Bury Council

School Exclusion Toolkit

Guidance for Headteachers and Governors on suspension and permanentexclusions.

To be used in conjunction with the:

Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement.

September 2023

No Changes or amendments made 2026-27

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Toolkits:

A	Planned approach to supporting students at risk of exclusion	
B	SEMH Assessment Tools and Support Plans	
C	Alternative Provision Directory	
D	Referral Forms	
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1 RATIONALE

DfE Guidance

1.1 The Bury School Exclusion Toolkit is produced by Bury Local Authority from the DfE guidance and it is important to refer to this when considering an exclusion and to ensure that all processes and procedures carried out are compliant with the guidance.

1.2 All decisions about suspension and permanent exclusions should be made in compliance with statutory DfE guidance - Exclusions from schools, academies and pupil referral units in England, including pupil movement, September 2023.

1.3 Bury local authority is committed to working to working in Partnership with schools and other agencies to prevent exclusion due to the impact that this can have on a young person's life shows. Evidence has shown that those permanently excluded, were far more likely to live in poverty, interact with social care and have recognised mental health issues. Of those permanently excluded less than 20% got a good pass in English and Maths, 1 in 2 were immediately unemployed whilst half of the prison population had been PEX (Timpson 2017)

1.4 Whilst it is acknowledged that in some instances, a permanent exclusion is the only course of action to be taken due to the nature of the event/incident, we want to ensure that everything possible has been done to avoid the exclusion of any young person from a Bury school and believe that exclusion should be used as a last resort. Early intervention is paramount, and as such, throughout this guidance, there are references to recommendations that are included in the Bury Graduated Approach Toolkit as suggested additional supportive interventions to consider alongside statutory responsibilities and expectations.

1.5 Where a pupil is at risk of a permanent exclusion and/or is receiving repeated suspensions, please inform the SEMH Partnership manager (Secondary) or Primary Inclusion Leads, at the earliest possible opportunity, who will discuss your concerns and options with you. Where the child is LAC, the Head of the virtual school should be involved at the earliest opportunity.

Bury's Graduated Approach

1.6 Introduction and context

Bury's Graduated Approach Toolkit has been co-produced with Bury schools, parents/carers, young people and support services. It is a comprehensive resource developed to support schools and settings in Bury to confidently and effectively identify young people's special educational needs and disabilities (SEND) early, and appropriately plan provision to meet these needs. Where young people's needs remain unmet within school, this often leads to disruptive behaviour and at times, exclusion.

The Graduated Approach Toolkit covers:

- SENCO Best Practice (whole school approaches to inclusion, early identification of need, school's role in the asses-plan-do review cycle and the Education, Health and Care Needs Assessment process)
- Recommended interventions across all four broad areas of need, at a whole class (getting advice), group (getting help) and individual level (getting more help). For Key Stage 3 and above, there are additional sections covering preparation for adulthood and transition.

- Getting Risk Support, covering a number of behaviours young people play display and the recommended response from schools in meeting an immediate safety risk and the appropriate services to involve meeting needs longer term (e.g. distressed behaviours, self-harm, suicide ideation, eating disorders, harmful sexual behaviour, radicalisation).

The Toolkit is web-based and can be found here

The website includes an area of parents/ carers and an area for young people, with resource to support their understanding of SEND and SEND terminology, processes and locally based support.

School policies

1.7 The **Children and Families Act 2014** and the supporting **SEND Code of Practice** make it very clear that early year's settings, schools and colleges have to meet the needs of all children and young people with SEND including those who do not have an Education, Health and Care (EHC) Plan. This includes young people who are experiencing social, emotional and mental health difficulties. Where a robust whole school approach to implementing the "Assess, Plan, Do, Review" cycle is in place, any additional needs will be identified as early as possible and effective support put in place to support the young person to learn and to prevent exclusion.

1.8 A whole school behaviour policy needs to be in place which provides guidance to staff, young people, parents and carers on promoting an inclusive ethos and positive behaviour in school. Policies should be attachment aware and trauma-informed and based on fostering strong relationships amongst the school community. The procedures and guidance within the policy need to outline the consistent, whole school approach to the management of behaviour in school. The school's behaviour policy should be fully informed by the school's SEND, safeguarding, anti- bullying, equalities, attendance and teaching and learning policies. Behaviour policies should recognise young people's behaviour as a form of communication, often of an unmet need, and allow for flexibility where needed in relation to young people's SEND (including social, emotional, and mental health needs).

1.9 Although behaviourist approaches can work for the majority of children and young people, they are not successful for all. This is especially true for the those who have experienced Adverse Childhood Experiences.

1.10 In developing a behaviour policy, schools are advised to consider advice, with regard to an attachment and trauma informed approach.

1.11 Settings should also consider their duties to Looked After and Previously Looked After Children, schools should also take steps to avoid the exclusion of previously looked after children who have left care via adoption, special guardianship or child arrangement order. **The Designated Teacher for Looked after and previously Looked after Children DfE February 2018** and **Promoting the Education of Looked After Children February 2018.**

Role of the Local Authority

1.12 The Local Authority is responsible for ensuring that statutory obligations are upheld at each stage of the exclusion process, working with schools to ensure fairness, consistency and transparency leading to positive outcomes and destination for each pupil going through this process.

2 PREVENTING EXCLUSIONS

Early intervention

2.1 As part of early intervention, settings should conduct further assessment of any potential underlying learning or social, emotional, or mental health needs being experienced by the young person through the organisation's SEND and/or Early Help processes. When the absence patterns and/or behaviour of any pupil begins to cause concern education settings should not only deal with the specific incident that has occurred but should also respond with curiosity to identify any underlying needs. Appropriate steps can then be taken to provide support through a strengths-based approach with the pupil, their parents/carers, members of the staff team and, where appropriate, other professionals.

School may wish to adopt the planned approach for supporting students at risk of exclusion (Appendix A) as part of the planning for early intervention and prevention and should make reference to the Graduated Approach toolkit.

The Graduated Approach (Available here)

2.2 Graduated approach, in line with recommendations and legislative guidance taken from Intervention **Working Together to Safeguard Children (2018),** the **DfE Exclusion Guidance (2017),** the **SEND Code of Practice (2014)** provides a clear focus and tiered approach to supportive interventions, for use with all children to foster an approach of reducing exclusion and increasing holistic early interventions. This approach is inclusive of need or circumstance, and should be appliedwith consistency, whilst taking into account specific needs such as, but not limited to, Special Educational Needs (SEND), Our Children (LAC), children receiving free school meals (FSM) and children evidencing Social, Emotional, Mental Health (SEMH).

2.3 The Graduated Approach is needs-led and defined by the child and their families in collaboration with professionals with an emphasis on shared decision-making.

2.4 The aims of the Graduated approach are to:
Increase the capacity for schools to meet the needs of all children; preventing those whose needs can be met in mainstream school from attending alternative provision or special schools and to reduce school exclusion.

Facilitate a multi-agency approach to promote inclusion and understanding and reduce the need for exclusion and achieve the best outcome for the child.

Ensure flexible assessments to identify the needs of children and families and provide a personalised offer based on individual needs.

Encourage children and young people's aspirations and feedback drive intervention and

support.

A planned approach to supporting students at risk of exclusion – Summary (For detail see Appendix A)

Step	Statutory Guidance	Recommended Intervention
1 - Explore ***M-Thrive – Getting Advice*** ***This Step should be instigated at the earliest possible stage***	**3.8 "**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." **3.17** "where practical, the head teacher should give the pupil an opportunity to present their case before taking the decision to exclude." **3.19** "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 pupil may have. The head teacher should also consider the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour."	1 Review support provided through pastoral systems and SEND processes in order to ensure that needs have been identified and supported through a planned approach – (See toolkit A) 2 Meet with the child and their parent/cares or advocate to review current attendance, behaviour, attainment and progress. Adopting a restorative approach aids the development of a trusting relationship and allows for a shared understandingof mitigating circumstances and consideration of unmet need. At this stage it may be appropriate to refer to TAS and/or complete a Story So Far. 3 Where there is a concern with regards to SEMH, or a change in young person's presentation, an assessment of underlying need is conducted - this includes a screen of communication ability, a reading assessment and an SEMH screening tool which can be found in the graduated approach toolkit. It may also be appropriate to complete SNAP or pre-referral questionnaires with regard to the neuro-pathway. With regards to SEND, the screening and assessment should be led by the SENCO or suitable nominated person. Following this assessment further specialist advice may be sought from Multi-agency Inclusion Panel if required. The young person may also be referred for discussion and advice and support from Partnership meetings. 4 Identify an appropriate link worker within the school who will monitor and review the plan, and support the young person towards agreed targets 5 Utilising **voice of the child** methodology, explore the child's wishes and feelings, and consult with the family for a holistic overview and to establish a link and agree a suitable date and time to formally meet. 6 Consult with relevant internal and external support agencies, including SEMH Partnership Manager, Primary Inclusion Leads, Team around the school, School Nurse, MHST etc. The Bury Directory also has a range of advice and services available that may support.If risk is too much to allow the child to remain in school, then alternative provision should be considered. Details can be found in the Bury Alternative Provision Directory. 7 Undertake observations of classroom and out-of-classroom behaviours, liaising with colleagues for input as required, taking account of any recommended curriculum and/or school amendments after assessing the whole learning environment. 8 Agree any necessary adjustments to the curriculum with relevant staff, taking into account the impact of the environment as well as the feedback from the child/young person and their family. 9 Agree reasonable adjustments to provision and the behaviour policy where the child has additional needs and or a disability. 10Audit relevant staff for CPD requirements and relevant policy amendments.

Multiple Suspension	"where suspensions are becoming a regular occurrence for a pupil, headteachers and schools should consider whether suspension alone is an effective sanction for a pupil and whether additional strategies need to be in place to address behaviour"	Where a pupil has multiple (more than two) suspensions in a school year, and/or where it has been necessary to reduce a pupil's time in school, a plan should be put in place to identify and address their need following the steps below through a planned approach.
2 - Agree a Plan	**3.5** "The head teacher may withdraw an exclusion that has not been reviewed by the governing board."	1 Meet as planned with the child and family to agree on an action plan with identified monitoring points to review progress. **(Toolkit B)** Where other agencies are involved such as Early Help, Social Care or Outreach support, these should be included in this meeting.

M-Thrive Getting Help	**3.9** "Under the Equality Act 2010 (the Equality Act), schools must not discriminate. For disabled children, this includes a duty to make reasonable adjustments to policies and practices." **3.22** In addition to the approaches on early intervention set out above, the head teacher should consider what extra support might be needed to identify and address the needs of pupils from these groups in order to reducetheir risk of exclusion. For example, schools might draw on the support of Traveller Education Services, or other professionals, to help build trust when engaging with familiesfrom Traveller communities.	2 Discussion should include feedback from Step 1 – 7. 3 Where unmet needs become evident, but there are no identified SEND needs complete a Story So Far and engage services as appropriate. Where SEN is identified complete an SEN Support plan and pupil passport. 4 Discuss consultation and advice from internal and external agencies, and possible strands of additional support for referral and agree as appropriate. Families will have to consent to other services including the Early Help team becoming involved**.** 5 If not already in place consider referrals to Inclusion Partnership, Outreach support, Additional Needs Teams, SALT, TAS, MHST and or other agencies such as CAMHS or Early Break. 6 As part of the planning consider amendments such as reduced curriculum demands and increased intervention focussed on need. 7 Agree plan with relevant staff re: CPD requirements and relevant policy amendments.
3 - Implement the Plan **M-Thrive Getting Help**	**3.24** Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs. In relation to looked after children, schools should cooperate proactively with foster carers or children's home workers, the local authority that looks after the child and the local authority's virtual school head.	1 Implement in school support and targeted intervention as identified through the assessment. 2 Request the involvement of additional services identified as required in steps 1 and 2 and implement any intervention advised. 3 Plan regular opportunities for key staff to meet and problem solve collaboratively to ensure consistency of approach Ensure appropriate levels of CPD to colleagues supporting and teaching the child is put into place and relevant policy amendments are made.
4 - Review the Plan **M-Thrive Getting more help**	**3.20** Where a pupil has received multiple exclusions or is approaching the legal limit of 45 school days of fixed-period exclusion in an academic year, the head teacher should consider whether exclusion is providing an effective sanction. "The head teacher should take account of any contributing factors." "Schools should review the effectiveness of the support and interventions and their impact on the pupil's progress should be reviewed in line with the agreed date."	1 Using the monitoring review points, meet with the child, the family and involved inter and external agencies to monitor the effectiveness of the plan and record both positive progress and ongoing and any new concerns. 2 As part of this, evaluate the effectiveness of the actions taken in step 1- 3 and agree any amendments. 3 Celebrate positive aspects of progress and consider any need for re-assessment. 4 Consider referrals to any further inter and external agencies for additional Support including Team around the school, Outreach Support, Inclusion Partnership etc.

	"The impact and quality of the support and interventions should be evaluated along withthe views of the pupil and their parents. This should feed back into the analysis of the pupil'sneeds."	
5 - Amend the Plan **M-Thrive Getting more help**	"Support should then be revised in light of the pupil's progress and development, deciding on any changes to the support and outcomes in consultation with the parent and the pupil."	1 Record any recommended amendments to the action plan. 2 Agree on revised monitoring points. 3 Ensure any new referrals for inter or external support are implemented.
6 - Alternative Options **M-Thrive Getting risk support**	"Where a school has concerns … it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. (p11) "Maintained schools have the power to direct a pupil off-site for education to improve their behaviour. A pupil at any type of school can also transfer to another school as part of a'managed move' where this occurs with the consent of the parties involved, including the parents and the admission authority of the school. However, the threat of exclusion must never be used to influence parents to remove their child from the school." "Where a pupil has received multiple exclusions or is approaching the legal limit of 45 school days of fixed-period exclusion in an academic year, the head teacher should consider whether exclusion is providing an effective sanction."	1 If it is the best interest of the child and agreed with parent, a managed move or PPP (off-site direction) may be considered. Please refer to the Bury Managed Move and PPP Protocol. 2 If appropriate a full time or part-time preventative placement could be considered as part of the planned approach to supporting the young person. 3 Consider alternative curriculum pathways either within the school or through external providers or through a bespoke package that incorporates both. These can be longer term or as a short-term approach with a planned reintegration to the school's curriculum pathway. **(Bury Alternative Provision Directory Toolkit C)** 4 Ensure that all relevant parties agree and that the action plan is updated and transferred to appropriate staff accordingly with CPD needs of staff identified and met. 5 Attend review meetings and work with the child, family and inter and external agencies to support a successful reintegration into school following intervention. 6 Following re-integration, begin the planned approach at Step 1

7 - Exclusion **M-Thrive Getting risk support**	**3.6** Any decision of a school, 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. **3.9** Under the Equality Act 2010 (the Equality Act), schools must not discriminate against, harass or victimise pupils 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. **3.13** It is unlawful to exclude for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment/ability; the action of a pupil's parents; or the failure of a pupil to meet specific conditions before they are reinstated, such as to attend a reintegration meeting. However, a pupil who repeatedly disobeys their teachers' academic instructions could, be subject to exclusion.	1 If the outcome is to move to exclude permanently, schools should follow the protocol as detailed in the **Supporting young people at risk of exclusion checklist (Toolkit E)**. to ensure that everything possible has been done to support the young person. 2 Where Permanent Exclusion is being considered for an offence involving a weapon **(Toolkit F)** or controlled substance **(Toolkit G)** the relevant protocols should be followed. 3 Schools remain responsible for learning within the first 6 days of the exclusion. 4 Schools should complete the **PEX notification/PRU referral form (Toolkit D)** in as much detail as possible and return to the local authority without delay to ensure that the young person can be appropriately placed without. 5 Schools must ensure that all relevant information with regards to the child is provided to the alternative provider/PRU setting to ensure the safety and wellbeing of the child. This includes any initial safety and wellbeing planning for a child who is vulnerable following school exclusion.

Preventative Support

2.5 Pupil's at risk of a permanent exclusion may benefit from support offered through the Inclusion Partnerships and Outreach Teams. In order for a referral to be considered the appropriate referral form **(Toolkit E)** should be completed detailing the young person's needs and the following additional information would be required:

- Copies of the last 2 reviewed APDR cycles
- Up to date progress/attainment information (including information around Personal and Social Development)
- Current provision map
- Current pupil profile/passport
- Copies of observations focusing on need
- Any additional reports completed by professionals
- Positive and negative behaviour log.
- SEMH Screen/Assessment

Primary Schools

2.6 Primary Schools can access a range of advice and outreach work that includes:

- Advice from the Primary SEND Support Leads
- Advice and support from the Outreach Team accessed through the multi-agency inclusion panel.
- Advice and support with regards to accessing alternative provision.

Secondary Schools

2.7 Through referral to the Inclusion Partnerships schools can access a range of support including (**see Toolkit D**):

- Advice from the SEMH Partnership Manager
- Support to plan and arrange Managed Moves and off-site direction.
- Advice and support with regard to accessing alternative provision.
- Support from commissioned providers such as the Step Out and Step Ahead programmes

2.8 Contact details are provided in Section 7 of this document.

Early Help and Team around the school

2.9 Team Around the School (TAS) offers a clear and simple pathway for obtaining support, advice and guidance to assist in dealing with emerging early concerns you may have for children and families.

Each School in Bury has a named Early Help Social Worker (see below). There are six Early Help Social Workers in Bury who work with a cohort of schools however their roles reflect and allow them the capacity to respond to your needs.

TAS is an Early Help pathway and should the young person you have concerns for already have a statutory plan (i.e. CIN/CP/LAC) and an allocated Social Worker, please speak to them directly.

Your named Early Help Social Worker can assist in providing contact details if required.

If your concerns are of a safeguarding nature then you will need to speak to the Multi Agency Safeguarding Hub (MASH) so not to delay in the event that an immediate response may be required. If your concern is not an obvious safeguarding issue please consult with your named Early Help Social Worker.

Whilst your' named Social Worker is available for individual consultation the model is based on an integrated approach comprising of Education, Social Care and Health meeting regularly to discuss a cohort of children however the frequency of these meeting is at your discretion dependent on need.

Children in Local Authority Care

2.10 Looked after Children are particularly vulnerable to the impact of permanent exclusion. Headteachers should as far as possible avoid permanently excluding any looked after child**.**

2.11 Please note that if the child who is at risk of exclusion is in Local Authority Care you should send an email to and contact the Virtual School Head from the Local Authority which is responsible for the young person's care. If the young person is in the care of Bury you should contact the Bury Virtual School Team at virtualschool@bury.gov.uk. The Virtual School Team will work with you to discuss the young person's needs and how they can be met whilst preventing the need for a permanent exclusion.

Risk of exclusion should be discussed at the child's PEP meeting and interventions implemented. Where necessary further PEP meetings should be arranged where one has already taken place that term.

In the event of a suspension or permanent exclusion the Virtual School Head must be informed without delay.

Children with an Education Health and Care Plan

The equalities Act 2010 requires schools to make reasonable adjustments for disabled pupils. The Children and Families Act 2015 states that governing bodies must use "their best endeavours" to ensure appropriate special educational provision for pupils with SEN, which will include any support in relation to behaviour management that they need because of their SEN.

Where a pupil has an EHC plan, schools should contact the SEN Team about any behavioural concerns at an early stage and consider requesting an early annual review.

An early annual review should always be instigated where there is a risk of placement breakdown.

Alternative Provision, Managed Moves and Off-site Direction

2.12 In addition to the strategies set out in the planned approach (Appendix A) headteachers should also consider the following: a) an off-site direction or b) managed moves as preventative measures to exclusion.

Off-site direction and AP

2.13 Any use of AP should be based on the understanding of the support a young person needs to improve their behaviour, as well as any SEND or health needs.

2.14 Off-site direction may only be used to improve future behaviour and not as a sanction or punishment for past misconduct. Off-site direction should only be used where in-school interventions and/or outreach have been unsuccessful or are deemed inappropriate and should only be used as a temporary stay in AP. Off-site direction should be for a time limited period and kept under regular review and may be to another mainstream school or Alternative Provision. See **Managed move and off-site protocol (Toolkit H)**

2.15 Those placing in AP must have regard to the Alternative Provison: Statutory guidance for local authorities, headteachers and governing bodies.

2.16 When planning an AP placement, the nature of the intervention, it's objectives and the timeline to achieve these objectives should be clearly defined and agreed with the provider upfront. The plan should then be frequently monitored and reviewed. For further advice and information with regard to providers please refer to the **Bury Alternative Provison Directory (Toolkit C)**

Managed Moves

2.17 Managed moves must be voluntary and agreed with all the parties involved.

2.18 When arranging and organising managed moves schools should follow the steps outlined within the **Bury Managed Move and PPP Protocol (Toolkit H).** A managed move is used to initiate a permanent move to another school.

3 SCHOOL EXCLUSION

Permanent Exclusion & Suspension

3.1 Exclusion is the final option following the interventions to prevent this having been unsuccessful and as such, allowing the child to remain in school would be detrimental to their education and/welfare, or that of others. Exclusion must be used for disciplinarymatters only and recorded as such. There are two types of exclusion; suspension and permanent and both have their own process to follow.

3.2 Any decision of a school, 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

3.3 The decision on whether to exclude is for the head teacher to take. However, where practical, the head teacher should give the pupil an opportunity to present their case before taking the decision to exclude. The head teacher must take account of their legal duty of care when sending a pupil home following an exclusion.

3.4 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.

3.5 Under the Equality Act 2010 (the Equality Act), schools must not discriminate against, harass or victimise pupils 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.

3.6 The head teacher and governing board must comply with their statutory duties in relation to SEN when administering the exclusion process. This includes having regard to theSEND Code of Practice.

3.7 As well as having disproportionately high rates of exclusion, there are certain groups of pupils with additional needs who are particularly vulnerable to the impacts of exclusion. This includes pupils with EHC plans and looked after children. The headteacher should, as far as possible, avoid permanently excluding any pupil with an EHC plan or a looked after child.

3.8 Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs. In relation to looked after children, schools should cooperate proactively with foster carers or children's home workers, the local authority that looks afterthe child and the local authority's virtual school head.

3.9 It is unlawful to exclude for a non-disciplinary reason. 'Informal' or 'unofficial' exclusions, such as sending a pupil home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for short periods of time, must be formally recorded.

3.10 Maintained schools have the power to direct a pupil off-site for education to improve their behaviour. A pupil at any type of school can also transfer to another school as part of a 'managed move' where this occurs with the consent of the parties involved, including the parents and the admission authority of the school. However, the threat of exclusion must never be used to influence parents to remove their child from the school.

Suspension Only

3.11 Suspensions should be as short as possible with research suggesting that 1-3 days are often long enough to secure the benefits of exclusion without adverse consequences.

3.12 Suspension of more than 15 days within a school year (cumulative) are automatically subject to review by the governing body. If the pupil is excluded for a further fixed-period following the original exclusion, or is subsequently permanently excluded, the headteacher should inform parents without delay and a new exclusion notice be issued.

3.13 A suspension does not have to be for a continuous period.

3.14 A pupil cannot be excluded for more than 45 school days in any one school year. If the suspension brings the cumulative number of days to 16 days within a term a governor's review panel/sub-committee is required. If the exclusion would result in thepupil missing a public examination or national curriculum test, for a cumulative total of 6-15 days in a term a governor's review panel/sub-committee is only required if a parent requests it.

3.15 Pupils whose behaviour at lunchtimes is disruptive may be excluded during the lunch-break. Headteachers still have a legal requirement to inform parents. Lunchtime exclusions are counted as half a school day for statistical purposes and in deciding whether a governing body meeting is required. It is good practice that where a pupil is entitled to free school meals, the school should make arrangements to provide a meal (such as a packed lunch).

3.16 The law does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension may 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 suspension

3.17 For a suspension of more than five school days, the governing board (orlocal authority in relation to a pupil excluded from a PRU) must arrange suitable full-time education for any pupil of compulsory school age. This provision must begin no later than the sixth school day of the exclusion. 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 school day of exclusion, regardless of whether this is as a result of one suspension or more than one suspension.

Permanent Exclusion Only

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

3.19 Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days of an exclusion, the school should take reasonable steps to set and mark work for the pupil. Work that is provided should be accessible and achievable by the pupil outside school. In the case of a looked after child, the school and the local authority should work together to arrange alternative provision from the first day following theexclusion. Online pathways such as Google Classroom or Oak Academy can be used but schools should ensure that the work set is accessible and achievable by the pupil outside school.

Role of the Governors Review Panel/Sub-Committee

3.20 The role of the governing body is to review whether the headteacher's decision was lawful, reasonable and fair. This review will involve the following considerations, in the context of the **DfE Guidance on Exclusions**, appropriate school policies, any representations made and the circumstances of the excluded pupil, especially if they have an Education Health and Care Plan or are a Looked After Child.

Where an allegation of misconduct against the pupil is in dispute, the standard of proof is the balance of probabilities **(**it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt').

Whether correct procedure was followed – a decision should not be overturned on a technical defect unless the process was so flawed that justice was clearly not done.

Whether the exclusion was proportionate (fair and justified).

3.21 The panel must balance the interest of the excluded pupil against the interests of all other members of the school community. (See appendices for suggested governor questions)

3.22 The following two tests of the headteachers decision to exclude are referred to in the statutory guidance:

Has the headteacher demonstrated that their decision to exclude the pupil is in response to a serious breach, or persistent breaches, of the school's behaviour policy?
Has the headteacher demonstrated that allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school?

Governors may wish to refer to **Toolkit I** (Support for Young People at risk of exclusion checklist) when considering whether all of the appropriate support has been provided prior to the exclusion.

3.23 The appointed governors, clerk and chair should not have prior knowledge of the details of the case but should have a good understanding of the **DfE Statutory Exclusions Guidance**, the **Equality Act 2010** and the School Behaviour Policy. Further information and guidance is available on the **National Governance Association Website** (available to NGA members only) and there is a list of organisation's and consultants who can provide exclusions training and advice to governors in the Accredited Provider List of Governor Training which is available on the **MCC Schoolshub Website** (please contact your clerk or headteacher for the username and password).

3.24 Where an exclusion would result in a pupil missing a public examination or national curriculum test, there is a further requirement for a governing board. It must, so far as is reasonably practicable, consider the exclusion before the date of the examination or test. If it is not practicable for a sufficient number of governors to consider the decision before the examination or test, the chair of governors, in the case of a maintained school may consider the exclusion alone and decide whether or not to reinstate the pupil. In the case of an academy the exclusion may be considered by a smaller sub-committee if the trust's articles of association allow them to do so. In such cases, parents still have the right to make representations to the governing board and must be made aware of this right.

3.25 The governing body **cannot**:

- extend a suspension
- change a permanent exclusion into a suspension

Composition of the Governors Review Panel/Sub-Committee - Maintained Schools

3.26 A governing body of a maintained school may delegate this function to a sub- committee made up of a minimum of three governors. The headteacher, the parents (and, where requested, a representative or friend) and a representative of MCC should be invited (in the case of maintained schools and the PRU). In the case of a looked after child, a social worker may also be present.

Composition of the Governors Review Panel/Sub-Committee - Academy Trusts

3.27 Academy trust boards may also delegate this function if their articles of association for this. Although a representative from MCC is not required, this can be arranged by emailing exclusions@bury.gov.uk and parents should be informed of their right to make representations.

Procedure at the Governors' Review Panel/Sub Committee

3.28 The Governors' Meeting or Sub-Committee to consider an exclusion must be clerked by a suitably qualified and experienced clerk/ professional who is able to provide procedural advice if required (see Appendix for a model agenda). The governing body should ensure that all parties are supported to participate and have their views properly heard. This can be achieved by adopting a procedure such as the one suggested below.

Requesting and circulating Papers

3.29 Clerk/ other person must request written statements in advance of the meeting including:

headteacher report and witness statements;

parent submission.

These should arrive with the clerk/ other person no later than 7 school days before the Governors' Meeting.

3.30 The clerk/ other person should circulate all these papers to the head teacher, parent of the excluded pupil, and the LA representative (if relevant) at least 5 days before the meeting.

Clerking the Governors' Review Panel/Sub Committee

3.31 It is important that the Governors' Review Panel/Sub Committee to review exclusions is run efficiently, fairly and within the processes outlined in the **Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England Sept 22.**

3.32 It is therefore important that a suitably qualified and experienced clerk/professional is appointed, who can provide procedural advice if required and play a central role in the planning and organisation. This includes a record of clear minutes of the Governors' Review Panel/Sub Committee which should be available to all parties on request.

4 INDEPENDENT REVIEW PANEL

4.1 An Independent Review Panel (IRP) is held after a **permanent exclusion** if a parent lodges an appeal no later than the **15th school day** after receipt of the decision letter from the governors meeting that considered the exclusion.

Who runs the Independent Review Panel?

4.2 The Independent Review Panel for maintained schools is run by the Independent Education Appeals Service for Bury, based within the Local Authority's Democratic Services. The Academy Trust must, at their own expense, make their own arrangements for an independent review panel hearing.

4.3 In Bury the LA independent review panel is a three-member panel comprising: a lay member (Chair), a school governor (or ex-governor), and a head teacher (or recently serving head teacher).

4.4 If requested by parents, in their application for the review, the local authority/ Academy Trust must appoint a SEN expert to attend the review panel (whether or not the child has recognised special educational needs). The Local Authority has Educational Psychologists who can act as SEN experts at the independent review panel at the request of a parent.

What issues will the Independent Review Panel consider?

4.5 The panel's role is to review the decision not to reinstate a permanently excluded pupil.

4.6 The panel 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.
4.7 The jurisdiction of the First-tier Tribunal (Special Educational Needs and Disability) and County Court to hear claims of discrimination relating to permanent exclusion does not preclude an IRP from considering issues of discrimination in reaching its decision.

Possible decisions of an Independent Review Panel

4.8 Following its review the panel can decide to:

uphold the exclusion decision;

recommend that the governing body **reconsiders their decision;** or

quash the decision and **direct** that the governing body **considers the exclusion.**

4.9 The panel may only **quash** the decision where it considers that it was flawed when considered in the light of the principles applicable on an application for judicial review (illegality, irrationality, procedural impropriety).

4.10 Where a panel **directs** a governing body to **reconsider an exclusion** it has the power to order that a readjustment of the school's budget in addition to any funding that would normally follow an excluded pupil – if the governing body does not offer to reinstate the pupil within 10 school days.

Following an Independent Review Panel

4.11 The panel must write to all parties without delay. This must include the panel's decision and reasons for it, details of any financial adjustments if the GB does not offer to reinstate a pupil and any information that should be recorded on a pupil's educational record.

SEND Tribunal

4.12 Parents whose children have special educational needs and who think the exclusion relates to this and as such, disability discrimination has occurred, the parent has the right to appeal, and/or make a claim, to the First Tier Tribunal (http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/send/index.htm).

4.13 An appeal can be made if the local authority:

• refuses to secure an EHC needs assessment of the child's special educational needs, following a request by the parents or the educational provision;
• refuses to secure an EHC plan, after concluding an EHC needs assessment;
• refuses to arrange a reassessment of the child's special educational needs (following a request by the parent or child's school) if the local authority has not made an assessment for at least six months;
• decides to stop maintaining the child's EHC plan;
• decides not to replace or amend the EHC plan following a review;
• decides not to change the EHC plan after reassessing the child; or
• has made an EHC plan or has amended or replaced a previous EHC plan and you disagree with one or all of the following:

- The part which describes the child's special educational needs.
- The part which sets out the special educational provision (help) that the local authority thinks the child should receive.
- The educational provision or type of educational provision named in the EHC plan.
- The local authority not naming a school in the EHC plan.

5 REMOVAL OF A PUPIL FROM THE SCHOOL ROLL

5.1 If a permanent exclusion is confirmed, the pupil's name should be removed from the school roll on the school day:

after the appeal panel's confirmation of permanent exclusion;

on expiry of the time allowed for appeals to be made;

if the pupil takes up a place elsewhere; or

after the parent confirms in writing that they do not intend to appeal.

Redetermination of budgets where pupils have been excluded

5.2

As agreed with secondary heads a charge of £6000 will be made for all permanent exclusions from secondary schools.

6 CONTACT DETAILS

Risk of a Permanent Exclusion:	Secondary: N.Bell@Bury.gov.uk Primary: G.Rennie@Bury.gov.uk LAC: G.Parkes@Bury.gov.uk EHC: S.OBrien@Bury.gov.uk
Exclusions:	Email: exclusions@bury.gov.uk
Independent Review Panel:	Email:
Secondary PRU:	Email: slsreferrals@springlaneschool.bury.sch.uk