



# Student Discipline and Exclusion Policy

<b>School</b>	YSGOL TREFFYNNON
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## Accessible Formats

This document is available in English and Welsh in Microsoft Word and pdf formats in Arial font size 12 as standard. This document is also available in large print. To request a copy of this document in an accessible format contact Miss Lynette Evans (01352 710011).

## **Purpose of Policy**

The purpose of this policy/document is to support the school's vision which is 'Aiming for Excellence' because today's children matter'. This policy covers the exclusion of students from schools, the procedure for appealing against an exclusion and steps to maintain the education of excluded students.

## **Policy on Student Discipline and Exclusion**

This policy conforms to the requirements of section 52(4) of the Education Act 2002 and pays due regard and adopts the principles indicated in the Welsh Government Guidance 171/2015 and its references to other Regulations and Legislation have been updated in this document to reflect the changes since its publication.

Whilst there is clear expectation from the governing body that this Policy will be adhered to, it recognises that there may be times when judgements will need to take account of the circumstances of individual cases.

## **The legal framework**

This Policy is based on the following.

- The Education (Student Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003.
- The Education (Student Exclusions and Appeals) (Student Referral Units) (Wales) Regulations 2003.
- The Education (Student Exclusions and Appeals) (Wales) (Miscellaneous Amendments) Regulations 2004.
- The Education (Reintegration Interview) (Wales) Regulations 2010.
- The Equality Act 2010.

## **Definitions**

'Relevant person' as defined in the Education (Student Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003 and the Education (Student Exclusions and Appeals) (Student Referral Units) (Wales) Regulations 2003 means:

- The parent/carer if the student was aged 10 or below on the day before the beginning of the school year in which the student was excluded
- Both the parent/carer and student if the student is of compulsory school age and was aged 11 or above on the day before the beginning of the school year in which the student was excluded

- The student if aged over compulsory school age (normally 16).

The effect of the definition means that all excluded students aged 11 and above have the right to be notified formally of their exclusion and the right to appeal the exclusion decision. In the case of students aged 11–16, i.e. in most cases secondary school students of compulsory school age, parents/carers will also be notified of the exclusion. For these students, if the parent/carer sends a written notice to the LA saying that they do not intend to appeal the exclusion decision the notice will be treated as final whether or not the student has given such notice. The right to appeal for students above compulsory school age rests solely with the student.

‘Parent’/carer means anyone who has parental responsibility for, or care of, a student, which includes guardians and corporate parents. Where a student is the subject of a care order, the local authority will have parental responsibility for the child. See also section on Looked After Children.

‘Discipline committee’ – the term discipline committee is used throughout this guidance to mean the student discipline and exclusions committee as defined in the Government of Maintained Schools (Wales) Regulations 2005.

## **Behaviour policies**

All School Policies will encourage the promotion of good behaviour as well as supporting the management of bad behaviour. Good behaviour and attendance is an integral part of the curriculum, teaching and learning and the development of skills and knowledge. Policies are built on clear values such as respect, fairness and inclusion, reflecting the school’s overall aims and the social, moral and religious education programmes. These values are the basis for the principles underlying the school’s behaviour and attendance policy.

There is a clear expectation that the school and all those associated with it will demonstrate self-discipline and respect for others, and actively listen to all members of the school community, including the students.

The principles and values of the school are relevant to every member of the school community, including staff and parents/carers. This Policy also pays due regard to the *Inclusion and Student Support* Welsh Government Guidance 203/2016 and the Equality Act 2010.

### **1. Use of exclusion**

#### **1.1 The decision to exclude**

1.1.1 A decision to exclude a student should be taken only:

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

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

1.1.3 A decision to exclude a student permanently is a serious one. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies, which have been tried without success (see paragraph 1.5.1). It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the student 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 permanently to exclude a student for a first or one-off offence. These might include:

- serious actual or threatened violence against another student 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 students excluded for a fixed-term. Schools should also consider whether or not to inform other agencies, e.g. Youth Offending Team, social workers, etc.

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 well-being of the school community.

## **1.2 Drug-related exclusions**

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

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

1.2.2 Details on developing and implementing substance misuse policies are contained in Welsh Government Guidance document 107/2013.

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

1.3.1 Exclusion should not be imposed in the heat of the moment, unless there is an immediate threat to the safety of others in the school or the student concerned.

Before deciding whether to exclude a student, either permanently or for a fixed-term, the headteacher will:

- ensure that an appropriate investigation has been carried out
- consider all the evidence available to support the allegations. The more serious the allegation and thus the possible sanction, the more convincing the evidence substantiating the allegation needs to be
- take account of the school's behaviour and equal opportunities policies, and, where applicable, the Equality Act 2010
- allow the student to give his or her version of events
- check whether the incident may have been provoked, e.g. by bullying or by racial or sexual harassment. Whilst this will be taken into account it may not excuse the actions of the student under threat of exclusion.
- if necessary, consult others, but not anyone who may later have a role in reviewing the headteacher's decision, e.g. 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', i.e. if it is more probable than not that the student did what they are alleged to have done, the headteacher/teacher in charge may exclude the student. 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 student. Part 5 (on page 56) of this guidance 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
- breaches of school uniform rules or rules on appearance (including jewellery and hairstyle), except where these are persistent and in open defiance of such rules and where all other avenues for resolving the uniform dispute have been exhausted
- punishing students for the behaviour of their parents/carers, e.g. where parents/carers refuse or are unable to attend a meeting
- protecting victims of bullying by sending them home.

## **1.5 Alternatives to exclusion**

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

- Pastoral Support Programmes (PSPs) for students who are not responding to schools' general actions to combat disengagement and disaffection and are in need of longer-term intervention. PSPs are plans for students to better manage their behaviour and should be drawn up using a multi-agency approach (including the student and parents/carers) and reviewed on a regular basis.
- Restorative justice, which gives offending students 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 (also known as internal seclusion), which can be used to diffuse situations that occur in school that require a student to be removed from class but may not require exclusion from the school premises. The exclusion will be to a designated area within the school, with appropriate support, or to another class on a temporary basis, and may continue during break periods.
- Managed move: if a school feels that it can no longer manage the behaviour of a particular student, the school may arrange, normally through the LA, for another school to take over the student's education. This should only be done with the full knowledge and cooperation of all parties involved, including the parents/carers and the LA, and in circumstances where it is in the best interests of the student concerned. Parents/carers should never be pressured into removing their child from school under threat of a permanent exclusion, nor should students be deleted from the school roll to encourage them to find another school place. Regulation 8 of the Education (Student Registration) (Wales) Regulations 2010 details the only lawful grounds for deleting a student's name from the school roll.

## **1.6 Unlawful exclusions**

1.6.1 If a headteacher is satisfied, on the balance of probabilities, that a student 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 students home for disciplinary reasons, but not following the procedures required for formal exclusion
- students being sent home for either short periods of time, or for longer indefinite periods which can sometimes result in the student not returning to school at all. For example, where a student is sent home for disciplinary reasons for part of a school day, the school may view this as a 'cooling off' period and not take action to exclude the student formally. There is no basis in law for this and the relevant regulations do not state a minimum length of exclusion, so if a student 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 student is sent home for disciplinary reasons, the headteacher will formally record and specify the length of the exclusion (for reporting purposes this should be recorded as a half day, whole day or lunchtime). They should ensure that:

- they are meeting their legal duty of care towards students, and that parents/carers are formally notified of the exclusion
- child protection issues are taken into account, e.g. bearing in mind the student's age and vulnerability, that a parent/carer is at home and the student is not placed at risk by, for example, being left to wander the streets
- that 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 student 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 student 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 a day or two make it more difficult for the student to reintegrate into the school. Inspection evidence suggests that one to three days is often long enough to secure the benefits of exclusion without adverse educational consequences. Exclusions may not be given for an unspecified period, e.g. until a meeting can be arranged. Such a practice amounts to an unlawful exclusion, for which no legal arrangements exist (paragraphs 1.6.1–1.6.4).

1.7.2 The limit of 45 days applies to the student and not to the institution, therefore any days of fixed-term exclusion served on the student in any school in the same school year will count towards the total. It is important therefore that, when a student transfers to a new school during the current academic year, records of any fixed-term exclusions a student 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 student may normally attend school three days a week and a Student Referral Unit for the other two; so a five-day exclusion from the school could be for three days in one week and two days in the following week.

1.7.4 A student 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 The Discipline Committee will convene when a student exceeds 15 days fixed-term exclusion within a term. If a student's total number of days of fixed-term exclusion exceeds 15 school days in one term, any subsequent fixed-term exclusion(s) of the student in the same term would again trigger the discipline committee's duty to consider the circumstances of the exclusion (see paragraph 3.2.1).

1.7.6 **As the decision to exclude should not be taken lightly, the governing body Discipline Committee will consider if it is appropriate to convene to consider a situation where there has been 25–30 days of fixed-term exclusion within the school year regardless of whether the exclusions occurred in different terms. This approach could provide for an additional safeguard from a student accruing 45 days, and another opportunity for the school and LA 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 student is still on the roll. The name of a permanently excluded student 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 and/or student 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 student is excluded for a fixed-term. Parents/carers should arrange for the work to be collected and returned and the school must ensure that it is marked and that further work is set until the student returns to school. Letters to parents/carers and/or students informing them of the exclusion must include the arrangements for setting and marking work.

1.8.3 The governing body is responsible for ensuring that the school complies with these requirements. Headteachers should have a written policy on arrangements for receiving students back into school after a fixed-term exclusion, which should include receipt of work completed during the exclusion. However, failure to complete work does not constitute a reason for refusing to allow the student to return to school.

1.8.4 Partnership agreements between LA and the school must set out the responsibility of the school for the setting and marking of work for excluded students.

1.8.5 Where the headteacher is considering excluding a student for more than 15 school days in any one term, whether permanently or for a fixed term, plans will be put in place to address the student's problems and secure their continuing education. The Welsh Government expects LAs and schools to work toward ensuring all students excluded for more than three weeks receive full-time and appropriate education. Where, in exceptional cases, this is not possible owing to the circumstances of an individual student, there should be in place plans for full-time, appropriate provision with regular reviews of progress.

1.8.6 The school therefore will initiate early contact with the LA, ideally before the student is excluded, to discuss how to provide an appropriate package of full-time education for the student that will facilitate reintegration into the school at the end of the exclusion. The school will 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 LA need to discuss how the cost of providing education for the student will be met. The school would usually be expected to meet some of the costs.

## **1.9 Lunchtime exclusion**

1.9.1 Some students' behaviour can be particularly difficult at lunchtime. Where this is the case, it may be possible, through discussion and agreement with the parent/carer, to arrange for the student to go home for lunch. If this is not feasible, provision exists to exclude the student for the duration of the lunchtime, placing the legal responsibility for the student back with the parent/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 five 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 student is kept in the school during lunchtime, but away from other students, this will not count as a formal exclusion but as an 'internal exclusion' (see

paragraph 1.5.1). Arrangements should be made for students who are entitled to free school meals. This may mean providing a packed lunch.

### **1.10 Removal of students for specific lessons**

1.10.1 Students may be removed from a class, on a one-off basis, as part of a school's range of sanctions against disruptive behaviour. Students 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 student's education. In these circumstances the situation should be discussed with the parent/carer and student, and the school should review the arrangements regularly, with a view to the student returning to the lessons. Removal of students for specific lessons is not classified as an exclusion.

### **1.11 Removal of students from school in exceptional circumstances**

1.11.1 There may be exceptional circumstances in which headteachers need to remove students from the school site when exclusion would be inappropriate. An example is where a student is accused of committing a serious criminal offence which 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'/carers' agreement. Alternatively, exercising powers delegated to the governing body under section 29(3) of the Education Act 2002 gives the governing body the power to direct a student to attend educational provision elsewhere (without parental approval, although the parents/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 the secular curriculum for the school and should not be continued for longer than is absolutely necessary. Whether the student has been granted leave of absence or is being educated elsewhere, the school must ensure that the student'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/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), 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/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 students off-site for educational provision/training to improve their behaviour.

### **1.12 Removal of students on medical grounds**

1.12.1 Headteachers may send a student home, after consultation with the student's parents/carers and a health professional (such as a school nurse) as appropriate, where because of a diagnosed illness such as a notifiable disease the student poses an immediate and serious risk to the health and safety of other students 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, students 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/carer refuses to cooperate with a formal exclusion by sending the excluded student to school, or refusing to collect or arrange collection of the student at lunchtime, the school must have due regard for the student's safety in deciding what action to take. An exclusion should not be enforced if doing so may put the safety of the student at risk. If efforts to resolve the issue with the parents/carers are unsuccessful, the school should consider whether to contact the Education Welfare Service and seek the advice of the LA about available legal remedies.

### **1.14 'Voluntary' withdrawals**

1.14.1 Influencing or encouraging parents/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/carers to withdraw their child, particularly to withdraw a child permanently, denies the child an education, as it is unlikely that a new school place can be arranged quickly. In the case of students encouraged to leave school towards the end of Year 11, it can mean that they become 'lost' to the work and training environment and increases their risk of becoming socially excluded.

1.14.2 'Voluntary' withdrawals deny the student and the parent/carer the safeguards of access to the exclusion and appeals procedures to which they are entitled. A headteacher who considers a student's behaviour sufficiently difficult to warrant exclusion, either for a fixed-term or permanently, should use the procedures described in this Policy. Alternatively, they may wish to discuss the possibility of a 'managed move' to another school with the parents/carers and the LA (see paragraph 1.5.1).

1.14.3 The LA will consider what action is appropriate where schools are found to be practising 'voluntary' withdrawals.

### **1.15 Behaviour outside school**

1.15.1 Students' behaviour outside school on school business, e.g. on school trips, away school sports fixtures or work experience placements is subject to the school's behaviour policy. Bad behaviour in these circumstances will 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 student if there is a clear link between that behaviour and maintaining good behaviour and discipline among the student body as a whole. This will be a matter of judgement for the headteacher. Students' 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 students' behaviour and in relation to any measures determined for regulating behaviour by students when off the school site and not under the control or charge of a member of staff. The headteacher will decide what to take into account in deciding whether or not a sanction in a particular case is reasonable.

1.15.3 The following objectives make clear why this policy for regulating behaviour off school premises is being applied:

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

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

1.15.5 Section 4 of Inclusion and Student Support Guidance 203/2016 provides further guidance on behaviour and conduct outside of school.

### **1.16 Students with Additional Learning / Special Educational Needs (ALN-SEN)**

1.16.1 Statutory guidance on identifying, assessing and making provision for students with ALN-SEN, including those with behavioural, social and emotional needs, is provided in Welsh Government guidance. Schools must have regard to this guidance. School governing bodies have a statutory duty to do their best to ensure that the necessary provision is made for any student who has ALN-SEN.

1.16.2 Other than in the most exceptional circumstances, we will try to avoid permanently excluding students with ALN-SEN. We will make every effort to avoid excluding students who are being supported for their additional learning needs. In most cases, the headteacher will be aware that the school is having difficulty managing a student's behaviour well before the situation has escalated. We will try every practicable means to maintain the student in school, including seeking LA and other professional advice and support, or, where appropriate, asking the LA to intervene.

1.16.3 Where a student is permanently excluded, the headteacher should use the period between their initial decision and the meeting of the discipline committee to work with the LA to see whether more support can be made available or whether a managed move to a new school is an option. If either of these is possible, the headteacher will normally withdraw the exclusion.

1.16.4 It is extremely important that parents/carers of students with ALN-SEN who are excluded from school receive advice on the options available for their child's future education. Schools should advise parents/carers that advice and information on ALN-SEN is available through their local Parent Partnership. The Parent Partnership should also be able to provide details of voluntary agencies that offer support to parents/carers, including those that can offer advice concerning exclusions.

## **1.17 Equality**

1.17.1 The Equality Act 2010 ("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. Detailed guidance has already been made available for schools at [www.equalityhumanrights.com/advice-and-guidance/education-providers-schools-guidance](http://www.equalityhumanrights.com/advice-and-guidance/education-providers-schools-guidance)

### **The protected characteristics**

1.17.2 The 2010 Act protects students 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.

### **Definitions of discrimination**

1.17.3 Under the law, there are different categories of discrimination with differences in the legal framework surrounding them.

'Direct discrimination' happens when a student 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 student less favourably because of that student's association with another person who has a protective characteristic.

'Discrimination by perception' is another form of direct discrimination against a student who 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 students of one or more protected groups, e.g. disabled students, 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.

'Combined discrimination' takes place when a student is treated less favourably because of a combination of two of the specified relevant characteristics, e.g. disability and race.

'Discrimination arising from disability' occurs when a disabled student is treated less favourably than others, not because of the student's disability but because of something arising from, or in consequence of, their disability such as the need to take a period of disability-related absence.

'Victimisation' is where a student is treated less favourably because they have taken action in respect of discrimination, e.g. by bringing a complaint or giving evidence for a peer. Victimisation is unlawful.

'Harassment' is any unwanted conduct related to a relevant protected characteristic which 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, pregnancy and maternity, and sex. Harassment is also unlawful.

1.17.4 To decide whether a school has treated a student with a protected characteristic less favourably a comparison must be made with how the school has treated students 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 student places that student at a disadvantage compared with non-disabled students then it is likely that the treatment will be less favourable.

## **Exclusions**

1.17.5 The 2010 Act does not prohibit schools from excluding students with a protected characteristic but does prohibit schools from excluding students because of their protected characteristic (e.g. excluding a disabled student 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.

1.17.6 It is direct discrimination to exclude a student because they are perceived to have a protective characteristic or because they are associated with someone with a protective characteristic.

1.17.7 It is also unlawful to exclude a student with a protective characteristic for behaviour that a student without a protective characteristic would not be excluded for. For example, if a disabled student 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 student will have an impact on whether or not the exclusion can be justified. The Act requires schools to make reasonable adjustments for disabled students both to the exclusions process and to the disciplinary sanctions.

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

## **The Public Sector Equality Duty**

1.17.9 Section 149 of the 2010 Act imposes a general duty on the governing body of a school to have due regard to the need to:

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

1.17.10 Having due regard means consciously thinking about the three aims of the general duty as part of the process of decision making. This means that consideration of equality issues must influence the decisions reached by schools. Having due regard to the need to advance equality of opportunity between persons

who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

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

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

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

1.17.13 The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 imposes specific duties on school governing bodies to enable better performance of the general duty.

### **Appeals where discrimination is alleged**

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

### **Guidance**

1.17.15 The Equality and Human Rights Commission has a number of guidance documents and a code of practice to assist schools in understanding and complying with their duties under the Equality Act 2010, including in relation to exclusions. The Welsh Government strongly recommends that schools and those involved in exclusion decisions and appeals read the guidance and the code of practice, which is available on the Equality and Human Rights Commission website ([www.equalityhumanrights.com](http://www.equalityhumanrights.com)).

1.18 United Nations Convention on the Rights of the Child (UNCRC) 1.18.1 The best interest of the child, in line with the United Nations Convention on the Rights of the Child, needs to be at the core of any decision to exclude and any subsequent exclusions procedures.

Particularly relevant are the following articles:

- Article 2: Non-discrimination
- Article 3: Best interests of the child
- Article 12: Participation and respect for the views of children and young people
- Article 28: Education
- Article 29: Aims of Education.

Summary explanation of these Articles can be found in the Guidance Document 171/2015

### **1.19 Looked-after children**

1.19.1 Children looked after by LAs are especially at risk of low attainment in school. The Schools will be especially sensitive to exclusion issues where looked-after children are concerned. The School will try every practicable means to maintain the student in school and will seek LA and other professional advice as appropriate. Local authority children's services departments should in all cases be involved at the earliest opportunity in working with the school to avoid the need to exclude the student.

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

1.19.3 Even where the local authority does not have parental responsibility, the child's social worker should be informed about any exclusion. The designated teacher for looked-after children will be able to advise on the legal status of students in public care in the school. The designated teacher will reference the Guidance 255/2017 *Making a difference*.

### **1.20 Role of the Welsh Government**

1.20.1 The Welsh Government provides guidance on exclusion, to which headteachers, teachers in charge, governing bodies, LAs and independent appeal panels must have regard.

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

1.20.3 The Welsh Government can consider complaints about a discipline committee's operation of the exclusion procedure but has no power to overturn the exclusion or to consider complaints about the decision of an independent appeal panel (see part 4, section 4.13 page 54).

## **2.0 Procedure for excluding a student: Role of the 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 excludes a student, the 'relevant person' should be notified immediately, ideally by telephone or other reasonable method, followed up by a letter within one school day.

2.1.3 The 'relevant person' is defined in the introduction to this document and in the regulations referred to in part 1. Under the regulations, notification of an exclusion will be sent to both the parents/carers and the student where the student is aged 11-16 and to the student alone where the student is above compulsory school age.

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

2.1.5 Where a student 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 student 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 Whenever a headteacher or a teacher in charge excludes a student, the parent/carer, or the student if over compulsory school age, must be notified immediately, followed up by a letter. When the parent/carer/student must be notified in writing depends on when the student is excluded:

- where the student is excluded during the morning session, written notice must be given before the start of the afternoon session
- where the student is excluded during the afternoon session, notice must be given by the end of that afternoon session.

## **2. Procedure for excluding a student: role of headteacher**

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(s) for the fixed-term or permanent exclusion
- the parent's/carer's and student's right to make representations about the exclusion to the discipline committee
- the person whom the parent/carer and/or student should contact if they wish to make such representations (normally the Clerk to the discipline committee, Clerk to the independent appeal panel or in the case of fixed-term exclusions from PRUs, an LA officer).

2.1.8 Letters should also confirm:

- the latest date by which the discipline committee must meet to consider the circumstances in which the student was excluded (except where the exclusion is for fewer than six school days in any one term, and would not result in the student missing a public examination)
- the parent's/carer's right to see and have a copy of the student's educational record upon written request to the school as outlined in the Education (Student Information) (Wales) Regulations 2011
- in the case of a fixed-term exclusion, the date and time when the student should return to school (in the case of a lunchtime exclusion, the number of lunchtimes for which the student is being excluded, and if applicable the arrangements for the student 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 student to continue their education, including the setting and marking of work. It is the parent's/carer's responsibility to ensure that work sent home is completed and returned to school
- the name and telephone number of an officer of the LA who can provide advice
- if appropriate, that the parent/carer will be invited to attend a reintegration interview and that a parent's/carer's failure to attend a re-integration interview will be a factor taken into account by a court when deciding, on any future application, whether to impose a parenting order on the parent/carer.

2.1.9 Four model letters for notifying parents/carers and students of fixed-term and permanent exclusions are provided in Appendix 1:

- Model letter 1: for fixed-term exclusions of fewer than six days and where a public examination is not missed.
- Model letter 2: should be used for fixed-term exclusions of between six and 15 days (single or cumulative) or where a public examination is missed.
- Model letter 3: for fixed-term exclusions (single or cumulative) of 16 days or more.
- Model letter 4: for permanent exclusions.

2.1.10 Letters may need to be translated into other languages, where parents'/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/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 and/or student 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 the parent/carers and/or student are 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 students 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 the appropriate code. Where alternative provision is made, and it meets the requirements of the student registration regulations and students attend it, they should be marked using the appropriate code – Guidance 171/2015.

## **2.2 Informing the discipline committee and the LA**

2.2.1 Within one school day the headteacher must inform the governing body discipline committee and the LA of:

- permanent exclusions
- exclusions which will result in the student being excluded for more than five school days or 20 lunchtimes in any one term
- exclusions which will result in the student missing a public examination.

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

2.2.3 For a permanent exclusion, if the student lives outside the LA in which the school is located, the headteacher must also advise the home LA of the exclusion, so that they can make arrangements for the student's full-time education from and including the sixteenth school day of exclusion. It is essential that the home LA 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 will include:

- the student's name, age, date of birth, gender and ethnicity
- whether the student has a statement of SEN, is being assessed for such a statement, or is on School Action or School Action Plus
- whether the student is in LA 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 LA.

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 offences) of the following exclusion codes/terminology should be used when informing the LA of an exclusion:

- assault/violence (staff)
- assault/violence (student)
- defiance of rules/discipline policy
- disruptive behaviour
- bullying
- racial harassment
- sexual harassment
- verbal abuse
- threatening or dangerous behaviour
- possession/use of weapon
- theft
- damage to property
- substance misuse
- other.

### **3. Responsibilities of the discipline committee**

#### **3.1 The discipline committee**

3.1.1 The governing body will 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 three or five governors, drawn from members of the governing body and not including the headteacher. 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 student has been excluded.

3.1.2 The discipline committee members who are called upon to review exclusions will receive training to equip them to discharge their duties properly. The Welsh

Government expect the LA to organise a training session for members on exclusions issues and for members to make every effort to attend.

3.1.3 The governing body will also appoint a Clerk to the discipline committee to provide advice on the exclusion process and handle the administrative process. The quorum for a meeting of the discipline committee is three. Where a governor has a connection with the student 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 student discipline committee, and at the same time agree a priority list of governors as substitutes. The governing body must then delegate responsibility to the chair (or vice chair) to contact those priority governors in the agreed priority order in an emergency. This must be carefully recorded. This option meets the requirement in the regulations as the full governing body will have decided the membership of the committee and the priority of any reserves.

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

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

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

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

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

a) must, in the case of one or more fixed-term exclusions totalling five school days or fewer in any one term, consider any representations from the parent/carer and

student but cannot direct reinstatement (see Model letter 1, in Appendix 1) but they can put a record of their considerations on the student's educational record. The Chair of the discipline committee may agree to convene a meeting if the parent/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/carer.

The Clerk or Chair:

b) must, in the case of one or more fixed-term exclusions totalling more than five but not more than 15 school days in any one term, convene a meeting between the sixth and the fifteenth school day after receiving the notice of exclusion, to consider the exclusion, if the parent/carer and/or student requests a meeting.

The meeting may direct reinstatement (see Model letter 2, in Appendix 1)

c) must, in the case of a permanent exclusion, or one or more fixed-term exclusions (including lunchtimes) totalling more than 15 school days in any one term, convene a meeting between the sixth and fifteenth school day after the date of receipt to consider the exclusion (see Model letters 3 and 4, respectively, in Appendix 1)

d) must, in the case where a student is to miss a public examination (so far as is practical for them to do so) convene a meeting before the date on which the student is due to take the examination and in any event no later than as outlined in paragraphs b and c on page 35 (see Model letter 2, in Appendix 1)

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

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

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

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

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

3.2.3 The discipline committee should conduct the meeting along the lines of the principles and procedures laid out in Part 4 of the 171/2015 Guidance Document (also Part 4 of this Policy), as follows (see also 3.3):

Chair will allow introductions and describe the procedure to be followed.

School will present its case for the exclusion decision to be upheld, uninterrupted  
Committee members and those present may then ask questions for clarifying what has been presented or ask for further information

The Student, parent/carer and those supporting them will be allowed, uninterrupted, to present reasons why the exclusion decision should be overturned.

Committee members and school representatives may ask questions for clarity or further information.

Chair will ask if there is any more information that hasn't been presented, which is relevant to the case and may have a bearing on the Committee's decision.

Discipline Committee will discuss and come to a judgement in private.

Parties will be informed of the outcome as soon as possible, see 3.4.

Students 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 student to be accompanied by a friend or legal representative at their request.

3.2.5 Where students of compulsory school age are not accompanied by their parents/carers the LA should endeavour to obtain the services of an advocate to speak on behalf of the student. This is particularly important where students 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 student'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 student has returned to school, they can place a copy of their findings on the

student'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 LA is not required (and it may not be practical) to send a representative to all discipline committee meetings in its area. However, the LA should send a representative to all permanent exclusion meetings and to longer fixed-term exclusion meetings if possible. The LA 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 student to continue his or her education if the exclusion is confirmed.

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

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

- any representations made by the parent/carer, the student and the LA 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 student
- appropriate school policies, including the school's published behaviour policy, equal opportunities policy, anti-bullying policy, ALN-SEN policy and Equality Act 2010.

3.3.4 In the case of permanent exclusion, the discipline committee will normally satisfy itself that all other strategies to improve a student'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 student should be reinstated, the discipline committee will then decide if reinstatement is practical. Practical, in this sense, refers to the individual circumstances and needs of a student, rather than issues such as financing of support for the student within the school. If reinstatement is practical the discipline committee will then decide if the student should be reinstated immediately or by a specific date. Normally, a student would be reinstated immediately or no more than five school days after the decision date. If the discipline committee decides to direct reinstatement, it should discuss with the LA 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 will be satisfied that there are suitable arrangements for the student to continue their education while away from school. It will not be sufficient for the student simply to continue to do work at home with no supervision, and the discipline committee should ensure that extra support (e.g. home tuition) or, if appropriate, specialist services (e.g. counselling) are being arranged.

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

### **3.4 After the meeting**

3.4.1 The discipline committee will inform the parent/carer and/or student, the headteacher and the LA of their decision in writing within one school day (if hand delivered or three if posted) of the hearing, stating its reasons. The committee may not attach conditions to any direction it may give to the headteacher to reinstate the student; however, this does not prevent a school from following good practice in reintegrating the student.

3.4.2 Where the discipline committee decides not to direct a headteacher to reinstate a permanently excluded student, its letter to the parent/carer and/or student should 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 A model letter (5) for notifying parents/carers and/or students of a decision to uphold a permanent exclusion is provided in Appendix 1.

3.4.4 A note of the discipline committee's views on the exclusion will be placed on the student's school record, along with a copy of the headteacher's exclusion letter and other relevant papers. However, if the student is reinstated the school is under

no obligation to comply with any request from parents/carers to delete details of the exclusion from the student's record. Indeed, where the exclusion is a matter of fact, i.e. it has been served or partly served, it would not be lawful to delete details of it from the student's educational record.

## **4.0 Independent Appeal Panels**

### **4.1 Notifying parents/carers and students**

4.1.1 When a permanent exclusion is upheld by the discipline committee, the committee's decision letter (Model letter 5; see Appendix 1) to the parent/carer and/or student must:

- state the reasons for the decision
- give the last day for lodging an appeal
- explain that the grounds for the appeal should be set out in writing.

4.1.2 In the case of a permanent exclusion from a PRU, the letter from the teacher in charge should give this information.

4.1.3 The LA should also write to the parent/carer and/or student as soon as possible after the discipline committee hearing, but within three working days at the latest, indicating the latest date by which an appeal may be lodged. This will be 15 school days from the date of the discipline committee's decision. The letter must also include the name and contact details for 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.

4.1.4 The day on which the parent/carer and/or student is given notice is taken to be the second school day after the date of posting by first class post, or, where the notice is hand delivered, the date of delivery (unless a different date of receipt can be demonstrated).

4.1.5 Any appeal made after the latest date for lodging an appeal will be out of time and should be rejected by the LA.

4.1.6 A notice in writing given by the parents/carers of students aged under 11 or students above compulsory school age to the LA which states that they do not intend to appeal will be treated as final. For students of compulsory school age and aged 11 and over, such a notice from the parents/carers will be treated as final whether or not the student has given such notice in writing. A notice received only from students aged 11 and above but of compulsory age will also be treated as final.

4.1.7 Parents/carers 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 LA have discretion to extend the date of the appeal hearing to a date later than the fifteenth school day, e.g. where the parent/carer and/or student requires further time to prepare for the appeal hearing. However, any agreement to an extension is at the discretion of the LA, 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 two 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 students 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/student) 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 which 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 taken into account 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 LA 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 LA must constitute the independent appeal panel and appoint a Clerk. All panels will constitute three or five members as follows:

- One lay person who will be the Chair. A 'lay person' is someone without personal experience in the management of a school or the provision of education, other than in a voluntary capacity or as a school governor.
- One (for 3-member panels) or two (for 5-member panels) Education Practitioner(s) will be a headteacher or other person currently working in education management.
- One (for 3-member panels) or two (for 5-member panels) School Governor(s) who will be a governor who must have served for 12 consecutive months within the last six years and have not been a headteacher or teacher during the last five years.

4.4.2 Whenever possible panel members considering a primary school exclusion should have experience of that phase of education, those considering a secondary school exclusion should have experience of secondary education, and those considering an exclusion from a special school should have experience of that area of education. The lay member should have the necessary skills and qualities to chair the panel effectively.

4.4.3 Whenever possible, to maintain a wider education view, at least one of the members of the panel should be working outside the area covered by the LA which manages the school of the excluded student.

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

- any member of the LA or of the governing body of the school in question
- teachers of the school in question or any person who has held that position within the last five years
- any person employed by the LA, other than as a teacher
- any person who has had, at any time, any connection with the LA or person employed by the authority (other than as a teacher) that might reasonably be taken to raise doubts about their ability to act impartially
- any person who has had, at any time, any connection or association with the student in question that might reasonably be taken to raise doubts about their ability to act impartially.

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

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

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

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

#### **4.5 Role of the Clerk**

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

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

#### **4.6 In advance of the hearing**

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

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

- the parent/carer and student
- the headteacher (where an excluding headteacher has left the school, the appeal panel may use its discretion in deciding whether to invite them to make representations)
- a nominated governor
- a nominated LA officer.

All the above parties, as well as the governing body, may be represented by a legal or other representative.

4.6.3 An excluded student of any age has the right for their view to be heard in an independent appeal panel, which may be in person, in writing or other practical form. The panel cannot compel witnesses to attend the hearing. A member of the Administrative Justice and Tribunals Council may attend any meeting of an appeal panel as an observer.

4.6.4 Where students of compulsory school age are not accompanied by their parents/carers, the LA should endeavour to obtain the services of an advocate to speak on behalf of the student. This is particularly important where students may be considered not to have sufficient maturity or capacity to represent themselves effectively.

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

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

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

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

#### **4.7 Conduct of the appeal hearing**

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

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

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

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

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

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

4.7.7 An appeal cannot continue if the number of panel members drops below three at any stage. In this event the panel may need to adjourn until its quorum is restored. Once an appeal has begun, no panel member may be substituted by a new member for any reason. Accordingly, where a member cannot continue as a result of illness, death or other unavoidable reason, a new panel will normally have to be constituted. In the case of a five-member panel, however, the panel may continue in the event of a death or illness of one (or even two) of its members, provided all three categories of member are still represented. If a panel is reduced to four members and is deadlocked, the Chair has the casting vote.

## **4.8 Evidence and witnesses**

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

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

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

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

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

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

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

4.8.8 The calling of character witnesses is at the discretion of the panel but should be allowed unless there is good reason to refuse. It is for the panel to decide whether any witnesses, having given evidence, should stay for the remainder of the presentation of the case. On some occasions this would help the informality of the proceedings but there could also be objections which the panel will need to consider. In any event it should be made clear that after giving their evidence they will not be allowed to give further evidence.

#### **4.9 Reaching a decision**

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

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

- whether the headteacher and discipline committee complied with the law and had regard to the Welsh Government guidance on exclusion in deciding, respectively, to exclude the student and not to direct that they should be reinstated. While the law states that the panel must not decide to reinstate a student solely on the basis of technical defects in procedure prior to the appeal, procedural issues would be relevant if there were evidence that the process was so flawed that important factors were not considered. Particularly important areas to consider are whether an appropriate PSP had been put in place or whether the educational provision specified in a statement of SEN had been provided
- the school's published behaviour policy, equal opportunities policy, anti-bullying policy, SEN policy, and race equality policy, or any other relevant policy
- the fairness of the exclusion in relation to the treatment of any other students involved in the same incident.

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

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

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

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

#### **4.10 The decision**

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

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

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

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

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

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

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

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

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

#### **4.12 After the hearing**

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

4.12.2 The panel must let all parties know its decision by the end of the second working day after the hearing. Model letter 6 provided in Annex A of Guidance Doc 171/2015, is for notifying the parent/carer of the decision of the panel. The decision letter should give the panel's reasons for its decision in sufficient detail for the parties to understand why the decision was made.

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

4.12.4 Where the exclusion is upheld the Clerk should also advise the parent/carer to contact the appropriate person at the home LA about arrangements for their

child's continuing education. The headteacher should remove the student's name from the school roll the day after the conclusion of the appeal.

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

4.12.6 Details of an exclusion may not lawfully be deleted from the student's educational record even if reinstatement is directed. The Governing Body must, however, comply with any parent's/carer's request to append their appeal statement to the student's record. It will be for the governing body to decide what details of the exclusion are included in the student's school record. Copies of the principal correspondence might be included and possibly the minutes of the discipline committee and appeal panel hearings, if the discipline committee and appeal panel respectively agree to this.

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

#### **4.13 Remedies after the appeal hearing**

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

4.13.1 A parent/carer or student 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 LA to decide whether to accept the Ombudsman's recommendation, although it would normally be expected to comply.

Complaint to the Welsh Ministers

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

##### **Judicial review**

4.13.3 If the parent/carer or student, the governing body or LA 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 three 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', i.e. irrational or perverse) it could quash the decision and direct the LA to hold a fresh appeal hearing before a newly constituted panel.

## **5.0 Alleged criminal offences, police involvement and parallel criminal proceedings**

The Welsh Government Guidance Document 171/2015 provides information in these circumstances which will be referred to by the Headteacher and the Governing Body Student Discipline Committee when deciding their course of action.

The Headteacher will not postpone a decision to exclude because of the possibility of criminal proceedings. Whilst police and the judicial system will apply the criminal standard of proof (beyond reasonable doubt), the Headteacher, Student Disciplinary Committee and Independent Appeal Panel will apply the civil standard of proof (the balance of probability).

## **6.0 Procedures for reintegration following exclusion**

Reference will be made to Welsh Government Guidance Document 171/2015 in determining strategies and actions for reintegrating students into the learning environment following exclusion.

Reintegration meetings will provide an opportunity to:

- emphasise the importance of parents/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 student's behaviour
- reach agreement on how the student's education should continue, how best they can be reintegrated and what measures could be put in place to prevent further misbehaviour.

## **APPENDIX 1**

### **MODEL LETTER 1 - FROM HEAD TEACHER (OR TEACHER IN CHARGE) NOTIFYING PARENT OF A FIXED PERIOD EXCLUSION OF LESS THAN 6 DAYS, AND WHERE A PUBLIC EXAMINATION IS NOT MISSED**

Dear [parent/carer/student's name]

I am writing to inform you of my decision to exclude [student's name/you] for a fixed term of [period of exclusion]. This means that [student'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 [student's name/you] has not been taken lightly. [student's name/you] has/have been excluded for this fixed term because [reason for exclusion].

The school will continue to set work for [student'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 students 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.

You [and student's name where student is aged less than 11] have the right to make representations to the school governors' student discipline committee. If you wish to make representations please contact [name of contact] on/at [contact details]:

address, phone number, e-mail], 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.

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

A parent/carer also has the right to make a claim of disability discrimination to the Special Educational Needs Tribunal for Wales (SENTW) if she or he thinks that the exclusion is because of a disability their child has. The address to which claims should be sent is Unit 32, Ddole Road Enterprise Park, Llandrindod Wells, Powys LD1 6DF.

You may want to contact [name] at [LA name] LA on/at [contact details: address, phone number, e-mail], who can provide advice. [student's name/your] exclusion expires on [date] and we expect [student's name/you] to be back in school on [date] at [time].

Yours sincerely

[name]

Headteacher/teacher in charge

**MODEL LETTER 2 - FROM HEAD TEACHER (OR TEACHER IN CHARGE)  
NOTIFYING PARENT OF A FIXED PERIOD 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/student's name]

I am writing to inform you of my decision to exclude [student's name/you] for a fixed term of [period of exclusion]. This means that [student'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 [student's name/you] has not been taken lightly. [student's name/you] has/have been excluded for this fixed term because [reason for exclusion].

The school will continue to set work for [student'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 students 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.

You have the right to request a meeting of the school governors' student discipline committee at which you [and student's name where student 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 five 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]. If you wish to make representations to the committee and wish to be accompanied by a friend or representative please contact [name of contact] on/at [contact details: address, phone number, e-mail], as soon as possible.

You also have the right to see a copy of [student'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 [student'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/carer also has the right to make a claim of disability discrimination to the Special Educational Needs Tribunal for Wales (SENTW) if she or he thinks that the exclusion is because of a disability their child has. The address to which claims should be sent is Unit 32, Ddole Road Enterprise Park, Llandrindod Wells, Powys LD1 6DF.

[Applies to children of compulsory school age only]

You [and student'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 ten 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 considered by a court when deciding, on any future application, whether to impose a parenting order on you/your parent/your carer.

You may want to contact [name] at [LA name] LA on/at [contact details: address, phone number, e-mail], who can provide advice.

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

Yours sincerely

[name]

Headteacher/teacher in charge

**MODEL LETTER 3 - FROM HEAD TEACHER (OR TEACHER IN CHARGE OF A PRU) NOTIFYING PARENT OF A FIXED PERIOD EXCLUSION OF 16 DAYS OR MORE, OR WHERE CUMULATIVE EXCLUSIONS IN THE SAME TERM ARE 16 DAYS OR MORE**

Dear [parent/carer/student's name]

I am writing to inform you of my decision to exclude [student's name/you] for a fixed term of [period of exclusion]. This means that [student'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 [student's name/you] has not been taken lightly. [student's name/you] has been excluded for this fixed term because [reason for exclusion].

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

As the length of the exclusion is more than 15 school days (or equivalent) the school governors' student 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 and wish to be accompanied by a friend or representative please contact [name of contact] on/at [contact details: address, phone number, e-mail], as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the committee of the time, date and location of the meeting.

You also have the right to see a copy of [student'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 [student'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/carer also has the right to make a claim of disability discrimination to the Special Educational Needs Tribunal for Wales (SENTW) if she or he thinks that the exclusion is because of a disability their child has. The address to which claims should be sent is Unit 32, Ddole Road Enterprise Park, Llandrindod Wells, Powys, LD1 6DF.

[Applies to children of compulsory school age only]

You [and student'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 considered by a court when deciding, on any future application, whether to impose a parenting order on you/your parent/your carer.

You may want to contact [name] at [LA name] LA on/at [contact details: address, phone number, e-mail], who can provide advice. [student's name/your] exclusion expires on [date] and we expect [student's name/you] to be back in school on [date] at [time].

Yours sincerely

[name]

Headteacher/teacher in charge

#### **MODEL LETTER 4 - FROM HEAD TEACHER NOTIFYING PARENT OF A PERMANENT EXCLUSION**

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

I regret to inform you of my decision to exclude [student's name/you] permanently from [date]. This means that [student's name/you] will not be allowed back to this [school/student referral unit] unless reinstated by the [school governors' discipline committee/LA student referral unit management 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 [student's name/you] has not been taken lightly. [student'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 [student's name/you] if the exclusion has not been overturned within 15 days. A LA representative will contact you to discuss this.

As this is a permanent exclusion the school governors' student discipline committee will meet to consider the exclusion. At the review meeting you [and student's name where student 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 [student'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 and wish to be accompanied by a friend or representative please contact [name of contact] on/at [contact details: address, phone number, e-mail], as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the committee of the time, date and location of the meeting.

A parent/carer also has the right to make a claim of disability discrimination to the Special Educational Needs Tribunal for Wales (SENTW) if she or he thinks that the exclusion is because of a disability their child has. The address to which claims should be sent is Unit 32, Ddole Road Enterprise Park, Llandrindod Wells, Powys LD1 6DF.

You also have the right to see a copy of [student'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 [student'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 [LA name] LA on/at [contact details: address, phone number, e-mail], who can provide advice on what options are available to you.

Yours sincerely

[name]

Headteacher/teacher in charge

## **MODEL LETTER 5: PERMANENT EXCLUSION – STUDENT DISCIPLINE COMMITTEE'S DECISION**

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

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

The meeting of the school governors' student discipline committee at the [school] on [date] considered the decision by [headteacher] to permanently exclude you/your son/daughter [name of student].

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 student] are/is reinstated in the school by [date].

We therefore expect [you/name of student] to be back in school on [date] at [time]. If you wish to discuss [student'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 [student's name/your] school record for future reference.

Or

to uphold [your/name of student'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 seventeenth school day after the date of this letter]. 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 [three-member/five-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, i.e. a named LA officer and the Advisory Centre for Education and any other local source of advice or assistance if known]. The arrangements currently being made for [student's name/your] education will continue for the time being.

However, new arrangements to provide full-time education for [student's name/your] are being made and [name of LA officer] will liaise with you shortly about these new arrangements. If you have any questions about this, please contact [name].

Yours sincerely

[name]

Clerk to the discipline committee

## Appendix 2

### Permanent exclusions

The term 'days' refers to school days throughout.

Permanent exclusion takes place

Immediately by phone  
1 day in writing

Notification by headteacher to parent/carer and/or student.  
Notification by headteacher to LA and discipline committee.  
In serious cases: notification to police/social services/youth offending team.

15 days

Meeting of Student Discipline Committee to consider exclusion.

1 day by hand  
3 days if posted

Discipline committee to inform all parties of decision

15 days

If exclusion upheld: lodging of appeal by parent/carer and/or student.

Clerk to send written evidence to all parties.

15 days

If appeal lodged: hearing of independent panel.

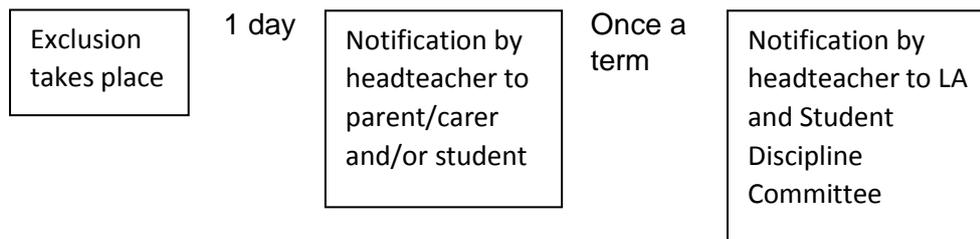
2 days

Inform all parties of independent appeal panel decision.

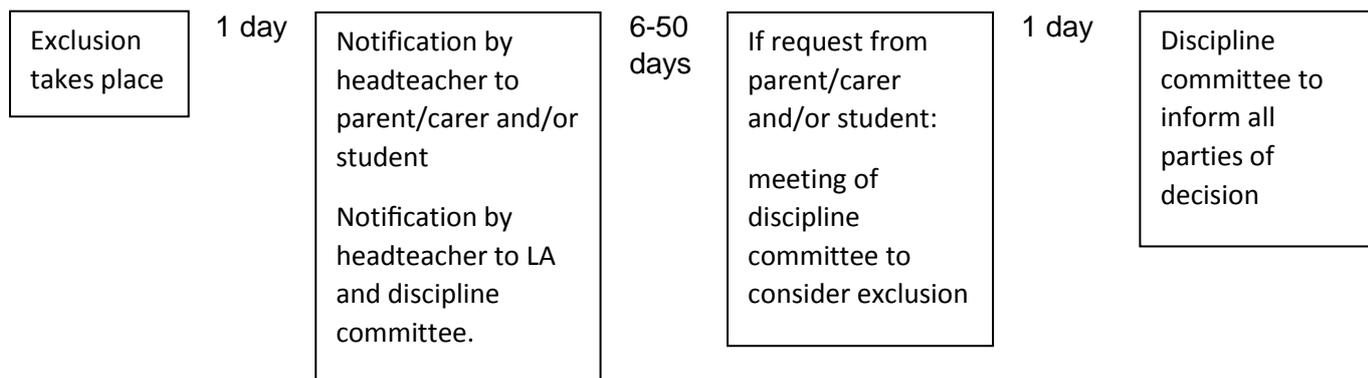
## Fixed-term exclusion

The term 'days' refers to school days throughout

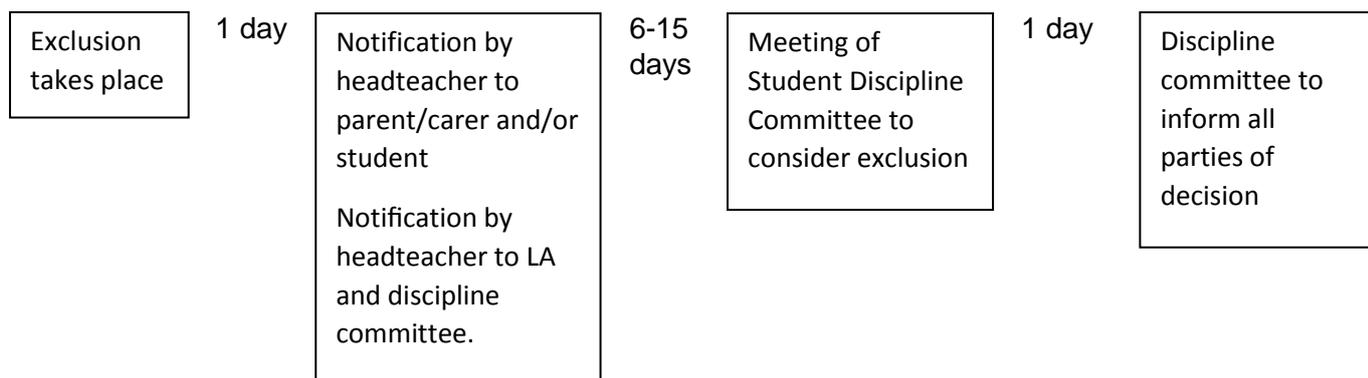
5 days or fewer



6 to 15 days

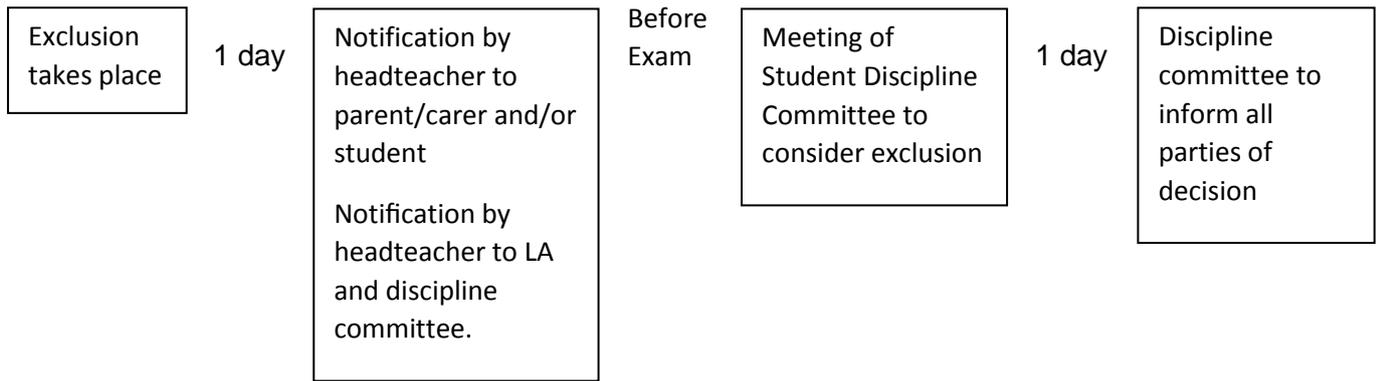


More than 15 days



Where a public examination will be missed

Before exam date



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