the sessions in question

**6.12.17** Once it has been agreed by the learner, their parents or carers and the local authority that a learner should have a reduced timetable, the school should:

- set out the new arrangements in a written agreement signed by all parties and supplemented by supporting evidence from professionals such as CAMHS, health consultants or educational psychologist

- provide a detailed written action plan to the learner and their parent or carer, or young person with a named person responsible, clear objectives, targets and review dates and a date for the expected return to full-time education

- liaise throughout with the parents or carers, gain parental approval and written permission

- liaise throughout with the local authority to gain agreement to the proposed plan

- liaise throughout with all relevant agencies and provide them with a copy of the plan

- undertake a risk assessment regarding the safeguarding implications of the learner being out of school and arrange that the learner is sighted virtually by a professional regularly if face-to-face attendance is not possible

- establish robust arrangements for monitoring and regular review of the plan by a named member of senior staff

- ensure effective communication with parents or carers and key professionals with regard to progress towards the learner's full reintegration

- maintain a formal record of all learners on reduced timetables, including the date implemented and review dates

**6.12.18** Where a reduced attendance at school has been agreed by all parties, the offer of provision may also include distance or blended learning, either through the school's online platforms or in hard copy where preferred by the learner and parent or carer, to ensure continuity of learning. Schools should not use code B (approved educational activity that counts as present) when a learner is studying at home as part of an agreed reduced hours or part-time timetable arrangement. When not in school, learners are unsupervised, and the arrangement does not meet the legal definition of approved educational activity. The authorised absence registration code C should be used when a learner has been placed on an agreed reduced hours part-time timetable.

**6.12.19** Approved educational activity registration code B can only be used where a registered learner is being educated off-site and the activity is one that is supervised and approved by the school. Schools should not use this code if learners are sent home for private study, study leave or as part of distance or blended learning arrangements.

# Model letters

**Model letter 1: Fixed-term exclusion of less than 6 days**

From headteacher (or teacher in charge of a PRU) notifying parent/carer and/or learner of a fixed term exclusion of less than 6 days, and where a public examination is not missed.

Dear **[parent/carer/learner's name]**

I am writing to inform you of my decision to exclude **[learner's name/you]** for a fixed term of **[period of exclusion]**. This means that **[learner's name/you]** will not be allowed in school for the period of the exclusion which began on **[date]**.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[learner's name/you]** has not been taken lightly. **[learner's name/you]** has/have been excluded for this fixed term because **[reason for exclusion]**.

The school will continue to set work for **[learner's name/you]** during the period of his/her/your exclusion **[insert details of arrangements that are in place for this]**. Please ensure that any work set by the school is completed and returned to us for marking. **[For learners over compulsory school age insert the following]**. As you have been excluded from the school you should arrange for someone to return the work to us on your behalf.

.....

**[School other than PRU]**

You **[and learner's name where learner is aged less than 11]** have the right to make representations to the school governors' pupil discipline committee. If you wish to make representations please contact **[name of contact]** on/at **[contact details: address, phone number, email]**, as soon as possible. While the discipline committee has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's/your school record.

.....

**[PRU only]**

You **[and learner's name where learner is aged less than 11]** have the right to make representations to the Management Committee's discipline committee. While the discipline committee has no power to direct reinstatement, they must consider any representations you make. If you wish to make representations please contact **[name of contact]** on/at **[contact details: address, phone number, email]** as soon as possible.

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

A parent or carer also has the right to make a claim of disability discrimination to the Education Tribunal for Wales (ETW) if they think the exclusion is because of a disability their child has. The address to which claims should be sent is:

Education Tribunal for Wales, Welsh Tribunals Unit, PO Box 100, Llandrindod Wells, LD1 9BW.

**[Primary school only]**

You **[and learner's name]** are requested to attend a reintegration interview with me **[alternatively, specify the name of another staff member]** at **[place]** on **[date]** at **[time]**. If that is not convenient, please contact the school before **[date within the next 10 days]** to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best **your child's/your** return to school can be managed. You should be aware that **your/your parent's/your carer's** failure to attend a reintegration interview will be a factor taken into account by a court when deciding, on any future application, whether to impose a parenting order on **you/your parent/your carer**.

You may want to contact **Michael Faulds** at local authority at *Access and Inclusion Service, Valleys Innovation Centre, Navigation Park, Abercynon, CF45 4SN, Telephone: 07385406159, Email:* Michael.Faulds@rctcbc.gov.uk, who can provide advice.

**[learner's name/your]** exclusion expires on **[date]** and we expect **[learner's name/you]** to be back in school on **[date]** at **[time]**.

Yours sincerely

**[name]**

Headteacher/teacher in charge of PRU

**Model letter 2: Fixed-term exclusion of 6 to 15 days**

From headteacher (or teacher in charge of a PRU) notifying parent/carer and/or learner of a fixed-term exclusion of 6 to 15 days, or where cumulative exclusions in the same term fall within this range, or where a public examination is missed.

Dear **[parent/carer/learner's name]**

I am writing to inform you of my decision to exclude **[learner's name/you]** for a fixed term of **[period of exclusion]**. This means that **[learner's name/you]** will not be allowed in school for the period of the exclusion which began on **[date]**.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[learner's name/you]** has not been taken lightly. **[learner's name/you]** has/have been excluded for this fixed term because **[reason for exclusion]**.

The school will continue to set work for **[learner's name/you]** during the period of their/your exclusion **[insert details of arrangements that are in place for this]**. Please ensure that any work set by the school is completed and returned to us for marking. **[For learners over compulsory school age insert the following]** As you have been excluded from the school you should arrange for someone to return the work to us on your behalf.

.....

**[School other than PRU]**

You have the right to request a meeting of the school governors' discipline committee at which you **[and learner's name where learner is aged less than 11]** may make representations and the decision to exclude can be reviewed. As the length of the exclusion is more than 5 school days (or equivalent) the committee must meet if you request it to do so. The latest date the committee can meet is **[date – no later than 50 school days from the date the committee is notified]**. **[Note: where the learner would lose the opportunity to take a public examination the committee must (so far as is practical for them to do so) meet before the date of the examination]**. If you wish to make representations to the committee please contact **[name of contact]** on/at **[contact details: address, phone number, email]**, as soon as possible. You may be accompanied by a friend or representative.

.....

**[PRU only]**

You **[and learner's name where learner is aged less than 11]** have the right to make representations to the Management Committee's discipline committee. While the discipline committee has no power to direct reinstatement, they must consider any representations you make. If you wish to make representations please contact **[name of contact]** on/at **[contact details: address, phone number, email]** as soon as possible. **[Note: this wording is not suitable where the learner would lose the opportunity to take a public examination.]**

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

A parent or carer also has the right to make a claim of disability discrimination to the Education Tribunal for Wales (ETW) if they think that the exclusion is because of a disability their child has. The address to which claims should be sent is:

Education Tribunal for Wales, Welsh Tribunals Unit, PO Box 100, Llandrindod Wells, LD1 9BW

**[Applies to children of compulsory school age only]**

You **[and learner's name]** are requested to attend a reintegration interview with me **[alternatively, specify the name of another staff member]** at **[place]** on **[date]** at **[time]**. If that is not convenient, please contact the school before **[date within the next 10 days]** to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best **your child's/your** return to school can be managed. You should be aware that **your/your parent's/your carer's** failure to attend a reintegration interview will be a factor taken into account by a court when deciding, on any future application, whether to impose a parenting order on **you/your parent/your carer**.

You may want to contact **Michael Faulds** at local authority at *Access and Inclusion Service, Valleys Innovation Centre, Navigation Park, Abercynon, CF45 4SN,*

*Telephone: 07385406159, Email:* Michael.Faulds@rctcbc.gov.uk. who can provide advice.

**[learner's name/your]** exclusion expires on **[date]** and we expect **[learner's name/you]** to be back in school on **[date]** at **[time]**.

Yours sincerely

**[name]**

Headteacher/teacher in charge of PRU

**Model letter 3: Fixed-term exclusion of 16 or more days**

From headteacher (or teacher in charge of a PRU) notifying parent/carer and/or learner of a fixed-term exclusion of 16 days or more, or where cumulative exclusions in the same term are 16 days or more.

Dear **[parent/carer/learner's name]**

I am writing to inform you of my decision to exclude **[learner's name/you]** for a fixed term of **[period of exclusion]**. This means that **[learner's name/you]** will not be allowed in school for the period of the exclusion which began **[date]**.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[learner's name/you]** has not been taken lightly. **[learner's name/you]** has been excluded for this fixed term because **[reason for exclusion]**.

Alternative education other than setting work will be provided for **[learner's name/you]** if the exclusion has not been overturned within 15 days. A **[school's maintaining local authority]** local authority representative will contact you to discuss this.

.....

As the length of the exclusion is more than 15 school days (or equivalent) the 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 **[date – no later than 15 school days from the date the discipline committee is notified]**. If you wish to make representations to the committee please contact **[name of contact]** on/at **[contact details: address, phone number, email]**, as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the committee of the time, date and location of the meeting. You may be accompanied by a friend or representative.

.....

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

A parent or carer also has the right to make a claim of disability discrimination to the Education Tribunal for Wales (ETW) if they think that the exclusion is because of a disability their child has. The address to which claims should be sent is:

Education Tribunal for Wales, Welsh Tribunals Unit, PO Box 100, Llandrindod Wells, LD1 9BW.

**[Applies to children of compulsory school age only]**

You **[and learner's name]** are requested to attend a reintegration interview with me **[alternatively, specify the name of another staff member]** at **[place]** on **[date]** at **[time]**. If that is not convenient, please contact the school before **[date within the next 10 days]** to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best **your child's/your** return to school can be managed. You should be aware that **your/your parent's/your carer's** failure to attend a reintegration interview will be a factor taken into account by a court when deciding, on any future application, whether to impose a parenting order on **you/your parent/your carer.**

You may want to contact **Michael Faulds** at local authority at *Access and Inclusion Service, Valleys Innovation Centre, Navigation Park, Abercynon, CF45 4SN, Telephone: 07385406159, Email:* Michael.Faulds@rctcbc.gov.uk. who can provide advice.

**[learner's name/your]** exclusion expires on **[date]** and we expect **[learner's name/you]** to be back in school on **[date]** at **[time]**.

Yours sincerely

**[name]**

Headteacher/teacher in charge of PRU

**Model letter 4: Permanent exclusion**

From headteacher (or teacher in charge of a PRU) notifying parent/carer and/or learner of a permanent exclusion.

Dear **[parent's/carer's/learner's name]**

I regret to inform you of my decision to exclude **[learner's name/you]** permanently from **[date]**. This means that **[learner's name/you]** will not be allowed back to this **[school/pupil referral unit]** unless reinstated by the **[school governors' discipline committee/pupil referral unit management committee's discipline committee]** or by an appeal panel.

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

Alternative education other than setting work will be provided for **[learner's name/you]** if the exclusion has not been overturned within 15 days. A local authority representative will contact you to discuss this.

As this is a permanent exclusion the pupil discipline committee will meet to consider the exclusion. At the review meeting you **[and learner's name where learner is aged less than 11]** may make representations to the committee if you wish to do so. The discipline committee has the power to reinstate **[learner's name/you]** immediately or from a specified date, or alternatively, has the power to uphold the exclusion in which case you may appeal to an independent appeals panel. The latest date the committee can meet is **[date – no later than 15 school days from the date the committee is notified]**. If you wish to make representations to the committee, please contact **[name of contact]** on/at **[contact details: address, phone number, email]**, as soon as possible. You may be accompanied by a friend or representative. 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 **[learner's name/your]** school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be

supplied with a copy of **[learner's name/your]** school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

You may want to contact **Michael Faulds** at local authority at *Access and Inclusion Service, Valleys Innovation Centre, Navigation Park, Abercynon, CF45 4SN, Telephone: 07385406159, Email:* Michael.Faulds@rctcbc.gov.uk, who can provide advice on what options are available to you.

Yours sincerely

**[name]**

Headteacher/teacher in charge of PRU

**Model letter 5: Permanent exclusion – discipline committee's decision**

From the Clerk of the discipline committee notifying the parent or carer of a permanently excluded learner of the discipline committee's decision.

Dear **[parent's/carer's/learner's name]**

The meeting of the school governors' pupil discipline committee at the **[school]/pupil management committee's discipline committee** on **[date]** considered the decision by **[headteacher/PRU teacher in charge]** to permanently exclude you/your son/daughter **[name of learner]**. The committee, after carefully considering the representations made and all the available evidence, have decided:

Either

to overturn the exclusion and direct that **[you/name of learner]** are/is reinstated in the school by **[date]**. We therefore expect **[you/name of learner]** to be back in school on **[date]** at **[time]**. If you wish to discuss **[learner's name/your]** return to school before reinstatement, please contact **[name of headteacher]** to arrange a convenient time and date.

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

Or

to uphold **[your/name of learner's]** exclusion.

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

You have the right to appeal against this decision. If you wish to appeal, please notify **[name of the Clerk to the appeal panel]** of your wish to appeal. You must set out the reasons for your appeal in writing and if appropriate, you may also include any disability discrimination claim you may wish to make and send them to **[address]** by no later than **[specify the latest date – the fifteenth school day after the date this letter is delivered, which will be the date of delivery if delivered by hand or the second working day after posting where first class post is used]**. If you have not lodged an appeal by **[repeat latest date]**, your right to appeal will lapse.

Your appeal would be heard by an independent appeal panel. A **[3-member/5-member]** panel will comprise **[one/two]** serving education practitioner**[s]** (possibly **[a]** headteacher**[s]**) **[one/two]** serving or recently serving experienced governor**[s]**; and one lay member who will be the chair. The appeal 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 fifteenth school day after the date on which your appeal is lodged. In exceptional circumstances panels may adjourn a hearing until a later date.

I would like to remind you of the following sources of advice and assistance: **Michael Faulds** at the local authority at *Access and Inclusion Service, Valleys Innovation Centre, Navigation Park, Abercynon, CF45 4SN, Telephone: 07385406159, Email:* Michael.Faulds@rctcbc.gov.uk, who can provide advice.

The arrangements currently being made for **[learner's name/your]** education will continue for the time being. However, new arrangements to provide full-time education for **[learner's name/your]** are being made and **[name of local authority officer]** will liaise with you shortly about these new arrangements. If you have any questions about these please contact **[name]**.

Yours sincerely

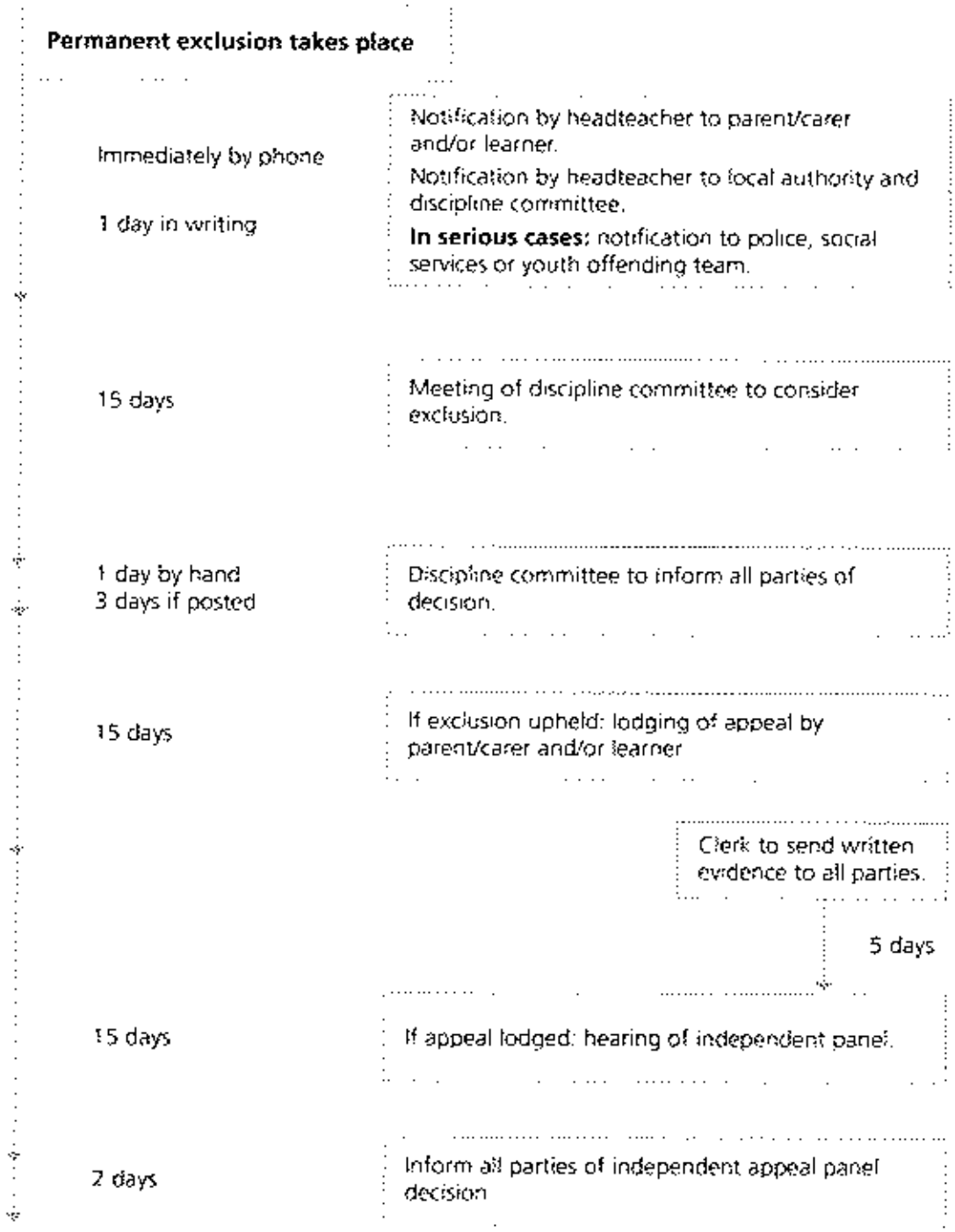
**[name]**

Clerk to the discipline committee

**APPENDIX B**

## Summary of main processes and time limits Permanent exclusions

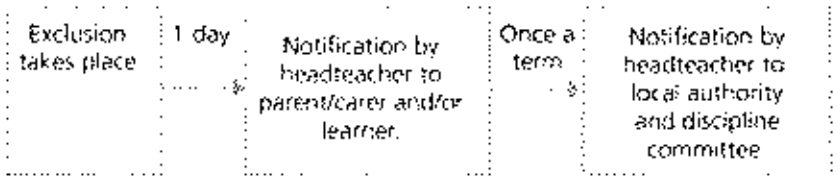
The term 'days' refers to school days throughout.



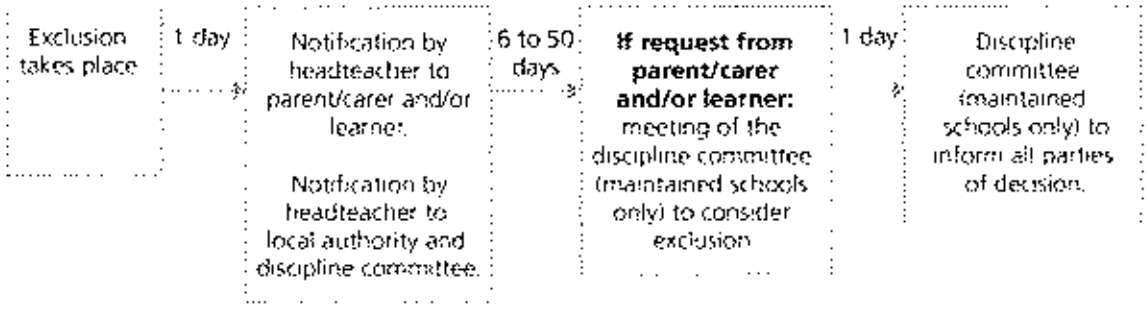
## Fixed-term exclusion

The term 'days' refers to school days throughout.

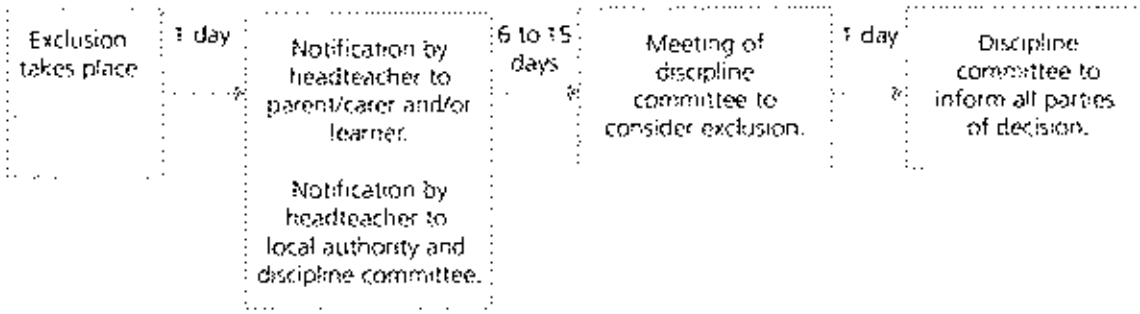
**5 days or fewer**



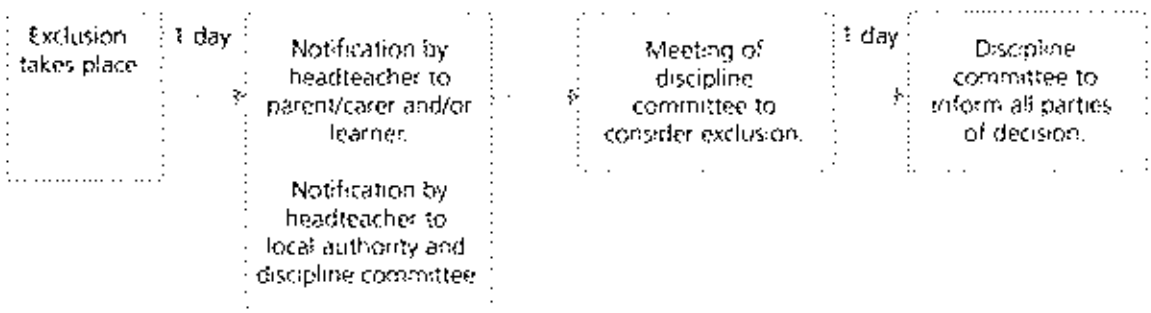

**6 to 15 days**




**More than 15 days**




**Where a public examination will be missed**




**In serious cases: notification to police, social services or youth offending team may also be appropriate.**

**Review**

The governing body reviews this policy every two years. The governors may, however, review the policy earlier than this, if the government introduces new regulations, or if the governing body receives recommendations on how the policy might be improved.

| | | | |
|---|---|---|---|
| **Headteacher:** | T Hume. | **Date:** | 10.6.2025 |
| **Chair of Governing Body:** | | **Date:** | 12.6.2025. |