

# Exclusion & Appeals Policy

Birchwood Community Academy Trust

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## Introduction

Birchwood Community High School has the highest concern for the safety and wellbeing of the whole school community, and we work hard to ensure that our ethos and environment supports learning and success. Exclusion is a sanction used only as a last resort, and we aim to reduce the need for the use of it as far as is possible. This policy outlines the school's use of exclusions and is supported by our school Behaviour & Discipline Policy.

This policy is written with due regard to the DfE guidance 'Exclusion from maintained schools, Academies and pupil referral units in England — September 2017.' The principle legislation that this guidance relates to is, The Education Act 2002 as amended by the Education Act 2011, The School Discipline (Pupil Exclusions and Reviews Regulations 2012, The Education and Inspections Act 2006 and 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.

Any person taking a decision to exclude a pupil will follow this policy in conjunction with the aforementioned DfE guidance which can be found via the following link:

<https://www.gov.uk/government/publications/school-exclusion>

### **1. Power to exclude**

The headteacher is the only member of staff within the school who can exclude a pupil, either permanently or for a fixed-term. In the absence of the headteacher, the designated headteacher can make this decision.

The decision to exclude a pupil will be taken in the following circumstances: -

- (1) In response to a serious breach of the school's Policies regarding, conduct, mobile phone use, drugs and alcohol and bullying.
- (2) If allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the School.

The governing board can review the headteacher's decision and consider representations from parents of excluded pupils. They may direct the reinstatement of an excluded pupil, or uphold an exclusion after a review, but they cannot exclude a pupil themselves. For more information on the governing board role in exclusions, see section 5.

In making decisions on exclusions, the headteacher and governing board must have regard to the statutory guidance issued by the Department for Education on exclusions.

### **2. Grounds for exclusion**

Any exclusion, whether fixed term or permanent, will flow from a breach or breaches of the behaviour policy. In accordance with DfE guidance on exclusions, a permanent exclusion may only be imposed in response to a serious breach or persistent breaches of the behaviour policy and where allowing the pupil to remain in school would seriously harm the education and/or welfare of the pupil or others in the school community.

In line with the school's behaviour and discipline policy, the following actions are examples of unacceptable behaviour which may result in permanent or fixed-term exclusions:

- Arson
- Carrying an offensive weapon.
- Continuing defiance to follow daily school routines
- Continuing defiance against staff
- Damage to property
- Defiance
- Indecent behaviour
- Malicious or frequent misuse of social media
- Misuse of illegal drugs
- Misuse of other substances
- Physical abuse to/attack on Staff
- Physical abuse to/attack on pupils
- Setting the fire alarm off deliberately
- Swearing directly at a member of staff
- Smoking actual or e-cigarettes
- Serious breach of mobile phone policy
- Serious misuse of ICT systems and equipment
- Serious or Persistent acts of bullying including on social media
- Serious actual or threatened violence against another pupil or a member of staff.
- Sexual abuse or assault.
- Supplying an illegal drug.
- Theft
- Unacceptable behaviour which has previously been reported and for which School sanctions and other interventions have not been successful in modifying the pupil's behaviour.
- Verbal abuse to Staff and others

This list is by no means exhaustive, and any serious misconduct which affects the welfare of members of the School Community or brings the School into disrepute may lead to exclusion. It should also be noted that an exclusion may be imposed after a first offence and that the offences considered under this policy may have taken place on or off the School premises. See section 4.7

### **3. Types of exclusion**

#### **3.1 Permanent exclusion**

Permanent exclusion is an extremely serious sanction, and a step taken by the school only as a last resort. In most cases, permanent exclusion will be used only after various alternative strategies have been tried to improve behaviour but have been unsuccessful. There are, however, some situations in which permanent exclusion on the first offence is the only option. These may include:

- Arson
- Carrying an offensive weapon
- Persistent, disruptive behaviour that would seriously harm the education or welfare of the pupil or others in the School
- Possessing, using or supplying an illegal drug (including psychoactive substances)
- Possessing stolen items

- Possessing, using or supplying alcohol
- Possessing, using or supplying fireworks
- Possessing, using or supplying pornographic images
- Possessing any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury to, or damage to property
- Serious actual or threatened violence against another pupil or a member of staff
- Sexual abuse or assault

The list is not exhaustive but provides an indication of the severity of the offence which may lead to permanent exclusion.

It may be necessary for the school to involve the police if the offence warrants it. All permanent exclusions will be reviewed by the governing board to ensure that the headteacher's decision was lawful; (with respect to the legislation relating directly to exclusions and a school's wider legal duties, including the European Convention on Human Rights and the Equality Act 2010); rational; reasonable; fair; and proportionate. The headteacher can withdraw an exclusion that has not yet been reviewed by the governing board.

### **3.2 Fixed-term exclusion**

The length of a fixed-term exclusion will be set out by the school at the start of the exclusion period. A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year). In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to a permanent exclusion.

A fixed-term exclusion may result from a serious breach or persistent breaches of the school's behaviour and discipline policy. It may be a first offence or persistent disruptive behaviour that requires a tougher sanction than other sanctions available to the school under the behaviour and discipline policy but does not warrant a permanent exclusion.

A permanent exclusion may follow on from a fixed term exclusion by the headteacher if the circumstances warrant it. This will generally be in cases where further evidence comes to light during the school's investigation. In this case, parents or carers will be notified in writing of the decision to permanently exclude the pupil, together with the reasons for doing so. During fixed-term exclusions and permanent exclusions, daytime supervision of the child is the responsibility of their parent or guardian for the first 5 days of the exclusion period.

An excluded pupil has no automatic right to take a public examination on the school's premises. The governing board can decide whether or not to allow the pupil to sit the exams, and this will depend on the seriousness of the reason for exclusion.

### **3.3 Lunchtime exclusion**

This is a type of fixed-term exclusion and will not be used as a long-term solution to a behaviour problem. A lunchtime exclusion counts as half a day when calculating total number of days of exclusion.

The school may decide to exclude a pupil from the school premises during the break at lunchtime if their behaviour during this time is very disruptive or dangerous to other pupils and breaches the behaviour policy. Arrangements will be made for parents or carers to collect the excluded pupil and supervise them if their age or vulnerability warrants it. The school will not normally invoke a lunchtime exclusion for any period longer than a week. If the problem persists, alternative strategies will be looked at to deal with

managing the pupil's behaviour.

Pupils who are entitled to free school meals will still be given this provision over their period of lunchtime exclusion.

### **3.4 Alternative behaviour management strategies used to manage behaviour prior to exclusion**

#### **Internal isolation**

If a pupil needs to be removed from a lesson that is in progress, or a social situation, for disruptive behaviour or to calm down, it may be necessary to place that pupil elsewhere in the school. It may be possible that positive handling techniques are used by trained staff to keep pupils and staff safe. This may occur over break times and will be used in circumstances where it is not necessary to remove the pupil from the school site, but separation is needed. They will be placed with a senior member of staff and supervision is provided. Failure to comply typically results in an off-site or fixed term exclusion.

#### **Internal exclusion (On-Track)**

An exclusion can at times take place internally in school, away from the rest of the school community in the On Track Room where supervision is provided. It may, instead, take place in collaboration with an alternative provider such as another local school. Such a decision is likely to be taken if circumstances suggest:

- The excluded pupils' safety is at risk by being at home. (As referenced in Child Protection Policy)
- The excluded pupil is approaching external exams and the exclusion would seriously harm their success
- The pupil has serious Special Educational Needs and would struggle to access any learning. In such instances the time without the direction of a teacher or learning support worker will be kept to a minimum

### **3.5 Mediation**

If there is a conflict between two or more pupils, a member of staff will sit down with those involved and attempt to mediate the situation through discussion. This strategy may also be used if there is a conflict between a teacher and a pupil.

### **3.6 Restorative justice**

This strategy is dependent on the cooperation of all parties involved in an incident or situation and will usually be used where one person has done something to upset or harm another. It can be helpful for the offender to redress the harm that they have done and hopefully learn from their mistakes. It can also provide closure for those who have been harmed.

### **3.7 Managed transfer/Pupil Referral Unit**

It may be in the best interest of a pupil to have a chance of a fresh start by moving to another school, which could include a pupil referral unit. This will only occur with the consent of parents, the headteacher, and the school's governing board. The new school will be asked by the headteacher to accept the pupil. The LA will be informed.

Parents will not be put under any pressure to agree to a managed move, and the school will do everything it can to ensure that the transition is as smooth as possible.

## **4. Special Circumstances**

### **4.1 Looked-after children and young people**

Birchwood Community High School understands that looked-after children and young people may be more susceptible to having behavioural problems due to additional problems they may face at home. We work in conjunction with all relevant childcare authorities to support looked-after children and try every possible means of keeping them in school. Before any decision to exclude is made, the school will (as appropriate):

- consult the LA about alternative options to support a looked-after pupil
- consult the LA about what alternative provision will be available if the pupil is excluded
- involve the child's social worker as early as possible to help the school avoid exclusion
- work with the foster carer to improve the pupil's behaviour.

## **4.2 Pupils with special educational needs or a disability (SEND)**

### **Pupils with SEN**

Our school's full SEN provision is outlined in our special educational needs policy. We work hard to include pupils who have behavioural difficulties or difficulties with elements of social interaction as part of their SEN. The school will try every practical alternative to exclusion, but there may be some cases where it cannot be avoided.

If a permanent exclusion is made, the headteacher will use the time between the initial decision and the governing board's review to see whether a change of circumstances might enable the school to withdraw the exclusion. It may be the case that more support is needed for the pupil, or that it is in the child's best interest that their SEN statement/EHC Plan be changed to name a different school, in which case the school will work with the LA and the child's parents or carers to make the transition as smooth as possible.

### **4.3 Pupils with a disability**

If a pupil with a disability is under consideration for exclusion, the headteacher will ensure that all other possible options have been tried. To justify excluding a pupil with a disability for a reason related to their disability, there must be material and substantial reason. The erosion of order and discipline in the school may be material and substantial justification, but only if reasonable adjustments have been made for the pupil's disability. You can find more information on reasonable adjustments in our school accessibility plan and our Equality Statement and Objectives.

### **4.4 Ethnicity**

Birchwood Community High School does not discriminate against any person and our school ethos is one of inclusion, equality, and diversity. If any person feels that they have been discriminated against due to their ethnicity they may make a formal complaint to the school following the process outlined in our school Complaints Procedure. Where the issue arises in relation to an exclusion, the school will deal with any concerns raised by parents through the consideration of parental representations within the exclusion framework.

### **4.5 Behaviour Outside School**

Pupils' behaviour outside school on school "business" for example school trips and journeys, away school sports fixtures or a work experience placement is subject to the school's Behaviour & Discipline Policy. Poor 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 this policy will still have effect if there is a clear link between that behaviour and maintaining good behaviour and discipline among the pupil body as a whole. If pupils' behaviour in the immediate vicinity of the school or on a journey to and from school is poor and meets the school criteria for exclusion, then the headteacher may decide to exclude.

## **5. Making the decision to exclude**

Exclusion of any sort, for any period of time, is taken very seriously by the school, and the decision to exclude is not taken lightly. Various alternative strategies to manage behaviour will usually be tried before exclusion, as this sanction is only used as a last resort unless the behaviour exhibited equates to a serious breach of the behaviour policy.

Following the decision to exclude every effort is made to contact parents before the end of the day. This contact can be made by telephone, email or schoolcomms text. A letter will be sent on the day of the decision, by post and email giving details of the exclusion and the date the exclusion ends. Parents have a right to make representations to the governing board and the LA as directed in the letter. The circumstances surrounding the exclusion will be formally recorded.

### 5.1 Procedure — Fixed Term Exclusion

The procedure that the school will follow before reaching a final decision about an exclusion has three distinct steps:

- i. Investigation
- ii. Interviews
- iii. Informing parents

**i. Investigation:** Before a decision is taken it is essential to establish the facts. For this reason, an investigation will be carried out. In cases where the allegation may lead to a permanent exclusion the investigation will normally be co-ordinated by a senior member of staff; he or she will be independent of the case. Pupils may be required to be isolated and supervised during the investigation.

**ii. Interviews:** Pupils and staff who were involved or witnessed the incident may be asked to write a statement or be interviewed by the person conducting the investigation.

**iii. Informing parents:** Parents will normally be informed after initial investigations have been made, and sufficiently far enough in advance of any disciplinary meeting to allow them time to prepare. If the Police or Social Services are involved, parents will be informed immediately, unless the school is instructed not to do so by those agencies.

Whenever a headteacher excludes a pupil they must, without delay, notify parents of the period of the exclusion and the reason(s) for it. Ideally, notification should be in person or by telephone in the first instance as this would give the parents an opportunity to ask any initial questions or raise concerns directly with the headteacher. When notifying parents about an exclusion, the headteacher should set out what arrangements have been made to enable the pupil to continue their education prior to the start of any alternative provision or the pupil's return to school, in line with legal requirements and guidance in section 5.

They must also, without delay, provide parents with the following information in writing:

- the reason(s) for the exclusion;
- the period of a fixed-period exclusion or, for a permanent exclusion, the fact that it is permanent;
- parents' right to make representations about the exclusion to the governing board (in line with the requirements set out in paragraphs 52 to 60) and how the pupil may be involved in this;
- how any representations should be made; and
- where there is a legal requirement for the governing board to consider the exclusion, that parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.

Written notification of the information mentioned in the above paragraph can be provided by delivering it directly to the parents, leaving it at their usual or last known home address, or posting it to that address. Notices can be given electronically if the parents have given written agreement for this kind of notice to be sent in this way.

If alternative provision is being arranged, then the following information must be included with this notice where it can reasonably be found out within the timescale:

- the start date for any provision of full-time education that has been arranged for the child during the exclusion;
- 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; and
- 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 must be provided without delay and 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.

General factors the headteacher considers before making a decision to exclude and implementing the exclusion.

- The timing of the Exclusion: Exclusion need not be imposed instantly unless there is an immediate threat to the safety of others, the pupil concerned, or that the learning environment would be unsettled by allowing the pupil to remain within the pupil board. However, the school will implement the Exclusion at the closest time to the incident
- Ensure appropriate investigations have been carried out including taking statements from the perpetrator, victim and witnesses to the alleged incident/s
- Keep a written record of discussions, interviews and actions, and retain copies of written records made by other members of staff, ensuring that witness statements are dated and signed if possible
- Consider all the evidence available to support the allegations taking into account the school's behaviour policy and all other relevant school policies including equal opportunities policy
- Consider any mitigating factors around the incident or the present
- Consider the impact on the victim if the reason for the exclusion has been an assault of any type

## **5.2 Exercise of discretion**

In reaching a decision, the head will always look at each case on its own merits. Therefore, a tariff system, fixing a standard penalty for a particular action, is both unfair and inappropriate.

In considering whether permanent exclusion is the most appropriate sanction, the head will consider

- a) the gravity of the incident, or series of incidents, and whether it constitutes a serious breach of the School's Behaviour Policy and Procedures  
and
- b) the effect that the pupil remaining in the school would have on the education and welfare of other pupils and staff.

## **5.3 Confidentiality**

The school will deal with all cases of exclusion and the surrounding circumstances confidentially. Information will be shared only with those who need to know it, and a breach of this may result in disciplinary action.

## **5.4 Recording and notifying the decision to exclude**

All exclusions will be formally recorded and the headteacher will contact the parents or carers of the pupil immediately, once the decision has been made to exclude, specifying why this action has been taken and the length of time that it will last. If the pupil is over 18, they will be notified directly. The decision will be



confirmed in writing. The headteacher will notify the governing board and LA within one day of the decision to exclude being made where the exclusion is permanent or is a fixed term exclusion which results in the pupil being excluded for a period of more than 5 school days in a term or where the exclusion will result in the pupil missing a public examination.

Where an excluded pupil is of compulsory school age the headteacher must also notify the pupil's parents of the days on which they must ensure that the pupil is not present in a public place at any time during school hours. These days would be the first five school days of an exclusion (or until the start date of any alternative provision or the end of the exclusion where this is earlier). Any parent who fails to comply with this duty without reasonable justification commits an offence and may be prosecuted. The headteacher must notify the parents of the days on which their duty applies without delay and, at the latest, by the end of the afternoon session.

## **6. During an exclusion**

Although the headteacher has made the decision to exclude a pupil, Birchwood Community High School maintain responsibility for the education of that child and will do everything that we can to minimise the disruption to their education.

For the first five days of any type of exclusion, the school will set and mark work that the child should complete at home under parental supervision.

From the sixth day onwards, if the exclusion is fixed-term, the school will arrange for alternative fulltime educational provision. Alternative provision might be arranged at:

- another school in the area
- a shared joint facility
- a pupil referral unit
- a private provider
- a local FE college

If the child has a SEN statement/EHC Plan, the alternative provision will meet those needs.

## **7. Marking attendance registers following exclusion**

Whilst an excluded pupil's name remains on a school's admissions register, the pupil should be marked using the appropriate attendance code. A fixed term exclusion will be marked with an E code. Where alternative provision has been made and the pupil attends it, an appropriate attendance code, such as Code D (if the alternative provision is at a PRU or independent school where the pupil is dual registered) or Code B (if the provision is an approved educational activity that does not involve the pupil being registered at any other school), should be used.

## **8. Following a Fixed Term Exclusion**

A return to school reintegration meeting will be held following the expiry of the fixed term exclusion and this will involve a member of the Senior Leadership Team and / or the child's Head of House, and other staff where appropriate. At this meeting the decision will be taken as to whether a further period of monitoring or intervention is required.

## **9. Making the decision to Permanently Exclude**

Whenever the headteacher excludes a pupil they must, without delay, notify parents of the permanent exclusion and the reason(s) for it. They must also, without delay, provide parents with the following information in writing:

- the reason(s) for the permanent exclusion;
- the fact that it is permanent;
- parents' right to make representations about the exclusion to the governing board and how the pupil may be involved in this;
- how any representations should be made; and where there is a legal requirement for the governing board to consider the exclusion, that parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.

Written notification of the information mentioned in the above paragraph can be provided by delivering it directly to the parents, leaving it at their usual or last known home address, or posting it to that address. Notices can be given electronically if the parents have given written agreement for this kind of notice to be sent in this way.

When informing parents about a permanent exclusion, the Headteacher will also set out what arrangements have been made to enable the pupil to continue his / her education prior to the start of any alternative provision or a new school. For permanent exclusions, the Local Authority must arrange suitable full-time education for the pupil to begin no later than the sixth day of the exclusion. This will be the pupil's 'home authority' in any cases where the pupil's home is in a different Local Authority.

The Headteacher will notify the Governing Board and Warrington Local Authority of a permanent exclusion (including where a fixed period exclusion is made permanent).

If a pupil lives outside Warrington Local Authority, the Headteacher will also advise the pupil's 'home authority' of the exclusion without delay.

## 10. Reviewing an exclusion

The governing board will review fixed-term exclusions of any length on request by parents who feel that the sanction is unjustified. A meeting will not always be required. They will automatically review all cases of permanent exclusion, as well as any fixed-term exclusions that would lead to a pupil being excluded for more than 15 days of a school term or missing a public exam. The governing board will look at the evidence and the records leading up to the exclusion and decide whether, in light of the evidence and his/her legal duties, the headteacher has made a lawful; rational; reasonable; fair and proportionate decision.

The governing board may delegate its functions with respect to the consideration of an exclusion to a designated sub-committee consisting of at least three governors.

The governing board must consider the reinstatement of an excluded pupil **within 15 school days** of receiving notice of the exclusion if:

- the exclusion is permanent;
- it is a fixed-period exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or
- it would result in a pupil missing a public examination or national curriculum test.

The requirements are different for fixed-period exclusions where a pupil would be excluded for **more than five but less than 15 school days** in the term. In this case, if the parents make representations, the governing board must consider **within 50 school days** of receiving the notice of exclusion whether the excluded pupil should be reinstated. In the absence of any representations from the parents, the governing board is not required to meet and cannot direct the reinstatement of the pupil.

Parents who want a review of the exclusion can contact the governing board via the Clerk to the Governing Board. Subject to the type and length of the exclusion imposed by the headteacher, parents will be invited to a review meeting and are entitled to bring a friend or representative with them.

Parents will be asked to provide the governing board with any written statements or evidence that they might have relating to the exclusion prior to the review meeting so that these can be circulated. There will be an opportunity during the meeting for parents to ask questions of the other parties.

The pupil concerned is encouraged to attend if they are able to fully understand the proceedings. Birchwood Community High School believes that pupils should be encouraged to take part in the review process and feel that they are listened to. This will hopefully increase the chance of a positive behaviour pattern emerging in the future.

The following parties must be invited to a meeting of the governing board and allowed to make representations:

- parents (and, where requested, a representative or friend); and
- the headteacher

The review hearing will be minuted by the clerk.

In the case of a fixed-period exclusion which does not bring the pupil's total number of days of exclusion to more than five in a term, the governing board must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.

#### **10.1 Statutory guidance to a governing board in preparing for the consideration of an exclusion**

Where the governing board is legally required to consider the reinstatement of an excluded pupil they should:

- not discuss the exclusion with any party outside the meeting;
- ask for any written evidence in advance of the meeting (including witness statements and other relevant information held by the school such as those relating to a pupil's SEN);
- where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting;
- allow parents and the pupil to be accompanied by a friend or representative (where a pupil under 18 is to be invited as a witness, the governing board should first seek parental consent and invite the parents to accompany their child to the meeting);
- comply with their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or pupil has a disability in relation to mobility or communication that has an impact upon their ability to attend the meeting or to make representations); and
- identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on their own behalf (such as providing accessible information or allowing them to bring a friend), taking into account the pupil's age and understanding; or how the excluded pupil may feed in their views by other means if attending the exclusion meeting is not possible.

When establishing the facts in relation to an exclusion the governing board must apply the civil standard of proof; i.e. 'on the balance of probabilities' (it is more likely than not that a fact is true) rather than the criminal standard of 'beyond reasonable doubt'.

In the light of its consideration, the governing board can either:

- decline to reinstate the pupil; or
- direct reinstatement of the pupil immediately or on a particular date.

## **10.2 Notification of the governing board decision**

Parents will be notified of the outcome of the governing board review meeting in writing. This letter will also outline how parents can request a review by the independent review panel if they are unhappy with the outcome of the governing board's review. The outcome of the governing board meeting will be one of the following:

### **10.2.1 Reinstating the pupil**

The governing board should ensure that clear minutes are taken of the meeting as a record of the evidence that was considered by the governing board. These minutes should be made available to all parties on request.

The governing board should ask all parties to withdraw before making a decision. Where present, a clerk may stay to help the governing board by reference to their notes of the meeting and with the wording of the decision letter.

If the governing board decides that the decision to exclude was not lawful and reasonable in light of the evidence and the duties of the headteacher, the governing board must reinstate the pupil immediately or by a given date. If the latter option is chosen support will be given to ensure that the pupil is easily reintegrated into the school. This will include a reintegration meeting with the headteacher and parent or carer on school grounds, during which a behaviour support plan will be drawn up.

A copy of the letter detailing the outcome will be put in the pupil's academic records along with any relevant papers. The governing board may also decide to arrange for an educational provision offsite to improve the child's behaviour, such as an anger management course.

Where legally required to consider reinstating an excluded pupil, the governing board must notify parents, the head teacher and the local authority of its decision, and the reasons for it, in writing and without delay. Where the pupil resides in a different local authority area from the one in which the school is located, the governing board must also inform the pupil's 'home authority'.

### **10.2.2 Upholding the exclusion**

If the governing board finds that the exclusion decision was lawful; rational; reasonable; fair; and proportionate, they will uphold the decision to exclude. In this case, a letter will be sent to the parent or carer of the child outlining:

- The fact that it is permanent.
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel and the following information:

- a) the date by which an application for a review must be made (i.e. **15 school days** from the date on which notice in writing of the governing board's decision is given to parents);
  - b) where and to whom an application for a review (and any written evidence) should be submitted;
  - c) that any application should set out the grounds on which it is being made and that, where appropriate, this should include a reference to how the pupil's SEN are considered to be relevant to the exclusion;
  - d) that, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the local authority/academy trust to appoint an SEN expert to advise the review panel;
  - e) details of the role of the SEN expert; and
  - f) that parents may, at their own expense, appoint someone to make written and/or oral representations to the panel.
- That, in addition to the right to apply for an independent review panel, if parents believe that there has been unlawful discrimination in relation to the exclusion then they 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.
  - That a claim of discrimination under the Equality Act 2010 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 the pupil was excluded).

Notice is deemed to have been given on the same day if it is delivered or on the second working day after posting if it is sent by first class mail.

### **10.3 The governing board's duty to remove a permanently excluded pupil's name from the school register**

The governing board must ensure that a pupil's name is removed from the school admissions register

- **15 school days** have passed since the parents were notified of the governing board'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 that they will not be applying for an independent review panel.

Where an application for an independent review panel has been made **within 15 school days**, the school must wait until the review has been determined, or abandoned, and until the governing board has completed any reconsideration that the panel has recommended or directed it to carry out, before removing a pupil's name from the register. Where a pupil's name is to be deleted from the school admissions register because of a permanent exclusion the school must make a return to the local authority. The return must include all the particulars which were entered in the admission register, the address of any parent with whom the pupil normally resides and the grounds upon which their name is to be deleted from the admissions register (i.e. permanent exclusion). This return must be made as soon as the grounds for deletion is met and no later than the deletion of the pupil's name.

## **11. Independent Review Panel**

### **11.1 The local authority's duty to arrange an independent review panel**

If applied for by parents within the legal time frame, the local authority arranges for an independent review panel hearing to review the decision of a governing board not to reinstate a permanently excluded pupil.

The legal time frame for an application is:

- within 15 school days of notice being given to the parents by the governing board of its decision not to reinstate a permanently excluded pupil or
- where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion

Any application made outside of the legal time frame must be rejected by the local authority.

Parents may request an independent review panel even if they did not make representations to, or attend, the meeting at which the governing board considered reinstating the pupil.

### **11.2 The governing board's duty to reconsider reinstatement following a review**

Where the panel directs or recommends that the governing board reconsider whether a pupil should be reinstated, the governing board must reconvene to do so within ten school days of being given notice of the panel's decision. Notice is deemed to have been given on the day of delivery if it is delivered directly or on the second working day after posting if it is sent by first class mail.

It is important that the governing board conscientiously reconsiders whether the pupil should be reinstated, whether the panel has directed or merely recommended it to do so. Whilst the governing board may still reach the same conclusion as it first did, it may face challenge in the courts if it refuses to reinstate the pupil, without strong justification.

Following a direction to reconsider, unless within ten school days of receiving notice of the panel's decision, the governing board decides to reinstate the pupil an adjustment may be made to the school's budget in the sum of £4,000 if the panel has ordered this. In the case of an academy, the school would be required to make an equivalent payment directly to the local authority in which the school is located. This payment will be in addition to any funding that would normally follow an excluded pupil.

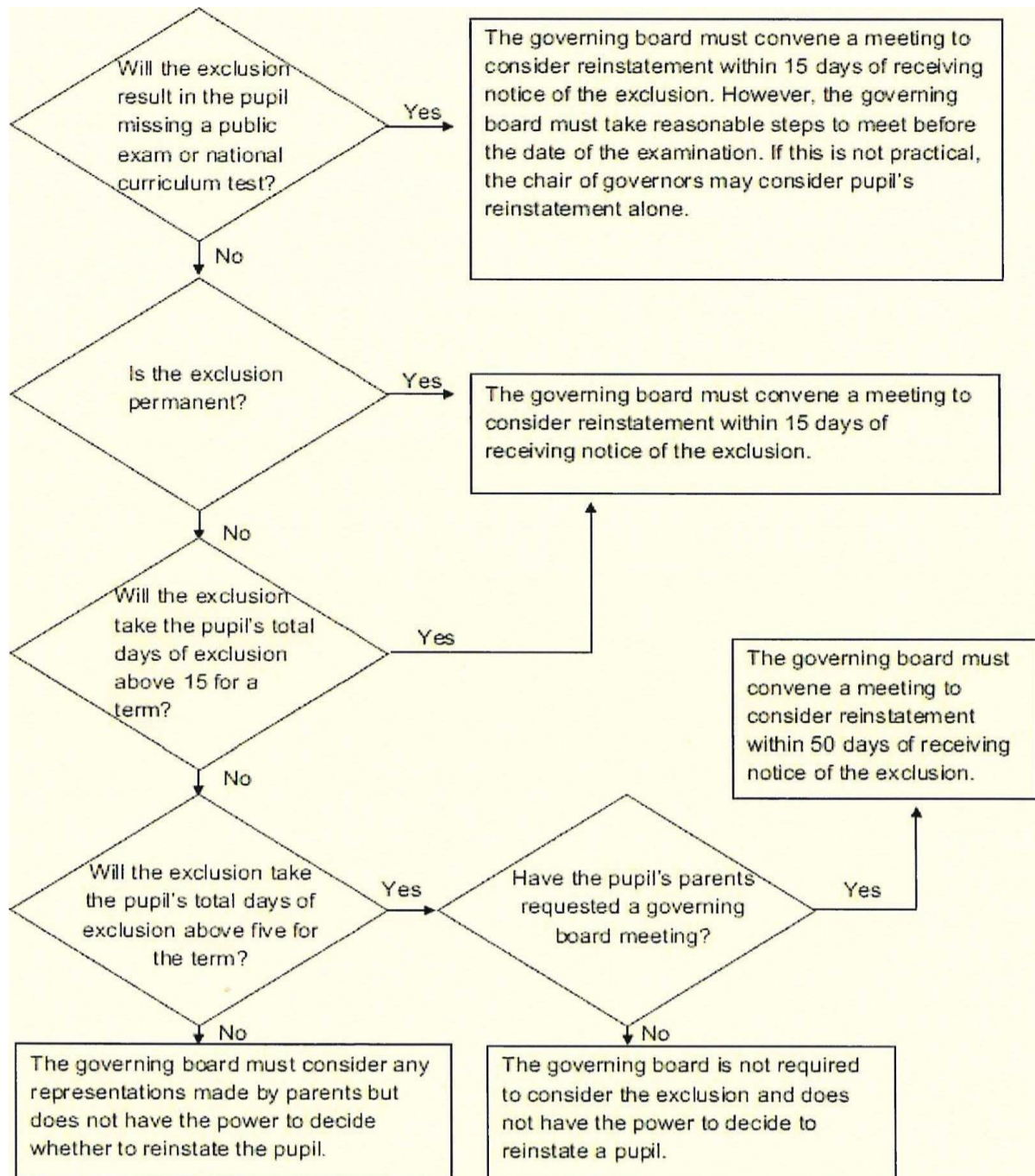
If the governing board offers to reinstate the pupil within the specified timescale but this is declined by the parents, no budget adjustment or payment can be made. The governing board must comply with any direction of the panel to place a note on the pupil's educational record. The clerk must also note, where a pupil is not reinstated following a 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; or in the case of a community or voluntary controlled school, the governing board may appeal against the decision of the local authority as the admission authority to admit the child.

In the case of either a recommended or directed reconsideration, the governing board must notify the following people of their reconsidered decision, and the reasons for it, in writing and without delay:

- the parents;
- the head teacher;
- the local authority; and, where relevant, the 'home authority'.

## 12. Timeline for exclusion

### A summary of the governing board's duties to review the head teacher's exclusion decision



The governing board may delegate its functions to consider an exclusion to a designated committee. References 10 days mean 'school days'.

### 13. Check list for Exclusion

#### On the day of the exclusion

- Headteacher must notify the parents ideally in person or over the phone in the first instance to allow any questions to be answered. This must be followed up with a letter. (See Appendix 5 — Example letters for exclusions)
- Headteacher must notify the governing board and the local authority. For a permanent exclusion, if the pupil lives outside the local authority area in which the school is located, the head must also notify the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.
- Education Safeguarding Team must be informed by a telephone call (**01925 442928**), followed up by the **completion of Form P** (Please see appendix 1) It should also be made clear if other agencies are involved with the pupil e.g. if the pupil has a Social Worker or YOT Officer.

#### Within 48 Hours of the exclusion

- The date for DAY 6 Provision to commence must be stated on form P and this should be returned to the Education Safeguarding Team within 48 hours.
- A risk assessment must be completed by the Education Safeguarding Team with the support of the school if the decision to permanently exclude is upheld by school governors. (Please see appendix 2)

#### Within 15 Days of the exclusion

- The Local Authority Officer will meet with the pupil and their parent/guardian prior to the Governor Exclusion Review Meeting at school to explain the legal process and their right to an appeal and complete Form P (Please see appendix 1). During this meeting the parent's/guardian's preference for another mainstream school is recorded.
- Parents/carers now have the right to access an SEN Expert who will attend Independent Review Panels if requested.
- Pack for Governor Exclusion Review Meeting — Agenda agreed (See appendix 4 for suggested agenda) Pack must be circulated to all attending the review meeting, including parents, governors, LA. Members attending the meeting must have at least 5 days to read the pack. (See appendix 3 for contents and example paperwork). The governing board must consider the reinstatement of an excluded pupil within 15 school days of receiving notice of the exclusion.
- The following parties must be invited to a meeting of the governing board and allowed to make representations:
  - parents (and, where requested, a representative or friend);
  - the headteacher; and
  - a representative of the local authority
- Work pack must be provided for the pupil.

Ellen Parry  
[eparry@warrington.gov.uk](mailto:eparry@warrington.gov.uk)

Education Quality Adviser  
01924 443976

Rose Clark  
[rclark@warrington.gov.uk](mailto:rclark@warrington.gov.uk)

Education Safeguarding Team Manager  
01925 442928





# WARRINGTON

Borough Council

Appendix 1

Form P

## Families and Wellbeing Directorate Permanent Exclusion Data Form

This form must be completed once the decision to permanently exclude a pupil has been made. The form should be completed by school professionals who work closely with the pupil. The information in this form will be shared with the 6<sup>th</sup> day provision tutor and the receiving school.

This form must be returned within 48 hours to the Education Safeguarding Team.

Pupil name:	D.O.B
School: Birchwood Community High School	Named School contact: Amanda Crompton Name of School Nurse: Pam Faulkner
Main School tel no: 01925 853500 Direct contact tel no: EXT 121 Email: <a href="mailto:acrompton@birchwoodhigh.org">acrompton@birchwoodhigh.org</a>	Name of DSP: Ruth Ball Name of Designated Teacher for CIC: Chris Burrows
Year group: Gender:	Ethnicity: First language:
Last day attended:	
Date of permanent exclusion:	
Day 6 date:	
Current attendance (please attach registration certificate):	
Pupil address:	Contact details:
Name of parent/guardian:	
Relationship to pupil:	

Is this person the main contact for school?
Does this person have parental responsibility for the child?
Do both parents live at same address? If no, please provide alternative details:

Additional Information

Agencies involved: (please circle)	Social Care; Is the pupil known to social care? Y/N
CAMHS      Inclusion team	Current support (please circle)
YOT          School health	FSW          Early Help
Housing      Educational Psychology	CIC

Do you receive additional funding from the LA High Needs block? Y/N

Are you aware of any known risks associated with the pupil or their family? Y/N (If yes please give details)

--

Early Help completion date \_\_/\_\_/\_\_

Next Early Help review date \_\_/\_\_/\_\_

Has the pupil been identified as having SEN? Y/N

Does the pupil have an EHC plan? Y/N

**Pupil Information**

Details of exclusion

List the strategies which have been used by school, to date, to promote sustained attendance and academic progress. These strategies can be transferred to the new school to aid a positive integration.

**Academic profile**

Current attainment data (please indicate sub levels if appropriate).

English (KS3 - 64)	
Reading (Reception — KS2)	
Writing (Reception — KS2)	
Maths	
Science	

Expected levels at end of current key stage.

English (KS3 - 64)	
Reading (Reception — KS2)	
Writing (Reception — KS2)	
Maths	
Science	

For KS4 pupils please list option subjects and target grades.

Subject	Target grade

Where possible please complete this section with the pupil.

Does the pupil attend extra-curricular activities or have any hobbies or interests?

Form completed by \_\_\_\_\_ Date \_\_\_\_\_

Position in school \_\_\_\_\_

Please return this form within 48 hours to:

Rose Clark

Education Safeguarding Officer

Warrington Borough Council

Families' and Wellbeing Directorate

2nd Floor

New Town House Buttermarket Street

Warrington WAI 2NJ

Email: [educationsafeguarding@warrington.gov.uk](mailto:educationsafeguarding@warrington.gov.uk)


Safeguarding Hotline: 01925 442928

For office use only - Tutor allocation

Number of hours allocated \_\_\_\_\_

Tutor name \_\_\_\_\_

Tuition start date \_\_\_\_\_

Individual Risk Assessment					 <b>WARRINGTON</b> Borough Council	
Name of Child/Young Person:						
DOB:		Age:		Gender :		
Home Address :						
School:		Contact Telephone No :			Ethnic Origin :	
Assessment of <u>current</u> risks & needs, please mark relevant areas and give additional details						
<u>Area of risk:</u>	<u>Low</u>	<u>Med</u>	<u>High</u>	<u>Details</u>	<u>Action to minimise risk</u>	
Verbal aggression						
Threatening Behaviour						
Physical aggression						
Wandering off or absconding						
Offending behaviour						
Self-harming behaviour						
Medical issues						
Substance/drug misuse						
Sexualised behaviour towards other children						
Sexualised behaviour towards adults						
Allegations						
Problems when transporting child						
Other: Eg: Emotional distress						
Activities to be avoided				Other:	Communication needs	
Comments including an overview of support given to child/young person:						

## **Appendix 3**

### **Governors Review Meeting Pack - Contents Page**

- Front Cover
- Agenda for Governors Disciplinary Meeting
- Letter to Parent/Guardian informing of Governors Disciplinary Meeting to consider
- Permanent Exclusion
- Pupil Profile
- Grounds for the Permanent Exclusion
- Excluded Pupil Statement
- Victim Statement
- Witness Statements (Staff and Pupils)
- Photographic Evidence
- CCTV Images (to be made available during meeting)
- List of Fixed Term Exclusions (SIMS) Attendance Information (From Year 7 to date)
- KS2 Results
- Most Recent Assessment information (SIMS)
- Overview of Behaviour & Achievement points
- Behaviour Log (SIMS)
- Achievement Log (SIMS)
- Removal from Lessons Log
- Summary Statement

### **Appendices for Other Relevant Information**

- Pastoral Support Plan
- Individual Behaviour Plan
- Acceptable Behaviour Contracts
- Managed Transfer Agreement
- Dual Registration Request for PRU
- Educational Psychologist Reports
- Common Assessment Framework (CAF)
- Referral forms e.g. to 'Step in project' and 'Phase'
- Minutes of relevant meetings
- Multi agency involvement summary

(Insert Name of School)

## **Governor Disciplinary Meeting to consider a Permanent Exclusion**

(Date, time and venue)

Permanent exclusion of (Name of pupil and year group) by the headteacher on (The date headteacher excluded pupil).

A Governor Disciplinary Meeting has been called by the Clerk of the Committee to consider (name of pupil) permanent exclusion from (name of school or academy).

Governors: (insert 3 names including Chair)

Clerk to the Committee: (insert name)

Distribution: (name and designation of head teacher)  
(Name and designation of deputy or head of Key Stage at school)  
(Name and designation of LA representative)

### **PROCESS OF THE GOVERNOR DISCIPLINARY MEETING**

- Opening introductions from the Clerk to the Committee
- Headteacher's statement
- Questions from Governors' Panel
- Parent's statement
- Questions from Governors' Panel
- Pupil statement (optional)
- Questions to the LA representative (optional)
- Closing statement from the headteacher
- All withdraw from meeting whilst governors consider the headteacher's decision
- Head teacher and parents to be informed in writing by Clerk within one working day of governors' decision

## Appendix 5

### Recommended letter to parents when the decision has been made to permanently exclude a child

(On school headed paper)

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 unless he/she is reinstated by the governing board/the discipline committee.

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]**

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.

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 of Warrington Borough Council will provide suitable full-time education and the arrangements of this education will be notified shortly by a further letter to you and contact will be made to arrange this education before the end of day six of the exclusion.

I have also today informed Fiona Elder at Warrington Borough Council of your child's exclusion and she will be in touch with you about arrangements for **[his/her]** education from the sixth school day of exclusion. You can contact her on 01925 443976 or email her at [felder@warrington.gov.uk](mailto:felder@warrington.gov.uk) and she will visit you to discuss the details of what support is available to you and the exclusion process.

As this is a permanent exclusion the governing board must meet to consider it. At the review meeting you may make representations to the governing board if you wish and ask them to reinstate your child in school. The governing board 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 request a review of their decision by an Independent Review Panel. The latest date by which the governing board must meet is **[specify the date — the 15th school day after the date on which the governing board was notified of the exclusion]**. If you wish to make representations to the governing board 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 board 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.

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 <http://www.justice.gov.uk/tribunals/send/appeals>. Making a claim would not affect your right to make representations to the governing board/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.

For your information the following sources of information are available to you:

- You may 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 0808 802 0008 or on [www.childrenslegalcentre.com](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.
- The Department for Education statutory exclusions guidance can be found at [www.gov.uk/government/publications/school-exclusion](http://www.gov.uk/government/publications/school-exclusion)

Yours sincerely

**[Name]**  
Headteacher

## Appendix 6:

### Example: Governors Decision (Uphold Exclusion) Letter to Parents/ Guardians

**From the clerk to the governing board (management committee in case of an academy to parent upholding a permanent exclusion.**

Dear **[Parent's name]**

The meeting of the governing board committee at **[school]** on **[date]** considered the decision by **[head teacher/teacher in charge]** to permanently exclude your son/daughter **[name of pupil]**. The governing board committee, 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 board committee's decision are as follows: **[give the reasons in as much detail as possible, explaining how they were arrived at.]**

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 may also include reference to any disability discrimination claim you may wish to make, and send this notice of appeal to **[address]** by no later than **[specify the latest date — the 15th school day after receipt of this letter]**. If you have not lodged an appeal by [repeat latest date], you will lose your right to appeal. 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 appeal will be heard by an Independent Appeal Panel, which can also hear disability discrimination claims. 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.]** 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 15th school day after the date on which your appeal is lodged. In exceptional circumstances panels may adjourn the hearing until a later date.

In determining your appeal, the panel can make one of three decisions: they may uphold your child's exclusion; they may direct your child's reinstatement in school, either immediately or by a particular date; or they may decide that the exclusion should not have taken place, but that reinstatement in the school is not in the best interests of all concerned.

I would advise you of the following sources of advice: **[repeat details from the original exclusion letter, i.e. a named LA officer, the 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 Board

**Governors' Decision (reinstate pupil)**  
**Letter to Parents**

There is not a model letter for this scenario within the DfE guidance; however we have provided one for your convenience.

**(On school headed paper)**

**From the clerk to the governing board to parent upholding a permanent exclusion**

Dear **[Parent's name]**

The meeting of the governing board/management committee at [school] on [date] considered the decision by **[head teacher/teacher in charge]** to permanently exclude your son/**daughter** **[name of pupil]**.

The governing board, after carefully considering the representations made and all the available evidence, has decided to reinstate **[name of pupil]**.

A Reintegration Meeting will be arranged with immediate effect to assist your child to settle back to school. The arrangements currently being made for **[pupil's name]'s** education will continue until such a meeting is arranged. Should you have any questions you can contact [name of member of staff at school], at school who will support you with this process or the Education Safeguarding Officer responsible for exclusions at the Local Authority, Fiona Elder on 01925 443976.

Yours sincerely

**[name]**

Clerk to the Governing Board