



St Elizabeth's School and College

Exclusions Policy

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1. Purpose of Policy

This policy is designed to outline St Elizabeth's School and College's approach to exclusions within the statutory framework as defined in the Department For Educations, 'Exclusion from maintained Schools, academies and learner referral units in England: Statutory guidance for those with legal responsibilities in relation to exclusion (Sept 2017)'.

It outlines where St Elizabeth's School and College applies it's own additional guidance, which seeks to compliment and reinforce the statutory guidance, for purposes of clarity in the day to day operation of the School and College.

Please note, throughout this policy, 'Head teacher' refers to:

- a) Head of School
- b) Director of Education (also Head of College)

2. Principles of Policy

Only the head teacher of St Elizabeth's School or College can exclude a learner and this must be on disciplinary grounds.

In discharging their duties the Head teacher and Governors will have regard to the Department for Education guidance 'Exclusion from maintained Schools, academies and learner referral units in England' which came into force in September 2017. They will also take into account their statutory duties in relation to special educational needs including having regard to their SEN Code of Practice.

Exclusion is a sanction used by St Elizabeth's School or College only in cases deemed as serious breaches of St Elizabeth's School or College Behaviour Policy. A learner may be at risk of exclusion from School or College for (as examples):

- Physical assault of another learner or adult;
- Persistent and repetitive disruption of lessons and others students' learning;
- Extreme violent or aggressive behaviour which puts the child or young person as well as others at risk of harm

2.1 **Exclusion as a last resort**

Exclusion from St Elizabeth's School or College should be used as a last resort in response to serious or persistent breaches of St Elizabeth's School or College's behaviour policy and when allowing the learner to remain in School or College would seriously harm the education or welfare of the learner and others in the School or College. Other than in the case of a serious one-off offence (such as serious actual or threatened violence, sexual abuse or assault, supplying an illegal drug or carrying an offensive weapon) exclusion should only be used when other approaches have been unsuccessful.

Good discipline in the School and College is essential to ensure that all learners can benefit from the opportunities provided by education. The Government supports head teachers in using exclusion as a sanction where it is warranted.

2.2 **The Decision to Exclude**

The decision to exclude a learner must be lawful, reasonable and fair. St Elizabeth's School and College has a statutory duty not to discriminate against learners on the basis of protected characteristics, such as disability or race. St Elizabeth's should give particular consideration to the fair treatment of learners from groups who are vulnerable to exclusion.

2.3 **Factors to consider before making an exclusion**

When establishing the facts in relation to an exclusion decision the head teacher 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'. This means that the head teacher should accept that something happened if it is more likely that it happened than that it did not happen.

2.4 **Alternatives to exclusion**

Before excluding a child or young person, St Elizabeth's would have used a range of strategies as alternatives. Where a one-off incident of sufficient gravity has taken place, this may not apply. Only when other strategies have been exhausted will the head teacher consider permanent exclusion.

2.5 **Unofficial / Illegal Exclusions**

It is unlawful to exclude for a non-disciplinary reason. For example, it would be unlawful to exclude a learner simply because they have additional needs or a disability that the School or College feels it is unable to meet, or for a reason such as; academic attainment/ability; the action of a learner's parents; or the failure of a learner to meet specific conditions before. 'Informal' or 'unofficial' exclusions, such as sending a learner home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a learner, even for short periods of time, must be formally recorded by St Elizabeth's School or College.

2.6 **SEN/Disability/Vulnerable Group considerations**

Under the Equality Act 2010 (the Equality Act), St Elizabeth's School and College must not discriminate against, harass or victimise learners because of; sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices and the provision of auxiliary aids.

Schools have a legal duty under the Disability Discrimination Act 1995 not to discriminate against disabled learners by excluding them from School or College because of their disability. This applies to both permanent and fixed exclusions. The definition of disability under the Act covers learners with physical, sensory, intellectual or mental impairments. Discrimination means treating disabled learners less favourably than other learners without justification. It also means failing to take reasonable steps to ensure that disabled learners are not placed at a substantial disadvantage compared to their non-disabled peers. A reasonable step will be determined on circumstances of each case.

The Head Teacher should, as far as possible, avoid permanently excluding any learner with an EHC Plan or looked after child.

St Elizabeth's School / College should engage proactively with parents in supporting the behaviour of learners with additional needs. In relation to looked after children, Schools should cooperate proactively with foster carer's or children's home workers, the local authority that looks after the child and the local authority's virtual School head.

Where St Elizabeth's School or College has concerns about the behaviour, or risk of exclusion, of a learner with additional needs, a learner with an EHC Plan or looked after child, it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a learner's SEN. Where the learner has an EHC Plan, St Elizabeth's should consider requesting an early annual review or Interim/emergency review.

3. Responsibilities of the Head teacher

St Elizabeth's head teacher and governing body must comply with their statutory duties in relation to SEN when administering the exclusion process. This includes having regard to the SEND Code of Practice.

The head teacher must take account of their legal duty of care when sending a learner home following an exclusion.

In considering the exclusion of a learner the Head Teacher should ensure that the following range of activities are carried out:

- Undertake a thorough investigation
- Consider all relevant facts and firm evidence to support the allegations
- Take into account St Elizabeth's Behaviour Policy
- Ensure that all children and young people involved have the opportunity to give their version of events where possible
- Consult relevant agencies
- Ensure time has been given to addressing and supporting the child or young person's individual needs.

In January 2015, the Department of Education amended regulations to clarify that a governing body's duty to arrange education from the sixth day of a fixed-period exclusion is triggered by consecutive fixed-period exclusions totalling more than five days (Refer to Section 5: Procedures following exclusion).

All children and young people have a right to education. St Elizabeth's should take reasonable steps to set and mark work for learners during the first five School / College days of exclusion and thereafter until the child/young person is re-admitted into School or College.

3.1 **A guide to the law**

Only the head teacher of St Elizabeth's School or College can exclude a learner and this must be on disciplinary grounds. A learner may be excluded for one or more fixed periods (up to a maximum of 45 School days in a single academic year), or permanently. Fixed-period exclusions do not have to be for a continuous period.

A fixed-period exclusion can also be for parts of the School or College day. The legal requirements relating to exclusion, such as the head teacher's duty to notify parents, apply in all cases. Lunchtime exclusions are counted as half

a School day for statistical purposes and in determining whether a governing body meeting is triggered.

The law does not allow for extending a fixed-period exclusion or 'converting' a fixed-period exclusion into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, St Elizabeth's School or College may issue a further fixed-period exclusion to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period.

The behaviour of a learner outside of St Elizabeth's School or College can be considered grounds for an exclusion.

The head teacher may withdraw an exclusion that has not been reviewed by the governing body.

Any decision by St Elizabeth's School or College, including exclusion, must be made in line with the principles of administrative law i.e. that it is; 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.

3.2 **Statutory guidance on factors that a head teacher should take into account before taking the decision to exclude**

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

- In response to a serious breach or persistent breaches of the St Elizabeth's School or Colleges behaviour policy; and
- Where allowing the learner to remain in the School or College would seriously harm the education or welfare of the learner or others in the School or College.

The decision on whether to exclude is for the head teacher of St Elizabeth's School or College to take. However, where practical, the head teacher should give the learner an opportunity to present their case before taking the decision to exclude.

Whilst an exclusion may still be an appropriate sanction, the head teacher should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that the learner has suffered bereavement, mental health issues or has been subject to bullying.

Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a learner may have. The head teacher should also consider the use of a St Elizabeth's multi-disciplinary teams for assessments should a learner demonstrate persistent disruptive behaviour. Such assessments may pick up unidentified SEN but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems.

4. Notification of Exclusions

4.1 **Informing Parents/Carers**

When the head teacher of St Elizabeth's School or College has decided to exclude a learner, he/she must:

- Immediately inform the parent(s) by telephone

- Draft the appropriate letter (Appendix 2)
- Ensure that this letter is sent by first class post to arrive the following day or is hand delivered;
- Ensure that the letter contains the following information:
 - The reasons for exclusion;
 - The period of fixed term exclusion or, for a permanent exclusion, the fact that it is permanent;
 - Parents right to make representation about the exclusion to the governing body and how the learner may be involved in this;
 - How any representation should be made; and
 - When there is a legal requirement for the governing body to consider the exclusion, that the parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.

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

Ideally, St Elizabeth's School or College should give notification by person or over the telephone to allow parents to ask any initial questions or raise any concerns they may have directly with the head teacher.

The head teacher should set out what arrangements have been made to enable to learner to continue their education prior to the learner's return to School or College, in line with legal requirements and guidance.

St Elizabeth's School or College head teacher is also responsible for notifying the parents of the excluded learner any days that the learner should not be present in a public place during School / College hours. These days would be the first five days of an exclusion (or the end of an exclusion whichever is easier). Parents who fail to comply with this duty without reasonable justification commit an offence and may be given a fixed penalty notice or be prosecuted. The head teacher 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.

If a Child or Young Person is looked after or subject to a full care order where St Elizabeth's is their home, Emergency Protocols should take place. These will include:

- Contact with relevant social care teams to arrange emergency respite for the CYP.
- An urgent multi-agency planning meeting to review the situation and implement a crisis plan for the period of the exclusion.
- For a young person attending College, contact would need to be made with the relevant housing association (due to the licensing agreement held) who will do their own impartial investigation
- Subject to the outcome of the housing associations' investigation, they would have the right to serve notice in line with the 7 day licence agreement and learning partnership agreement.

St Elizabeth's School or College should draw parent's attention to the relevant sources of free and impartial information, including;

- A link to the statutory guidance on exclusions by Department of Education (<https://www.gov.uk/government/publications/School-exclusion>);
- A link to sources of impartial advice for parents such as the Coram Children's Legal Centre (www.childrenslegalcentre.com), or ACE Education (<https://www.ace-ed.org.uk>) and their advice line service on 03000 115 142 on Monday to Wednesday from 10am to 1pm during term time); and
- Where considered relevant by St Elizabeth's School or College head teacher, links to local services, such as Traveller Education Services, the Information Advice & Support Services Network (<https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network/about>), the National Autistic Society (NAS) School Exclusion Service (England) (08088004002 or Schoolexclusions@nas.org.uk), or Independent Parental Special Education Advice (<https://www.ipsea.org.uk/>).

4.2 Informing the Governing Body

The head teacher must, without delay, notify the governing body and local authority of:

- Any permanent exclusion (including where a fixed period exclusion is followed by a decision to permanently exclude the learner);
- A fixed term exclusion where St Elizabeth's has indicated to the parent that following further investigation it may become a permanent exclusion;
- Any exclusion which would result in the learner being excluded for a total of more than five School days in a term; and
- Any exclusion which would result in the learner missing a public examination or national curriculum test.

For a permanent exclusion, if the learner lives outside the local authority area in which the School / College is located, the head teacher must also notify the learner's 'home authority' of the exclusion and the reason(s) for it without delay.

5. Procedures following exclusion

For a fixed-period exclusion of more than five School days, the governing body must arrange suitable alternative full-time education for any learner of compulsory School age where such provision exists. This provision must begin no later than the sixth School day of the exclusion.

In the majority of cases, it would not be viable for St Elizabeth's School or College to arrange alternative education through an off-site provider.

The School / College will continue to provide work for the child / young person to complete at home. In making such a decision, St Elizabeth's have taken into account:

- The complex learning needs of the child or young person (CYP).
- The medical, health and therapy needs of the CYP.
- The Care and Support needs of the CYP.
- The confusion for the CYP in being placed in an unfamiliar setting.
- The risk of heightened anxiety and associated social and emotional challenges including escalating behaviours.

- The risk of harm to the CYP and others.

As a non-maintained specialist School and College supporting learners with complex needs, the need to safeguard the CYP remains paramount.

Where a child receives consecutive fixed-period exclusions, these are regarded as a cumulative period of exclusion for the purposes of this duty. This means that if a child has more than five consecutive School days of exclusion, then education must be arranged for the sixth day regardless of whether this is a result of one fixed-period or more than one fixed-period.

If a learner is excluded by St Elizabeth's for a further fixed-period following their original exclusions, or is subsequently permanently excluded, the head teacher of St Elizabeth's School or College must inform parents without delay and issue a new exclusion notice to parents.

For any permanent exclusion, the local authority must arrange suitable full-time education for the learner to begin no later than the sixth School day of the exclusion. This will be the learners 'home authority' in cases where the School is maintained by (or located within) a different local authority.

Provision does not have to be arranged by either the School or the local authority for a learner who is in the final year of compulsory education who does not have any further public examinations to sit. Whilst there is no automatic right for an excluded learner to take an examination or test on the excluding School's premises, the governing board of St Elizabeth's should consider whether it would be appropriate to exercise its discretion to allow an excluded learner onto the premises for the sole purpose of taking the examination or test.

5.1 Guidance to the Head Teacher, governing body and independent review panel on police involvement and parallel criminal proceedings

The head teacher does not need to postpone taking a decision on an exclusion solely because a police investigation is underway and/or criminal proceedings may be brought. In such circumstances, St Elizabeth's will need to take a decision on the evidence available to them at the time.

Where the evidence is limited by a police investigation or criminal proceedings, the head teacher of St Elizabeth's School or College should consider any additional steps they may need to take to ensure that the decision to exclude is fair. However, the final decision on whether to exclude is for the head teacher to make.

Where the governing body is required to consider a reinstatement in these circumstances, it cannot postpone its meeting and must decide whether or not to reinstate the learner on the evidence available.

The fact that parallel criminal proceedings are in progress should also not directly determine whether an independent review panel should be adjourned. Relevant factors for the panel to consider will include:

- Whether any charge has been brought against the learner and, if so, what the charge is;
- Whether relevant witnesses and documents are available;

- The likely length of delay if the hearing were adjourned and the effect it may have on the excluded learner, the parents, any victim or the School/College; and
- Whether an adjournment or declining to adjourn might result in injustice.

Where a panel decides to adjourn, the clerk (or LA where a clerk is not appointed) should monitor the progress of any police investigation and/or criminal proceedings and reconvene the panel at the earliest opportunity. If necessary the panel may adjourn more than once, however, consideration must be given to the effect of adjournment on all parties.

6. The Governing Body's Duty to consider an exclusion

The Governing Body of St Elizabeth's School or College has a duty to consider parents' representations about an exclusion. The requirements on a governing body to consider an exclusion depend upon a number of factors. (See Appendix 1) 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 Body must consider the reinstatement of an excluded learner within 15 School or College days of receiving notice of the exclusion if;

- The exclusion is permanent;
- It is a fixed-period exclusion which would bring the learners total number of School days of exclusion to more than 15 in a term; or
- It would result in a learner missing a public examination or national curriculum test

The requirements are different for fixed-period exclusions where a learner 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 body must consider within 50 School days of receiving the notice of exclusion whether the excluded learner should be reinstated. In the absence of any representatives from the parents, the governing body is not required to meet and cannot direct the reinstatement of the learner.

Where an exclusion would result in a learner missing a public examination or national curriculum test, there is a further requirement for the governing board to consider the exclusion before the date of the examination or test as far as reasonably practicable. If it is not practicable for a sufficient number of governors to consider the decision before the examination or test, the chair of governors, may consider the exclusion alone and decide whether or not to reinstate the learner.

In such cases, parents still have the right to make representations to the governing body and must be made aware of this right.

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

- Parents (and, where requested, a representative or friend);
- The head teacher.

The governing body must make reasonable endeavours to arrange the meeting for a date and time that is convenient to all parties, but in compliance with the relevant statutory time limits set out in this policy.

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

Where the governing body of St Elizabeth's School or College is legally required to consider reinstating an excluded learner they must consider the interests and circumstances of the excluded learners, including the circumstances in which the learner was excluded, and have regard to the interests of other learners and staff. When establishing the facts in relation to an exclusion the governing body 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'.

6.1 Guidance to the governing body on providing information to parents following it's consideration of an exclusion.

The governing body should set out the reasons for its decision in sufficient detail to enable all parties to understand why the decision was made.

Where relevant, it will be for the governing body of St Elizabeth's School or College to confirm the details of where the parents' application for an independent review panel should be sent. This is normally the clerk of the independent review panel. The notice should make it clear that parents are entitled to bring a friend to the review.

In providing details of the role of the SEN expert, the governing body should refer to the statutory guidance. The notice should explain that there would be no cost to parents for the appointment and that parents must make clear if they wish for an SEN expert to be appointed in any application for a review.

Where the governing body declines to reinstate the learner, it should draw the attention of parents to relevant sources of free and impartial advice that will allow them to make an informed decision on whether and, if so, how to seek a review of the decision. This information should be included in the letter notifying parents of a decision to uphold an exclusion, which should also include:

- A link to statutory guidance on exclusions (<https://www.gov.uk/government/publications/School-exclusion>);
- A link to guidance on making a claim of discrimination to the First-tier Tribunal (Special Educational Needs and Disability) (<https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability>) or the County Court;
- A link to sources of impartial advice for parents such as the Coram Children's Legal Centre (www.childrenslegalcentre.com) or ACE Education (<https://www.ace-ed.org.uk>) and their limited advice line service on 03000115142 on Monday to Wednesday from 10am to 1pm during term time); and
- Where considered relevant by St Elizabeth's School or College head teacher, links to local services, such as Traveller Education Services, the Information Advice & Support Services Network (<https://councilfordisabledchildren.org.uk/information-advice-and-supprot-services-network/about>), the National Autistic Society (NAS) School Exclusion Service (England) (08088004002 or

Schoolexclusions@nas.org.uk), or Independent Parental Special Education Advice (<https://www.ipsea.org.uk/>).

7. Responsibilities of the Governor disciplinary committee

7.1 **The Discipline Committee**

- The Governing Body will establish a nominated governor and when the need arises an Independent Review panel
- The Governing Body will establish a Discipline Committee
- The Governors do not have the right to exclude a learner

The Discipline Committee will consist of no less than three Governors from the School or College Full Governing Body's, who will review the use of exclusion within St Elizabeth's School or College, including considering the views of the parent(s)/carer(s) of an excluded learner and deciding whether or not to confirm exclusions of more than five days or those where a learner would miss an opportunity to take a public examination. The Governing Body will appoint a Clerk to the Discipline Committee to handle the administrative arrangements for considering exclusions. One member of the Discipline Committee will act as chair and be responsible for drawing up the decision letter.

If the exclusion is for five School/College days or fewer the Discipline Committee will not direct reinstatement but will consider any statement from the parent(s)/carer(s). If the exclusion causes the learner to miss sitting a public examination the Discipline Committee will meet before the public examination.

7.2 **Discipline Committee Meetings to consider exclusions**

Where the governing body is legally required to consider the reinstatement of an excluded learner they should:

- Not discuss the exclusion with any party outside the meeting;
- Ask for any written evidence in advance of the meeting (excluding witness statements and other relevant information held by the School or College such as those relating to a learners SEN);
- Where possible, circulate any written evidence and information, including a list of those who will present, to all parties at least five School days in advance of the meeting;
- Allow parents and the learner to be accompanied by a friend or representative (where a learner under 18 is to be invited as a witness, the governing body 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 / College 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 learner 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 learner 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 learners age and understanding; or how the excluded learner may feed their views by other means if attending the exclusion meeting is not possible.

7.3 Procedure at the Discipline Committee Meeting

- The governing body should identify the steps they will take to ensure all parties will be supported to participate in its consideration and have their views properly heard.
- The governing body should ensure that clear minutes are taken of the meeting as a record of the evidence that was considered by the governing body. These minutes should be made available by St Elizabeth's School or College to all parties on request.
- The governing body should ask all parties to withdraw before making a decision.
- In reaching a decision on whether or not a learner should be reinstated, St Elizabeth's governing body should consider whether the decision to exclude the learner was lawful, reasonable and procedurally fair, taking account of the head teachers legal duties and any evidence that was presented to the governing body in relation to the decision to exclude.
- The governing body should note the outcome of its consideration on the learners educational record, along with copies of relevant papers for future reference.
- When establishing the facts in relation to an exclusion decision the governing body must consider the quality of the evidence and apply the civil standard of proof i.e. 'on the balance of probabilities' it is more likely than not that a fact is true.
- In light of their consideration, the Governing Body can either;
 - Uphold an exclusion; or
 - Direct reinstatement of the pupil immediately or on a particular date.
 - Direct some alternative resolution(s)
- Where reinstatement is not practicable because for example, the pupil has already returned to School following the expiry of a fixed period exclusion or the parents make clear they do not want their child reinstated, the governing body must, in any event, consider whether the Head Teacher's decision to exclude the child was justified based on the evidence.

7.4 After the meeting: Information to parents following it's consideration of an exclusion.

Where legally required to consider reinstating an excluded learner, the governing body 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 learner resides in a different local authority area from the one in which the School or College is located, the governing body must also inform the learners 'home authority'.

In the case of a permanent exclusion where St Elizabeth's governing body decides not to reinstate the learner, the governing body's notification must also include the information set out below:

- 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:
 - 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 body's decision is given to parents)
 - Where and to whom an application for a review (and any written evidence) should be submitted;
 - That any application should set out the ground on which it is being made and that, where appropriate, this should include a reference to how the learners SEN are considered to be relevant to the exclusion;
 - That, regardless of whether the excluded learner has recognised SEN, parents have a right to require the local authority to appoint an SEN expert to advise the review panel
 - Details of the role of the SEN expert; and
 - That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel.
 - Any application made outside the legal time frame will not be considered.

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 Education Needs and Disability) in the case of disability discrimination or the county court, in the case of other forms of discrimination.

7.5 The Governing Body's duty to remove a permanently excluded learner's name from the School register.

The Governing Body must ensure that a learner's name is removed from the School admissions register if:

- 14 School days have passed since the parents were notified of the governing body's decision to not reinstate the learner 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 has been made for an independent review panel within 15 School days, St Elizabeth's School / College must wait until the review has been determined, or abandoned, and until the Governing Body has completed any reconsideration that the panel has recommended or directed it to carry out, before removing a learners name from the register. Where a learner's name is to be deleted from the School admissions register because of 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 learner 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 learner's name.

Where a learner's name is removed from the School register and a discrimination claim is subsequently made, the First-tier tribunal (Special Educational Needs and Disability) or County Court has the power to direct that the learner should be reinstated.

8. Remit of the Independent Review Panel

Independent Review Panels (IRPs) have replaced Independent Appeal Panels. Following St Elizabeth's School or College's decision to uphold a permanent exclusion, the local authority must, if requested by parents, arrange for a review panel meeting to be held within 15 School days of the parent's request.

The panel must consist of 3-5 members representing each of the categories below:

- A lay member to chair the panel who has not worked in any School in a paid capacity, disregarding any experience as a School governor or volunteer.
- A School or College governor, who has served as a governor for St Elizabeth's for at least 12 consecutive months in the last five years, provided he/she has not been a teacher or head teacher during this time.
- A head teacher or individual who has been a head teacher within the last five years.
- In addition, a clerk must be appointed who should not have served as a clerk to the previous meetings. He/she should have the training required by law and an up-to-date understanding of developments in case law, legislation and guidance which are relevant to exclusion.
- Independent SEN expert

An IRP does not have the power to direct a governing body to reinstate an excluded learner.

An IRP can make one of three decisions, it can:

- Uphold the decision to exclude;
- Recommend that St Elizabeth's School or College reconsiders its decision; or
- Quash the decision and direct St Elizabeth's School or College to reconsider its decision.

Appeals against permanent exclusion, where discrimination is alleged to have taken place of the learner has been placed at a substantial disadvantage by the exclusion procedures, will be heard by the Independent Appeal Panel. Claims alleging discrimination in respect of fixed period exclusions will be heard by the SEN and Disability Tribunal. St Elizabeth's School or College will be required, in disability discrimination claims; to demonstrate that their actions are justified and that there are no reasonable adjustments to their policies and practice that might have made to prevent the incident which led to the exclusion.

8.1 The Role of the SEN expert on the Independent Review Panel

When parents apply for an IRP to be held, they may request that an SEN expert attend the panel.

Arrangements must be made to identify an SEN expert against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review and which are taken in good faith.

Individuals may not serve as an SEN expert if they have, or at any time have had, a connection with the local authority, St Elizabeth's School or College,

learner or parent in the incident leading to the exclusion which might reasonably be taken to raise doubts about their ability to act impartially (however, an individual is not taken to have such a connection solely because he/she is an employee of the local authority/College or School).

The SEN expert should be a professional with first-hand experience of the assessment and support of SEN, as well as an understanding of the legal requirements on Schools in relation to SEN and disability.

Reasonable steps should be taken to ensure that the parents have confidence in the impartiality and capability of the SEN expert and when possible this may include offering parents a choice of SEN expert.

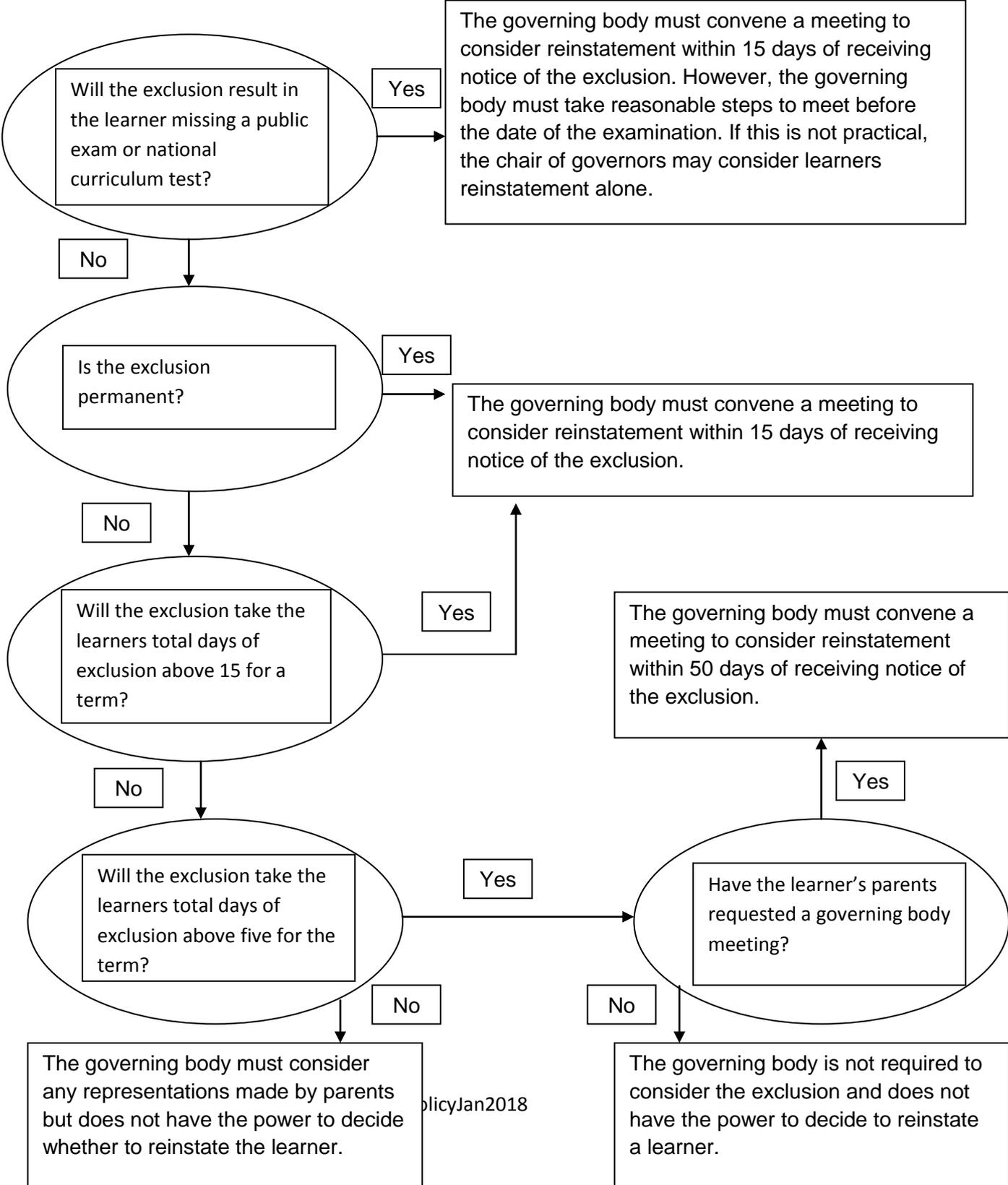
The SEN expert's role is to provide impartial advice to the IRP about how SEN could be relevant to the exclusion; for example, whether St Elizabeth's acted reasonably in relation to its legal duties when excluding the learner.

The SEN experts role does not include making an assessment of the learners SEN.

The focus of the SEN expert should be on whether St Elizabeth's policies which relate to SEN, or the application of these policies, were reasonable and procedurally fair. If the SEN expert believes that this was not the case he/she should, where possible, advise the panel on possible contribution which could have been made to the learners exclusion.

The SEN expert should not criticise School policies or actions simply because he/she believes a different approach should have been followed or because different Schools may have taken a different approach.

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



The governing body may delegate it's functions to consider an exclusion to a designated committee. References to days mean 'School days'.

Model Exclusion Letters

- | | |
|----------------|--|
| Model Letter 1 | From the Head Teacher in charge of notifying parents of a fixed period exclusion of 5 days or fewer in one term, or which brings the learners total number of days or fixed period exclusion to no more than 5 days in one term, and where a public examination or national curriculum test is not missed. |
| Model Letter 2 | From the Head Teacher in charge of notifying parents of a fixed period exclusion of more than 5 days and up to/equal to 15 days in one term, or which brings the learners total number of days or fixed period exclusion to more than 5 days and up to/equal to 15 days in one term, and where a public examination or national curriculum test is not missed. |
| Model Letter 3 | From the Head Teacher in charge of notifying parents of a fixed period exclusion of more than 15 days in one term, or which brings the learners total number of days or fixed period exclusion to more than 15 days in one term, or where a public examination or national curriculum test would be missed. |
| Model Letter 4 | From the Clerk of the Governors' disciplinary Committee inviting parents to a meeting of the Governors' disciplinary Committee in respect of a fixed period exclusion. |
| Model Letter 5 | From the Clerk of the Governors Disciplinary Committee informing parents of the committee's decision in respect of a fixed period exclusion. |
| Model Letter 6 | From the Head Teacher in charge of notifying parents of a permanent exclusion. |

- Model Letter 7 From the Clerk of the Governors' disciplinary Committee inviting parents to a meeting of the governors disciplinary committee in respect of a permanent exclusion.
- Model Letter 8 From the Clerk of the Governors' disciplinary committee informing parents of the committee's decision in respect of a permanent exclusion.
- Model Letter 9 From the Head Teacher in charge of notifying the withdrawal of a fixed period or permanent exclusion.

Model Letter 1

From the Head Teacher in charge of notifying parents of a fixed period exclusion of 5 days or fewer in one term, or which brings the learners total number of days or fixed period exclusion to no more than 5 days in one term, and where a public examination or national curriculum test is not missed.

Dear [Parents name]

I am writing to inform you of my decision to exclude [learners name] for a fixed period between the dates [specify period] inclusive. This means that [learners name] will not be allowed in School/College during this period. The exclusion begins/began on [date] and ends on [date]. [learners name] should return to School on [first School day following the end of the fixed period exclusion].

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude [learner name] has not been taken lightly. [Learners name] has been excluded for this fixed period because [specify full reason(s) for exclusion].

The following two paragraphs apply only to learners of compulsory School age.

You have a duty to ensure that [learners name] is not present in a public place in School hours during the period of this exclusion between [specify period] inclusive unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the Local Authority or be prosecuted if [learners name] is present in a public place during School hours without reasonable justification on the specified dates. If so, it will be for you to demonstrate reasonable justification.

We will set work for [learners name] to complete on the days specified in the previous paragraph, i.e. the School days during the period of exclusion when you must ensure that he/she is not present in a public place without reasonable justification. [Detail the arrangements for this]. Please ensure that the work set is completed and returned promptly to us for marking.

You have the right to make representations about this exclusion to the Governors' disciplinary committee/management committee. If you wish to make representations please contact Sr. Annette Clemence (Chair of Governors) at St Elizabeth's Centre, Perry Green, Much Hadham, Hertfordshire, SG10 6EW – 01279 843451 – annette.clemence@stelizabeths.org.uk as soon as possible. Whilst the Governors'

Disciplinary Committee/Management Committee has not power to direct reinstatement, they must consider any representations you make and they may place a copy of their findings on [learners name]'s School record.

You should also be aware that if you think that discrimination has occurred under the Equalities Act 2010 in relation to this exclusion, you have the right to make a claim to the First-tier tribunal (for disability discrimination) or a County Court (for other forms of discrimination). The address to which claims for disability discrimination should be sent is The First Tier Tribunal, Mowden Hall, Staindrop Road, Darlington, DL3 9BG (Tel Number – 01325392760). Guidance on making a claim of discrimination to the First tier tribunal can be found at <http://www.justice.gov.uk/tribunals/send/aoppeals>

The following paragraph applies to all fixed period exclusions of primary-aged learners and may be used for fixed period exclusions of up to 5 days for secondary aged learners if the head teach chooses to hold a reintegration interview.

You are requested to attend a reintegration interview with [learners name] at the School on [date] at [time]. If that is not convenient, please contact [enter name of person to be contacted] as soon as possible to arrange a suitable alternative date and time. The reintegration interview will be conducted by [enter 'me' or the name and position of the person who will conduct the reintegration interview]. The purpose of the reintegration interview is to discuss how best your son/daughters return to School/College can be managed. Please note, that failure to attend a reintegration interview may be a factor taken into account by a magistrate's court if, on future application, they consider whether to impose a parenting order on you.

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

You may wish to contact [name of area integration officer], Integration Officer, Children's Services at [contact details – address, telephone number, e-mail], who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 01206 714650 or on <http://www.childrenslegalcentre.com>. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24th December to the 1st January.

You may also wish to refer to relevant sources of information about exclusions. The guidance from the Department for Education, entitled 'Exclusion from Maintained Schools, Academies and Learner Referral Units in England' is available at: <http://www.education.gov.uk/Schools/learnersupport/behaviour/exclusion>. Further guidance from Local Authority is available at: <http://www.thegrid.org.uk/info/welfare/exclusions.shtml>.

[learners name]'s exclusion expires on [date] and we expect [learners name] to return to School/College on [date] at [time].

Yours sincerely,

[Name]

[Title]

Model Letter 2

From the Head Teacher in charge of notifying parents of a fixed period exclusion of more than 5 days and up to/equal to 15 days in one term, or which brings the learners total number of days or fixed period exclusion to more than 5 days and up to/equal to 15 days in one term, and where a public examination or national curriculum test is not missed.

Dear [Parents name]

I am writing to inform you of my decision to exclude [learners name] for a fixed period between the dates [specify period] inclusive. This means that [learners name] will not be allowed in School/College during this period. The exclusion begins/began on [date] and ends on [date]. [learners name] should return to School on [first School day following the end of the fixed period exclusion].

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude [learner name] has not been taken lightly. [Learners name] has been excluded for this fixed period because [specify full reason(s) for exclusion].

The following three paragraphs apply only to learners of compulsory School age.

You have a duty to ensure that [learners name] is not present in a public place in School hours during the period of this exclusion between [specify period] inclusive unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the Local Authority or be prosecuted if [learners name] is present in a public place during School hours without reasonable justification on the specified dates. If so, it will be for you to demonstrate reasonable justification.

We will set work for [learners name] to complete on the days specified in the previous paragraph, i.e. the School days during the period of exclusion when you must ensure that he/she is not present in a public place without reasonable justification. [Detail the arrangements for this]. Please ensure that the work set is completed and returned promptly to us for marking.

You have the right to make representations about this exclusion to the Governors' Disciplinary committee/Management committee. If you wish, you have the right to request a

meeting of the Governors' Disciplinary Committee/Management Committee to review my decision to exclude [learner name] and make representations at that meeting as the period of this exclusion brings [learners name]'s total number of days of fixed period exclusion to more than 5 but fewer than or equal to 15 days in a term. If you request a meeting the latest date by which the Governors' Disciplinary Committee/Management Committee must meet is [specify date, which must be no later than the 50th School day after the date on which the Governors' Disciplinary Committee/Management Committee was notified of the exclusion to which this letter relates]. If you wish to make representations to the Governors' Disciplinary Committee / Management Committee please contact Sr Annette Clemence, St Elizabeth's Centre, Perry Green, Much Hadham, Hertfordshire, SG10 6EW – 01279 843451 – Annette.clemence@stelizabeths.org.uk, as soon as possible and within the deadline specified. You may be accompanied by a friend or representative, including a legal representative, if you wish. Please advise if you have a disability or any special needs which would affect your ability to attend a meeting at the School. Also, please inform [contact] if it would be helpful for you to have an interpreter present at the meeting.

You should also be aware that if you think that discrimination has occurred under the Equalities Act 2010 in relation to this exclusion, you have the right to make a claim to the First-tier tribunal (for disability discrimination) or a County Court (for other forms of discrimination). The address to which claims for disability discrimination should be sent is The First Tier Tribunal, Mowden Hall, Staindrop Road, Darlington, DL3 9BG (Tel Number – 01325392760). Guidance on making a claim of discrimination to the First tier tribunal can be found at <http://www.justice.gov.uk/tribunals/send/aoppeals>

The following paragraph applies to all fixed-period exclusions of primary aged learners and may be used for fixed period exclusions of up to 5 days for secondary aged learners if the head teacher chooses to hold a reintegration interview. The paragraph also applies to secondary age learners where the exclusion to which this letter relates is for more than 5 days.

You are requested to attend a reintegration interview with [learners name] at the School on [date] at [time]. If that is not convenient, please contact [enter name of person to be contacted] as soon as possible to arrange a suitable alternative date and time. The reintegration interview will be conducted by [enter 'me' or the name and position of the person who will conduct the reintegration interview]. The purpose of the reintegration interview is to discuss how best your son/daughters return to School/College can be managed. Please note, that failure to attend a reintegration interview may be a factor taken into account by a magistrate's court if, on future application, they consider whether to impose a parenting order on you.

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

You may wish to contact [name of area integration officer], Integration Officer, Children's Services at [contact details – address, telephone number, e-mail], who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be

contacted on 01206 714650 or on <http://www.childrenslegalcentre.com>. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24th December to the 1st January.

You may also wish to refer to relevant sources of information about exclusions. The guidance from the Department for Education, entitled 'Exclusion from Maintained Schools, Academies and Learner Referral Units in England' is available at: <http://www.education.gov.uk/Schools/learnersupport/behaviour/exclusion>. Further guidance from Local Authority is available at: <http://www.thegrid.org.uk/info/welfare/exclusions.shtml>.

[learners name]'s exclusion expires on [date] and we expect [learners name] to return to School/College on [date] at [time].

Yours sincerely,

[Name]

[Title]

Model Letter 3

From the Head Teacher in charge of notifying parents of a fixed period exclusion of more than 15 days in one term, or which brings the learners total number of days or fixed period exclusion to more than 15 days in one term, or where a public examination or national curriculum test would be missed.

NB: Where an exclusion would result in a learner missing a public examination or national curriculum test there is a further requirement for a governing body, so far as is reasonably practicable, to consider the exclusion before the date of the examination or test. If this is not practicable, the chair of governors may consider the exclusion independently and decide whether or not to reinstate the learner. There are the only circumstance in which the chair can review an exclusion decision alone. In such cases, parents still have the right to make representations to the governing body and must be made aware of this right.

Dear [Parents name]

I am writing to inform you of my decision to exclude [learners name] for a fixed period between the dates [specify period] inclusive. This means that [learners name] will not be allowed in School/College during this period. The exclusion begins/began on [date] and ends on [date]. [learners name] should return to School on [first School day following the end of the fixed period exclusion].

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude [learner name] has not been taken lightly. [Learners name] has been excluded for this fixed period because [specify full reason(s) for exclusion].

The following three paragraphs apply only to learners of compulsory School age.

You have a duty to ensure that [learners name] is not present in a public place in School hours during the period of this exclusion between [specify period] inclusive unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the Local Authority or be prosecuted if [learners name] is present in a public place during School hours without reasonable justification on the specified dates. If so, it will be for you to demonstrate reasonable justification.

We will set work for [learners name] to complete on the days specified in the previous paragraph, i.e. the School days during the period of exclusion when you must ensure that he/she is not present in a public place without reasonable justification. [Detail the arrangements for this]. Please ensure that the work set is completed and returned promptly to us for marking.

As this exclusion brings [learners name]'s total number of days of fixed period exclusion to more than 15 days in total in one term the Governors' Disciplinary Committee/Management Committee must meet to review my decision to exclude [learners name]. You may attend the review meeting and make representations to the Governors' Disciplinary Committee/Management Committee if you wish. The latest date by which the Governors' Disciplinary Committee/Management Committee must meet is [specify date , which must be no later than 15 School days after the date on which the Governors' Disciplinary Committee/Management Committee was notified of the exclusion to which this letter relates]. You will be notified by the Clerk to the Governors' Disciplinary Committee/Management Committee of the time, date and location of the meeting whether you choose to make representations or not. If you wish to make representations to the Governors' Disciplinary Committee / Management Committee please contact Sr Annette Clemence, St Elizabeth's Centre, Perry Green, Much Hadham, Hertfordshire, SG10 6EW – 01279 843451 – Annette.clemence@stelizabeths.org.uk, as soon as possible and within the deadline specified. You may be accompanied by a friend or representative, including a legal representative, if you wish. Please advise if you have a disability or any special needs which would affect your ability to attend a meeting at the School. Also, please inform [contact] if it would be helpful for you to have an interpreter present at the meeting.

You should also be aware that if you think that discrimination has occurred under the Equalities Act 2010 in relation to this exclusion, you have the right to make a claim to the First-tier tribunal (for disability discrimination) or a County Court (for other forms of discrimination). The address to which claims for disability discrimination should be sent is The First Tier Tribunal, Mowden Hall, Staindrop Road, Darlington, DL3 9BG (Tel Number – 01325392760). Guidance on making a claim of discrimination to the First tier tribunal can be found at <http://www.justice.gov.uk/tribunals/send/aoppeals>

The following paragraph applies to all fixed-period exclusions of primary aged learners and may be used for fixed period exclusions of up to 5 days for secondary aged learners if the head teacher chooses to hold a reintegration interview. The paragraph also applies to secondary age learners where the exclusion to which this letter relates is for more than 5 days.

You are requested to attend a reintegration interview with [learners name] at the School on [date] at [time]. If that is not convenient, please contact [enter name of person to be contacted] as soon as possible to arrange a suitable alternative date and time. The reintegration interview will be conducted by [enter 'me' or the name and position of the person who will conduct the reintegration interview]. The purpose of the reintegration interview is to discuss how best your son/daughters return to School/College can be managed. Please note, that failure to attend a reintegration interview may be a factor taken into account by a magistrate's court if, on future application, they consider whether to impose a parenting order on you.

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

You may wish to contact [name of area integration officer], Integration Officer, Children's Services at [contact details – address, telephone number, e-mail], who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 01206 714650 or on <http://www.childrenslegalcentre.com>. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24th December to the 1st January.

You may also wish to refer to relevant sources of information about exclusions. The guidance from the Department for Education, entitled 'Exclusion from Maintained Schools, Academies and Learner Referral Units in England' is available at: <http://www.education.gov.uk/Schools/learnersupport/behaviour/exclusion>. Further guidance from Local Authority is available at: <http://www.thegrid.org.uk/info/welfare/exclusions.shtml>.

[learners name]'s exclusion expires on [date] and we expect [learners name] to return to School/College on [date] at [time].

Yours sincerely,

[Name]

[Title]

Model Letter 4

*From the Clerk of the Governors' disciplinary Committee
inviting parents to a meeting of the Governors' disciplinary
Committee in respect of a fixed period exclusion.*

Dear [parents name]

I am writing to advise you that the meeting of the Governors' Disciplinary Committee/Management Committee to review the Head Teacher's decision to exclude [learner name] from School/College during the period [start date and end date of the period of exclusion] will take place at [place] on [date] at [time].

If you would like to attend the meeting of the Governors' Disciplinary Committee/Management Committee, please contact [enter 'me' or the name of contact] at [contact details-address, telephone number, e-mail] as soon as possible. You will have the opportunity to make representations to the panel. [Learner name] may attend the hearing with you. You may also be accompanied by a friend or representative, including a legal representative, if you wish. If you intend to be accompanied please let [enter 'me' or the name of the contact] know. Please advise if you have a disability or any special needs which would affect your ability to attend a meeting at the School. Also, please inform [enter 'me' or the name of contact] if it would be helpful for you to have an interpreter present.

At the meeting the Chair will explain the order of proceeding and a copy is enclosed with this letter for your information.

If you wish to make a written representation this should be forwarded to me at the above address at least five days before the meeting, i.e. by [insert date] so that it may be circulated in advance to the members of the Committee and to all parties including the Head Teacher.

The committee will consider the representations made by all parties and decide whether to uphold the exclusion or to direct [learner name]'s reinstatement, either immediately or by a particular date.

If the Governors' Disciplinary Committee/Management Committee cannot direct the reinstatement due to the period of exclusion having expired and your child having already returned to School/College they will place a copy of their findings on the learner's School/College record.

As stated above, I would be grateful if you would let me know if you will be attending the meeting and if so, whether you will be accompanied.

Yours sincerely,

[name]

[title]

[enc] (See Appendix 3)

Model Letter 5

*From the Clerk of the Governors Disciplinary Committee
informing parents of the committee's decision in respect of a
fixed period exclusion.*

Dear [parents name]

I am writing to confirm the decision reached by the Governors' Disciplinary Committee/Management Committee at their meeting on [date of governors disciplinary committee/management committee meeting] to review the Head Teacher's decision to exclude [learner name] from School/College during the period [start date and end date of the period of exclusion].

After careful consideration of all the evidence available and the representations made to the Governors' Disciplinary Committee/Management Committee, the committee has decided to

EITHER

Uphold the Head Teacher's decision to exclude for the following reason(s) [insert reasons in as much detail as possible explaining how they were arrived at]

OR

Direct reinstatement from [specify date] for the following reason(s) [insert reasons in as much detail as possible explaining how they were arrived at]

Where reinstatement cannot be directed because the period of exclusion has expired, add the following sentence:

As the period of [learner name]'s exclusion has expired the committee's findings will be placed on your son/daughter's School/College record.

Where the Head teacher's decision to exclude has been upheld, add the following three paragraphs

If you believe that discrimination has occurred as a result of this exclusion then you may make a claim under the Equality Act 2010 to the First-tier tribunal (Special Educational

Needs and Disability) in the case of disability discrimination, or the County Court in the case of other forms of discrimination. A claim of discrimination made under these routes should be logged within six months of the date on which the discrimination is alleged to have taken place, for example the day on which the learner was excluded. Guidance on making a claim of discrimination to the First-tier tribunal can be found at <http://www.justice.gov.uk/tribunals/send/appeals>

You may wish to contact [name of area integration officer], Integration Officer, Children's Services at [contact details – address, telephone number, e-mail], who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 01206 714650 or on <http://www.childrenslegalcentre.com>. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24th December to the 1st January.

You may also wish to refer to relevant sources of information about exclusions. The guidance from the Department for Education, entitled 'Exclusion from Maintained Schools, Academies and Learner Referral Units in England' is available at: <http://www.education.gov.uk/Schools/learnersupport/behaviour/exclusion>. Further guidance from Local Authority is available at: <http://www.thegrid.org.uk/info/welfare/exclusions.shtml>.

Yours sincerely

[name]

[title]

Model Letter 6

From the Head Teacher in charge of notifying parents of a permanent exclusion.

Dear [name(s) of parent(s)]

I am writing to inform you of my decision to permanently exclude [learner name] with effect from [date]. This means that [learner name] will not be allowed in this School/College unless [he/she] is reinstated by the Governors' Disciplinary Committee.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude [learner name] has not been taken lightly. [Learner name] has been permanently excluded because [specify full reason(s) for exclusion].

The following three paragraphs apply only to learners of compulsory School age.

You have a duty to ensure that [learners name] is not present in a public place in School hours during the first five days of this exclusion, in this case between [specify period] inclusive unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the Local Authority or be prosecuted if [learners name] is present in a public place during School hours without reasonable justification on the specified dates. If so, it will be for you to demonstrate reasonable justification.

Alternative arrangements for [learner name]'s education to continue will be made. We will set work for [learner name] during the first five days of this exclusion. [Detail arrangements for this]. Please ensure that the work set is completed and returned promptly to us for marking.

From the sixth School/College day of the exclusion onwards, i.e. from [specify the date] the Local Authority of [name local authority] will provide suitable full-time education. [Where learner lives in Hertfordshire, enter the name of the local integration officer], Integration Officer will contact you to let you know the arrangements for this. [Where learner lives beyond Hertfordshire] I have informed [name of officer] at [name of Local Authority] of your son/daughter's exclusion and [he/she] will be in touch with you about arrangements for [learner name]'s education from the sixth School/College day of exclusion. You can contact him/her at [give contact details].

As this is a permanent exclusion the Governors' Disciplinary Committee must meet to review my decision to exclude [learner name]. You may attend the review meeting and make representations to the Governors' Disciplinary Committee and ask the panel to reinstate your

son/daughter if you wish. The Governors' disciplinary committee has the power to reinstate your son/daughter immediately or from a specified date, or, alternatively they may decide to uphold the exclusion in which case you may ask for the Governors' Disciplinary Committee decision to be reviewed by an Independent Review Panel. The latest date by which the Governors' Disciplinary Committee must meet is [specify date, which must be no later than 15 School days after the date on which the Governors' Disciplinary Committee was notified of the exclusion to which this letter relates]. You will be notified by the Clerk to the Governor's Disciplinary Committee of the time, date and location of the meeting. If you wish to make representations to the Governors' Disciplinary Committee, please contact Sr Annette Clemence, St Elizabeth's Centre, Perry Green, Much Hadham, Hertfordshire, SG10 6EW – 01279 843451 – Annette.clemence@stelizabeths.org.uk, as soon as possible after being notified of the date of the meeting. You may be accompanied by a friend or representative, including a legal representative, if you wish. Please advise if you have a disability or any special needs which would affect your ability to attend a meeting at the School/College. 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 that discrimination has occurred under the Equalities Act 2010 in relation to this exclusion, you have the right to make a claim to the First-tier tribunal (for disability discrimination) or a County Court (for other forms of discrimination). The address to which claims for disability discrimination should be sent is The First Tier Tribunal, Mowden Hall, Staindrop Road, Darlington, DL3 9BG (Tel Number – 01325392760). Guidance on making a claim of discrimination to the First tier tribunal can be found at <http://www.justice.gov.uk/tribunals/send/aoppeals>

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

You may wish to contact [name of area integration officer], Integration Officer, Children's Services at [contact details – address, telephone number, e-mail], who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 01206 714650 or on <http://www.childrenslegalcentre.com>. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24th December to the 1st January.

You may also wish to refer to relevant sources of information about exclusions. The guidance from the Department for Education, entitled 'Exclusion from Maintained Schools, Academies and Learner Referral Units in England' is available at: <http://www.education.gov.uk/Schools/learnersupport/behaviour/exclusion>. Further guidance from Local Authority is available at: <http://www.thegrid.org.uk/info/welfare/exclusions.shtml>.

Yours sincerely

[name]

[title]

Model Letter 7

*From the Clerk of the Governors' disciplinary Committee
inviting parents to a meeting of the governors disciplinary
committee in respect of a permanent exclusion.*

Dear [parents name]

I am writing to advise you that the meeting of the Governors' Disciplinary Committee/Management Committee to review the Head Teacher's decision to permanently exclude [learner name] from School/College will take place at [place] on [date] at [time].

If you would like to attend the meeting of the Governors' Disciplinary Committee/Management Committee, please contact [enter 'me' or the name of contact] at [contact details-address, telephone number, e-mail] as soon as possible. You will have the opportunity to make representations to the panel. [Learner name] may attend the hearing with you. You may also be accompanied by a friend or representative, including a legal representative, if you wish. If you intend to be accompanied please let [enter 'me' or the name of the contact] know. Please advise if you have a disability or any special needs which would affect your ability to attend a meeting at the School. Also, please inform [enter 'me' or the name of contact] if it would be helpful for you to have an interpreter present.

If your son/daughter's School/College is not an academy a representative of the local authority will be present at the hearing. If it is an academy you have the right to request that a representative of the local authority be present at the hearing, in which case you should let [enter 'me' or the name of contact] know. The local authority's position will be one of neutrality where the representative in attendance would not give his/her view on the merits of the particular exclusion as they would see it but rather, if asked by any party, to make a statement to the panel in general terms, for example as to how other Schools/Colleges in the area may have acted in similar circumstances. Additionally, the LA will where appropriate draw the attention of panel to issues where there is a lack of clarity or where more information may be needed or where guidance appears not to have been adhered to. In essence, the LA representative will aim to act as an impartial third party, providing objective and dispassionate representations to assist the process.

At the meeting the Chair will explain the order of proceedings and a copy is enclosed with this letter for your information.

If you wish to make a written representation this should be forwarded to me at the above address at least five days before the meeting, i.e. by [insert date] so that it may be circulated in advance to the members of the Committee and to all parties including the Head Teacher.

The committee will consider the representations made by all parties and decide whether to uphold the exclusion or to direct [learner name]'s reinstatement, either immediately or by a particular date.

As stated above, I would be grateful if you would let me know if you will be attending the meeting and if so, whether you will be accompanied.

Yours sincerely,

[name]

[title]

[enc] (See Appendix 3)

Model Letter 8

From the Clerk of the Governors' disciplinary committee informing parents of the committee's decision in respect of a permanent exclusion.

Dear [parents name]

I am writing to confirm the decision reached by the Governors' Disciplinary Committee/Management Committee at their meeting on [date of governors disciplinary committee/management committee meeting] to review the Head Teacher's decision to permanently exclude [learner name] from School/College.

After careful consideration of all the evidence available and the representations made to the Governors' Disciplinary Committee/Management Committee, the committee has decided to

EITHER

Uphold the Head Teacher's decision to permanently exclude for the following reason(s) [insert reasons in as much detail as possible explaining how they were arrived at]

OR

Direct reinstatement from [specify date] for the following reason(s) [insert reasons in as much detail as possible explaining how they were arrived at]

Where a permanent exclusion has not been upheld and reinstatement has been directed insert the next paragraph, omit the subsequent paragraphs and go to 'Yours sincerely'.

The Head Teacher or a senior member of staff will contact you shortly to discuss the arrangements to be made for [learner name] to return to School.

Where a permanent exclusion has been upheld insert the following paragraphs

You have the right to ask for this decision to be reviewed by an Independent Review Panel. If you wish the decision to be reviewed by the Independent Review Panel please notify the Customer Focus Team on 01992 588548 [or other board if Independent Review Panel hearings are not arranged for the School / College by the local authority] in the first instance. You should then set out the reasons for requesting a review in writing and send this to the Customer Focus Team, County Hall, Pegs Lane, Hertford, SG13 8DF [or other board if Independent Review Panel hearings are not arranged for the School/College by the Local

Authority] no later than [specify the latest date by which a review may be requested, i.e. 15 School days from the date on which notice in writing of the Governing Body's Committee decision to uphold the permanent exclusion was sent to the parents (notice is deemed to have been given on the same day if it is sent by first class mail)]. If you feel that your son/daughter has special educational needs relevant to this exclusion you should refer to this in your written statement. If you have not requested that a review is held by [repeat latest date] you will lose your right to have the decision of the Governors' Disciplinary Committee reviewed.

An Independent Review Panel comprises one serving, or recently retired (within the last 5 years) Head Teacher, one serving or recently serving, experienced Governor and one lay member who will be the chairman. The appeal panel will rehear all the facts of the case. If any party has fresh evidence to present to the panel they may do so.

If you ask for Governors' Disciplinary Committee to be reviewed by the Independent Review Panel you have the right to require that an expert in Special Educational Needs (SEN) attends the review at no cost to you. You may require that an SEN expert attends the hearing irrespective of whether the School/College believes your son/daughter has special educational needs or not. The SEN expert's role is analogous to an expert witness, providing impartial advice to the panel on how special educational needs may have been relevant to the exclusion. Should you request a review of the Governors' Disciplinary Committee's decision and you wish an SEN expert to be appointed please let the customer focus team [or other board if Independent Review Panel hearings are not arranged for the School by local authority] know.

I should also inform you that if you request a review of the Governors' Disciplinary Committee's decision you may, at your own expense, appoint a representative, to make written and/or oral representations to the Independent Review Panel and that you may also bring a friend or supporter to the review. If you intend to be accompanied please let the Customer Focus Team [or other board if Independent Review Panel hearings are not arranged for the School by the local authority] know. Please also advise if you have a disability or any special needs which would affect your ability to attend the meeting and if it would be helpful for you to have an interpreter.

Where a representative of the LA attended the Governors' Disciplinary Committee meeting he/she or another representative will also attend the review and submit a statement in advance.

In determining the outcome of a review the panel can make one of three decisions:

- they may uphold your son/daughter's exclusion;
- they may recommend that the Governor's Disciplinary Committee reconsiders its decision; or
- they may quash the decision and direct that the Governors' Disciplinary Committee considers the exclusion again.

A panel should only quash a decision where it considers that it was flawed when considered in the light of the principles applicable on an application for judicial review.

In addition to your right to apply to have the Governors' Disciplinary Committee's decision to be reviewed by the Independent Review Panel, you should also be aware that if you think that discrimination has occurred under the Equalities Act 2010 in relation to this exclusion, you have the right to make a claim to the First-tier tribunal (for disability discrimination) or a County Court (for other forms of discrimination). The address to which claims for disability discrimination should be sent is The First Tier Tribunal, Mowden Hall, Staindrop Road, Darlington, DL3 9BG (Tel Number – 01325392760). Guidance on making a claim of discrimination to the First tier tribunal can be found at

<http://www.justice.gov.uk/tribunals/send/aoppeals>

You may wish to contact [name of area integration officer], Integration Officer, Children's Services at [contact details – address, telephone number, e-mail], who can provide advice. You may also find it useful to contact The Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 01206 714650 or on <http://www.childrenslegalcentre.com>. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24th December to the 1st January.

You may also wish to refer to relevant sources of information about exclusions. The guidance from the Department for Education, entitled 'Exclusion from Maintained Schools, Academies and Learner Referral Units in England' is available at:

<http://www.education.gov.uk/Schools/learnersupport/behaviour/exclusion>. Further guidance from Local Authority is available at: <http://www.thegrid.org.uk/info/welfare/exclusions.shtml>.

Yours sincerely

[name]

[title]

Model Letter 9

From the Head Teacher in charge of notifying the withdrawal of a fixed period or permanent exclusion.

Dear [parents name]

Further to my letter of [date of letter giving notification of exclusion] I am writing to advise that I am, on this occasion, withdrawing my earlier decision to

EITHER

Exclude [learners name] for a fixed period between [insert dates of start and end of exclusion]

OR

Permanently exclude [learners name] from the School/College.

I have decided to withdraw the exclusion on this occasion for the following reasons

[insert reasons]

Yours sincerely

[name]

[title]

Formal exclusion hearing – order of proceedings

Exclusion hearings follow a formal procedure as follows:

1. The Head Teacher, the parent(s)/carer(s) and the excluded learner and/or their representatives (if present), the excluded child (if present) and a representative of the Local Authority (if present) and are invited into the meeting room by the Clerk and enter the room together.
2. Introduction and brief explanation of procedures by the Chair of the Governors' Disciplinary Committee/Management Committee.
3. The Head Teacher presents his/her reasons for the exclusion and calls such witnesses as he/she considers appropriate.*
4. The Head Teacher and his/her witnesses are questioned by the parent(s)/carer(s), or the excluded learner if over 18 years of age, or their representatives, and also by the Committee.
5. A representative of the Local Authority (if present) may make oral representations.
6. The parent(s)/carer(s), or the excluded learner if 18 years of age or over, and/or their representatives may make representations to the Governors' Disciplinary Committee/Management Committee. Unless there are strong reasons to refuse, the Chair of Governors' Disciplinary Committee/Management Committee should allow the excluded learner to make a statement if he/she wishes. The excluded learner should not be questioned unless he/she is over 18 years of age. Any witnesses who are learners at the School/College may only appear voluntarily and with their parents' consent.
7. The parent(s)/carer(s), or the excluded learner if 18 years of age or over, and/or their representatives and/or any witnesses may be questioned by the Governors and the Head Teacher.
8. Summing up by the Head Teacher
9. Summing up by the parent(s)/carer(s), or the excluded learner if over 18 years of age.

At the end of the hearing all parties, except the members of the Governors' Disciplinary Committee/Management Committee and the clerk, withdraw before the committee considers it's decision.

The Clerk will notify the parent(s)/carer(s), or the excluded learner if 18 years of age or over, of the committee's decision in writing within one School day and send copies to the Head Teacher and the Integration Management of the Local authority.

**Witnesses may remain in the room after giving their evidence or leave after any questions have been asked of him/her, but should not be present before giving their evidence.*