

St Vincent's School for Blind and Partially Sighted Children

Policy Document Title: Exclusion Policy
To be read in conjunction with: Code of Conduct, Discipline, Rewards and Sanctions Policy
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**Local arrangements and letters sent to LA's re. School making necessary arrangements*

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Introduction

Why do we need guidance?

The DfES has again issued exclusion guidance with effect from 22 March 2004. This guidance is a revised version of Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units, which was issued in January 2003 and which replaced Chapter 6 and Annex D of Circular 10/99. Although not statutory, there is an expectation that Head Teachers, Governing Bodies and LEAs will follow its advice. The Ombudsman regularly investigates complaints from parents alleging maladministration in respect of exclusion procedures, and some cases have gone as far as judicial review, so we should make every effort to ensure we follow good practice in managing the exclusions process.

The DfES document remains the main source of general advice and covers all stages of the process (including some very helpful "model letters"). We have in turn developed some specific advice on reporting procedures, some guidelines for parents/carers and detailed advice for the Discipline Committee of the Governing Body. It is hoped that this information will help to ensure that everyone involved understands the process and that we can effectively deal with something that it is extremely rare but nonetheless difficult and stressful situations for all involved.

What are the main changes?

The main changes arising from the new DfES Guidance is as follows:

- ❖ An emphasis on reducing exclusions and early intervention to avoid the necessity to exclude a pupil.
- ❖ Requirements on schools to inform the host LEA of **all** exclusions.
- ❖ Requirement for the Governing Body to meet to consider any exclusions of more than 15 days.
- ❖ Right of parent to request a meeting for an exclusion of more than 5 days.
- ❖ The continued use of model letters, which have been amended to make clear to parents their right of appeal to the Special Educational Needs and Disability Tribunal, in cases of alleged discrimination on grounds of disability.

How St Vincent's will use this new guidance

1. **DfES Guidance.** The Head Teacher, senior managers and governors should be familiar with the DfES document: "Improving Behaviour and Attendance: DfES Guidance on Exclusions from Schools and Pupil Referral Units". The Head Teacher will be familiar with the guidance in Parts 1 & 2 of the DfES document, dealing with the questions of whether to exclude or not, and the procedures to be followed if a child is to be excluded.
2. **Governing Body/Discipline Committee.** The Governing Body will review certain exclusions and consider any representations about an exclusion made by the parents of an excluded pupil. The Governing Body will delegate some or all of its functions in respect of exclusions to a committee consisting of at least three governors and such a committee will be called the Pupils, Curriculum and Premises sub committee (PC&P), the Governing Bodies will continue to use PC&P to fulfil this function and consider individual cases. The meeting of the PC& P will follow guidance on the conduct of such a meeting as enclosed. Some of the key issues to consider are:
 - ❖ The appointment of a chair (who is not a teacher governor), who is trained to manage such meetings.
 - ❖ Limit the attendance to those who are directly involved in the case.
 - ❖ Use a clerk to take minutes, assist with preparing the PC&P Statement and provide procedural advice.
3. **Exclusions Paperwork.** Enclosed is an exemplar on how to complete exclusion paperwork and an Exclusion Form is attached. This form will not only be used to inform parent/carers, but will also provide basic information to the PC&P. Exclusions will be reported to the host LEA.
4. **Model Letters.** The model letters will reduce the chance of any successful legal challenge to the exclusion at a later stage.
5. **Guidelines for Parents.** The CBI is not able to provide support and advice to parents and carers. These guidelines aim to give parents the information they need and possible sources of further information/advice if needed. This document will be available to all parents with the letter informing them of the exclusion. If parents have any queries they are advised to contact the Parent Partnership Officer (or equivalent) of the placing authority, for independent advice and support.
6. **Guidance on the Conduct of the PC&P and Proforma for the PC&P Statement.** Suitably detailed Minutes of what happened during the meeting, and a Statement detailing the issues considered by the Committee in reaching their decision, will be important pieces of evidence in the event of an appeal.

The guidance is in eight parts:

- ❖ Part 1: Promoting positive behaviour and early intervention
- ❖ Part 2: Removing pupils from a school site and exclusion
- ❖ Part 3: Procedure for excluding a pupil: role of head teacher
- ❖ Part 4: Responsibilities of the governing body
- ❖ Part 5: Refers to Independent Appeals panels
- ❖ Part 6: Police involvement and parallel criminal proceedings
- ❖ Part 7: LEA responsibility to provide full-time education and reintegrate permanently excluded pupils
- ❖ Part 8: Arrangements for money to follow pupils who have been permanently excluded from school.

Definitions

In this guidance, 'parent' means anyone who has parental responsibility for, or care of, a child. In cases of exclusion where the pupil is 18 or over, 'pupil' should be read for 'parent'. Where a child is the subject of a care order, the local authority that has parental responsibility for the child is entitled to determine to what extent the parents exercise their parental responsibility.

Part 1: Promoting positive behaviour and early intervention

Introduction

1. In most cases exclusion will be the last resort after a range of measures have been tried to improve the pupil's behaviour.

Managing Behaviour in Schools

2. St Vincent's has policies, procedures and staff training in place that promotes good behaviour and prevents bad behaviour. These behaviour policies are widely publicised so that pupils, school staff and parents are aware of the standards of behaviour expected of pupils, and the range of sanctions. These behaviour policies are applied in a consistent, rigorous and non-discriminatory way and all areas of their application are monitored routinely. Behaviour management training will be provided for the whole school workforce, in keeping with the school development plan. This training will allow support staff to carry out an extended role in the management and implementation of school behaviour policies should it be required of them, thus helping to tackle teacher workload. Effective policies, procedures and training minimise the number of pupils at risk of exclusion. For those at risk, additional measures could include:

- ❖ Engaging with parents.
 - ❖ A change of teaching set or class.
 - ❖ Curriculum alternatives at Key Stage 4, including attendance at a further education college or another form of alternative provision.
 - ❖ A managed move to another school, with consent of all parties involved; this can be successful for pupils at risk of exclusion and as an alternative to exclusion (see paragraph 7d).
 - ❖ Allocation of a Key Worker such or a Connexions Personal Adviser.
 - ❖ Referral to a specific support service, such as the Education Welfare Service, Social Services or the Child and Adolescent Mental Health Service.
3. Pastoral Support Programmes (PSPs) are useful in helping pupils better manage their behaviour. It is appropriate in particular to those pupils whose behaviour is deteriorating rapidly. It will normally involve a number of interventions, such as those listed in paragraph 3. The behaviour of pupils at risk is sometimes driven by complex combinations of social, emotional and health problems, so the involvement of local authority and other services should be co-ordinated.

Alternatives to Exclusion

4. A number of different alternatives may be utilised by the head teacher in response to a serious breach of behaviour policy:
- a) **Restorative justice**, which enables the offender 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. This has been used successfully to resolve situations that could otherwise have resulted in exclusion. All professionals involved in the process need to be thoroughly involved and this can only work with the consent of all parties;
 - b) **Mediation** through a third party, is another approach that may lead to a satisfactory outcome, particularly where there has been conflict between two parties, e.g. a pupil and teacher, or two pupils;
 - c) **Internal seclusion** (also known as internal exclusion), which can be used to defuse situations that occur in school that require a pupil to be removed from class but may not require removal from the school premises. The seclusion could be to a designated area within the school, with appropriate support and supervision, or to another class on a temporary basis, and may continue during break periods. Internal seclusion should be for the shortest time possible and should be subject to review.

Part 2: Removing pupils from a school site and the decision to exclude

Removing Pupils from a School Site

5. Some pupils receive some of their education at locations other than the site of the school at which they are registered. For example, they participate in school journeys, field trips, work experience and provision at further education colleges. These are routine arrangements for groups of pupils. However, there are three exceptional circumstances in which individual pupils may be removed from school sites, namely where:
- a) There is sufficient evidence that a pupil has committed a disciplinary offence. In these circumstances the pupil may be excluded from school for a fixed period or permanently. This guidance specifies procedures for exclusion.
 - b) A pupil is accused of a serious criminal offence but the offence took place outside the school's jurisdiction. In these circumstances the head teacher may decide that it is in the interests of the individual concerned and of the school community as a whole for that pupil to be educated off site for a fixed period, subject to review at regular intervals. This is not exclusion. Paragraph 23 of this guidance deal with these circumstances.
 - c) A pupil's presence on the school site represents a serious risk to the health or safety of other pupils or school staff. In these circumstances a head teacher may send the pupil home that day after consultation with the parents. This is not exclusion and may only be done for medical reasons. Paragraph 24 of this guidance deal with these circumstances.

These are the **only** circumstances in which pupils may be legally removed from the school site.

The Decision to Exclude

6. A decision to exclude a pupil will be taken only:
- a) In response to serious breaches of the school's behaviour policy; and
 - b) If allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.
7. Only the head teacher, (or, in the absence of the head teacher, the acting head teacher) can exclude a pupil.
8. A decision to exclude a child **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, which have been tried without success. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the child and will normally be used as a last resort.

9. There will, however, be exceptional circumstances where, in the head teacher's judgement, it is appropriate to permanently exclude a child for a first or 'one off' offence. These might include:
- a) Serious actual or threatened violence against another pupil or a member of staff;
 - b) Sexual abuse or assault;
 - c) Supplying an illegal drug;
 - d) Carrying an offensive weapon (for advice on what constitutes an offensive weapon, please refer to the advice in School Security: Chapter 6.)

St Vincent's will consider whether or not to inform the police where such a criminal offence has taken place. They should also consider whether or not to inform other agencies, e.g. Youth Offending Teams, social workers, etc.

10. These instances are not exhaustive, but indicate the severity of such offences and the fact that such behaviour can affect the discipline and well-being of the school community.
11. In cases where a head teacher has permanently excluded a pupil for:
- a) One of the above offences; or
 - b) Persistent and defiant misbehaviour including bullying (which would include racist or homophobic bullying) or repeated possession and/or use of an illegal drug on school premises

The Secretary of State would not normally expect the governing body to reinstate the pupil.

Drug-Related Exclusions

12. St Vincent's will develop, in consultation with the whole school community a drug policy. It will clearly state that illegal drugs have no place within schools and define any circumstances where legal drugs may legitimately be in school.
13. In making a decision on whether or not to exclude for a drug-related incident the head teacher will have regard to the school's drug policy. But the decision will also depend on the precise circumstances of the case, for example, the seriousness of the incident, the circumstances and needs of those involved and the evidence available. Where legal drugs are concerned, again the headteacher will conduct a careful investigation to judge the nature and seriousness of each incident before deciding what action to take. Factors to consider in determining an appropriate response to a drug-related incident have been set out in the Department's revised guidance on drugs in schools.

Factors to Consider Before Making a Decision to Exclude

14. 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 pupil concerned. Before deciding whether to exclude a pupil, either permanently or for a fixed period, the head teacher should:

- a) Ensure that a thorough investigation has been carried out.
 - b) Consider all the evidence available to support the allegations, taking account of the school's behaviour and equal opportunities policies, and, where applicable, the Race Relations Act 1976 as amended and the Disability Discrimination Act 1995 as amended.
 - c) Allow the pupil to give his or her version of events.
 - d) Check whether the incident may have been provoked, for example by bullying, including homophobic bullying, or by racial or sexual harassment.
 - e) If necessary, consult others, but not anyone who may later have a role in reviewing the head teacher's decision, for example a member of the governing body.
15. The standard of proof to be applied is the balance of probabilities, i.e. if it is more probable than not that the pupil did what he or she is alleged to have done, the head teacher may exclude the pupil. However, the more serious the allegation, the more convincing the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard to be applied but it does mean that when investigating more serious allegations, head teachers will need to gather and take account of a wider range of evidence (extending in some instances to evidence of the pupil's past behaviour), in determining whether it is more probable than not that the pupil has committed the offence.
16. Where a police investigation leading to possible criminal proceedings has been initiated, the evidence available may be very limited. However, it may still be possible for the head teacher to make a judgement on whether to exclude the pupil.

When Exclusion is not Appropriate

17. Exclusion should not be used for:
- a) Minor incidents such as failure to do homework or to bring dinner money.
 - b) Poor academic performance.
 - c) Lateness or truancy.
 - d) Pregnancy.
 - e) Breaches of school uniform rules or rules on appearance (for example, relating to jewellery, body-piercing, hairstyles, etc), except where these are persistent and in open defiance of such rules.
 - f) Punishing pupils for the behaviour of their parents, for example where parents refuse, or are unable, to attend a meeting. Guidance on dealing with difficult parents is contained in the Legal Toolkit for Schools.

Unofficial Exclusions

18. If the head teacher is satisfied that, on the balance of probabilities, a pupil has committed a disciplinary offence and the pupil is being removed from the school site for that reason, formal exclusion is the only legal method of removal. **Informal or unofficial exclusions are illegal** regardless of whether they are done with the agreement of parents or carers.

Removal of Pupils from School in Exceptional Circumstances

19. There may be exceptional circumstances in which head teachers need to remove pupils from the school site when exclusion would be illegal. An example is where a pupil is accused of committing a serious criminal offence which took place outside the head teacher's jurisdiction (perhaps during a weekend or school holiday and off the site) and/or there is insufficient evidence to warrant exclusion. However, there may be compelling reasons for removing that pupil from the school premises pending the outcome of a police investigation. A head teacher can authorise leave of absence for a fixed period, with the parents' agreement, or, exercising powers delegated by the governing body under section 29(3) of the Education Act 2002, can arrange for the pupil to be educated elsewhere (without parental consent if deemed necessary, although the parents should be notified). However, such education elsewhere must be arranged for the purposes of receiving any instruction or training included in the secular curriculum of the school. Whether the pupil has been granted leave of absence or is being educated elsewhere, the school must ensure that the pupil's full-time education continues while off site. Any such arrangements do not amount to a formal exclusion from school and should be kept under periodic review.

Removal of Pupils on Health and Safety Grounds

20. The head teacher may send a pupil home, after consultation with the parents, and health professional (e.g. school nurse) as appropriate, where he or she poses an immediate and serious risk to the health or safety of other pupils and staff because of a diagnosed illness (e.g. a notifiable disease) or a diagnosed mental health condition leading to disruptive behaviour. This is not an exclusion and should be for the shortest possible time. If difficulties persist, the head teacher will seek advice from relevant professionals, carry out a risk assessment and if appropriate request a review of the pupil's statement. See also paragraphs 46-47 (on disabled pupils) of this guidance and *Guidance on Infection Control in Schools and Nurseries* produced by Department of Health, DfES and Health Protection Agency. (Revised 21 July 2004)

Length of Fixed Period Exclusions

21. The regulations allow head teachers to exclude a pupil for one or more fixed periods not exceeding 45 school days in any one school year. The limit of 45 school days applies to the pupil and not to the institution. Therefore, any days of fixed period exclusion served by the pupil in any school, in the same school year will count towards the total. It is important therefore that, when a pupil transfers to a new school during the academic year, records of the fixed period exclusions a pupil has received so far during the current academic year are also transferred promptly to the new school. However, individual fixed period exclusions should be for the shortest time necessary, bearing in mind that exclusions of more than a day or two make it more difficult for the pupil to reintegrate into the school. OfSTED inspection evidence suggests that 1-3 days is often long enough to secure the benefits of exclusion without 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 indefinite exclusion for which no legal arrangements exist.

Considerations Following a Fixed Period Exclusion

22. The school's obligation to provide education continues while the pupil is on the roll, and must be met during a fixed term exclusion. In all cases of more than a day's exclusion, work should be set and marked. The head teacher considering whether to exclude a pupil for a longer fixed period, for example for more than 15 school days, should plan:
- a) How the pupil's education will continue during the period of exclusion.
 - b) How the time might be used to address the pupil's problems.
 - c) Together with the school's maintaining LEA, what educational arrangements will best help with the pupil's reintegration into the school at the end of the exclusion. The head teacher should arrange a reintegration meeting with parents following the expiry of a fixed period exclusion. This should be an opportunity to discuss how best the pupil can return to school and can be a useful forum to consider with parents the possibility of a parenting contract (see paragraph 28 below). However, a fixed period exclusion should not be extended if such a meeting cannot be arranged in time or the parents do not attend, as such a meeting is not a statutory requirement.
23. If the school considers that parental influence could be better brought to bear in improving the behaviour of the pupil who has been excluded, they should consider whether it may be appropriate to offer a parenting contract. A parenting contract is a two-sided voluntary agreement between the school and the parent under which the parent agrees to comply with certain requirements and the school or LEA agrees to provide or help the parent access the support that they need. Parenting contracts are appropriate where the parent is willing to

engage with the school but needs support. A school may not require a parent to sign a parenting contract as a condition of their child being reinstated in the school.

24. For further information on parenting contracts or orders, can be found in the Guidance on Education-Related Parenting Contracts, Parenting Orders and Penalty Notices.

Parental Co-operation

25. If a parent does not comply with an exclusion, for example by sending the excluded child to school, or by refusing to collect, or arrange collection of, him or her at lunchtime, the school must have due regard for the pupil's safety in deciding what action to take. An exclusion should not be enforced if doing so may put the safety of the pupil at risk.

Procedures for Review and Appeal

26. The governing body must review all permanent exclusions from the school, and all fixed period exclusions that would result in a pupil being excluded for more than 15 school days in any one term, or missing a public examination. The governing body must also review fixed period exclusions which would result in the pupil being excluded for more than 5 school days but not more than 15 school days in any one term, only where the parent has expressed a wish to make representations. It must decide whether or not to reinstate the pupil, if appropriate, or whether the head teacher's decision to exclude the pupil was justified. The governing body can delegate the function of reviewing exclusions to a committee consisting of at least three governors this will be the Pupils, Curriculum and Premises sub-committee. Procedures are set out in Part 4 of this guidance.

Procedures Following Permanent Exclusion

27. While the pupil is on the roll of the St Vincent's, it is the responsibility of the school that his or her education continues but as in the case of longer fixed period exclusions, once a permanent exclusion has been upheld by the governing body, the host LEA should arrange to re-assess the pupil's needs and how to meet them. If the school or host LEA considers that parenting is a factor in the behaviour of the pupil who has been excluded, they should consider whether it may be appropriate to offer a parenting contract or apply to the magistrate's court for a parenting order. These measures are outlined at paragraphs 28 below. In accordance with the law on admissions, a school may not require a parent to sign a parenting contract as a condition of their child being admitted following permanent exclusion.
28. Further information on parenting contracts or orders can be found in the Guidance on Education-Related Parenting Contracts, Parenting Orders and Penalty Notices.

Behaviour Outside School

29. Pupils' 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. Bad behaviour in such circumstances should be dealt with as if it had taken place in school. For behaviour outside school, but not on school business, a head teacher may exclude a pupil if there is a clear link between that behaviour and maintaining good behaviour and discipline among the pupil body as a whole. This will be a matter of judgement for the head teacher. Pupils' behaviour in the immediate vicinity of the school, or on a journey to or from school, can be grounds for exclusion.
30. School staff who intervene to control the behaviour of pupils 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.

Pupils with Special Educational Needs (SEN)

31. Statutory guidance on identifying, assessing and making provision for pupils with SEN, including those with behavioural, social and emotional needs, is given in the Special Educational Needs Code of Practice. St Vincent's will have regard to this guidance. The governing bodies have a duty to do their best to ensure that the necessary provision is made for any pupil who has SEN. Early identification and intervention, accurate assessment and the arrangement of appropriate provision to meet pupils' SEN usually leads to better outcomes.
32. Other than in the most exceptional circumstances, St Vincent's will avoid permanently excluding pupils with statements. In most cases, the head teacher will be aware that the school is having difficulty managing a pupil's behaviour well before the situation has escalated. The school will try every practicable means to maintain the pupil in school, including seeking host LEA and other professional advice and support. For a pupil with a statement, where this process has been exhausted, the school will liaise with the host LEA about initiating an interim annual review of the pupil's statement.
33. Where a child is permanently excluded, the head teacher should use the period between his or her initial decision and the meeting of the governing body to work with the host LEA to see whether more support can be made available or whether the statement can be changed to name a new school. If either of these options is possible, the head teacher should normally withdraw the exclusion.
34. It is extremely important that parents of children with SEN who are excluded from school receive advice on the options available for their child's future education. St Vincent's will advise parents that advice and information on SEN is available through their local SEN Parent Partnership. The Parent Partnership should also be able to provide details of voluntary

agencies that offer support to parents, including those that can offer advice concerning exclusions.

Disabled Pupils

35. Schools have a legal duty under the Disability Discrimination Act 1995, as amended, not to discriminate against disabled pupils by excluding them from school because of behaviour caused by their disability. This applies to both permanent and fixed period exclusions. The definition of disability under the Act covers pupils with physical, sensory, intellectual or mental impairments. Discrimination means treating disabled pupils less favourably than other pupils without justification. It also means failing to take reasonable steps to ensure that disabled pupils are not placed at a substantial disadvantage compared to their non-disabled peers. What constitutes a reasonable step will depend on the circumstances of each case. The Disability Rights Commission (DRC) has published a Code of Practice which explains and illustrates schools' duties to disabled pupils, including in relation to exclusions. This can be accessed via the DRC website, downloadable copies of which can be obtained from the school.
36. Claims alleging discrimination in respect of fixed period exclusions will be heard by the SEN and Disability Tribunal (SENDIST). Schools will be required, in disability discrimination claims, to demonstrate that their actions are justified and that there are no reasonable adjustments to their policies and practice they might have made to prevent the incident which led to the exclusion. Since many disabled pupils will also have special educational needs, schools may wish to consider the action they have taken to address those needs in this context.

Race Relations

37. The law places a general duty on schools to have due regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between people of different racial groups. The law also places a number of specific duties on schools, including duties to assess the impact of policies and to monitor the operation of those policies on pupils, parents and staff from different racial groups.
38. This legislation requires schools to take steps to ensure that they will not discriminate against pupils on racial grounds when making a decision about whether to exclude a pupil. For example, schools should monitor and analyse exclusions by ethnicity to ensure that they do not treat some groups of pupils more harshly than others. Schools are required to assess whether policies that lead to sanctions including exclusion, have a disproportionately adverse impact on pupils from particular racial groups. If adverse impact is identified and this cannot be justified, then the policy and practice should be revised. Although rates of permanent exclusion among most Black and minority ethnic pupils have fallen in recent years, there is still a

disproportionate permanent exclusion rate for Black pupils, especially boys. Given this, schools should ensure that all school staff and governors are fully trained to understand how their own perceptions, values and beliefs affect their behaviour and therefore their interaction with pupils from minority ethnic backgrounds. Good connections between schools and community groups and open discussion within schools can greatly help to facilitate this.

39. The Commission for Racial Equality has prepared a Code of Practice on the Duty to Promote Race Equality and a non-statutory guide *The Duty to Promote Race Equality: A Guide for Schools*. It is strongly recommended that schools and all those involved in exclusion decisions or appeals to read the Code of Practice or non-statutory guide. These can be obtained from the Stationery Office. Further information is available from the Commission for Racial Equality website. As a non maintained special school, St Vincent's will have due regard to these policies.

Children in Public Care

40. Children in public care are especially at risk of low attainment in school and exclusion see *Guidance on the Education of Children and Young people in Public Care (May 2000)*. St Vincent's School will be sensitive to exclusion issues where children in public care are concerned. The school will try every practicable means to maintain the child in school and will seek the host LEA and other professional advice as appropriate. The school has a Looked After Children Officer (the Head of Care), who is best placed to do this. Social Services should in all cases be involved at the earliest opportunity in working with the school to avoid the need to exclude the pupil.
41. In cases where a child in public care is excluded, anyone who is legally defined as a parent will have the right to make representations and to appeal. The definition of a parent for the purposes of the Education Acts is broadly drawn and includes any person who has parental responsibility (which includes 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 parent(s). This means that there could be a number of people whom the school has to notify about exclusions and who will have the right to make representations and appeal.
42. 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 pupils in public care in the school.

Role of the Secretary of State

43. The Secretary of State issues guidance on exclusion to which the head teachers, governing body and host LEA's must have regard. She can consider complaints about governing bodies' operation of the exclusion procedure.

Part 3: Procedure for excluding a pupil: role of head teacher

Informing Parents About the Exclusion

44. The head teacher should follow carefully the procedures set out in law and statutory guidance, which are designed to ensure fairness and openness in the handling of exclusions. Following this guidance will also reduce the chance of any successful legal challenge to the exclusion at a later stage.
45. Whenever the head teacher excludes a pupil, the parent must be notified immediately, ideally by telephone followed up by a letter within one school day. Letters of notification of exclusion must state:
- a) For a fixed period exclusion, the precise period of the exclusion.
 - b) For a permanent exclusion, the fact that it is a permanent exclusion.
 - c) The reasons for the exclusion.
 - d) The parent's right to make representations about the exclusion to the governing body.
 - e) The person whom the parent should contact if they wish to make such representations (this will usually be the Clerk to the governing body).

Letters may need to be translated into other languages, where parents' first language is not English.

46. Letters should also mention:
- a) The latest date by which the governing body must meet to consider the circumstances in which the pupil was excluded (except where the exclusion is for a total of not more than 5 school days in any one term, and would not result in the pupil missing a public examination).
 - b) The parent's right to see and have a copy of his or her child's school record upon written request to the school.
 - c) In the case of a **fixed period** exclusion, the date and time when the pupil should return to school (in the case of a **lunchtime** exclusion, the number of lunchtimes for which the pupil is being excluded, and if applicable the arrangements for the child to receive free school meals).
 - d) If the exclusion is **permanent**, the date it takes effect and any relevant previous history.

- e) The arrangements made for enabling the pupil to continue his or her education, including the setting and marking of work. It is the parent's responsibility to ensure that work sent home is completed and returned to school.
 - f) The name and telephone number of a CBI officer who can provide advice .
 - g) The telephone number for the Advisory Centre for Education (ACE) exclusions helpline: 020 7704 9822. ACE are a long established independent national charity providing advice to parents.
 - ❖ **Model letter 1** should be used for fixed period exclusions of no more than five days and where a public examination is not missed.
 - ❖ **Model letter 2** should be used for fixed period exclusions of more than five and up to 15 school days (single or cumulative) or where a public examination is missed.
 - ❖ **Model letter 3** should be used for fixed period exclusions (single or cumulative) of more than 15 school days.
 - ❖ **Model letter 4** should be used for permanent exclusions.
47. All exclusion cases should be treated in the strictest confidence.
48. In exceptional cases - usually where further evidence has come to light - a fixed period exclusion may be extended, or converted to a permanent exclusion. In such cases the head teacher must write again to the parents explaining the reasons for the change. The head teacher may withdraw an exclusion that has not yet been reviewed by the governing body.

Informing the Governing Body and the host LEA

49. Within one school day the head teacher must inform the Governing body and the host LEA of:
- a) Permanent exclusions.
 - b) Exclusions which would result in the pupil being excluded for more than five school days (or more than ten lunchtimes) in any one term.
 - c) Exclusions which would result in the pupil missing a public examination.
50. For a permanent exclusion, the head teacher should advise the host LEA of the exclusion, so that they can start to make arrangements for the pupil's full-time education in the event of the exclusion being upheld by the governing body.
51. Fixed period exclusions totalling five or fewer school days, or ten or fewer lunchtimes or half days, in any one term must be reported to the governing body once a term.
52. Exclusion reports should include:
- a) The pupil's name.
 - b) The length of the exclusion.
 - c) The reason for the exclusion.
 - d) The pupil's age, gender and ethnicity.

- e) Whether the pupil has a statement of SEN.
- f) Whether the pupil is in Local Authority care.

Part 4: Responsibilities of the governing body

The Governing Body

- 53. The governing body must review certain exclusions and must consider any representations about an exclusion made by the parents of the excluded pupil. The governing body can delegate some or all of its functions in respect of exclusions to a committee consisting of at least three governors and such a committee may be called the Pupils, Curriculum and Premises sub-committee (P,C& P). References throughout this guidance to the governing body should be taken to include a reference to this Committee.
- 54. It is very important that governors who are called upon to review exclusions receive training to equip them to discharge their duties properly. The Council on Tribunals has emphasised the importance of training for all those involved in the exclusion process.
- 55. Where the governing body has established a Discipline Committee they should appoint a clerk to the Committee. The quorum for a Discipline Committee meeting is three members. If any governor has a connection with the pupil, or knowledge of the incident that led to the exclusion, that could affect his or her ability to act impartially, he or she should step down. The Chair has the casting vote in all cases where an even number of governors are considering the case.
- 56. At one meeting the governing body may consider more than one exclusion so long as they comply with the statutory time limits relating to each one.
- 57. If any exclusion would result in the pupil missing a public examination, the governing body should try to meet before the date of the examination. If, exceptionally, it is not practical for the governing body to meet before the time when the pupil is due to take the public examination, the Chair of Governors - using his or her powers to act in an emergency - may consider the exclusion and decide whether or not to reinstate the pupil (these are the only circumstances in which the Chair of Governors can alone review an exclusion). In such cases the parent has the right to make oral representations to the governing body or, as the case may be, the Chair. In some cases, depending on the nature and seriousness of the exclusion, the governing body may exercise its discretion to allow an excluded pupil on the premises for the sole purpose of taking a public examination. There is no automatic right for any excluded pupil to take a public examination on the excluding school's premises - this is entirely at the governors' discretion.

Governing Body's Role in Reviewing Exclusions

58. There is no legal requirement for the head teacher to inform the governing body of short fixed period exclusions (i.e. those of up to and including 5 school days in total in any one term) as they occur, with the exception of such an exclusion which would result in the pupil missing a public examination. The law requires the head teacher to report short fixed period exclusions once a term to the governing body.
59. But the governing body must, in the case of a fixed period exclusion of 5 school days or fewer in one term (and which does not bring the pupil's total number of days of exclusion to more than 5 in one term), consider any representations made by the parent. If representations from the parent are received the governing body must consider them, but they cannot direct reinstatement (model letter 1). In such cases the governing body has discretion to agree to a meeting if the parent requests a meeting to discuss the exclusion. No statutory time-limits apply to the consideration of such exclusions, but the governing body should consider responding promptly to any request from the parent.
60. On receiving notice of an exclusion from the head teacher, the governing body:
- a) Should, in the case of a fixed period exclusion of more than 5, but not more than 15 school days in one term (which does not bring the pupil's total number of days of exclusion to more than 15 in one term), convene a meeting between the 6th and the 50th school day after receiving notice of the exclusion, to consider the exclusion, **but only if the parent requests such a meeting** (model letter 2).
 - b) Should, in the case of a permanent exclusion, or a fixed period exclusion of more than 15 school days in one term, (or which brings the pupil's total number of days of exclusion to more than 15 in one term) convene a meeting between the 6th and the 15th school day after the date of receipt of notice to consider the exclusion (model letter 3 and model letter 4). If a pupil's total number of days of fixed period exclusion exceeds 15 school days in one term, any subsequent fixed period exclusion(s) of the pupil in the same term would again trigger the governing body's duty to consider the circumstances of the exclusion.
 - c) Should invite the parent, head teacher and an officer of the CBI to the meeting at a time and place convenient to all parties (but in compliance with the relevant statutory time-limits).
 - d) Should ask for any written statements (including witness statements) in advance of the meeting.
 - e) Should circulate in advance any written statements (including witness statements) and a list of those who will be present at the meeting to all parties.

Note: the legislation deems a lunchtime exclusion to be a fixed period exclusion equivalent to half a

school day. This should be taken into account for the purposes of a) and b) above. For example, if a pupil were to be excluded at lunchtime for 15 school days in the same term, a) above would apply.

61. The governing body must comply with the statutory time-limits but are not relieved of their 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.
62. It should be noted that the governing body's role is to review exclusions imposed by the head teacher, who alone has the power to exclude. It follows that the governing body cannot increase the severity of an exclusion, for example by extending the period of a fixed period exclusion or by imposing a permanent exclusion in substitution for a fixed period exclusion. The governing body can uphold an exclusion; or direct the pupil's reinstatement, either immediately or by a particular date.

Procedure at the Governing Body Meeting

63. The governing body should conduct the meeting along the lines of the principles laid out in paragraphs 110 and 111 in Part 5. Where an allegation of misconduct against the pupil is in dispute the governing body should apply the balance of probabilities standard of proof, i.e. whether it is more probable than not that the pupil did what he is accused of. However, the more serious the allegation, the more convincing the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard to be applied but it does mean that when investigating more serious allegations, head teachers will need to gather and take account of a wider range of evidence (extending in some instances to evidence of the pupil's past behaviour), in determining whether it is more probable than not that the pupil has committed the offence. The governing body should normally allow the excluded pupil to attend the meeting and speak, if the parent requests this. They should allow the parent to be accompanied by a friend or legal representative at their request. A pupil aged 18 or over has the right to attend and to make representations in their own right. (Revised 21 July 2004).
64. Where the exclusion is for more than 5 school days in total in one term and where reinstatement is practical, the governing body should decide whether to direct reinstatement. In reaching their decision the governing body should consider:
 - a) Any representations made by the parent, the pupil and the LEA.
 - b) Whether the head teacher has complied with the exclusion procedure and has had regard to the Secretary of State's guidance on exclusion.
65. In considering whether to direct reinstatement, the governing body should seek the LEA's views as to what support could be made available to assist with reintegrating the pupil.

Governing Body's Decision

66. Where reinstatement is not practical, because, for example, the pupil has returned to school following the expiry of a fixed period exclusion, or because the parent makes clear he does not want his child reinstated, the governing body must consider whether the head teacher's decision to exclude the child was justified, based on the evidence. The outcome of their review should be added to the pupil's school record for future reference. There are only two decisions open to the governing body — to uphold the exclusion or to direct the pupil's reinstatement, either immediately or by a particular date.
67. The governing body must inform the parent (or the pupil if aged 18 or over), the head teacher and the LEA of their decision in writing within one school day of the hearing, stating their reasons. Where the pupil resides in a different LEA from the one that maintains the school, the governing body should also inform that LEA — the pupil's host LEA. The governing body may not attach conditions to any direction they may give to the head teacher to reinstate the pupil; however, this does not prevent a school from following good practice in reintegrating the pupil.
68. Where the governing body decide to uphold a permanent exclusion, their letter to the parent (or pupil if aged 18 or over) should also include the following information:
 - a) The reason for the decision.
69. A model letter (model letter 5) for notifying parents of a decision to uphold a permanent exclusion is provided.

After the Meeting

70. A note of the governing body's views on the exclusion should normally be placed on the pupil's school record with copies of relevant papers.

Part 5: Police Involvement and Parallel Criminal Proceedings

Introduction

71. A school-related incident may sometimes also be the subject of a police investigation which may subsequently result in criminal proceedings. This can mean that the evidence available to head teachers and the governing body is very limited. They may not, for example, be able to hear relevant witnesses or to consider relevant material; it may not be known whether a criminal charge is to be brought; if a charge has been brought, the eventual outcome of any court proceedings may be uncertain. It should be remembered that the police and the courts will be applying the criminal standard of proof - beyond reasonable doubt - whereas the head teacher and governing body must apply the civil standard of proof (the balance of probabilities).

Head Teacher's Decision to Exclude and Consideration of the Circumstances by the Governing Body

72. A head teacher need not postpone his or her decision to exclude a pupil simply because of the possibility that criminal proceedings might be brought in respect of the same incident, but the critical factor in any such case will be the evidence that is available to the head teacher. In such circumstances, a judgement must be made on the basis of the evidence available. Relevant considerations include the fact that:
- a) A serious allegation has been made against the pupil by another pupil or member of staff at the school which is the subject of a police investigation which may result in criminal proceedings being brought.
 - b) Pending the conclusion of any such criminal proceedings, the pupil'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.
73. Where a head teacher excludes a pupil in circumstances such as those outlined in the preceding paragraph, the school's governing body has no power to postpone their meeting to consider the pupil's exclusion beyond the statutory time-limit. In deciding whether to direct the head teacher to reinstate the pupil, therefore, they too may 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.

Arrangements for Appeal Hearings in Parallel Criminal Proceedings Cases

74. Where the governing body decide not to direct the head teacher to reinstate a permanently excluded pupil in the circumstances described in the preceding paragraph, the parent (or, if aged over 18, the pupil) should be notified of their decision and of their right to appeal in accordance with Part 5 of this guidance. Any appeal must be lodged no later than 15 school days after the day on which notification of the governing body's decision was received 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.
75. 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 whether instead to 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:

- a) Whether any charge has been brought against the pupil and, if so, what the charge is.
 - b) Whether relevant witnesses and documents are available.
 - c) The likelihood of delay if the hearing were adjourned and the effect it may have on any complainant, the excluded pupil or the school itself.
 - d) Whether an adjournment or, as the case may be, declining to adjourn, might result in injustice.
76. If the panel do decide to adjourn, the host LEA should take steps to ensure the pupil's continuing education pending the hearing. The clerk will be responsible for monitoring the progress of any police investigation and/or criminal proceedings and for re-convening the panel at the earliest opportunity when the hearing can proceed to final determination.
77. If necessary the panel may adjourn more than once. The same panel members should re-convene on each occasion (subject to the considerations referred to in paragraph 112). Where the panel reconvene following the disposal of any criminal proceedings they should have regard to any information about them relevant to the issues they have to determine.

Part 7: LEA Responsibility to Provide Full Time Education and Reintegrate Permanently Excluded Pupils

Introduction

78. Local Education Authorities (LEAs) have a responsibility towards all permanently excluded pupils to:
- a) Provide a suitable full time education; and
 - b) Reintegrate pupils as quickly as possible, where practical into a suitable mainstream school.

Suitable Full Time Education for Permanently Excluded Pupils

Commitment

79. Since September 2002, all LEAs have been committed to provide a suitable full time education for all permanently excluded pupils and to make every effort to do so for pupils excluded for a fixed period over 15 days. Pupils who are excluded from school are not excluded from education and should therefore be provided with continuing education until a permanent school or other placement is found.

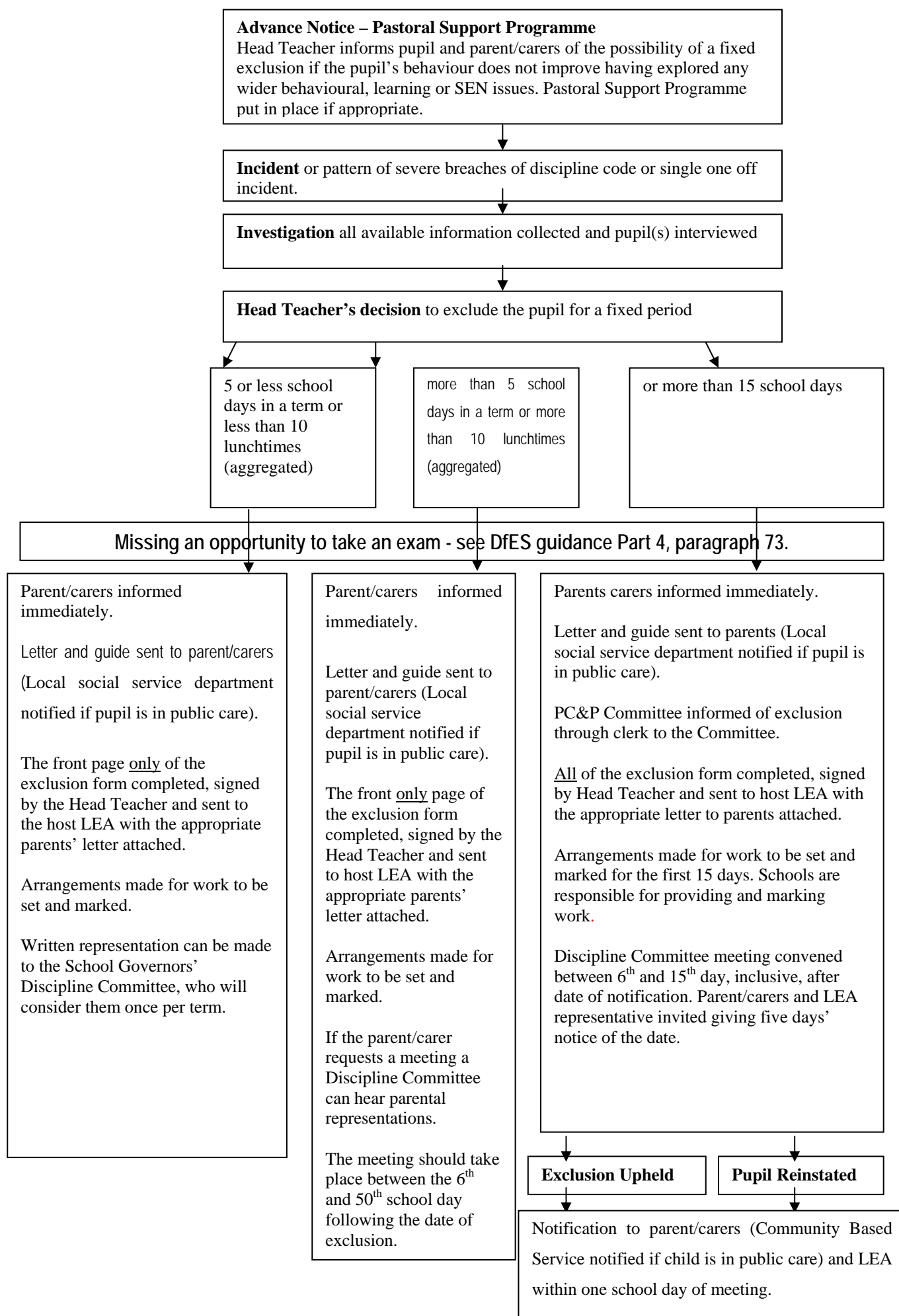
Full Time Education and Special Educational Needs

80. Permanently excluded pupils with statements of Special Educational Needs (SEN) should receive full time provision like any other excluded pupils. In some cases, a pupil's statement will

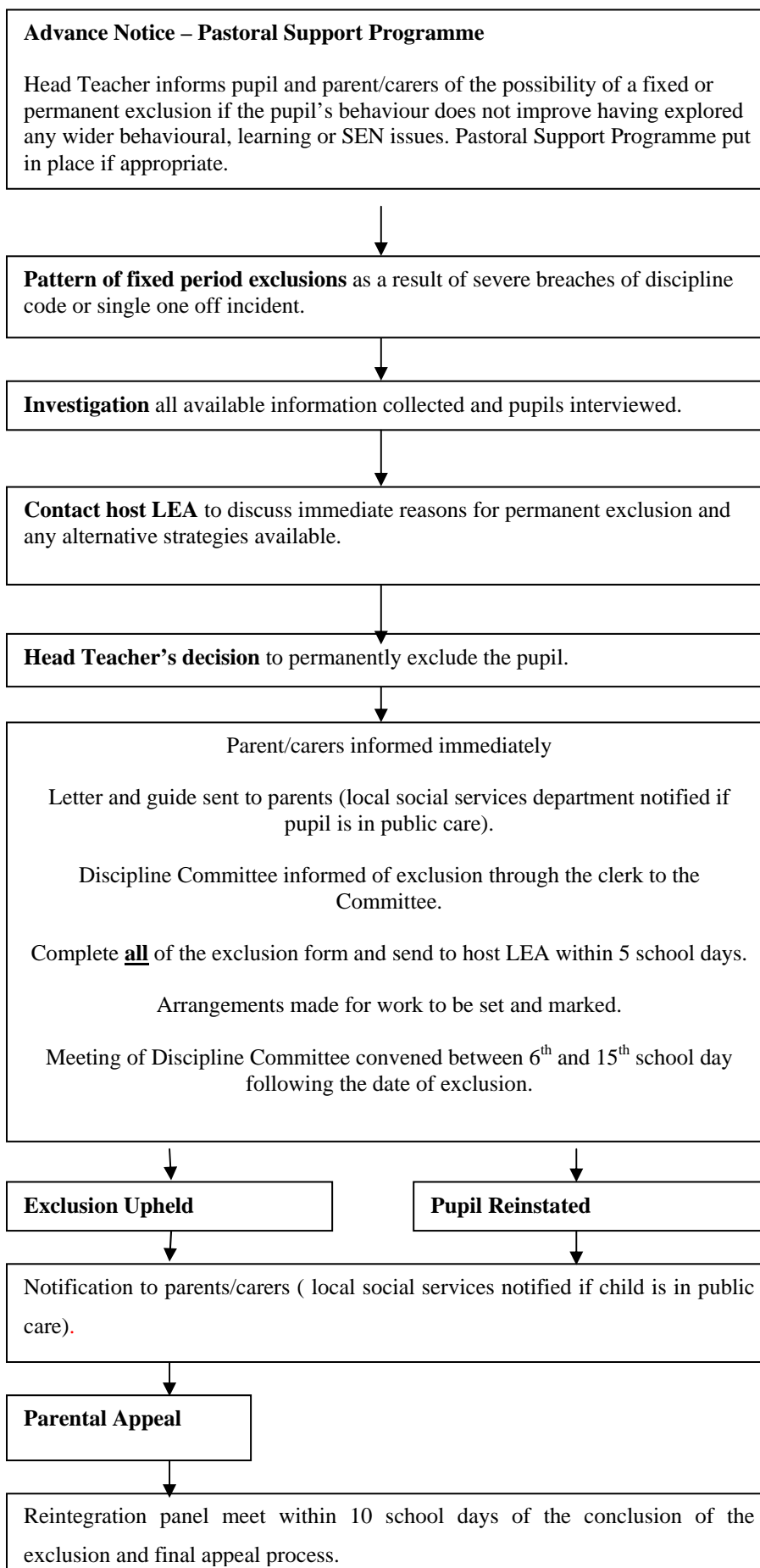
specify fewer teaching hours than required for their key stage, for example because of an associated medical condition. In such cases, LEAs should provide the number of hours set out in the statement.

81. Where statemented pupils are temporarily unable to meet the full time requirement for their key stage, but can do so in the longer term, their statement should be amended to set out the milestones in a staged return to full time hours.
82. For pupils with statements of SEN, the behaviour which led to their exclusion may mean that they require transfer to a special school or a different special school. The pupil's statement should be amended accordingly in line with the procedure set out in the SEN Code of Practice.

Framework for the Exclusion Process – Fixed Period Exclusions



Framework for the Exclusion Process – Permanent Exclusions



- ❖ **Notes for the Completion of Exclusion Paperwork**
- ❖ Please note that parent/carer's should receive a copy of the school's guidelines on exclusion with all standard letters.

Lunchtime and Fixed Period Exclusion – 5 or less school days or less than 10 lunchtimes;

- ❖ Complete the first page only of the exclusion form and either e-mail, fax or send this form together with Model Letter 1 to the host LEA local social services notified if the pupil is in public care.
- ❖ Should the parent/carer wish to make a written representation to the PC&P Committee, arrangements should be made for these to be reported to the PC&P Committee once per term.

Lunchtime and Fixed Period Exclusion – More than 5 school days or more than 10 lunchtimes including cumulative in the same term;

- ❖ Complete the first page only of the exclusion form and forward to the placing local authority
- ❖ Should the parent/carer wish to make a representation to the PC&P, arrangements should be made for this meeting to take place between 6 and 50 school days following the date of exclusion.

Lunchtime and Fixed Period Exclusion – More than 15 school days including cumulative in the same term;

- ❖ A meeting of the school's Discipline Committee **must** be arranged to meet between 6 and 15 school days following the notification date of exclusion to consider the Head Teacher's decision and to hear any representation from parent/carer's. If the pupil is in public care the local social services should be informed.

Permanent Exclusion

- ❖ A meeting of the school's Discipline Committee must be arranged to meet between 6 and 15 school days following the date of the exclusion to consider the Head Teacher's decision and to hear any representations from parent/carers. If the pupil is in public care the local social services must be informed.

Ethnicity

Please record a pupils ethnicity in the box provided.

ST VINCENT'S SCHOOL

PLEASE NOTE – If the aggregated number of excluded school days does not exceed 15 days in the current term, it is only necessary to complete the first page of this form. Please indicate the type of exclusion below:

EXCLUSION FORM

LUNCHTIME FIXED PERMANENT

Current School:	Date of Entry:	
Full Name of Pupil:	Date of Birth:	
Previous School(s):	Age:	Year Group:
	Gender:	

Ethnicity	White	Black Caribbean	Black African	Black Other	Indian	Pakistani	Bangladeshi	Chinese	Other

Name of Parent/Carer:	Telephone:
Address:	Post Code:

Exclusion Date:	Length of this Exclusion: _____	school days
Date Parent Informed:	Aggregated Total for this Term: _____	school days
Re-instatement Date:	Aggregated Total for this School Year: _____	school days

Discussions with Parent/Carer(s) regarding this Exclusions:

Member of Staff: _____
Date: _____

Immediate reasons for this exclusion, with reference to the school's behaviour policy (please indicate clearly if illicit drugs or the abuse of any other substances were implicated in this exclusion):

Summary of any previous exclusions:

Names of any staff of the host LEA Support Services currently involved:	Statement of SEN: YES/NO
	If NO SEN Register: YES/NO
	If YES which stage? _____

Social Services involved: YES/NO	Looked After by Local Authority:
If YES, contact name:	YES/NO

Signed: _____	(Head Teacher)	Date: _____
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1 Attendance

Details of any prolonged absences or changes in pattern of attendance and any involvement with the Education Welfare Service.

Please attach the pupil's attendance record for the last 3 terms.

2 General Health

Any health/disability issues causing concern.

3 Behaviour

Summary of behavioural difficulties.

Please outline circumstances and situations in which the behavioural difficulties are:

a most likely to occur

b least likely to occur

Please outline the measures taken to manage the pupil's behaviour problems in school, with dates and outcomes.

How have the pupils been actively involved in addressing the consequences of their behaviour.

Please attach copies of any Pastoral Support Programmes and/or IEP's that have been implemented within the last 6 months together with records of any reviews of the programmes.

4 Parent/Carer Involvement

Details of parent/carer involvement in helping to improve the pupil's behaviour in school, if not already recorded in any attached Pastoral Support Programmes.

What has been the parent/carer's response to this exclusion?

5 Pupil's Response

Has the pupil been given the opportunity to express their views.

6 Educational Attainment and Ability

Please give details of education assessment carried out and attainment levels. Please attach test results.

How well developed are the pupil's oral communication skills? Does the pupil express themselves effectively with:

a peers

b adults

7 The Setting and Marking of Work During the Period of the Exclusion

Please give details of the arrangements made for setting and marking work while the pupil is excluded.

8 The Supervision of the Pupil During the Period of the Exclusion

Has the supervision of the pupil during the exclusion period been discussed with the parent/carer? If so, please give details.

9 Any Other Relevant Information

Please record any other information relevant to the decision to exclude the pupil.

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

Dear [Parent's Name]

I am writing to inform you of my decision to exclude [Child's Name] for a fixed period of [Period]. This means that he/she will not be allowed in school for this period. The exclusion begins/began on [date] and ends on [date].

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

You have the right to make representations to the Governing Body. If you wish to make representations please contact [Name of Contact] on/at [Contact Details - Address, Phone Number, e-mail], as soon as possible.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the SEN and Disability Tribunal (SENDIST). The address to which appeals should be sent is SENDIST, Procession House, 55 Ludgate Hill, London EC4M 7JW.

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

The school will set work for [Name of Child] during the period of his/her exclusion [details of arrangements for this]. Please ensure that work set by the school is completed and returned to us promptly for marking.

You may want to contact [Name] at [LEA Name] host LEA on/at [Contact Details - Address, Phone Number, e-mail] who can provide advice. You may also find it useful to contact the Advisory Centre for Education (ACE) - an independent national advice centre for parents of children in state schools. They offer information and support on state education in England and Wales, including on exclusion from school. They can be contacted on 020 7704 9822 or at www.ace-ed.org.uk. [insert reference to local sources of independent advice if known].

[Name of child]'s exclusion expires on [Date] and we expect [Name of Child] to be back in school on [Date] at [Time]. I am sure it would be helpful for us to meet to discuss [Name of Child]'s return to school before they are due back. Please could you contact [Name] to arrange a convenient time and date.

Yours sincerely

Stephen Roberts
Head Teacher

Model Letter 2

From Head notifying parent of a fixed-period exclusion of more than 5 and up to and including 15 school days in total in one term, or where a public examination would be missed.

Dear [Parent's Name]

I am writing to inform you of my decision to exclude [Child's Name] for a fixed period of [Period]. This means that [Child's Name] will not be allowed in school for this period. The exclusion begins/began on [date] and ends on [date].

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

You have the right to request a meeting of the Governing Body at which you may make representations and the decision to exclude can be reviewed. As the length of the exclusion is more than 5 school days in one term the Governing Body must meet if you request it to do so. The latest date by which the Governing Body can meet is [insert date – no later than 50 school days from the date the Governing Body is notified]. If you wish to make representations to the Governing Body and wish to be accompanied by a friend or representative please contact [Name of Contact] on/at [Contact Details - Address, Phone Number, email], as soon as possible.

Please advise if you have a disability or special needs which would affect your ability to attend a meeting at the school. Also, please inform [Contact] if it would be helpful for you to have an interpreter present at the meeting. You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the SEN and Disability Tribunal (SENDIST). The address to which appeals should be sent is SENDIST, Procession House, 55 Ludgate Hill, London EC4M 7JW.

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

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

You may want to contact [Name] at [LEA Name] host LEA on/at [Contact Details -Address, Phone Number, email], who can provide advice. You may also find it useful to contact the Advisory Centre for Education (ACE), an independent national advice centre for parents of children in state schools. They offer information and support on state education in England and Wales, including on exclusion from school. They can be contacted on 020 7704 9822 or at www.ace-ed.org.uk. [Insert reference to local sources of independent advice if known].

[Name of child]'s exclusion expires on [Date] and we expect [Name of Child] to be back in school on [Date] at [Time]. I am sure it would be helpful for us to meet to discuss [Name of Child]'s return to school before they are due back. Please could you contact [Name] to arrange a convenient time and date.

Yours sincerely

Stephen Roberts
Head Teacher

Model Letter 3

From Head Teacher notifying parent of a fixed-period exclusion of more than 15 school days in total in one term.

Dear **[Parent's Name]**

I am writing to inform you of my decision to exclude **[Child's Name]** for a fixed period of **[Period]**. This means that **[Child's Name]** will not be allowed in school for this period. The exclusion begins/began on **[date]** and ends on **[date]**

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

As the length of the exclusion is more than 15 school days in total in one term the Governing Body must meet to consider the exclusion. At the review meeting you may make representations to the Governing Body if you wish. The latest date the Governing Body can meet is **[Date Here – no later than 15 school days from the date the Governing Body is notified]**. If you wish to make representations to the Governing Body and wish to be accompanied by a friend or representative please contact **[Name of Contact] on/at [Contact Details - Address, Phone Number, email]**, as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the Governing Body of the time, date and location of the meeting. Please advise if you have a disability or special needs which would affect your ability to attend a meeting at the school. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the meeting. You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the SEN and Disability Tribunal (SENDIST). The address to which appeals should be sent is SENDIST, Procession House, 55 Ludgate Hill, London EC4M 7JW.

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

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

You may want to contact **[Name]** at **[LEA Name]** host LEA **on/at [Contact Details Address, Phone Number, email]**, who can provide advice. You may also find it useful to contact the Advisory Centre for Education (ACE), which is an independent national advice centre for parents of children in state maintained schools. They offer information and support on state education in England and Wales, including on exclusion from school. They can be contacted on 020 7704 9822 or at www.ace-ed.org.uk. **{Insert reference to source of local independent advice if known}**.

[Name of child]'s exclusion expires on **[Date]** and we expect **[Name of Child]** to be back in school on **[Date]** at **[Time]**. I am sure it would be helpful for us to meet to discuss **[Name of Child]**'s return to school before they are due back. Please could you contact **[Name]** to arrange a convenient time and date.

Yours sincerely

Stephen Roberts
Head Teacher

Model Letter 4

From Head Teacher notifying parent of a permanent exclusion

Dear [Parent's Name]

I regret to inform you of my decision to exclude [Child's Name] permanently from [Date]. This means that [Child's Name] will not be allowed back to this St Vincent's [for school pending a meeting of the Governing Body]. Alternative arrangements for [Child's Name]'s education will need to be made. In the first instance we will set work for [Child's Name] and would ask you to ensure this work is completed and returned promptly to school for marking.

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

As this is a permanent exclusion the Governing Body will meet to consider it. At the review meeting you may make representations to the Governing Body if you wish. The latest date on which the Governing Body can meet is [Date – no later than 15 school days from the date the Governing Body is notified]. If you wish to make representations to the Governing Body and wish to be accompanied by a friend or representative please contact [Name of Contact] on/at [Contact Details – Address, Phone Number, e-mail] as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the Governing Body of the time, date and location of the meeting. Please advise if you have a disability or special needs which would affect your ability to attend the meeting. Also, please inform [contact] if it would be helpful for you to have an interpreter present at the meeting.

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

Alternative education other than setting work will be provided for [Name of Child] if the exclusion continues 15 school days. A [School's Maintaining LEA] LEA representative will contact you to discuss this.

You may also want to contact [Name] at [LEA Name] home LEA on/at [Contact Details – Address, Phone Number, e-mail], who can provide advice on what options are available to you. Additionally, you may find it useful to contact the Advisory Centre for Education (ACE), which is an independent national advice centre for parents of children in state schools. They offer information and support on state education in England and Wales, including on exclusion from school. They can be contacted on 020 7704 9822 or at www.ace-ed.org.uk. [Insert reference to source of local independent advice if known]

Yours sincerely

[Name]
Head Teacher

Exclusion is a serious matter:

Only the Head Teacher can exclude a pupil.

The decision to exclude a pupil should be taken only:

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

Exclusions can be:

Permanent

or

For a fixed period (up to 45 school days in a year)

or

Lunchtime (equal to one half school day)

How am I told that my child has been excluded?

The Head Teacher should inform you immediately, ideally by telephone. A letter will follow this up within one school day giving the reasons for your child's exclusion. The letter should say:

- ❖ How many days the exclusion is for.
- ❖ The reasons for the exclusion.
- ❖ The steps taken by school to avoid exclusions.
- ❖ The date and time for your child to return to school.
- ❖ The name of the person to write to if you want to contact the Discipline Committee of the school's Governing Body.
- ❖ Arrangements for the setting and marking of work (it is the parent's/carer's responsibility to ensure that work sent home is completed and returned to school during the exclusion).
- ❖ If the exclusion is for lunchtime, and your child is entitled to a free school meal, the arrangements for providing a packed lunch.
- ❖ Arrangements for seeing your child's school records.
- ❖ The name and telephone number of an officer of the Local Education Authority (LEA) who can provide advice on the exclusion process.
- ❖ A contact address for the SEN and Disability Tribunal (SENDIST).

- ❖ Contact details for the Advisory Centre for Education (ACE).

You have the right to talk to the school if your child is excluded for any reason (including lunchtimes or if a public examination is due to be missed).

- ❖ If your child is excluded for 5 or less days or less than 10 lunch times in a term you can write to the Discipline Committee of the school's Governing Body if you do not agree with the exclusion.
- ❖ If your child is excluded for more than 5 school days, or more than 10 lunchtimes in a term, you have the right to ask for a meeting of the Discipline Committee to be arranged. You can attend this meeting with a friend or advisor, or you can write to the committee with your views, which will be considered at the meeting.

The committee should meet between 6th and 50th school day following the notice of exclusion from the Head Teacher.

- ❖ If your child's exclusion is more than 15 school days, more than 30 lunchtimes in a term, or permanent, a meeting of the Discipline Committee will be arranged and you will be invited to attend this meeting.

The committee should meet between 6th and 15th school day following the notice of exclusion from the Head Teacher.

What happens at the Discipline Committee Meeting?

If your child is already back in school when the meeting is held, you can still say that you disagree with the exclusion and give your reasons. The Discipline Committee will consider all information and make a decision.

If your child is still excluded when the meeting is held, the Discipline Committee will consider all information and will make a decision on the exclusion. If they decide that your child is to return to school before the exclusion is completed, the necessary arrangements will be made.

In either case you will be informed of the decision by letter within one school day of the meeting.

Guidance on the conduct of the Governing Body Meeting to consider the use of exclusion

General Principles

- ❖ The meeting should follow a clear procedure, explained to everyone at the start by the Chair.
- ❖ Attendance at the meeting should not extend beyond those directly involved in the process.
- ❖ While it is appropriate for the Governing Body meeting to be managed as informally as possible, care must be taken to ensure that this does not interfere with correct procedure.
- ❖ Documentation for Governing Body meetings should be kept to a minimum consistent with making a case effectively.
- ❖ All documentation should be circulated in advance of the meeting. Additional paperwork should only be circulated at the meeting in exceptional circumstances. Where it has not been possible to circulate paperwork in advance, consideration should be given to postponing the meeting.

Clerking/Minute Taking

- ❖ The clerk is responsible for giving procedural advice and for taking minutes. The clerk should be a suitably experienced person who is seen to be independent. He or she must not have any direct involvement in the case being considered and must not comment on the facts of the case or advise on its merits.
- ❖ It is very important for the minutes of the meeting to be an accurate record as they will be referred to in any appeal. Where necessary, the clerk should seek clarification of points made from those presenting their case or responding to questions.
- ❖ Consideration of the case by the Governing Body, is held in private. This discussion is not minuted but a clear record must be made of the decision and the reasons why it was reached. The clerk will assist the Governing Body in preparing this statement.

Agenda for a Governing Body Meeting to consider the use of exclusion

The meeting of the Governing Body should be consistent with the following agenda:

1. Introductions by Chair.
2. Outline of meeting format by Chair.
3. Presentation of reasons for exclusion by Head Teacher (or his/her representative).
4. Questions or clarification (i) from parents or parental representative (ii) from members of Governing Body.
5. Victim's representations, if any, made by the victim in person, through a representative or through a statement read by the Chair.
6. Questions through the Chair for clarification. Victim/victim's representative then leaves meeting.
7. Presentation by parent(s) of excluded pupil or representative.
8. Questions for clarification (i) from members of the Governing Body (ii) from the Head Teacher
9. Questions for clarification (i) from the parents (ii) from the Head Teacher (iii) from members of the Governing Body.
10. Concluding comments by the Head Teacher.
11. Concluding comments by the parents or their representative.
12. The Head Teacher, the parents and their representative, a host LEA representative, if present, withdraw.
13. Consideration of the exclusion by the Governing Body.
14. Decision by Governing Body on whether to confirm exclusion or reinstate pupil together with the reasons for reaching this conclusion. To be written down by the clerk in the form of a statement.

Guidance Notes Re: Completing the Proforma for the Discipline Committee Statement

The proforma for the Discipline Committee Statement is hopefully fairly self-explanatory. This note is therefore designed to give advice on some of the sections outlined where the response of the Discipline Committee may not always be clear cut and to act as a pointer to some of the issues which the Discipline Committee should consider. It is not meant to provide definitive answers for all situations. Each case should be considered by the Discipline Committee on its merits and it will be important for the Discipline Committee to seek the advice of its clerk where in doubt in any given situation.

Please note that dependent upon the reasons for the exclusion it may not be necessary to complete all the sections outlined. For example if the excluded pupil is not a special needs pupil or the subject of a statement then there will be no need to complete this section.

Section 1

The new exclusions guidance from the DfES provides clear advice to Head Teachers on the factors he/she should consider before making a decision to exclude. The guidance also sets out clearly the process which Head Teachers should follow when notifying parents, the Discipline Committee and the host LEA of permanent/fixed exclusions.

This section should therefore set out how the Head Teacher has evidenced to the Discipline Committee that he/she has taken into account the guidance and followed the appropriate process for excluding the pupil in question.

Where a Discipline Committee is concerned that a Head Teacher has not followed the guidance/processes this should also be highlighted in this section.

Circumstances may arise where certain processes have not been followed by the Head Teacher but are not felt by the Discipline Committee to materially affect the decision to exclude. For example after the decision to exclude it may be that the letter to the pupil's parents is not sent within one school day as set out in the guidance. In such circumstances, the Discipline Committee may wish to indicate in this section that the Head Teacher has not followed all the exclusion process and express concern at this/suggest steps be taken to ensure compliance in the future. However, the Discipline Committee may consider that whilst this aspect of the process was not followed it did not materially affect the decision to exclude the pupil.

Section 2

In completing this section, the Discipline Committee should clearly set out those facts which led them to accept that “on the balance of probabilities” the pupil did what they were accused of doing.

As the test is the “balance of probabilities” and not “beyond a reasonable doubt” it is appropriate to highlight any areas where the Discipline Committee has concerns regarding conflicting evidence. For example if the Discipline Committee has received conflicting evidence from two witnesses and it is not possible to ascertain the veracity of these statements it would be appropriate for the Discipline Committee to indicate this and state whether or not it felt they should be disregarded because of this fact. It may be that the Discipline Committee accepts the veracity of one of the statements “on the balance of probabilities” because of other information it has received which appears to them to support that statement. This should be highlighted in this section.

Where the incident which led to the exclusion is also the subject of a police investigation or criminal proceedings the evidence provided to the Discipline Committee may be limited. This may mean that the Discipline Committee may not be able to hear relevant witnesses or consider certain material or know whether criminal charges etc are to be brought.

A judgement must therefore be made by the Discipline Committee on the basis of the evidence available at the time. Again the Discipline Committee should remember that the test is “on the balance of probabilities” and should set out those factors, from the information available, which led them to accept that the pupil had done what he/she was accused of.

Section 5

This section should set out the details which have been provided to the Discipline Committee of when the pupil had the opportunity to give his/her version of the events leading to the exclusion to the Head Teacher.

It may be that during the Discipline Committee meeting the pupil and/or the pupil's family/representative contradict the Head Teacher's statement that the pupil was provided with this opportunity. They might indicate that this opportunity was not provided or that it was hampered in some way which meant that an accurate version of events was not given at the time. This should be highlighted in this section. The section should also indicate which information the Discipline Committee accepted and why.

Section 6

It is worth pointing out that “mitigating circumstances” could include:

- ❖ whether the incident was provoked;
- ❖ a crisis at home which lead the pupil to act in an irrational or uncharacteristic fashion;
- ❖ a build up of events at home which led the pupil to act in an irrational or uncharacteristic fashion;
- ❖ specific factors affecting the pupil eg the pupil had been suffering from depressions etc.

Section 7

In cases where the exclusion has arisen as a result of a build up of disciplinary incidents it is not sufficient for the Head Teacher to state that a range of strategies have been carried out this should be clearly shown in the evidence ie copies of Pastoral Support Programmes, Personal Education Plans, copies of notes of meetings with outside agencies where they have been involved eg if child has special needs and Ed Psychologist, other agencies involved in review meetings aimed to keep child in mainstream education – what have they recommended, were problems highlighted which school could have taken on board at an earlier stage – what action did the school take.

It will be important for the Discipline Committee to test out why the strategies have failed and why it is considered that the school has run out of options where it may continue to support the pupil in school.

In cases where exclusion has arisen as a result of a single serious incident, the Committee should bear in mind the following:-

The Secretary of State's guidance in relation to such incidents.

This guidance clearly states that in certain circumstances for eg such as a serious violent incident the Secretary of State would not recommend that a pupil be reinstated.

The Committee however, should bear in mind that this is “guidance” and it should test the evidence which led the Head Teacher to view that one incident as so serious it led to exclusion ie do the Committee accept that the incident is serious and why?

For example – if the exclusion related to a physical assault – did the assault result in the victim having to receive medical attention from a GP or hospital? Are there statements from witnesses who saw

incident? Was it a planned assault on another pupil or did it result from a loss of temper? Is there evidence to suggest such an incident might occur again and the safety of other pupils and staff are at risk? What has been the impact of the incident on the victim and other pupils/staff?

The Committee may also wish to consider whether any strategies were in the process of being adopted by the school or were being planned by the school to deal with the pupil's behaviour which were not able to be put in place because they were overtaken by the incident which led to the exclusion.

4. Was the incident a serious breach of school discipline/drugs policy? Is this supported by any home/school agreements?
5. Has the student been given the opportunity to give his/her version of the events leading to the exclusion to the Head Teacher?
6. Were there any mitigating circumstances surrounding the incident (ie was the incident provoked by for example bullying, racial or sexual harassment)?
7. Schools are required to have regard to Statutory Guidance in the Special Educational Needs Code of Practice on the identification, assessment and the making of provision for pupils with special educational needs, including those with behavioural, social and emotional needs.

In this case, has the school/Head Teacher had regard to this guidance in addressing this pupil's needs?
8. Where the student is a Looked After Child have Social Services and REALAC been involved at the earliest opportunity in working with the school to avoid the need to exclude the pupil?
9. Would allowing the pupil to remain in school seriously harm the education or welfare of the pupil or others in the school?
10. Is reinstatement appropriate.
11. Prior to the incident were a range of strategies adopted by the school, had they failed or were there exceptional circumstances which lead to the student being excluded for a first "one off offence"?

Circular 10/99 provides that permanent exclusion should be a last resort. In many cases it will be the last step in a process for dealing with disciplinary offences when a wide range of alternative strategies have been tried and have failed, including the use of a Pastoral Support Programme. In other cases it will be a response to a single incident which is viewed to be of such a serious nature that allowing a pupil to remain in the school would seriously harm the education or welfare of the pupils or others in the school.

12. Should the Head Teacher's decision on the use of exclusion be upheld.

Signed

Chairperson of the Discipline Committee

Model Letter 5

From the Clerk to the Governing Body to the parent of a permanently excluded pupil upholding a permanent exclusion

Dear **[Parent's Name]**

The meeting of the Governing Body at **[School]** on **[Date]** considered the decision by **[Head Teacher]** to permanently exclude your son/daughter **[Name of Pupil]**. The Governing Body, after carefully considering the representations made and all the available evidence, have decided to uphold **[Name of Pupil]**'s exclusion.

The reasons for the Governing Body's decision are as follows: **[Give the reasons in as much detail as possible, explaining how they were arrived at]**.

I would advise you of the following sources of advice: **[repeat details from the original exclusion letter, i.e. a named LEA officer and the Advisory Centre for Education and any local sources of independent advice]**.

Yours sincerely

Stephen Roberts
Clerk to the Governing Body