



## Howardian Primary School Exclusion Policy

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## **Introduction**

Exclusion is the formal sending home of a pupil from school for disciplinary reasons. An exclusion can be permanent or fixed-term. Exclusion is seen by school as a last option. This policy explains the circumstances under which the school may exclude a pupil and the processes and procedures that must be followed. The policy is based on the guidance in the Welsh Government Document number 294/2024: Exclusion from School and Pupil Referral Units. The guidance is not exhaustive and judgements will need to take account of the circumstances of individual cases.

## **The legal framework**

The guidance is based on:

- 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

## **Definitions**

In the primary school 'Relevant person' as defined in the Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003 and the Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003 means the parent or carer as the learner was aged 10 or below on the day before the beginning of the school year in which the learner was excluded.

'Parent' or 'carer' means 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.

The term 'discipline committee' is used throughout this guidance to mean the pupil discipline and exclusions committee as defined in the Government of Maintained Schools (Wales) Regulations 2005.

## **Behaviour Policy**

Howardian Primary School's Behaviour Policy promotes positive behaviour. Along with the Attendance Policy the Behaviour Policy is seen as an integral part of the curriculum, teaching values as well as skills and knowledge. The policy is underpinned by the United Nations Convention on the Rights of the Child (UNCRC), based on clear values such as respect, fairness and inclusion, and reflects the school's overall aims and its social, moral and religious education programmes. The policies promote self-discipline and respect for others, and the importance of listening to all members of the school community, including the learners.

## **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 it 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 deciding whether or not to exclude for a drug-related offence the headteacher should have regard to the school's published policy on substance misuse. 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.

### **1.3 Factors to consider before deciding 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:

- take account of the school's behaviour and equal opportunities policies;
- consider 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 need 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. 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. 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 act 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 considered, 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 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 have 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 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. On the pupil's return to school the head teacher has a duty to request a Reintegration interview with the parent or carer of a learner of compulsory school age who has been excluded from a primary school for any fixed period. This is a requirement set out in the Education (Reintegration Interview) (Wales) Regulations 2010.

1.8.5 The meeting 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 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.

1.8.7 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 fixed-term 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 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 some time 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.

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.

### **1.15 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 incident 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 consider in deciding whether or not a sanction in a particular case is reasonable.

### **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 teacher 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 acted 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 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 protected characteristic or because they are associated with someone with a protected characteristic.

1.17.10 It is also unlawful to exclude a learner with a protected characteristic for behaviour that a learner without a protected 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.

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

1.18.1 The best interests of the child, in line with the UNCRC, need 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

## **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 16 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 considered by a court when deciding, on any future application, whether to impose a parenting order on the parent or carer.

2.1.9 Annex A of this guidance includes 6 model letters for notifying parents or carers and learners of fixed-term and permanent exclusions, and of appeal outcome.

- Model letter 1: for fixed-term exclusions of fewer than 6 days and where a public examination is not missed.
- Model letter 2: 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 letters 4-5: for permanent exclusions.
- Model letter 6: for notifying parents or carers and/or learner of the outcome of their appeal.

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 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 plan 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 should be used when informing the local authority of an exclusion:

- Physical assault against a pupil
- Physical assault against an adult
- Persistent disruptive behaviour
- 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
- Other

### **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 parent 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.

### **3.2 Discipline committee meetings to consider exclusions**

3.2.1 On receiving notice of an exclusion from the headteacher, the discipline committee 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 Annex A); 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 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 Annex A) and 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 Annex A).

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/her 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 Annex 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.

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

#### **4.5 After the hearing**

4.5.1 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.

4.5.2 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 Annex 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.

4.5.3 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 2.2 ‘Informing the discipline committee and the local authority’).

4.5.4 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.

4.5.5 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.

4.5.6 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.

4.5.7 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.

#### **4.6 Remedies after the appeal hearing**

##### **Complaint to the Public Services Ombudsman for Wales**

4.6.1 A parent/carers 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**

4.6.2 The Welsh Ministers can consider complaints about a discipline committee’s operation of the exclusion procedure but have no power to overturn the exclusion or to consider complaints about the decision of an independent appeal panel.

##### **Judicial review**

4.6.3 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, 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 deciding 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 5.2.1, 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 5.2.1, 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 4.1 '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 might have on any complainant, the excluded learner or the school itself;
- whether an adjournment or, as the case may be, declining to adjourn, might result in injustice.

5.3.3 If the panel does 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. Steps following Exclusion**

### **6.1 Reintegration meetings for fixed-term exclusions**

6.1.1 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.

6.1.2 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.

6.1.3 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.

6.1.4 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 applies 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 consider 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.

6.1.5 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.

6.1.6 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.

6.1.7 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.

## **6.2 First steps following permanent exclusion**

6.2.1 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.

6.2.2 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.

## **6.3 Funding to follow learners**

6.3.1 The transfer of money that follow a permanently excluded pupil 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.

6.3.2 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.

## **6.4 Assessment and planning**

6.4.1 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.

6.4.2 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.

6.4.3 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

6.4.4 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

6.4.5 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.

## **6.5 Reintegration plans and pastoral support programmes**

6.5.1 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.

6.5.2 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.

6.5.3 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.

6.5.4 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.

6.5.5 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

## Annex A: 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.

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*[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.

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*[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.

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You also have the right to see a copy of **[learner's name's/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's/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 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.

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*[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**.

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You may want to contact **[name]** at **[local authority name]** local authority on/at **[contact details: address, phone number, email]**, 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.

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*[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.

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*[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.]**

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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

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*[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**.

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You may want to contact **[name]** at **[local authority name] local authority** on/at **[contact details: address, phone number, email]**, 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.

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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.

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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.

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[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**.

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You may want to contact **[name]** at **[LA name] local authority** on/at **[contact details: address, phone number, email]**, 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.

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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.

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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 also want to contact **[name]** at **[local authority name]** local authority on/at **[contact details: address, phone number, email]**, who can provide advice on what options are available to you.

Yours sincerely

**[name]**

Exclusion Policy – Howardian Primary School

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: **[repeat details from the original exclusion letter, such as a named local authority officer and the Advisory Centre for Education and any other local source of advice or assistance if known]**.

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

Model letter 6: Independent appeal panel decision

From the Clerk to the independent appeal panel notifying the parent/carer and/or learner of the outcome of their appeal.

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

Following the hearing of your appeal by the independent appeal panel constituted by **[name of Authority]** Authority on **[date]** at **[location]** against the decision of the governing body discipline committee of **[name of school]**/the discipline committee for **[name of PRU]** not to reinstate **[learner's name/you]**, I am writing to advise you of the panel's decision.

After careful consideration of your representations (both oral and written) and those of **[school/PRU]** and **[name of local authority]** **[and of others if applicable, for example any victim]** and in the light of the available evidence, the panel has decided:

*Either (i)*

to uphold the exclusion

*Or (ii)*

to direct **[learner's name/your]** reinstatement in **[name of school/PRU]** with effect from **[date and time]**. **[learner's name/you]** should report to **[name of school staff member]** at that time

*Or (iii)*

that it is not practical to direct **[learner's name/your]** reinstatement **[here give reasons, for example because this is an exceptional case where reinstatement would not be in the learner's best interests or those of the whole school/PRU community]** although otherwise reinstatement would have been appropriate. Your **[child's]** school record will show that the permanent exclusion was overturned on appeal even though reinstatement was not directed.

**[Give reasons in as much detail as possible for the panel's decision: the decision may be challenged by judicial review; or be the subject of a complaint of maladministration by the appeal panel to the Public Services Ombudsman for Wales]** The panel's decision is binding on you, the governing body of **[name of school]/[name of PRU]** and **[name of local authority]**.

*For decisions (i) and (iii) above:*

The alternative arrangements put in place for **[learner's name/your]** full-time education will continue for the time being; but **[LA officer's name]** will be in touch with you to discuss future provision.

Exclusion Policy – Howardian Primary School

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

Yours sincerely

**[name]**

Clerk to the independent appeal panel