



# **Berrycoombe Primary**

## **EXCLUSION POLICY AND GUIDANCE**

**Date guidance becomes effective:** Immediately

**Review date (2 years from approval):**

**Person responsible for Implementation and Monitoring:** Headteacher/ Director of Education

**Links to other relevant policies:** Behaviour, Safeguarding, Anti-Bullying, Peer on Peer Abuse, Sexual Harassment, ICT Acceptable Use, Banned Substances,

**Legal Framework:** This guidance supports the statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#).

It is based on the following legislation, which outline schools' powers to exclude pupils:

Section 52 of the [Education Act 2002](#), as amended by the [Education Act 2011](#)

[The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)

Sections 64-68 of the [School Standards and Framework Act 1998](#)

In addition, this guidance supports:

Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for excluded pupils

Section 579 of the [Education Act 1996](#), which defines 'school day'

The [Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) \(Amendment\) Regulations 2014](#)

[Equality Act 2010](#)

Our School acknowledges its legal duties under the Equality Act 2010, in particular in respect to safeguarding, disability and Special Educational Needs.

**1. The Aims of this guidance are:**

Specifically, this guidance aims to ensure that:

- The exclusion process is fair, consistently applied and transparent
- The exclusion process is clear, transparent and understood by parents, pupils, staff and Governors
- That schools are implementing the Statutory guidance [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#) appropriately and templates are provided to support schools in the process

## 2. Introduction

Our schools have clear standards for pupil behaviour. These standards are aligned with the school's values and ensure that all members of the school community are respected and can learn and work in a positive and safe environment. In some circumstances, exclusion from school is a necessary and integral part of the school's approach to upholding our values and standards and to providing a safe environment where pupils can learn and staff can work without disruption. **All our behaviour policies contained explain that there is a potential for an exclusion and what the process will be (the statutory guidance will be followed at all times and expressly make reference to the Equality Act 2010).**

## 3. Types of Exclusion

Our schools can use two types of exclusion, dependent on the circumstances of the incident:

- a. A fixed term exclusion (also called 'suspension'). This is an exclusion for a specified period of time, after which the pupil will return to school.
- b. A permanent exclusion. This type of exclusion is used for the most serious incidents. The pupil, after due process has been followed, does not return to school and will be removed from the school roll.

## 4. The Decision to Exclude

Only the headteacher or acting headteacher, can decide to exclude a pupil from school. A decision to permanently exclude a pupil is made after discussion with the Director of Education from the trust. We are committed to following all statutory exclusion procedures to ensure that every child receives an education in a safe and caring environment.

A decision to permanently exclude a pupil will be taken only:

In response to serious **or** persistent breaches of the school's behaviour policy, **and**

If allowing the pupil to remain in school would seriously harm the education or welfare of others.

Examples of behaviours which **may** be considered serious, and therefore may warrant consideration of a permanent exclusion include (but are not limited to):

- Bullying or cyberbullying
- Serious incidents of physical violence or aggression, or threats of violence, including those which are pre-meditated

- Possession of banned substances in school including those which are illegal e.g. drugs, weapons, alcohol
- Sexual abuse or violence
- Serious discriminatory behaviour (including but not limited to discrimination against protected characteristics)
- Deliberate false activation or damage to fire alarms, fire prevention systems or other safety equipment puts the safety of members of the school community at risk
- Other behaviours which put at risk the safety and/ or education of others

## **5. Procedure for Exclusion**

Before deciding whether to apply any form of exclusion (fixed term or permanent) the Headteacher will as per the Statutory guidance:

- Consider all the relevant facts and evidence, including due consideration of provocation. Where appropriate, the investigation will include staff and pupil witness evidence as well as consideration of other evidence.
- Where possible provide the pupil with an opportunity to account for their actions
- Take into account a pupil's special educational needs (SEND) including, when appropriate, the specialist knowledge and advice of the SENDCo
- Discuss with the PELs (Primary Executive Leads) or the Director of education from the trust

The Headteacher will make the decision to exclude on the balance of probabilities, carefully weighing up the available evidence and taking reasonable time to reflect on the decision.

## **6. Length of Exclusion (Fixed Term Exclusions)**

The Headteacher will take into account the seriousness of the incident, the pupil's school record (including previous exclusions) and the impact of the incident on other members of the school when deciding the appropriate length of an exclusion. Typically Fixed Term exclusions are up to 5 days, and only the most serious incidents, or those which have been persistent, will result in Fixed Term exclusions which are longer than 5 days. The school recognises that lengthy exclusion from school may be detrimental to a pupils' education and welfare and all exclusions are carefully considered so that the length of time is proportionate to the incident and circumstances. The Headteacher may not exclude a child for a total of more than 45 days in any academic year.

Where significant or substantial information comes to light from further investigation, following an initial decision to apply a Fixed term exclusion, the headteacher may extend the period of exclusion. Alternatively, the new evidence may result in a decision being made to permanently exclude the pupil.

## **7. Informing Parents about a Decision to Exclude.**

The headteacher will provide the following information, in writing, to the parents of an excluded pupil as soon as reasonably possible after the incident, and wherever possible before the exclusion begins:

- The reason(s) for the exclusion
- The length of fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent

- Information about parents' right to make representations about the exclusion to the governing board and how the pupil may be involved in this
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and/or to bring a friend

The headteacher will notify parents by the end of the afternoon session on the first day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- The start date for any provision of full-time education that has been arranged
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place
- Any information required by the pupil to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

## **8. Provision of Education during Exclusion**

The school will always provide work for pupils to complete during any period of exclusion, for the first 5 days. Work will, wherever possible, follow the pupils planned curriculum and timetable. Where this is not reasonably possible (e.g. the pupil does not have access to specialist equipment) then the teacher will set alternative work. Completed work should be returned to the school for marking and feedback.

For a fixed term exclusion of more than 5 school days, the school will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

In the case of a permanent exclusion, provision of education is the responsibility of Cornwall Council Local Authority from Day 6 onwards.

(Provision does not have to be arranged for pupils in the final year of compulsory education who do not have any further public examinations to sit.)

## **9. Pupil Welfare during Exclusion**

The school will assess the risk to pupil welfare of any exclusion and take appropriate measures to mitigate for this risk, including, as appropriate:

- Welfare support from a trusted adult, at a frequency determined by the Headteacher/ Designated Safeguarding Lead. This may be managed either via home visits, phone call or via an online platform e.g. Teams/

- Welfare support from an external agency e.g. social care, alternative education setting or suitable alternative
- A key adult as a point of contact in school for parents and the pupil, during the period of exclusion
- Other support appropriate to the pupils' needs and circumstances

## 10. Informing the Governing Board and Local Authority (Cornwall Council)

The headteacher will ensure that the local governing body (through the Chair), the Trust (via the Director of Education) and the LA are immediately informed of:

- A decision to permanently exclude a pupil
- Any fixed term exclusion which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Any exclusion which would result in the pupil missing a public examination

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the headteacher will notify the governing board and LA once a term.

## 11. Responsibilities of the Governing Body

The Governing Body reviews records of school exclusions termly, reported to the appropriate Committee with responsibility for monitoring pupil Behaviour.

Responsibilities regarding review of individual decisions to exclude pupils are delegated to a Governor panel consisting of at least 3 governors. Please see the DFE guidance for further information. The panel has a duty to consider the reinstatement of an excluded pupil in some circumstances.

Within 14 days of receipt of a request, the governing board will provide the secretary of state with information about any exclusions in the last 12 months.

## 12. Independent Review of Permanent Exclusion

Parents may request an independent review of a permanent exclusion, following the Governor Review where the Governing Board do not reinstate a permanently excluded pupils. If parents request an independent review, the academy will arrange for an independent panel to review the decision of the governing board.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the local governing board of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governors category and 2 members will come from the headteacher category.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer

- School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time
- Headteachers or individuals who have been a headteacher within the last 5 years

A person may not serve as a member of a review panel if they:

- Are a member or trustee of TPAT, or governing board of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of TPAT, or on the governing board of the excluding school (unless they are employed as a headteacher at another school)
- Have, or at any time have had, any connection with TPAT, the school, governing board, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years

A clerk will be appointed to the panel.

The independent panel will decide one of the following: To uphold the governing board's decision

- To recommend that the governing board reconsiders reinstatement
- To quash the governing board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

### **13. School Registers**

In the case of permanent exclusion, a pupil's name will be removed from the school register if:

- 15 school days have passed since the parents were notified of the Governor exclusion panel's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents have stated in writing (including via email) that they will not be applying for an independent review panel

Where an application for an independent review has been made, the governing board will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

### **14. Returning to School following a Fixed-Term Exclusion**

Following a fixed-term exclusion, a re-integration (sometimes called 'return to school') meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

The purpose of this meeting is to discuss and agree the support that the pupil requires to re-integrate positively into the school community. The overarching aim is to support the pupil to learn from the incident, understand the consequences of their behaviour on others, and to prevent

further incidents of inappropriate conduct and in doing so, to reduce the risk of future and further exclusion from school. This support may be short term, medium term or long term. The following strategies are examples of support which may be implemented when a pupil returns from a fixed-term exclusion:

*Agreeing a behaviour contract*

*Putting a pupil 'on report'*

*Use of 'internal' provision where the pupil does not return to mainstream lessons for a period of time*

*Adaptations to timetable, class groups or tutor groups*

*Early Help or other social care or external partner support*

*A key adult/ mentor or other additional trusted adult support*

*A managed move, alternative provision (e.g. referral to an APA) or Trust exclusion*

There should be agreement in the meeting about the appropriate timescale for any additional support to be in place, and the timescale for review.

## **15. Monitoring arrangements**

The headteacher monitors the number and type of exclusions every term and reports back to the local governing board. The Headteacher is responsible for liaison with the local authority to ensure suitable full-time education for excluded pupils, in line with statutory requirements.

## **Appendix 1**

### **Power to search**

Our School has the right to search pupils for 'prohibited items' including knives and weapons, alcohol, behaviour changing drugs/substances, stolen items, tobacco and cigarette papers (including e-cigarettes), lighters/matches, fireworks, pornographic images, any article that has been or is likely to be used to commit an offence (e.g. aerosols) or cause personal injury or damage to property and any other item which has been banned by the school rules. (See Banned Substances). In such cases as there is reasonable evidence to search for any of the above, two members of staff will be present, including a member of the Leadership Team.

Where possession of an item by a child is illegal (items such as knives, drugs, suspected stolen items and pornography) the school will always work in partnership with the police. If during a search an electronic device is found and it is suspected that it has been or will be used to commit an offence or cause injury, damage to property, disrupt teaching or break the school rules, then the school may examine any data or files on the device where there is good reason to do so. The school may also delete files or data if it is thought there is a good reason to do so, unless the device is to be given to the police.

If a pupil fails to co-operate the pupil will be required to leave the school site. The school has not excluded the pupil and the pupil's absence will be treated as unauthorised.

A School's general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so. All confiscated items will be disposed of by the school as appropriate.



## **Model letter 1**

**From head teacher notifying parent of a fixed period exclusion of 5 school days or fewer in one term, and where a public examination is not missed.**

Dear **[Parent's Name]**

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

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

**[for pupils of compulsory school age]**

You have a duty to ensure that your child is not present in a public place in school hours during this exclusion on **[specify dates]** unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the local authority if your child is present in a public place during school hours on the specified dates. If so, it will be for you to show reasonable justification.

We will set work for **[Child's Name]** to be completed on the days specified in the previous paragraph as school days during the period of his/her exclusion when you must ensure that he/she is not present in a public place without reasonable justification. **[detail the arrangements for this]**. Please ensure that work set by the school is completed and returned to us promptly for marking.

**[School/PRU]** You have the right to make representations about this decision to the governing body/management committee. If you wish to make representations please contact **[Name of Contact]** on/at **[contact details – address, phone number, email]**, as soon as possible. Whilst the governing body/management 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 school record.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the First Tier Tribunal (<https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability>).

**[This paragraph applies to all fixed period exclusions of primary-aged pupils and may be used for fixed period exclusions of up to 5 days of secondary aged pupils if the head teacher chooses to hold a reintegration interview.]**

You **[and your child or pupil'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 **[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 return to school can be managed **[not for parents of secondary aged pupils]**. Failure to attend a reintegration interview will be a factor taken into account by a magistrates' court if, on future application, they consider whether to impose a parenting order on you.

You also have the right to see a copy of **[Child's Name]**'s school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of **[Child's Name]**'s 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 find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 01206 714650 or on <http://www.childrenslegalcentre.com/>. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24<sup>th</sup> December to the 1<sup>st</sup> January. **[Insert reference to local sources of independent advice if known.]**

**[Child's Name]**'s exclusion expires on **[date]** and we expect **[Child's Name]** to be back in school on **[date]** at **[time]**.

Yours sincerely

**[Name]**

Head teacher

### **Model letter 2**

**From head teacher notifying parent(s) of a pupil of that pupil's fixed period exclusion of more than 5 school days (up to and including 15 school days) in a term.**

Dear **[Parent's name]**

I am writing to inform you of my decision to exclude **[Child's Name]** for a fixed period of **[specify period]**. This means that **[Child's Name]** will not be allowed in school for this period. The exclusion start date is **[date]** and the end date is **[date]**. Your child should return to school on **[date]**.

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

**[for pupils of compulsory school age - next 3 paragraphs]**

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 school days **[or specify dates if exclusion is for fewer than 5 days]** of this exclusion, that is on **[specify dates]**. I must advise you that you may be prosecuted or receive a penalty notice from the local authority if your

child is present in a public place on the specified dates without reasonable justification. It will be for you to show that there is reasonable justification for this.

We will set work for **[Child's Name]** during the **[first 5 or specify other number as appropriate]** school days of his **[or her]** exclusion **[specify the arrangements for this]**. Please ensure that work set by the school is completed and returned to us promptly for marking.

**[if the individual exclusion is for more than 5 days]**

From the **[6th school day of the pupil's exclusion [specify date] until the expiry of his exclusion we [For PRUs the local authority] - set out the arrangements if known at time of writing, if not known say that the arrangements will be notified shortly by a further letter.]** will provide suitable full-time education. On **[date]** he should attend at **[give name and address of the alternative provider if not the home school]** at **[specify the time – this may not be identical to the start time of the home school]** and report to **[staff member's name]**. **[If applicable – say something about transport arrangements from home to the alternative provider. If not known, say that the arrangements for suitable full time education will be notified by a further letter]**.

**[School/PRU]** You have the right to request a meeting of the school's discipline committee/PRU's management committee to whom you may make representations, and my decision to exclude can be reviewed. As the period of this exclusion is more than 5 school days in a term the discipline committee/management committee must meet if you request it to do so. The latest date by which the discipline committee/management committee must meet, if you request a meeting, is **[specify date – no later than the 50th school day after the date on which the discipline committee were notified of this exclusion]**. If you do wish to make representations to the discipline committee/management committee, and wish to be accompanied by a friend or representative, please contact **[name of contact]** on/at **[contact details – address, phone number, email]**, as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the meeting.

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to

appeal, and/or make a claim, to the First Tier Tribunal (<https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability>). Making a claim would not affect your right to make representations to the discipline committee.

**[not mandatory for fixed period exclusions of five days or fewer of secondary aged pupils]**

You **[and your child or pupil'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 your child is due to return to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed. Failure to attend a reintegration interview will be a factor taken into account by a magistrates' court if, on future application, they consider whether to impose a parenting order on you.

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

You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 01206 714650 or on <http://www.childrenslegalcentre.com/>. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24<sup>th</sup> December to the 1<sup>st</sup> January. **[insert reference to local sources of independent advice if known.]**

**[Child's Name]**'s exclusion expires on **[date]** and we expect **[Child's Name]** to be back in school on **[date]** at **[time]**.

Yours sincerely

**[Name]**

Head teacher

### **Model letter 3**

**From the head teacher of a primary or secondary school notifying the parent(s) of that pupil's permanent exclusion.**

Dear **[Parent's Name]**

I regret to inform you of my decision to permanently exclude **[Child's Name]** with effect from **[date]**. This means that **[Child's Name]** will not be allowed in this school/this PRU unless he/she is reinstated by the governing body/the discipline committee (management committee in case of a PRU) or by an appeal panel.

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

**[For pupils of compulsory school age]**

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 school days of this exclusion, i.e. on **[specify the precise dates]** unless there is reasonable justification. You could be prosecuted or receive a penalty notice if your child is present in a public place during school hours on those dates. It will be for you to show reasonable justification.

**[For pupils of compulsory school age]**

Alternative arrangements for **[Child's Name]**'s education to continue will be made. For the first five school days of the exclusion we will set work for **[Child's Name]** and would ask you to ensure this work is completed and returned promptly to school for marking **[this may be different if supervised education is being provided earlier than the sixth day]**. From the sixth school day of the exclusion onwards — i.e. from **[specify the date]** the local authority **[give the name of the authority]** will provide suitable full-time education. **[set out the arrangements if known at time of writing, if not known say that the arrangements will be notified shortly by a further letter.]**

**[For pupils of compulsory school age]**

**[Where pupil lives in a local authority other than the excluding school's local authority]** I have also today informed **[name of officer]** at **[name of local authority]** of your child's exclusion and they will be in touch with you about arrangements for **[his/her]** education from the sixth school day of exclusion. You can contact them at **[give contact details]**.

As this is a permanent exclusion the governing body (or management committee in case of a PRU) must meet to consider it. At the review meeting you may make representations to the governing body/PRU management committee if you wish and ask them to reinstate your child in school. The governing body/PRU management committee have the power to reinstate your child immediately or from a specified date, or, alternatively, they have the power to uphold the exclusion in which case you may make representations against their decision to an Independent Review Panel. The latest date by which the governing body/PRU management committee must meet is **[specify the date — the 15th school day after the date on which the governing body/PRU management committee was notified of the exclusion]**. If you wish to make representations to the governing body/PRU management committee and wish to be accompanied by a friend or representative please contact **[name of contact]** on/at **[contact details — address, phone number, email]**, as soon as possible. You will, whether you choose to make representations or not, be notified by the Clerk to the governing body/PRU management committee of the time, date and location of the meeting. Please let us know if you have a disability or special needs which would affect your ability to attend the meeting. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the meeting.

**[If you think this exclusion relates to a disability your child has, and you think discrimination has occurred, you may raise the issue with the governing body/PRU management committee.]**

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

You may also wish to contact Cornwall Council's Education Welfare Service on 01872 323400 or email [educationwelfare@cornwall.gov.uk](mailto:educationwelfare@cornwall.gov.uk). This service can provide advice on what options are available to you.

You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 01206 714650 or on <http://www.childrenslegalcentre.com/>. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24<sup>th</sup> December to the 1<sup>st</sup> January. **[insert reference to local sources of independent advice if known.]**

Yours sincerely

#### **Model letter 4**

**From the clerk to the governing body to parent upholding a permanent exclusion.**

Dear **[Parent's name]**

The meeting of the governing body at **[school]** on **[date]** considered the decision by **[head teacher/teacher in charge]** to permanently exclude your son/daughter **[name of pupil]**. The governing body, after carefully considering the representations made and all the available evidence, has decided to uphold **[name of pupil]**'s exclusion.



The reasons for the governing body decision are as follows: **[give the reasons in as much detail as possible, explaining how they were arrived at.]**

You have the right to request a review of the decision by an independent review panel against this decision. If you wish to do so, please notify **[name of the clerk to the review panel]** of your wishes. You must set out the reasons for your review in writing, and if appropriate may also include reference to any disability discrimination claim you may wish to make, and send this notice of review to **[address]** by no later than **[specify the latest date – within 15 school days of the Governing bodies decision]**. If you have not lodged a review by [repeat latest date], you will lose your right to review. Please advise if you have a disability or special needs which would affect your ability to attend the hearing. Also, please inform **[name of the clerk to the appeal panel]** if it would be helpful for you to have an interpreter present at the hearing.

Your review will be heard by an Independent Review Panel,. A three-member panel will comprise one serving, or recently retired (within the last five years), head teacher, one serving, or recently serving, experienced governor/ management committee members and one lay member who will be the Chairman. **[Use the following if there is a possibility that a five-member panel may sit: A five-member panel will comprise two serving, or recently retired (within the last 5 years), head teachers, two serving, or recently serving, experienced governors / management committee members and one lay member who will be the Chairman.]**

You may request the presence of a Special Educational Needs expert to provide impartial advice to the panel on any SEN factor which might be relevant to your child's exclusion. The review panel will rehear all the facts of the case – if you have fresh evidence to present to the panel you may do so. The panel must meet no later than the 15th school day after the date on which your request is lodged. In exceptional circumstances panels may adjourn the hearing until a later date.

In determining your review the panel can make one of three decisions: they may uphold your child's exclusion; they may recommend that the governing body reconsiders their decision to exclude your child; or they may quash the governing body's decision and direct that the governing body considers the exclusion again.

In addition to the right to apply for an independent review panel, if you believe that the exclusion has occurred as a result of discrimination then you may make a claim

under the Equality Act 2010 to the first-tier Tribunal (Special Educational Needs and Disability), in the case of disability discrimination, or the County Court, in the case of other forms of discrimination.

A claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which your child was excluded.

I would advise you of the following sources of advice: **[repeat details from the original exclusion letter, i.e. Cornwall Council's Education Welfare Service, the Coram Children's Legal Centre and any local sources of independent advice]**.

The arrangements currently being made for **[pupil's name]**'s education will continue. **[specify details here]**.

Yours sincerely

**[name]**

Clerk to the Governing Body

### **Model letter 5**

**From the clerk to the Independent Review Panel notifying parent (or pupil if aged 18 or over) of the outcome of the appeal**

Dear **[parent's name]**

Following the hearing of your review by the Independent Review Panel constituted by **[name]** Authority on **[date]** at **[location]** against the decision of the governing body of **[name]** School/the teacher in charge **[name]** of **[name]** Pupil Referral Unit not to reinstate **[child's name]**, I am writing to advise you of the panel's decision.

After careful consideration of your representations both oral and written and those of the **[School]** and **[name]** LA **[and of others if applicable, for example any victim]** and in the light of the available evidence, the panel has decided:

Either

(i) to uphold the exclusion decision;

Or

(ii) following its review the panel can decide to:

1. uphold the exclusion decision;
2. recommend that the governing body reconsiders their decision or;
3. quash the decision and direct that the governing body considers the exclusion again

Your child's school record will show that the decision of permanent exclusion was quashed and the governing body were obliged to reconsider their decision. Even if your child is not reinstated following this direction to reconsider, the exclusion does not count towards the rule that an admission authority may refuse to admit a child who has been excluded twice **[Give reasons in as much detail as possible for the panel's decision: the decision may be challenged by judicial review; or be the subject of a complaint of maladministration to the Local Government Ombudsman]**

The panel's decision is binding on you, the governing body and the head teacher of **[name]** School and **[name]** Local Authority.

For decisions (i) and (iii) above: The alternative arrangements put in place for **[pupil's name]**'s full-time education will continue for the time being but Cornwall Council's Education Welfare Service will/may be in touch with you to discuss future provision.

If you think that the appeal panel's decision was unlawful or not a decision which a reasonable panel could have reached and you wish to challenge it, the only way of doing so is to apply to the High Court for a judicial review. This must be done as soon as possible and in any event within three months of the date of the panel's decision. You can complain to the Local Government Ombudsman about maladministration by the appeal panel, but not about its decision.

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

Yours sincerely

**[name]**

Clerk to the Independent Appeal Panel