



The Government Standard

# **Governor Services Guidance for Clerks to Governing Bodies**

**Revised 2012**

## **Clerking for Disciplinary Committees - Exclusions**



## Clerking for Disciplinary Committees Exclusions

Exclusion from school is often traumatic for the pupil excluded and his or her parents as well as being an exacting process for Headteachers and Governors. There is evidence that the use of exclusion has become more prevalent in recent years and Government policy is aimed at reducing its use. Consequently very firm rules apply as to how, when and by whom exclusion may be used.

The decision to exclude is the Headteacher's and the purpose of the Disciplinary Committee is to review that decision. Because the conduct of the review is quasi-judicial, it is important that it is carried out in accordance with the rules and that justice is seen to be done. Equally it is important that parents feel that they have been heard and are not intimidated by the process. It is the duty of the Clerk to the Disciplinary Committee to advise and monitor at all stages of the process so that these aims are met.

**This guidance must be read carefully. It is important to realise that although the booklet details the process from beginning to end, a clerk may become involved at any point.**

This paper is intended as a practical guide to Clerks involved in the exclusion process. It is not exhaustive but contains a bibliography where Clerks can find the fine details of the law. Clerks are also invited to contact Governor Services on 01865 797320 if they have queries about the process or need help.

Thanks are due to Tony Scott for allowing the use of material developed by him covering the conduct of disciplinary hearings and to Nick Graham and John Mitchell for helpful input.

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### Note on the 2012 revision

Revisions reflect changes contained in the DfE guidance, *Exclusion from maintained schools, Academies and pupil referral units in England*, September 2012.

The significant changes that clerks need to be aware of are:

- Clearer guidance that parents can expect to see minutes of the hearing if they request them – see page 14.
- Independent **Appeal** Panels have been replaced by Independent **Review** Panels with reduced power – see page 14. This has implications for the content of the letter that the clerk will send to parents if the permanent exclusion has been upheld by the governors' panel. Model letters have been changed on the Social Inclusion Team website see Annexes.
- The governing body has a duty to reconsider an exclusion decision if the Independent Review Panel so directs.

Most of the other changes in the DfE guidance relate to the planning and conduct of the Independent Review and to the circumstances in which financial adjustment/payment will be made following independent review (if the governing body does not offer to reinstate the pupil.)

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# 1. Introduction

When is it appropriate to exclude a pupil from school? What are the procedures for dealing with exclusions? The Department for Children, Schools and Families Education and Skills' (DCSF) publishes guidance on when and how exclusion should be implemented, and procedures for appeals against exclusion. The guidance is reviewed annually.

The current guidance is entitled '*Improving behaviour and attendance: guidance on exclusion from schools and Pupil Referral Units*' and came into effect on 1 September 2008. Headteachers, teachers in charge of a Pupil Referral Unit (PRU), governing bodies, local authorities (LAs) and Independent Appeal Panels (IAPs) must by law have regard to this guidance when making decisions on exclusions and administering the exclusion procedure. This means that, whilst the guidance does not have the force of statute, there is an expectation that it will be followed unless there is good reason to depart from it. The guidance is not exhaustive and judgements will need to take account of the circumstances of individual cases.

These procedures apply to all maintained schools (including sixth forms which are part of a maintained school) and Pupil Referral Units and all pupils in them, including pupils who may be below or above compulsory school age (except for the requirements related to the arrangement of provision for pupils from the sixth day of their exclusion which applies only to pupils of compulsory school age). They also apply to maintained nursery schools.

Academies by virtue of their funding agreements, must also have regard to the guidance.

Copies of the guidance can be obtained from the Teachernet website.

<http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/2008guidance/>

## 2. The Clerk to the Disciplinary Committee (DC)

Generally the Clerk to the Governing Body will also be the Clerk to the DC but it can be somebody else. For this reason a distinction is drawn between the two posts in this paper. Clerking for a DC is exacting work calling for a detailed knowledge of the exclusion process and for this reason Governor Services maintains a pool of Clerks trained in the exclusion process who can be allocated to individual exclusion hearings. Governing Bodies wishing to use this service should contact [**Governor Services on 01865 458774.**] (A checklist of actions to assist the clerk can be found in Annex A of this guide)

The clerk is more than just a minute-taker, although full and accurate minutes of an appeal hearing are very important. The notes of the clerk to the governors' DC may be used as evidence in an independent appeal. It is also the job of clerks to discipline committees to make sure that the DC keeps within the law and make sure that the correct procedure is followed. They should be clear about the decisions that are taken and the reasons for them.

## 3. About the Disciplinary Committee

The Governing Body must establish a committee for the purpose of reviewing certain types of exclusions and to hear representations from parents. The Headteacher is also entitled to be represented (although he or she cannot be a member of the committee) and have legal representation at an exclusion appeal hearing. Where re-instatement is a practical option, the discipline committee must consider whether to reinstate an excluded pupil.

The governing body/management committee can delegate some or all of its functions in respect of exclusions to a committee consisting of at least three governors and such a committee may be called the Discipline Committee i.e. the quorum for a Discipline Committee meeting is three members. The guidelines state that it is expected the LA to organise training sessions for governors/members on exclusion issues, which governors/members should make every effort to attend. Where the governing body/management committee establishes a Discipline Committee it should appoint a clerk to the Committee. There are no restrictions upon the number of exclusions that can be considered at any one time provided that the timescales for hearing representations are adhered to.

Pupils who are excluded who may miss an examination as a result of the exclusion should have their exclusion considered by the committee wherever possible before the examination date. Exceptionally in the case of a fixed term exclusion, where it is not practical for the committee to meet before the date of the public examination, the Chair of the Committee, alone may consider the exclusion and determine whether to reinstate. In such cases the parent has the right to make oral representations to the governing body/management committee or, as the case may be, the Chair of the Committee. If possible, the Chair should have the advice of the Clerk and an LA Officer. In addition, it is quite normal for the Governing Body to state in its standing orders that the DC will be drawn from members of another non-statutory committee.

A Governor who has knowledge of the incident that led up to the exclusion should step down from serving on the DC and also where a Governor has a connection with the pupil which may affect his or her ability to act impartially. The fact that a Governor has sat on previous DCs concerning the child or is aware of other incidents does not preclude him/her serving on the DC.

The Chair has the casting vote in all cases where an even number of governors are considering the case.

#### **4. Notification of exclusion to the Disciplinary Committee**

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

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

Normally, the decision to exclude is taken by the Headteacher. In the absence of the Headteacher a deputy or senior teacher should be delegated this authority.

Within one school day the Headteacher/teacher in charge must inform the DC and the LA (Children, Young People & Families Directorate) of:

- Any permanent exclusion.
- Exclusions that will result in the pupil being excluded for more than 5 school days or 10 lunch times in any one term.
- Exclusions that will result in the pupil missing a public examination.

For schools with three terms in a school year, fixed period exclusions totalling five or fewer school days, or 10 or fewer lunchtimes or half days, in any one term must be reported for monitoring purposes to the DC and LA once a term. For schools with more than three terms in a school year, this information must be reported in a term in which 31 December, Easter Monday or 31 July falls or the term immediately preceding one of those dates. The school should also at the same time report this information in respect of any previous terms, if it has not already done so.

Exclusion reports should include:

- the pupil's name
- the length of the exclusion
- the reason for the exclusion
- the pupil's age, gender, ethnicity
- whether the pupil has a statement of special educational needs, is being assessed for such a statement or is on school action or school action plus
- whether the pupil is looked after as defined in section 22 of the Children Act 1989
- in the case of fixed period exclusions of pupils of compulsory school age and the exclusion is for more than five school days, detail of alternative provision has been put in place for the pupil.

The DCSF guidance contains a model letter for use by Headteachers when notifying a parent of their child's exclusion. The model letter is in a prescribed form and contains essential information regarding details of how to review the decision by appeal to the DC.

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the Headteacher/teacher in charge must also advise the 'home' LA of the exclusion, so that they can make arrangements for the pupil's full-time education from and including the sixth school day of exclusion. It is essential that the 'home' LA is speedily and fully informed of the details of the exclusion so that it is in a good position to ensure that appropriate provision is in place within the statutory time limits.

## 5. When to arrange a Disciplinary Committee review hearing

Exclusions are subject to slightly differing procedures dependant upon the extent and nature of the exclusion. On receiving notice of an exclusion from the Headteacher, the Clerk or Chair to the DC must take the following actions:

- a) In the case of one or more **fixed period exclusions totalling 5 days or less in any one term**, the DC must consider representations made by a parent (if any are received). The DC has the discretion to convene a meeting if the parents request one. The committee cannot direct reinstatement although they can place a copy of their findings on the pupil's school record. No statutory time limits apply to the consideration of such exclusions. Where parents make no representations the committee is not convened.
- b) In cases of **one or more fixed period exclusions totalling more than 5 but not more than 15 days in any one term**, a meeting must be held between the 6th and the 50th school day after receiving the notice of exclusion, to consider the exclusion, if the parent requests it. This meeting can direct reinstatement.
- c) In the case of a permanent exclusion, or one or more fixed period exclusions totalling more than 15 school days in any one term, the DC must convene a meeting between the 6th and 15th school day after the date of receipt of the notification to consider the exclusion. In this case the parent, Headteacher and Local Authority (CYP&F Directorate Officer) must be invited to attend to any convened meeting at the time and place convenient to all parties (within the statutory time limit). Committees should normally allow the excluded pupil to attend. Parents may be accompanied by a friend or legal representative.
- d) Must invite the parent (or the pupil if aged 18 or over), Headteacher/teacher in charge and an LA officer (CYP&F Directorate Officer) to the meeting at a time and place convenient to all parties (but in compliance with the relevant statutory time limits).
- e) Request any written statements (including witness statements) in advance of the meeting. (The time 'in advance' should allow all parties sufficient time to read and consider the evidence being presented.)
- f) Should circulate, at least 5 days in advance of the governing body/management committee meeting, any written statements (including witness statements) and a list of those who will be present at the meeting to all parties, including the pupil if it is known that they are to attend the meeting.

Note: the legislation deems a lunchtime exclusion to be a fixed period exclusion equivalent to half a school day. This should be taken into account for the purposes of b) and c) above. For example, if a pupil were to be excluded at lunchtime for 15 school days in the same term this would be the equivalent of seven and a half full days and a) above would apply.

## **6. Parents' Representative**

The parent(s) may bring with them to the hearing a friend, legal representative or an interpreter. Where parents are separated or divorced, consideration should be given to whether both parents should be invited. This will normally depend on who has legal residence of the child. In the DCSF guidance a parent can include anyone who has parental responsibility for, or care of, the child. Arrangements for interpreter at the meetings with parents about the exclusions should be put in place by the CYP&F Directorate or the School.

## **7. Attendance of Excluded Pupil**

The governing body/management committee should allow and encourage the excluded pupil to attend the meeting and speak, if the parent agrees. They should allow the parent to be accompanied by a friend or legal representative at their request. A pupil aged 18 or over has the right to attend and to make representations in their own right. Where the child is the subject of a care order the local authority has parental responsibility for the child and is entitled to determine to what extent the parent(s) exercise their parental responsibility.

## **8. The Hearing**

### **8.1 Stage Management**

It will usually fall to the Clerk to make the physical arrangements for the hearing and it is best to leave at least half an hour for this before the start; the Clerk should aim to produce a business-like but comfortable environment which will not intimidate those attending. The following is a non-exhaustive list of points to bear in mind:

- Although the hearing will normally take place in the school, in difficult cases a neutral venue might be considered.
- The room in which the hearing takes place should be private and big enough to hold all those attending comfortably.
- Seating can be informal but the members of the DC should be grouped together.
- It is helpful if all parties have a table available to allow them to place their papers and make notes.
- There should be a separate room in which participants other than the DC members can gather before the hearing. Those attending, other than the DC members, should be directed to assemble here.

- Parent(s) and the Headteacher should come in together and on no account should the Headteacher be seen chatting informally with members of the DC prior to the meeting. Nor should any party be left in the room with the DC without the other party including the LA officer.
- Water and glasses should be provided as should a box of tissues - exclusion hearings can be emotional events!
- The Clerk should bring to the meeting all paperwork, statements, written representations, a copy of the school's Behaviour and Discipline Policy, this Guide together with a copy of the DCSF guidance plus other reference books as well as plenty of paper and writing materials.

## 8.2 The Order of the Hearing

After introducing everyone the Clerk should explain the order of events and the fact that each party will be entitled to state their case followed by questioning by the other party. The Chair of the DC should then, with the help of the other DC members seek to establish the relevant facts. The DC may wish to ask questions to clarify an issue or to elicit more information. Questions from the DC should generally be taken at the end of each party's statement and following questions by the other parties.

Sufficient time must be allowed for each party to put their case. The DC should ensure that the parent (or, if aged over 18, the pupil) is given the opportunity to comment on the relevant information obtained from the LA or Governing Body.

Hearings of the Disciplinary Committee are quasi-judicial. This means that, although they are not bound by the rules of evidence, their decisions may be subject to review by a court of law at a future date. For this reason it is important that, without being overly fussy, they should follow a legally precise framework. It is also important that the Clerk makes detailed minutes of all the important points during the meeting. These are not for publication but will be disclosed if the parent appeals to the Independent Appeal Panel, or the matter is investigated by the Ombudsman or a party later applies for a judicial review.

The following is a suitable order for the hearing:

- The Clerk meets with the Disciplinary Committee, explains the process, answers questions and asks for a volunteer or nominations to be Chair if one is not already appointed.
- The Clerk ushers in the parent(s), Headteacher and others attending.
- The Clerk makes introductions, explains the purpose and the order of the meeting before handing over to the Chair.
- The Headteacher describes the incident and presents evidence.
- The parent(s) question the Headteacher.
- The members of the Disciplinary Committee question the Headteacher.
- The parent(s) put their case.
- The Headteacher questions the parent(s).
- The members of the Disciplinary Committee question the parent(s).
- The LA representative makes a statement.
- The members of the Disciplinary Committee question the LA representative.

- The Headteacher sums up his/her case.
- The parent(s) sum up their case.
- The members retire and discuss the case and come to a decision.

### 8.3 Other considerations

- Parents should be put at ease as far as possible
- Questions should be fair, balanced and not leading
- The Chair should help parents who appear to be having difficulty understanding information
- Sufficient time must be allowed for each party to put their case

## 9. Evidence

Where the case for the exclusion rests mainly on physical evidence, and where the facts are in dispute, then the physical evidence, if practicable, should be retained and be available to the DC. Photographs or signed witness statements are acceptable if there are difficulties in retaining the physical evidence.

New evidence about the events that lead to the exclusion can be put forward by any party. However the school **may not introduce new reasons** for the exclusion.

To reach a decision, the DC will generally need to hear from those directly or indirectly involved. The DC may wish to call witnesses who saw the incident that gave rise to the exclusion. These may include any alleged victim or any teacher other than the Headteacher who investigated the incident and interviewed the pupil. In the case of witnesses who are pupils at the school it will normally be more appropriate for the DC to rely on written statements. Pupils may appear as witnesses if they do so voluntarily and with their parents' consent. The DC should be sensitive to the needs of the child witnesses to ensure that the child's view is properly heard.

All written witness statements must be attributed and signed, unless the school has good reason to wish to protect the anonymity of pupils. The general principle remains that an accused person is entitled to know the substance and the source of the accusation. If by making the statement anonymous the accused cannot answer the allegation then the statement should be withdrawn. The DC must consider what weight to attach to written statements whether made by adults or pupils as against oral evidence. They should bear in mind that a written statement may not encompass all the relevant issues nor can the author be interrogated.

The calling of character witnesses is at the discretion of the DC, but should be allowed unless there is good reason to refuse.

It is for the DC to decide whether any witness should stay for the whole or rest of the hearing, but they should not be present before giving evidence.

The Headteacher/teacher in charge should attend the meeting to clarify points and answer any questions relating to the incident or events leading to the exclusion. No party to the review should be alone with the governors at any point before, during or after the meeting.

Other documentation before the DC should include the Behaviour and Disciplinary Policy and any other relevant documentation relating to the child (e.g.: Pastoral Support Programme; Behavioural Support Plan; Statement of Special Educational Needs).

## 10. Role of LA Officer

The Children, Young People & Families Directorate is not required (and it may not be practical) to send a representative to all Disciplinary Committee meetings in its area. The Children, Young People & Families Directorate should send a representative to all permanent exclusion meetings and longer fixed period exclusion meetings if possible. The role of the Children, Young People & Families Directorate at the DC is to explain how other schools in the area have dealt with similar incidents and to advise on alternative arrangements for the pupil to continue his/her education if the exclusion is confirmed. The Children, Young People & Families Directorate should not give a view with regard to the merits of the particular exclusion. The DC may ask the Children, Young People & Families Directorate for specific technical advice and advise members to issues where there is a lack of clarity or where more information may be needed or where guidance appears to have been ignored. When considering whether to direct reinstatement the DC can seek the Children, Young People & Families Directorate officer's views as to what support could be made available to assist with reintegrating the pupil. However, it should make its decision alone, asking the other parties, including the LA officer, to withdraw. The clerk may stay with the DC to help it by reference to the notes and with the wording of the decision letter.

LA Officer contacts:	City – Darren Utonagan	01865 815138
	North – Sreeja Bhaskaran	01865 810658
	South – Sharon Oliver	01865 816280

## 11. The Decision

The role of the DC is to review the Headteacher's decision to exclude. The DC cannot increase the severity of the exclusion.

The Committee should address the following questions:

- 1) On a balance of probabilities, did the pupil carry out what he or she is alleged to have done?
- 2) Did the Headteacher/teacher in charge comply with the law and have regard to the guidance in deciding to exclude the pupil?
- 3) Did the Headteacher/teacher in charge have regard to the school's/PRU's published policies? E.g. behaviour policy, equal opportunities policy, anti-bullying policy, SEN policy and race and disability equality policies; and
- 4) Was the exclusion a fair and proportionate sanction?

In relation to the first question, if there is any dispute over what has happened, the test is whether the incident happened 'on a balance of probabilities' i.e. that it was more than 50% probable than not that the event happened. The more serious the allegation, the more convincing the evidence substantiating the allegation needs to be.

When making its decision the DC may wish to have regard to the various factors set out in the check list at Annex D.

In answering the fourth question consideration should be given to:

- Mitigation.
- Prior action by the school.
- Alternative solutions.
- Pastoral support programme.
- Whether procedures for exclusion have been followed.

Where reinstatement is practical the DC should decide whether to direct reinstatement having considered:

- Any representations made by the parent, the pupil and the LA officer.
- Whether the Headteacher has complied with the exclusion procedure and has had regard to the DCSF guidance before deciding to exclude the pupil.

Where reinstatement is not practical, because, for example, the pupil has returned to school following the expiry of a fixed period exclusion, or because the parent makes clear he or she does not want their child reinstated, the governing body/management committee must consider whether the Headteacher's/teacher in charge's decision to exclude the child was justified, based on the evidence. The outcome of its review should be added to the pupil's school record for future reference.

There are only two decisions open to the DC — to uphold the exclusion or to direct the pupil's reinstatement, either immediately or by a particular date.

## **12. After the Hearing**

Once the decision to either uphold the exclusion or reinstate the pupil has been made the Clerk records the Committee's decision. She/he must notify the parent and the Children, Young People & Families Directorate by letter within 1 school day of the decision giving the Committee's reasons. The DCSF guidance provides a model letter that should be followed (a copy of this letter can be found in Annex E of this guide). Where the pupil resides in a different LA from the one that maintains the school/PRU, the DC must also inform that LA — the pupil's 'home' LA. Where the governing body/management committee decides to uphold a permanent exclusion, its letter to the parent (or pupil if aged 18 or over) should also include the following information:

- The reason for the decision.
- Their right to appeal to an Independent Appeal Panel, together with the name and address of the person to whom any notice of appeal should be sent (Sheila Sturgeon, Clerk to the Independent Appeal Panel, County Hall, New Road, Oxford, OX1 1ND).
- The date by which any notice of appeal should be lodged (15 school days after the day on which notice in writing was given of the governing body's decision).

(Where the notice is sent by first class post it is treated as having been given on the second working day after it was posted):

- That any notice of appeal must set out the grounds on which the appeal is made
- That any claim on grounds of disability discrimination should also be set out in the notice of appeal.

A copy of the DC's decision letter should normally be placed on the pupil's school record with copies of relevant papers. Exclusions can only be expunged from the pupil's school record through direction from the courts or rectification of personal data. In deciding how long to retain school records schools must comply with Freedom of Information and data protection legislation.

### 13. Minutes of Meeting

Minutes of meetings to consider exclusions should be kept confidential and stored as such. Minutes must be signed as an accurate record by the Chair of the DC who heard the case.

Copies of minutes of the meeting should be sent to the Headteacher, the Chair of the DC and the LA. They are not normally provided to the parent at this stage.

DfE guidance 2012 states "The governing body should ensure that clear minutes are taken of the meeting as a record of evidence that was considered by the governing body. These minutes should be made available to all parties on request."

### 14. Independent Review Panel

When a permanent exclusion is upheld by the governing body/management committee, its decision letter (model letter – Annex E) to the parent (or the pupil, if aged 18 or over) must:

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

The LA should also write to the parent (or pupil) within 3 working days of the DC's meeting indicating the latest date by which an appeal may be lodged and provide address or contact details and explain that the notice of appeal must be in writing setting out the grounds on which it is made. The parent(s) have the right to appeal against the Committee's decision to an Independent Review Panel, convened by Legal and Administrative Services. The appeal must be lodged within 15 school days of the Committee's decision being communicated to the parent. It should be a written application which includes the grounds upon which the parent(s) wish to make their appeal. If the parent requests a hearing date later than the 15th school day, the clerk may consult the panel members by telephone or email about the request and, if the members agree, a later hearing date may be set and the panel will be deemed to have adjourned the hearing. The panel may adjourn on more than one occasion if necessary. Any appeal made after the latest date for lodging an appeal will be out of time and must be rejected by the LA.

An appeal panel may:

- uphold your child's exclusion;
- recommend that the **[governing body/Academy Trust]** reconsiders the exclusion again
- quash the decision and direct that the governing body considered the exclusion again.

For full details of the Independent Appeal Panel process please go to the following web link:

<http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/2008guidance/>

## **15. Incidents involving police and criminal proceedings**

A school-related incident may sometimes also be the subject of a police investigation which may subsequently result in criminal proceedings. This can mean that the evidence available to Headteachers/teachers in charge, is very limited. They may not, for example, be able to hear relevant witnesses or to consider relevant material; it may not be known whether a criminal charge is to be brought; if a charge has been brought, the eventual outcome of any court proceedings may be uncertain.

Where a Headteacher/teacher in-charge excludes a pupil in such circumstances, the DC has no power to postpone the hearing pending the outcome of the criminal proceedings. The DC must consider the review within the statutory time limits. Therefore, the DC will be subject to the same constraints as regards availability of witnesses and other relevant information and will have to consider the case on the same basis as the Headteacher, which includes applying the balance of probabilities standard of proof.

## **16. Judicial review**

If either the parent or the governing body/management committee considers that the independent appeal panel's decision is unlawful, or not a decision which a reasonable panel could have reached, they may apply to the High Court for a judicial review. This must be done promptly and no later than three months from the date of the decision. If a judicial review were granted, the court would consider the lawfulness of the panel's decision. If it found the panel's decision to be unlawful or unreasonable as above it could quash the decision and direct the LA to hold a fresh appeal hearing before a newly constituted panel.

## Checklist for the Clerk to a Disciplinary Committee

NB: *Ensure 1 – 6 have been completed.*

<b>Before the hearing</b>	<b>Date Completed</b>
1. Receive notification of exclusion and DC membership from Headteacher.	
2. Agree, (within time limits) with Governors, school, parents and LA Officer a convenient date and time for the Disciplinary Committee meeting.	
3. Write to parent(s) stating date, time and venue, explaining that they can bring a friend, legal representative or interpreter.	
4. The relevant parties must provide the following information to the clerk at least 5 days before the meeting: <ul style="list-style-type: none"> <li>• The reason for the exclusion (Headteacher)</li> <li>• Brief details of previous behaviour record (Headteacher)</li> <li>• Any support given to the pupil [e.g. Pastoral Support Prog/Individual Education Plan] (Headteacher)</li> <li>• Any written representations from the parents (Parents)</li> <li>• Any written representations from the LA (LA Officer)</li> <li>• A list of those attending the meeting (Clerk - model letter)</li> <li>• A copy of School Behaviour Policy (Headteacher).</li> </ul>	
5. Circulate the information to be used in the meeting to all those expected to attend, i.e. members of DC, Headteacher, parents, LA Officer at least 3 days.	
6. Set up room (see paragraph 8.1).	
7. Meet with DC prior to the meeting. Acquaint the committee with the protocol. Ensure a Chairperson is appointed and advise on procedures for the meeting (see paragraph 8.2).	
8. Invite Headteacher, LA Officer and parents into the meeting <b>TOGETHER</b> .	
9. Ask for mobiles to be switched off/silenced.	
<b>During the hearing</b>	
1. Introduce all parties.	
2. Explain the purpose of the hearing.	
3. Explain the order of the meeting (see paragraph 8.2)	
4. Hand over to the Chair.	
5. Take minutes of the meeting. Ensure that the reasons for the Committee's decision are recorded. Provide any necessary advice to the Committee.	
<b>After the hearing</b>	
1. Record the decision of the Committee.	
2. Notify the parent(s) and LA <b>within 1 school day</b> of the decision giving reasons.	
3. If the exclusion is permanent, explain the right of appeal within 15 days, provide name and address of LA Officer the parent should contact if they wish to appeal.	

## Clerk's letter convening the Disciplinary Committee

9 June 2008

Dear Governor

### **Governing Body's Pupil Disciplinary Committee**

The Governing Body's Disciplinary Committee, of which you have agreed to be a member, will meet to review the Permanent Exclusion of Damien Doe from St Vlad's County Primary School at the school on Wednesday 19 June at 6:30 pm. The members of the committee will be:

Mr Ignatius Loyola  
Ms Joan d'Arc  
Rev Thomas A Becket.

and I will act as Clerk. It is particularly important for legal reasons that the hearing takes place at the advertised time and that three governors compose the committee so please would you contact me to confirm your availability. It will be necessary to elect a Chair and I will be calling for a volunteer or nomination at the start of the hearing so would you please consider whether you would be willing to stand for this office.

I attach a copy of the letter sent from the school to Damien's parents, the school's Policy for Good Behaviour and Discipline and a check-off list for Governors' Disciplinary Committees. The check-off list is by no means mandatory but offers a convenient guide to the kind of questions which need to be asked.

If you have any queries about this matter please don't hesitate to contact me at home or work.

Yours sincerely

Mary Shelley  
Clerk to the Governing Body's  
Disciplinary Committee

**Clerk's letter to notify parent(s) about the meeting of the Pupil Discipline Committee**

Use Model Letter 6 at <http://schools.oxfordshire.gov.uk/cms/node/315>

Order in which the hearing will be conducted (to attach to the parents' letter is embedded here.



Order of the  
hearing.docx

## Governors' Disciplinary Committee Checklist

***(For Clerk to circulate to Discipline Committee members)***

**N.B: This is not an exhaustive list of questions and it is important to make judgements about the quality of the evidence.**

Name of Pupil		Date of hearing	
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Did the pupil commit the alleged offence? (balance of probability not necessarily beyond reasonable doubt.)

Was the offence provoked by racial or sexual harassment?

Was this a first offence?

Was the pupil interviewed by the Headteacher and given an opportunity to give his/her account of what happened?

Was a thorough investigation carried out before the decision to exclude was taken?

Is the punishment proportionate to the offence?

Is there a strong likelihood of a recurrence?

Were other pupils involved and, if so, did they receive the same punishment?

Would the pupil remaining in the school seriously harm the education or welfare of others?

Has the school's Behaviour and Discipline Policy been drawn to the pupil's attention at least once this year?

Was the pupil aware that exclusion would be likely to be the sanction used in the circumstances?

Does the pupil have a Statement of Special Educational Needs? Has amending it been considered as an alternative strategy?

Is a Pastoral Support Programme in place that has been regularly reviewed?

What strategies have been tried prior to exclusion?

Did the parents receive an appropriate notice with a clear reason for the exclusion?

Overall, has the exclusion been used in line with DfE guidance on the pupil exclusion process contained in *Exclusion from maintained schools, Academies and pupil referral units in England*, September 2012?

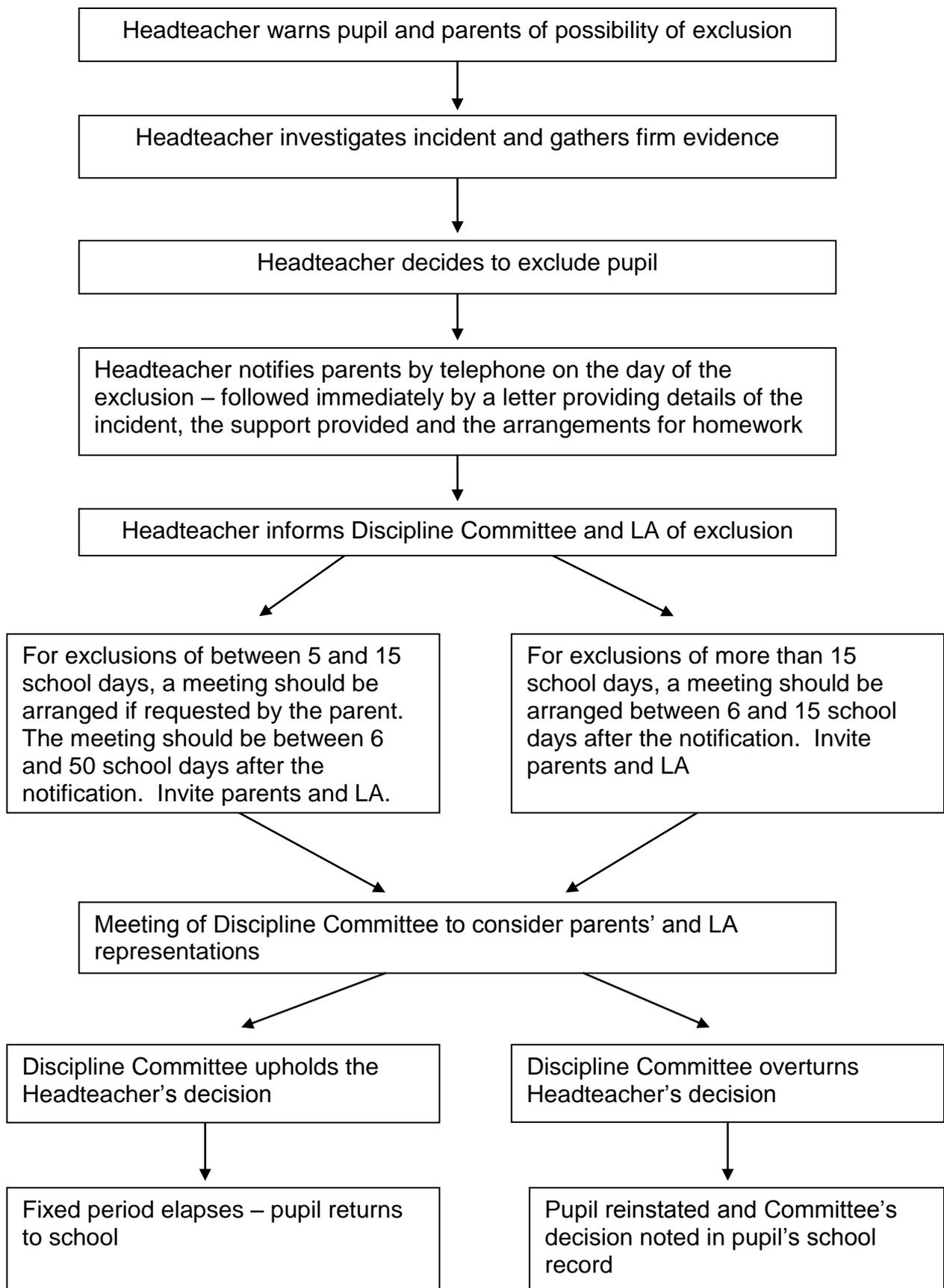
**From the clerk to parent UPHOLDING a permanent exclusion**

See Model letter 8 at <http://schools.oxfordshire.gov.uk/cms/node/315>

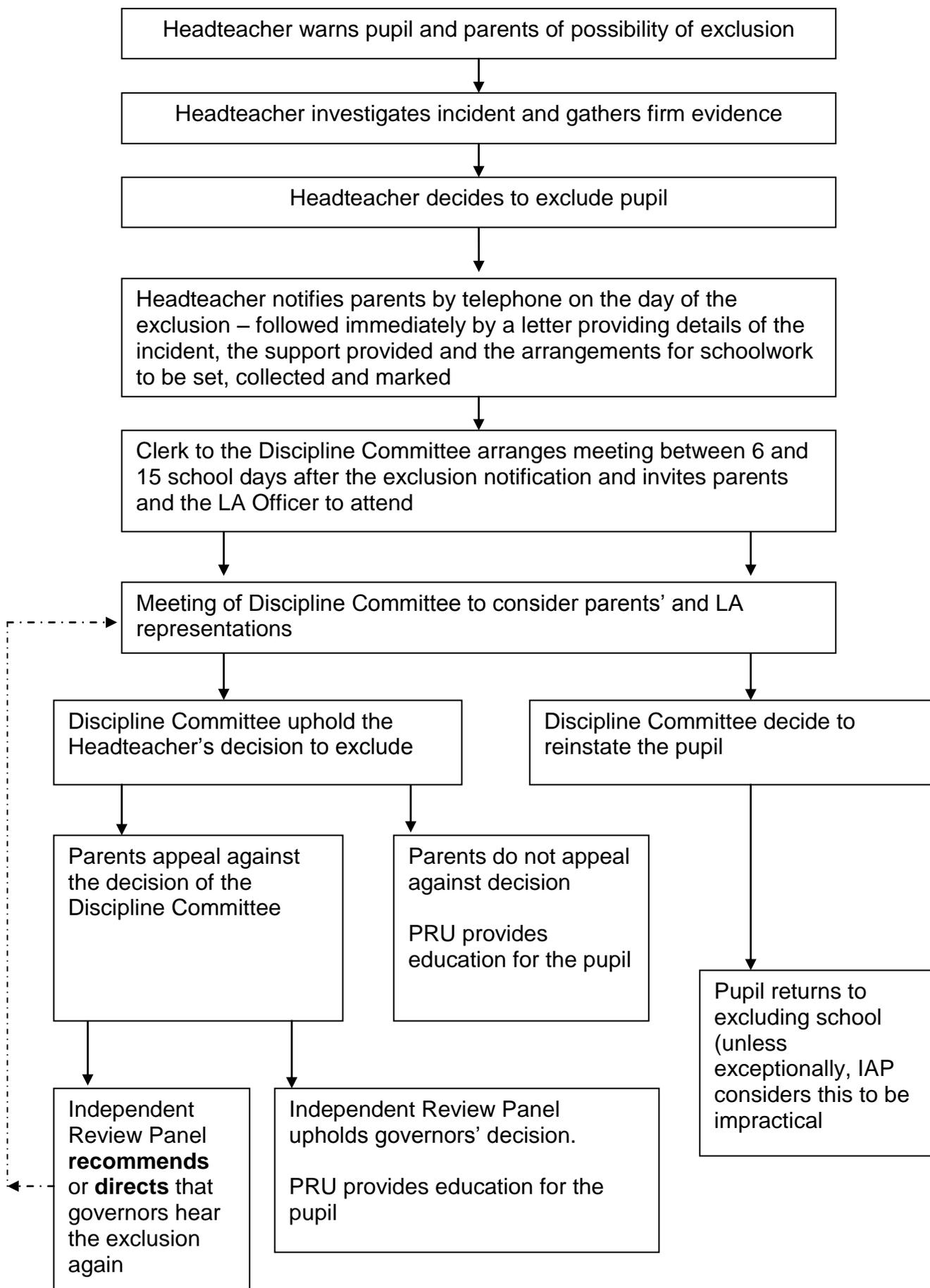
**From the clerk to parent OVERTURNING a permanent exclusion**

See Model Letter 9 at <http://schools.oxfordshire.gov.uk/cms/node/315>

**Diagram of process for fixed period exclusion of more than five days in total in one term**



## Diagram of procedures to be followed for a permanent exclusion.



## Bibliography

**From G.C.Legal Training Ltd.** Leeds (0113 249 7477):

Butterfield R. Exclusions and Exclusion Appeals £35 – a really useful mine of information about every last legal dotted 'i' and crossed 't' to do with exclusions including case histories. G.C. Legal Training also do excellent training courses on the subject.

**From Advisory Centre for Education.** (0207 704 9822):

Fixed period Exclusions - free pocket guide aimed at the parent.

Permanent Exclusion - free pocket guide aimed at the parent.

Governors' pocket guide to exclusion from school - aimed at the governor.

**From DfE** (0845 602 2260):

*Exclusion from maintained schools, academies and pupil referral units in England: a guide for those with legal responsibilities in relation to exclusion*, September 2012

<https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DFE-00042-2012>