

SEND and Inclusion

School exclusions

**A guide and information
for school leaders and governors**

May 2021

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Introduction

This exclusion guide was compiled by the Behaviour Support Service in conjunction with Education Welfare Service to:

- help school leaders and governors comply with government statutory guidance **Exclusion from maintained schools, academies, and pupil referral units in England 2017**.
- provide additional information about Wiltshire's policies and procedures relating to preventing and managing exclusions.

School leaders and governors can download this guide, the DfE (Department for Education) exclusion guidance and other supporting materials via the following link. [Right Choice](#).

Statutory guidance is referenced using the relevant chapter and paragraph numbers in brackets.

This guidance does **not** reflect the DfE Changes to the School Suspension and Expulsion process during the Coronavirus (COVID-19) outbreak Updated 4 March 2021. School leaders and governors should refer to this guidance on the DfE website for detail about timescales, remote meetings, governor disciplinary meetings and applications for an independent review between 25 September 2020 and 24 September 2021

SEND and Inclusion Service

Secondary school leaders can seek advice about preventing and managing exclusions including advice about alternative provision and the Service Level Agreement by emailing pupilbehaviour@wiltshire.gov.uk

Each primary school has a designated behaviour support teacher who provides challenge, advice and support to schools relating to:

- school-based strategies for preventing exclusions including Pastoral Support Programmes and Managed Moves
- alternatives to exclusion
- the legal framework surrounding preventing exclusions and inclusive 'best practice' in Wiltshire

Education Welfare Service

Head teachers, governors and clerks to governing bodies can contact the EWS for advice regarding the procedures and legal process following a decision to exclude.

EWS can provide advice and support for parents/carers of an excluded pupil. This can include advice on legal process and support regarding representation to any meeting of the governing body.

EWS will act as the Council representative at GDCMs (Governors Disciplinary Committee Meetings) and will make representation to the GDCM by compiling a report for governors to support decision making.

The Council officer for exclusions collates information on all exclusions in Wiltshire maintained schools (including sixth forms), academies, free schools, and DfE registered alternative provision.

Definitions

‘Statutory guidance’ means that schools, governing bodies, and the Council should follow this guidance, unless there is good reason not to in a particular case.

Exclusion from Maintained Schools, Academies and Pupil Referral Units in England is statutory guidance relating to the following legislation:

- The Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- The Education and Inspections Act 2006 and
- The Education (Provision of Full-Time Education for Excluded Pupils) (Eng) Regulations 2007

‘Head teacher’ in this document and in DfE guidance applies equally to an acting head teacher, the teacher in charge at an Alternative Provision School and principals of academies.

‘Governing body’ in this document and in DfE guidance applies equally to PRU (Pupil Referral Units) management committees. In respect of academies, references to the ‘Governing body’ should be read to mean the directors of the Academy Trust Company.

‘Term’ in this document and in DfE guidance refers to a 3-term year. Where a school’s academic year consists of more than three terms, then a reference to ‘term’ means:

- Spring term - 31st December to Easter Monday
- Summer term - Easter Monday to 31st July
- Autumn term - 31st July to 31st December

‘Parent’ in this document includes any person who has parental responsibility (which includes the Council where it has a care order in respect of the pupil) and any person (for example foster carer) with whom the pupil lives. It is expected that all those with parental responsibility should be engaged with the exclusions process.

‘Pupil’ in this document refers to pupils on roll at a maintained school, pupil referral unit, academy school (including free schools and university technology colleges) or alternative provision academy (including alternative provision free schools). It includes those children below compulsory school age who attend nursery classes and young people above compulsory school age attending sixth forms.

A head teacher's responsibilities regarding exclusion

Preventative Measures

School support should always follow tiered approach – starting with Quality First Teaching (QFT), ordinarily available provision and in class intervention following a Plan Do Review approach onto external support, where all in-school options have been implemented and reviewed.

The Wiltshire School Effectiveness School Improvement offer to maintained schools includes a focus on quality first teaching and the effective use of the pupil premium. See the Wiltshire School Improvement Framework within the School Effectiveness Service section of Right Choice.

Pastoral Support Plans (PSP) and Managed Moves

The PSP procedure and process is designed to support any pupil for whom the usual school-based strategies have not been effective. It is a structured, support plan for a pupil at risk of permanent exclusion and ensures that interventions for a pupil at risk of permanent exclusion are co-ordinated and targeted to their needs.

A Managed Move is a formal agreement between two schools, a pupil, and their parents. It allows a pupil at risk of permanent exclusion to transfer to another school. The move requires the agreement of the pupil's parent, the head teacher at the pupil's school and the head teacher at the proposed school. The Council can contribute to Managed Move and PSP meetings to provide additional advice and guidance to the school leaders parents and pupils (where appropriate).

Wiltshire Council guidance and meeting templates for PSPs and Managed Moves can be found under the Behaviour Support Service on Right Choice.

SEND reviews

Head teachers must consider their statutory duties regarding the SEND Code of Practice when administering the exclusion process (Gov guidance 3:11). They should, as far as possible avoid permanently excluding any pupil with an Education Health and Care Plan (EHCP)

Early Help

Where a school has concerns about a pupil's behaviour, it should try to identify whether there are any causal factors and intervene early. Schools should consider whether a multi-agency assessment that goes beyond the pupil's educational needs is required (Gov guidance; Key points). All staff should be prepared to identify pupils who may benefit from early help...which means...providing support as soon as a problem emerges at any point in a pupil's life. (Keeping Children Safe in Education 2020 par 8)

The Early Support Assessment (ESA) has replaced the CAF here in Wiltshire. The form can be accessed from the Safeguarding Vulnerable People Partnership (SVPP) website, www.wiltshirescb.org.uk/esa

Referral to specific support services

Head teachers should consider what extra support might be needed to meet the needs of pupils from key vulnerable groups to reduce their risk of exclusion (pupils eligible for Pupil Premium; Children Care; and pupils from certain ethnic groups; Gypsy/Roma; Travellers of Irish Heritage; and Black Caribbean communities).

- EMTAS (Ethnic Minority and Traveller Achievement Service)
- CAMHS (Child and Adolescent Mental Health Services)
- Alternative Provision
- Voluntary Sector Support Services.
- Young Peoples Service

The Young People Service will work with and support schools where there are young people at risk of offending/ exploitation or going missing. They can offer vulnerable adolescents risk management meetings, support around peer and context assessments and work with schools to provide input regarding how to best support and manage these young people while retaining them in school. They also run school and community mapping meetings, which is a multi-agency approach to understanding the peer and local contexts within and around the school community and seek to identify how risks or concerns can be reduced from a multi-agency perspective.

Exclusion

Key principles

Only a head teacher can exclude a pupil, and this must be on disciplinary grounds (Gov guidance 3:1).

Any decision to exclude must be:

1. **lawful** (with respect to the legislation relating to exclusions and to a school's wider legal duties)
2. **rational**
3. **reasonable**
4. **fair** and
5. **proportionate** (Gov guidance 1:6).

From the sixth day of a fixed period exclusion, schools are required to arrange full-time education for the excluded pupil. This duty would be generated by consecutive fixed period exclusions totalling more than five days.*.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, considering their age and ability to understand (Gov guidance; Key points).

1. Lawful

Schools must apply their behaviour policies in a consistent, rigorous, and non-discriminatory way with due regard to the Equality Act 2010. This Act has provision that allows schools to take positive action to deal with disadvantages affecting a specific group, where this can be shown to be a proportionate way of dealing with such issues.

The head teacher should contact;

- The Wiltshire specialist SEN service (SSENS) for advice about appropriate action in relation to any pupil who has a registered disability.
- The Ethnic Minority and Traveller Education Service about any other protected characteristic set out in the Equalities Act in relation to a pupil at risk of exclusion.

The head teacher at a maintained school must determine the behaviour policy in accordance with principles set out by the governing board. An academy trust must decide who is responsible for drawing up its behaviour policy.

Specifically, exclusions should **not** be used for poor academic performance or for the behaviour of pupils' parents (Gov guidance 3:13).

The behaviour of pupils outside school can be considered as grounds for exclusion (Gov guidance 3:4). This can include incidences of online bullying.

2. Rational

This means time should be taken to consider the evidence and advice sought from any relevant professionals before a decision is made to exclude.

Head teachers can contact the Behaviour Support Service as part of their deliberations about a potential exclusion. An email to pupilbehaviour@wiltshire.gov.uk will get picked up promptly.

In most cases, the head teacher will not have witnessed first-hand the antecedents or an incident that may result in an exclusion. The decision to exclude should not be made solely on the basis on adults' witness statements. This will be particularly true if an adult witnessed or experienced verbal or physical abuse and may still have been in a heightened emotional state when asked to complete a witness statement. In such cases, the head teacher can and should defer any decision about exclusion as the consequence of disruptive or unsafe pupil behaviour until **all** the evidence can be collated and reviewed, which may take several hours.

* Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014, amending the Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007

The pupil should also be given the opportunity to express their view as part of the head teacher's deliberation. (Gov guidance 3:17).

Appendix 1 - Support summary

Appendix 2 - Pupil views

3. Reasonable

The decision to exclude must also be based on expectations or demands within the realms of what is possible and achievable for that pupil.

For any pupil already identified by the school as having a significant emotional or cognition needs, expectations and demands should already be at an appropriate level for the pupil and relevant staff skilled and trained to provide the support.

The behaviour of any pupil with a support plan should generally not warrant exclusion if the plan has been followed. The school behaviour records should demonstrate that any support plan/s for the pupil were robust and followed and that staff were able to undertake a dynamic risk assessment and adjust the support/response accordingly.

Only if such plans, including reasonable adjustments, were followed and despite that, a pupil behaves in such a way that warrants an exclusion (in line with the governor behaviour principles that in turn have informed the behaviour policy) could an exclusion be deemed reasonable.

The head teacher should, as far as possible, avoid permanently excluding any pupil with an EHC plan or a looked after pupil (Gov guidance 3:23).

If a looked after child is at risk of exclusion, then the head teacher should contact the Virtual School at the earliest opportunity so that alternatives can be explored. The Virtual School will work with the Head Teacher and the Designated Teacher to support and identify solutions to reduce the risk of exclusion.

For children looked after by Wiltshire Council, the head teacher or Designated Teacher should contact the pupil's allocated virtual school officer directly, or via the inbox at virtualschool@wiltshire.gov.uk for an immediate response. Reducing fixed-term exclusion rates for looked after children is a corporate parenting priority for Wiltshire Council.

Where a school has concerns about the behaviour of a previously looked after child which could result in the pupil being excluded from school, the pupil's parents, or the school's designated teacher, following discussions with the pupil's parents, may seek the advice of the Virtual School on strategies to support the pupil to avoid exclusion.

A PEAR (primary emergency annual review) should be called by the school for any pupil with an EHCP at risk of permanent exclusion. The purpose of such a review is to consider strategies and support employed so far and whether alternative or amended strategies may prove more effective in supporting the placement.

4. Fair

Any extenuating circumstances must be considered that might mitigate the seriousness of the behaviour as well as any differences in response to any other pupil in the same or similar situation. Head teachers should take account of contributing factors that are identified after an incident of poor behaviour has occurred eg where it becomes known that a pupil has:

- suffered bereavement,
- mental health issues or
- has been subject to bullying. (Gov guidance 1:16) or
- suffered abuse or neglect
- domestic abuse or
- other significant loss or trauma

For many families, these factors will have been the result of, or will have been exacerbated by the restrictions and hardship caused by COVID-19 pandemic. Consequently, the impact of Covid-19 is an extenuating circumstance that should be currently considered for the behaviour of any pupil.

5. Proportionate

Any consequence of disruptive and/or unsafe behaviour should be logical and in proportion to the behaviour.

Head teachers must consider whether exclusion from school is the proportionate response as part of their deliberations about a pupil's behaviour in each individual case. If so, the length of any exclusion must also be proportionate to the behaviour.

Ofsted has stated that a fixed-period exclusion of between one and three days is usually long enough to demonstrate the consequences of the pupil's behaviour.

Longer and repeated exclusion is associated with lower academic attainment and with increased mental health difficulties.[†]

Alternatives to exclusion

Alternatives should also be considered, and support provided to reduce the risk where appropriate:

Internal exclusion

Schools can use internal exclusions. Such exclusions are served on the school site and are not treated as an exclusion from school. Internal exclusion may be more appropriate in cases where a pupil is a Looked After Child, is the subject of a Pupil Protection Plan, or for whom the head teacher believes formal exclusion might pose a safeguarding risk.

[†] Anna Freud Centre for children and families - Headstart 2019

Alternative provision

A head teacher can direct a pupil to be educated elsewhere for the purpose of improving their behaviour. The school must ensure that the pupil's full-time education continues while off site. (Gov guidance on Alternative Provision 2013).

Wiltshire Approved Alternative Provision guide and list on Right Choice can help schools choose from a range of providers offering both onsite and offsite provision for pupils of all ages.

Gathering evidence

Evidence could consist of witness statements, photographs, screen shots from social network sites, physical evidence, or behaviour incident records. In the case of exclusions for persistent disruptive behaviour, head teachers should also provide evidence that preventative measures have been used. When establishing the facts in relation to any incident/s which may lead to an exclusion, the head teacher must apply the civil standard of proof, ie 'on the balance of probabilities' it is more likely than not that a fact is true.

Witness statements

All witness statements should be attributed, signed, and dated. If the school has good reason to wish to protect the anonymity of any pupil who was a witness, the statement should at least be dated and labelled in a way that allows it to be distinguished from other statements (Gov guidance 8:118).

Points to remember[‡]

- Statements should contain clear specific details
- Include facts not opinions
- The statement should be in the witness' own words

Useful questions might include:

- When did the incident take place?
- Where was the witness at the time and what was he or she doing?
- Who was the witness with and what did the witness see?
- What did each person say or do?

When the decision is made to 'anonymise' witness statements of pupils, the school should contact the parents of the witness to explain that the 'anonymised' statement will be presented to the governors' panel who will review the exclusion. Governors can read the original statements and decide whether to lift the 'veil of anonymity' to ensure fairness. In this case all parties at the meeting will see the names of the witnesses. In this way the general principle that excluded pupils are entitled to know the substance behind the reason for their exclusion is followed.

Parents of any witness under the age of 18 (or the witness, if over the age of 18) will need to agree to this in advance of the meeting otherwise the evidence provided by the witness statement may be discounted.

[‡] Witness Statements Preparation Guide, European Human Rights Advocacy Centre, 2008.

Appendix 3– Witness statement

Police involvement and parallel criminal proceedings

Head teachers need not postpone taking a decision about an exclusion solely because a police investigation is underway and/or any criminal proceedings may be brought. In such circumstances, head teachers will need to take a decision on the evidence available to them at the time (Gov guidance 12:190).

Fixed period exclusion

A pupil may be excluded for one or more fixed periods up to a maximum of 45 school days in a single academic year. This includes exclusions received from previous or other schools. A fixed period exclusion does not have to be for a continuous period.

Permanent exclusion

A decision to exclude a pupil permanently should be taken as a last resort and only:

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

Unlawful exclusions

'Informal' or 'unofficial' exclusions, such as sending pupils home 'to cool off' are unlawful, regardless of whether they occur with the agreement of parents or carers (Gov guidance 3:13). This includes sending a pupil home early, during lunchtimes, or telling parents their child must start later in the day.

In **every** instance where a pupil is sent home for disciplinary reasons, head teachers must formally record and specify the length of the exclusion (Gov guidance 3:14).

Schools must not influence parents to remove their pupil from the school under the threat of exclusion.

Ofsted define 'off-rolling' as the practice of removing a pupil from the school roll without using a permanent exclusion, when the removal is primarily in the best interests of the school, rather than the best interests of the pupil. Ofsted believes off-rolling is never acceptable.

It is unlawful to extend a fixed-period exclusion or to convert a fixed-period exclusion to a permanent exclusion. Where further evidence has emerged, an additional fixed-period exclusion can be issued 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 exclusion (Gov guidance 3:3).

It is unlawful to exclude or to increase the severity of an exclusion for a non-disciplinary reason (Gov guidance 3:13) eg

- because the pupil has additional needs or disability that the school feels unable to meet.
- time needed to arrange a multi-agency, review or planning meeting.

- failure of a pupil/parent to meet specific conditions before the pupil is reinstated.

Procedures following an exclusion

Informing parents

The head teacher must, without delay notify parents of the period of an exclusion and the reasons for it, their legal responsibilities during the first five days of their pupil's exclusion and follow up in writing with:

- the reasons for the exclusion
- the period of a fixed period exclusion or, the fact that it is permanent
- parents' right to make representations about the exclusion to the governing body and how the pupil may be involved in this
- how any representations should be made to governors, depending on the length of the exclusion.

The letter should be sent within 24 hours of the exclusion and the school must inform parents that a Penalty Notice can be issued if they fail to ensure their pupil is not in a public place during school hours, for the first 5 days of any exclusion.

From the sixth day of a fixed period exclusion, or consecutive fixed period exclusions totalling more than five days, schools are required to arrange full-time education for the excluded pupil. Where it is not possible or appropriate to arrange alternative provision during the first five days of an exclusion, the school should take reasonable steps to set and mark work that is accessible and achievable for the pupil during the first five days of the exclusion. (Gov guidance 5:51)

The Council is required to arrange full-time education from the sixth day of a permanent exclusion (Gov guidance 5:46).

If alternative provision is being arranged by the school, then the following information must be included in the letter to parents:

- the start date for any provision of full-time education that has been arranged for the pupil during the exclusion
- the start and finish times of the provision, including the times for morning and afternoon sessions where relevant
- the address at which the provision will take place; and
- any information required by the pupil to identify the person they should report to on the first day. (Gov guidance 4:30).

The head teacher may also withdraw an exclusion that has not been reviewed by the governing body. In such cases the head teacher must write again to the parents explaining the reasons for the change and providing any additional information.

Public examinations

Where an exclusion would result in a pupil missing a public examination or national curriculum test, a governing body should 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 to reinstate the pupil. These are the only circumstances 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.

While there is no automatic right for an excluded pupil to take an examination or test on the excluding school's premises, the governing body should consider whether it would be appropriate to exercise their discretion to allow an excluded pupil on the premises for the sole purpose of taking the examination or test.

Informing the governing body and the Council

The head teacher must, without delay, notify the governing body and the Council of any permanent exclusion or any fixed period exclusion which would result in the pupil:

- being excluded for more than five days (or more than ten lunchtimes) in a term
- missing a public examination or national curriculum test.

The head teacher must notify the Council and governing body of all other exclusions including the reasons for the exclusion and the duration of any exclusion termly (Gov guidance 4:41). We request that this is done as the exclusions occur (or at least fortnightly). This will help us significantly in maintaining accurate and up to date records of exclusions patterns and the issues facing children across Wiltshire. Headteachers are requested to upload these reports using the template provided on [Right Choice](#) to Perspective lite, using the tag 'exclusions.'

Appendix 4 – Exclusion form

These exclusion reports are shared with the Behaviour Support Service (BSS) and School Effectiveness team who can provide additional support and guidance and consider any ongoing support requirements for schools in a timely way:

- The head teacher of any Wiltshire primary or secondary school can contact pupilbehaviour@wiltshire.gov.uk to seek advice and guidance about managing and preventing further exclusions including the use of Wiltshire Approved Alternative Provision during, or as an alternative to exclusion.
- If the pupil is primary school aged and not previously known to the BSS, a behaviour support teacher will contact the head teacher to discuss the exclusion.
- The School Effectiveness team can support any school with issues resulting in high numbers of exclusion, through a Team Around the School meeting.

For a permanent exclusion, if the pupil lives outside Wiltshire, the head teacher must also advise the pupil's 'Home Authority' of the exclusion without delay (Gov guidance 2:37).

Appendix 5 – Head Teacher guide to exclusion paperwork for a GDCM

Positive return to education provision meeting

Schools should have a strategy for reintegrating a pupil who returns to school following a fixed-period exclusion (Gov guidance: key points).

The purpose of a meeting with parents and a pupil following an exclusion is to maximise the chances of the pupil having a successful return to school. The following practice is likely to support this aim:

- School leaders should avoid any reference to the reason for the exclusion. This will have been clear to the parent and the pupil in the exclusion letter and any discussion that happened at the point of exclusion. By revisiting the behaviour for which a pupil was excluded, school leaders bring this to the forefront of the pupil's mind and communicates that this is behaviour is what they need the pupil to think about as he returns to the classroom. Inevitably the pupil will remember and perhaps re-experience the difficult feelings that led to the dangerous/disruptive behaviour, which in turn might trigger the same behaviour.
- An additional negative consequence to revisiting the 'unwanted' behaviour, is that the pupil is in effect 'told off again' and the feelings of rejection that can arise from an exclusion compounded.
- Assure the pupil that the school welcomes him back to school and that all school staff are ready to welcome him.
- Acknowledge that it is normal/usual for any pupil returning to school to have uncertainties/concerns about how their first few minutes/morning/day might go.
- Ask the pupil/parents to think about the things they think the school might reasonably do that might help, as well as those things they feel might be barriers to a good enough day. If parents can be contacted and asked to think about this and discuss it with their child before the meeting, this part of the meeting is even more likely to produce a robust plan of support for the pupil. School leaders should anticipate what the pupil/parent might ask to happen and consider, from experience of the pupil what things might help this pupil feel wanted included and safe. This should include a removal/reduction of known triggers of unwanted behaviours where possible.
- If the pupil was excluded following an incident that involved a member/s of staff and or other children, the pupil is likely to have concerns about seeing/being around that person or those people again. Leaders should acknowledge this and prepare a plan to ease this first encounter. This will necessitate some work with the staff and other pupils in advance of the meeting. In the case of a member of staff, the adult can model the ability to move on by welcoming the pupil back to school.
- Describe in detail the arrangements for the short and medium term. Depending on the pupil's developmental stage and understanding, the plan might need to be set out for a day or a few days before being reviewed. This might need to include activities and targeted support that places low academic/social expectations on the pupil in the short term.

- The longer the pupil can feel safe (low pressure/no threat), the greater the chance of the pupil being eventually included fully in class, safe and confident to follow the same rules as others.
- Detail feedback arrangements for the parent/s
- The more parents receive realistic, specific feedback about even tiny steps and signs of progress, the greater chance of continued partnership working to help the pupil learn and embed new safe/prosocial behaviours.

Appendix 6 – Positive return to education plan template

Procedures following exclusion from school

The headteacher must, without delay notify parents of the period of an exclusion and the reasons for it, their legal responsibilities during the first five days of their pupil's exclusion and follow up in writing with:

- the reasons for the exclusion
- the duration, start and end dates of a fixed period exclusion or, the fact that it is permanent;
- parents' right to make representations to the governing body and how the pupil may be included in this;
- how any representations should be made to governors, depending on the length of the exclusion.

The school must inform parents that a penalty notice can be issued if they fail to ensure their pupil is not in a public place during school hours, for the first 5 days of any exclusion.

Secondary schools must follow the Service Level Agreement (SLA) with Wiltshire Council.

Is the exclusion permanent?

Yes

No

School actions:

- The Council must be notified on the same day as the exclusion decision using the Wiltshire exclusion form available to download from the School Exclusions Resources page of [Right Choice](#) (login required) and returned via Perspective Lite with an 'Exclusions' tag. If the pupil lives outside Wiltshire, the head teacher must also notify the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.
- The governing board must convene a meeting to consider reinstatement within 15 days of receiving notice of the exclusion.
- The DSL should liaise with Support and Safeguarding Service (SASS) to ensure any pre-existing safeguarding issues or emerging pupil protection concerns are reported (MASH) and information provided to plan support as appropriate.
- The headteacher will take reasonable steps to set and mark work for the pupil that is accessible and achievable by the pupil outside school for the days between the exclusion and the start of alternative provision (maximum 5 days).

Wiltshire Council actions

The Strategic Lead for Alternative Provision will ensure liaison with:

- the headteacher and parents/carers to gather information on which to plan and source the most effective provision for the pupil
- alternative providers to ensure full-time education is provided no later than day six of the exclusion.
- teams within Wiltshire Council to ensure any additional needs of the pupil are met

School actions:

- The Council should be notified within 5 schools days of the exclusion decision using the Wiltshire exclusion form available to download from the School Exclusions Resources page of [Right Choice](#) (login required) and returned via Perspective Lite with an 'Exclusions' tag.
- The head teacher must notify their governing body without delay of:
 - any exclusion which would result in the pupil being excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and
 - any exclusion which would result in the pupil missing a public examination or national curriculum test.
- The DSL will liaise with Support and Safeguarding Service (SASS) to ensure any pre-existing safeguarding issues or emerging pupil protection concerns are reported (MASH) and support provided as appropriate.
- If exclusions amount to more than 15 days in one term the governing board must convene a meeting to consider the exclusion decision.
- The headteacher will ensure full-time education is provided no later than day six of an exclusion and will take reasonable steps to set and mark work for the pupil that is accessible and achievable by the pupil outside school for the days between the exclusion and the start of alternative provision (maximum 5 days).

Wiltshire Council actions

The Behaviour Support Service will provide advice guidance and information to headteachers about

- alternative provision during an exclusion or as a preventative measure
- other interventions to prevent further exclusions

Governors' responsibilities regarding exclusion

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

The governing body of an academy may delegate to a smaller sub-committee if the trust's articles of association allow them to do so. (Gov guidance 6:53 6;54).

While government exclusion guidance makes no reference to governor training on exclusions, it is important that governors who are called upon to review exclusions, receive training to equip them to discharge their duties properly.

Effective boards encourage everyone involved in governance...to make the most of the resources, guidance, and training available to develop their knowledge and skills (Governance handbook par 39).

Wiltshire Education Welfare Service provides training sessions for governors on managing exclusions. See Right Choice for dates and booking information.

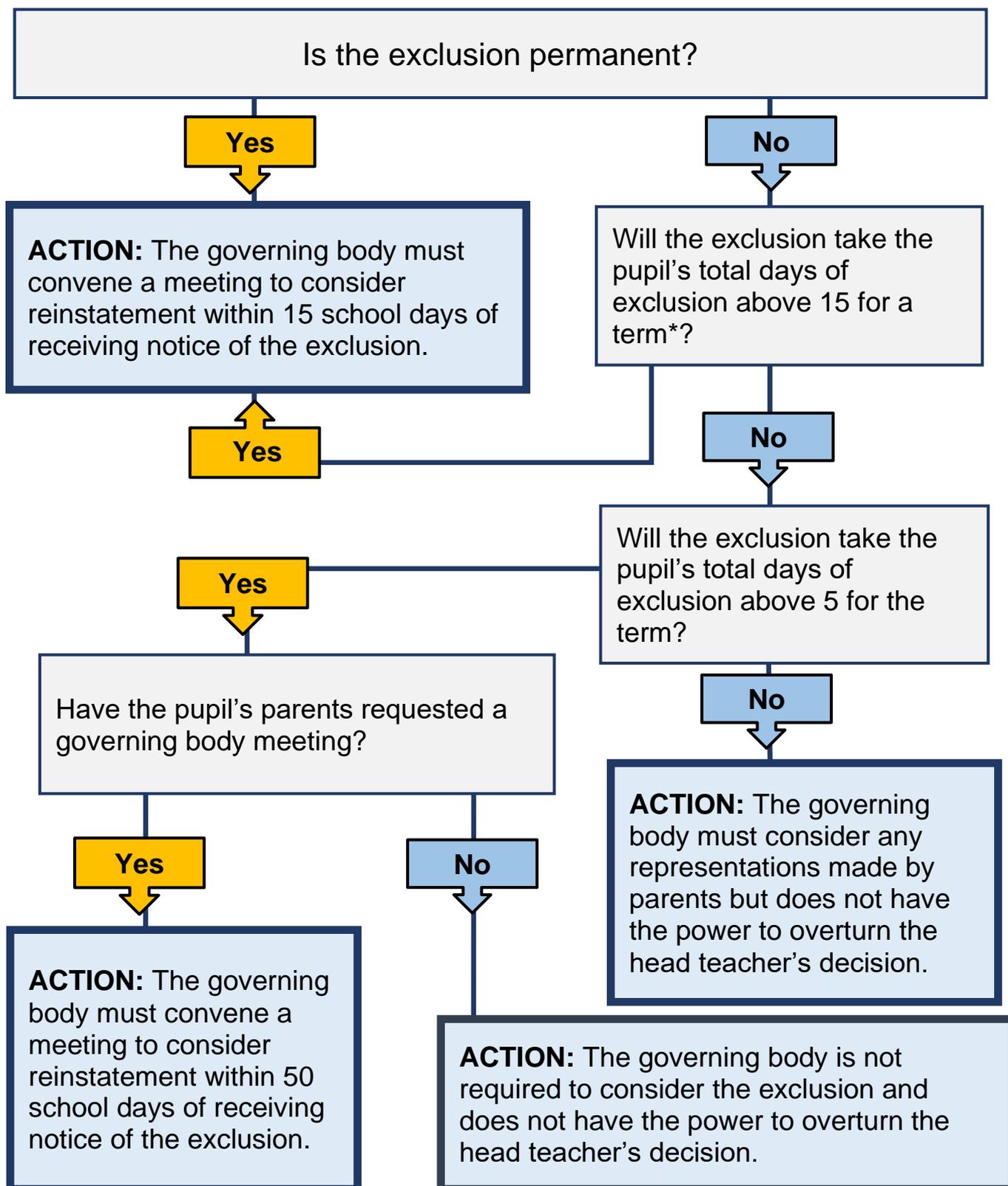
Preparing to consider a head teacher's decision to exclude

When considering the decision of a head teacher to exclude a pupil, governors should:

- ask for any written evidence in advance of the meeting and where possible, circulate this evidence and information, including a list of those who will be present, to all parties at least five school days before the meeting
- identify ways to enable the excluded pupil's view to be heard, whether the pupil is attending the meeting (Section 176 of the Education Act 2002 - schools to have regard to statutory guidance on pupil voice)
- not discuss the exclusion with any party outside of the meeting

In cases where the governing body considers parents' representations but does not have the power to direct a pupil's reinstatement, they may place a note of their findings on the pupil's educational record (Gov guidance 6:73).

Governors' review of exclusions⁴



⁴ The governing board must convene a meeting to consider reinstatement within 15 days of receiving notice of an exclusion which will result in the pupil missing a public exam or national curriculum test. The governing board must take reasonable steps to meet before the date of the examination. If this is not practical, the chair of governors may consider pupil's reinstatement alone.

Meetings to consider reinstatement of an excluded pupil

In reaching a decision on whether to reinstate a pupil, the governing body should consider whether the decision to exclude the pupil was lawful, reasonable, and procedurally fair, taking account of the head teacher's legal duties (Gov guidance 6:71).

Appendix 7 Governor check list – exclusion paperwork review

When establishing the facts in relation to an exclusion, the governing body must decide whether facts are true 'on the balance of probabilities' rather than 'beyond reasonable doubt.'

The following parties must be invited to a meeting of the governing body's disciplinary committee (GDCM) to consider an exclusion and be allowed to make representations:

- parents and pupils who may be accompanied by a friend or representative
- the head teacher and
- a representative of the Council (Local Authority Representative who will usually be an Education Welfare Officer) in the case of a maintained school, and at an academy at the request of the governors. A parent may also invite the Council representative to attend a meeting of an academy's governing body as an observer. The Council representative may only make representations with the governing body's consent (Gov guidance 6:58).

The Council representative will prepare a report for governors to assist them with their consideration of the headteacher's decision.

At the GDCM the Council representative will not give a view on the merits of the exclusion but can draw the attention of governors to:

- issues where there is a lack of clarity
- where more information may be needed
- where guidance appears to have been ignored.

The governing body can either:

- uphold an exclusion (decline to reinstate) or
- direct reinstatement of the pupil immediately or on a specified date.

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 above. However, its decision will not be invalid simply on the grounds that it was not made within these time limits (Gov guidance 6:59).

If the pupil has already returned to school following the expiry of a fixed period exclusion or if the parents make clear they do not want their pupil reinstated, the governing body must still consider whether the decision to exclude the pupil was justified (Gov guidance 6:67).

The governing body should ensure that the minutes are available to all parties on request (Gov guidance 6:69).

The governing body should ask all parties to withdraw before deciding. Where present, a clerk may stay to help the committee by referencing the notes and with the wording of the decision letter (Gov guidance 6:70).

Appendix 8 Agenda for GDCM

Duty to notify people after consideration of an exclusion

Where legally required to consider an exclusion, the governing body must notify parents, the head teacher and the Council of their decision, and the reasons for their decision, in writing and without delay (Gov guidance 6:75). Notice is considered to have been given on the same day if it is delivered directly or on the second working day after posting if it is sent by first class mail.

If the governors decide to uphold a permanent exclusion, the notification must say that it is permanent along with parents' right to ask for the decision to be reviewed by an Independent Review Panel. It must also include the following information:

- the contacts to whom an application for a review should be made
- the date by which an application for a review must be received ie 15 school days from the date on which notice in writing of the governing body's decision was given to parents
- the grounds for the review including how the pupil's special educational needs may be relevant
- parents' right to request a SEND expert, regardless of whether the pupil has recognised special educational needs, and details of the role of such an expert
- parents' right to appoint, at their own expense, their own representative to the panel and their right to bring a friend to the review
- parents' right to make a claim 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 within 6 months of the day of the exclusion
- relevant sources of free and impartial information that will allow them to make an informed decision on whether to seek a review of the decision and the process to be followed. Schools should ensure that these sources of information are checked regularly and updated as required.

Independent Review Panel and SEND Expert

If parents apply within the legal time frame, the Council or Academy Trust must, at their own expense, arrange for an Independent Review Panel hearing to review the decision of a governing body not to reinstate a permanently excluded pupil.

Following the meeting an Independent Review Panel can decide to:

- uphold the exclusion decision or
- recommend that the governing body reconsiders their decision or
- quash the decision and direct that the governing body considers the exclusion again.

The guidance states that the SEND expert should be a professional with first-hand experience of the assessment and support of SEND, as well as an understanding of the legal requirements on schools in relation to SEND and disability. The Council or Academy Trust will need to ensure that the individual has a good understanding of current practice and the legal requirements on schools in relation to SEND. Sections 8 and 9 of government exclusion guidance provide details of the functions of the Independent Review Panel and the role of the SEND expert.

Calculating dates

A school day is a day when there is at least one morning or afternoon session. INSET days are not counted as school days and, therefore, do not count when calculating:

- the exclusion period
- the 15 days in which the governing body is required to meet
- the 15 days in which an application must be lodged to the Independent Review Panel
- the 15 days in which representations must be considered by the Independent Review Panel

Parents have 15 school days to appeal to the Independent Review Panel. Where notice is sent by first class post, it is treated as having been given on the second working day after it was posted.

Governors meet on the 22nd October 2021, the last day of Autumn term 1.

If the clerk can send the decision letter by first class post on the same day as the meeting, the first day of the appeal period will be Tues 2nd November. Parents will have until the end of the day on the Mon 22nd November to apply for a review to the IRP. The bank holidays, school holidays, INSET days and weekends must not be included in this appeal period.

OCTOBER 2021						NOVEMBER 2021						
Mon		4	11	18	25	Mon		1	8	15	22	29
Tues		5	12	19	26	Tues		2	9	16	23	30
Wed		6	13	20	27	Wed		3	10	17	24	
Thur		7	14	21	28	Thur		4	11	18	25	
Fri	1	8	15	22	29	Fri		5	12	19	26	
Sat	2	9	16	23		Sat	30	6	13	20	27	
Sun	3	10	17	24		Sun	31	7	14	21	28	

Appendix 1 Support Summary (page 1 of 2)

This pupil is at imminent risk of permanent exclusion for persistent disruptive behaviour

Date information to be returned			
Name of pupil:		Date of birth	

Government exclusion guidance states that any decision to exclude, 'must be lawful; rational; reasonable; fair; and proportionate.'

A decision to exclude a pupil permanently should usually be final step in a process for dealing with disciplinary offences - an acknowledgement by the school that it has exhausted all available strategies for dealing with the pupil and should normally be used as a last resort.

As a school, we must prove that we are using a range of strategies to support this pupil.

Your account below will help me decide what needs to happen next. In case of a permanent exclusion, this form will be included in the evidence presented to parents/carers, relevant external agencies, Wiltshire Council representatives and governors.

Section 1 - to be completed by pastoral lead and returned to head teacher

Interventions to date	Detail	Impact (Level of success)
PREP (positive return to education provision plan eg after a fixed period exclusion)		
Pastoral Support Plan		
SEND support plan (including EHCP) reviews		
Outside agency support eg CAMHS YSS Family Keyworker Children's Social Care		
Alternative Provision		
Managed Move		
Other		

Completed by:			
Name		Role	

Appendix 1 Support Summary (page 2 of 2)

This pupil is at imminent risk of permanent exclusion for persistent disruptive behaviour

Date information to be returned			
Name of pupil:		Date of birth	

Government exclusion guidance states that any decision to exclude 'must be lawful; rational; reasonable; fair; and proportionate.'

A decision to exclude a pupil permanently should usually be final step in a process for dealing with disciplinary offences - an acknowledgement by the school that it has exhausted all available strategies for dealing with the pupil and should normally be used as a last resort.

As a school, we must prove that we are using a range of strategies to support this pupil.

Your account below will help me decide what needs to happen next. This form will be included in the evidence presented to parents/carers, relevant external agencies, Wiltshire Council representatives and governors as required.

Section 2 to be completed by each class teacher(s)/subject teachers/tutor and returned to head teacher

Support	Detail	Impact on pupil's behaviour
Classroom strategies		
Direct support		
Other		

Completed by			
Name		Role	

Appendix 2- Pupil views

Name:	
Date of birth	
Today's date	
Name of adult helping to complete this form (if appropriate):	

When considering whether to exclude, the head teacher should give a pupil the opportunity to share their views. As the head teacher, I need to know whether there is anything that has not already been mentioned at school that will help me come to the right decision.

Is there anything currently happening at school that might in some way be making a difference to the way you behave?
Has anything happened at school in the past that it might be helpful for me to know about?
Is there anything currently happening outside school that might in some way be having an effect your behaviour?
Has anything happened outside school in the past that it might be helpful for me to know about?

Appendix 3 Witness Statement

School

Name of witness

Year group / Role

Use this space to write in your own words what you saw. Keep to facts like time, date, places, and names in your statement. Continue overleaf if necessary.

I believe the facts in this witness statement are true.

Signed by the witness

Date

If you have written this statement (word for word as the witness described the events) on behalf of a witness, sign below

Signed

Date

Printed name

Appendix 4 Exclusion Form (page 1 of 2)

For **every exclusion**, please return this form **with a copy of the letter sent to parents** via Perspective lite using the 'exclusions' tag

For a **permanent exclusion** please **also** send the form to pupilbehaviour@wiltshire.gov.uk on the day that the head teacher makes the decision to permanently exclude. The Council has a duty to make suitable provision for any primary aged pupil by the 6th day.

School details	
Name of main registered base	
DfE number	
Name of head teacher/principal	
Name of dual registered school or N/A	

Pupil details			
First name			
Family name			
Date of birth		Gender pupil identifies as	
Ethnicity		SEND	
Looked after pupil?		CiN or CPP?	
Address			
Postcode			
Primary carer/parent's name			
Relationship to the pupil			
Phone number/s		email address	

Exclusion details (use only current DfE prescribed codes - below)			
Schools should only select more than one reason <i>where it is appropriate</i> . Record up to three reasons that apply, such as 'Bullying' and 'Racist abuse' when racist bullying has taken place.			
Exclusion reason 1		Exclusion reason 2	
Is the exclusion for lunchtime only? (1 lunchtime = ½ day exclusion)			
• If yes, how many lunchtimes?			
• If no, is the exclusion permanent?			
• If no, how many days is the fixed period exclusion for?			
First day of the exclusion (DD/MM/YYYY)			
Last day of exclusion (if fixed period) (DD/MM/YYYY)			
Including this exclusion, what is the total number of days this pupil has been excluded for a fixed period this year (from any school)?			

Reason for exclusion and DfE codes			
Bullying	BU	Physical assault against adult	PA
Drug and alcohol related	DA	Physical assault against pupil	PP
Persistent or general disruptive behaviour	DB	Wilful and repeated transgression of protective measures in place to protect public health	PH
Damage	DM	Racist abuse	RA
Abuse relating to disability	DS	Sexual misconduct	SM
Abuse against sexual orientation and gender identity	LG	Theft	TH
Inappropriate use of social media or online technology	MT	Verbal abuse/threatening behaviour against adult	VA
Use or threat of use of an offensive weapon or prohibited item	OW	Verbal abuse/threatening behaviour against pupil	VP

Appendix 4 Exclusion Form (page 2 of 2)

For permanent exclusions only			
Please confirm you have included the letter to parents informing them of the permanent exclusion with this notification			
If parents live at separate addresses, please supply alternative contact details			
Details of any significant parental contact arrangements			
Language spoken by parents			
Names of other professionals involved with this pupil (insert more rows if needed)			
Name of professional	Agency	Contact number/email	
Additional pupil needs			
FSM entitlement	Pupil premium	Disability	Medical needs
Current academic attainment levels			
Alternative provision previously involved			
Please supply any other information that might help the Council make appropriate provision			
Pupil curricular or extra-curricular interests, preferences		Risks eg gang post code issues, inappropriate sexualised behaviour, known to the police for criminal behaviour etc	

Appendix 5 Positive return to school plan

School name:		
Date of the meeting:		
Name of pupil:		
Name of parent attending the meeting:		
Member/s of school staff attending the meeting:		
Plan of support - based on pupil and parent views school/other professional assessment of need and resources		
Support:	Staff member/s	Times
Feedback arrangements for parent/s		
Review date (to review the support provided)		

Appendix 6 Head Teacher guide to exclusion paperwork for Governor Disciplinary Committee Meetings (page 1 of 2)

We recommend that the paperwork compiled by the clerk to governors' disciplinary committee meetings for an exclusion hearing comprises the following:

- A cover sheet - name of the school, pupil, date of birth and date of the governors' disciplinary meeting
- A contents page - Sections A- E below
- Page numbers to help governors and other meeting attendees navigate the pack during the meeting. As the pack will be collated from documents from various sources, these can be handwritten onto the paperwork when the pack is complete.

Exclusion for a one-off offence	
Section A - exclusion notification	
What to include	<ul style="list-style-type: none"> • Copy of the relevant exclusion letter sent to parents • If the head teacher issued a short, fixed period exclusion in the first instance to investigate an incident, both letters should be included
What to leave out	<ul style="list-style-type: none"> • Any other exclusion letters
Section B - evidence relating to the incident	
What to include	<ul style="list-style-type: none"> • Witness statements including a statement by the pupil being excluded. The head teacher should complete a contemporaneous statement if they witnessed the incident. • Good witness statements <ul style="list-style-type: none"> ○ are signed and dated. ○ are completed before decision to exclude if possible. If statements are written after the date of the permanent exclusion, the head should include notes of verbal statements obtained as part of the evidence collection. ○ can have the names of all pupil witnesses, apart from the pupil being excluded blocked out. Originals need to be made available for governors as part of their deliberation if required. For this reason, parents of children providing witness statements need to know that their child's anonymity cannot be guaranteed. ○ generally provide the evidence that led to the decision to exclude. <p>The head teacher should address any inconsistencies as part of the statement to governors at the GDCM.</p>
What to leave out	<ul style="list-style-type: none"> • Behaviour logs or statements relating to academic attainment or behaviour other than the incident that led to the exclusion
Section C – school support	
What to include	<ul style="list-style-type: none"> • Prior support for pupil's SEND as well as any action taken to support the pupil as a result of the exclusion. • Evidence of the pupil's view/opinion taken before the decision to permanently exclude • SEND review. This review should take place before the GDCM • ESA – not to be shared without parents' consent. • Any review paperwork if needs relate to behaviour in school.
Section D – parent submission	
What to include	<ul style="list-style-type: none"> • This will include any paperwork sent to the clerk by the parents.
What to leave out	<ul style="list-style-type: none"> • Any school opinion or comment about the parents' involvement in the pupil's education
Section E – appendices	
<ul style="list-style-type: none"> • The school Behaviour Policy and any other relevant school policy⁵ 	

⁵ The head teacher can decide to include only the relevant section of the policies to manage printing costs. It will help to have a brief note explaining how the school ensures all parents know how to access school policies, including revisions.

Appendix 6 Head Teacher guide to exclusion paperwork for Governor Disciplinary Committee Meeting (page 2 of 2)

We recommend that the paperwork compiled by the clerk to governors' disciplinary committee meetings for an exclusion hearing comprises the following:

- A cover sheet - name of the school, pupil, date of birth and date of the governors' disciplinary meeting
- A contents page - Sections A- E below
- Page numbers to help governors and other meeting attendees navigate the pack during the meeting.
As the pack will be collated from documents from various sources, these can be handwritten onto the paperwork when the pack is complete.

Exclusion for persistent breaches of the school's behaviour policy	
Section A - exclusion notification	
What to include	<ul style="list-style-type: none"> • Copy of the most recent exclusion letter sent to parents • Copy of all exclusion letters from the current school relating to behaviour that led to this exclusion
What to leave out	<ul style="list-style-type: none"> • Any information on file relating to exclusions from previous schools • It may not be appropriate to include notices of exclusions from previous academic years if the decision to permanently exclude was based on behaviour from this academic year
Section B - evidence of persistent disruptive behaviour	
What to include	<ul style="list-style-type: none"> • Behaviour log • Witness statements (see advice overleaf re good witness statements) • Incident reports
What to leave out	<ul style="list-style-type: none"> • Evidence relating to academic attainment or attendance
Section C – school support	
What to include	<p>Any action taken to support the pupil with their behaviour prior to the exclusion.</p> <ul style="list-style-type: none"> • Individual Education Plan (IEP) or equivalent. <ul style="list-style-type: none"> ○ Samples of target setting, and support strategies identified. ○ Evidence of review of strategies. ○ Evidence of referrals/involvement of outside agencies to support pupil's behaviour. • Pastoral Support Plan (PSP) or equivalent including review paperwork • Managed Move paperwork - original agreement and review paperwork • SEND EHCP review. This review should be scheduled before the GDCM if possible. <p>Details of any alternatives to permanent exclusion considered</p> <ul style="list-style-type: none"> ○ List of any alternatives considered, and reasons judged not to be appropriate eg Managed Move, long fixed period exclusion, use of alternative provision <ul style="list-style-type: none"> • Notes/emails relating to alternatives to exclusion considered /explored
What to leave out	<ul style="list-style-type: none"> • TAC/TAF action plan plus any review paperwork if the needs relate to behaviour in school. • Copies of every individual target card/IEP or equivalent. It is enough to provide a sample noting what that sample represents.
Section D – parent submission	
What to include	<ul style="list-style-type: none"> • This will include any paperwork sent to the clerk by the parents.
What to leave out	<ul style="list-style-type: none"> • Any school opinion or comment about the parents' involvement in the pupil's education
Section E – appendices	
<ul style="list-style-type: none"> • The school Behaviour Policy and any other relevant school policy⁶ 	

⁶ The head teacher can decide to include only the relevant section of the policies to manage printing costs. It will help to have a brief note explaining how the school ensures all parents know how to access school policies, including revisions.

Appendix 7 Governor check list – exclusion paperwork review (page 1 of 2)

Government exclusion guidance states that any decision to exclude, must be **lawful rational; reasonable; fair; and proportionate.**

Exclusion for a ‘one off’ offence	
Evidence	
Was a thorough investigation carried out?	
Was enough evidence gathered?	
Did the head teacher inform parents in writing?	
Appropriateness of head teacher response	
Does the offence represent a serious breach of the school behaviour policy?	
Did the head teacher consider any extenuating circumstances when considering the exclusion?	
Do witness statements include any victim and the excluded pupil?	
Are the witness statements signed and dated?	
Did the head teacher follow government guidelines re notification of the exclusion?	
Did the pupil have any identified special educational needs or a disability (SEND)?	
If yes - Did the pupil have a recent SEND review?	
If no – Might the pupil have SEND that to date have not been recognised?	
Was the pupil asked for their view prior to the decision to exclude?	
Exclusion for persistent breaches of the school's behaviour policy	
Evidence of early identification and viable alternative strategies used	
Is there clear evidence of the behaviour in question occurring over time?	
Is there evidence that	
<ul style="list-style-type: none"> • The school followed the behaviour policy and any other relevant policies? • Parents and pupil have been informed about these policies – Parent School Agreement or equivalent? • The pupil was asked for their view prior to the decision to exclude? 	
Did the school evidence	
<ul style="list-style-type: none"> • Identification of the pupil's additional behavioural, social and/or emotional needs using the SEND Code of Practice • Plans and review of targets and strategies including the use of rewards/feedback and other motivators to help the pupil learn new behaviours? • Consultation with relevant outside agencies to help develop support strategies for the school staff and the pupil to use eg Behaviour Support Service, Educational Psychology Service, Advisory Teaching Service, Health or Social Care Services? • Were these strategies reviewed and evaluated? <p>If the pupil has an EHCP, did the school</p> <ul style="list-style-type: none"> • Review the statement/EHCP considering the pupil's deteriorating behaviour? 	
Did the school	
<ul style="list-style-type: none"> • Set up a Pastoral Support Plan and identify additional support from the school, parents, and any other relevant agency to prevent the exclusion? • Meet their PSP commitments? • If the PSP had been completed successfully, did the school consider setting up a new plan when the behaviour deteriorated? 	

Appendix 7 Governor check list – exclusion paperwork review (page 2 of 2)

Questions and evidence	
To aid governors prepare for the GDCM having scrutinised the exclusion pack	
Lawful	
legally sound - exclusion procedures followed including informing parents, witness statements and any broader legal considerations, child protection, SEN Code of Practice, Equalities Act etc	
Questions to ask	Evidence
Rational	
time taken to consider the evidence and advice sought from any relevant professionals before decision made to exclude. Pupil given the opportunity to express their view	
Questions to ask	Evidence
Reasonable	
based on expectations or demands within the realms of what is possible and achievable for that pupil. Alternatives considered and support provided to reduce the risk where appropriate	
Questions to ask	Evidence
Fair	
that any extenuating circumstances were considered as well as any differences in response to other pupil in the same or similar situation - not biased	
Questions to ask	Evidence
Proportionate	
why permanent or length of fixed period exclusion given was appropriate.	
Questions to ask	Evidence

Appendix 8 GDCM Sample Agenda

Governors' Disciplinary Committee Meeting to consider the exclusion of:

Pupil's name:	Date of birth:
Date of meeting:	
Time of meeting:	
Venue:	

Head teacher, parents, parents' friends or representatives, pupil, Council representative enter the meeting room together.

1. Chair makes introductions and explains the procedure
2. Head teacher presents case for the exclusion
3. Questions to head teacher about the case presented by governors, parents, and pupil
4. Parents/pupil give their views about the exclusion
5. Questions to parents and pupil by governors and head teacher
6. Council representative invited to comment
7. Questions to Council representative by all

Once there are no further questions or comments from governors, parents, and head teacher:

8. Head teacher invited to sum up
9. Parents invited to sum up
10. Chair advises the meeting about how the decision will be communicated to all
11. Head teacher, parents, parents' friends or representatives, pupil, Council representative leave the room together
12. Governors make their decision. Clerk stays with them to advise on guidance and procedures

Contact pupilbehaviour@wiltshire.gov.uk if you have any questions about this document.