



Exclusions Policy

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Contents

Section	Item	Page
1.0	Introduction	3
	1.1 School vision and values	3
2.0	Explanation of terms	3
	2.1 Exclusion	3
	2.2 Fixed Term Exclusion	3
	2.3 Permanent Exclusion	3
	2.4 Internal reflection	3
3.0	Roles and responsibilities	3
	3.1 The Disabilities Trust	3
	3.2 Board of Governors	3
	3.3 Headteachers	4
	3.4 School Staff	4
	3.5 Expectations of Parents and Carers	4
4.0	Factors that the Headteacher should consider before taking the decision to exclude	4
	4.1 Use of exclusion	4
5.0	Procedure	7
	5.1 Serious incident: fixed term exclusion	7
	5.2 Serious incident: possible exclusion and change of placement	8
6.0	Appendix – Appeals procedure	9
	The right to appeal	9
	The role of the Governing Body (board of governors)	9
	Discipline / Appeals Committee	10
	Considering written appeal representations	10
	Convening an Appeal Meeting	11
	Prior to the Appeal Meeting	11
	Conduct of the Appeal	11
	The Decision	12
	Independent Review Panels	13
	Parenting Orders	14

1.0 Introduction

- 1.1 Heathermount is a non-maintained special school catering for children and young people (age 4-19) with autism. The school is owned by the Disabilities Trust and it works closely with several local authorities to provide a specialised education. We are committed to realising our vision of building confidence and preparing students for life beyond Heathermount, to take their next step into further education, training or employment. We also aim to prepare our students to contribute and live effectively in society beyond the specialist support and understanding of Heathermount School.
- 1.2 We do not believe that exclusions are the most effective way to support students with autism, and we will always try to adapt and personalise provision for all our learners in order to ensure that they are able to access education. This may take the form of a bespoke programme or personalised curriculum. Please refer to our behaviour policy for further guidance.
- 1.3 In some circumstances – as set out in this policy – it may be necessary to exclude a student for a fixed term period or permanently. This would always be considered very carefully.

2.0 Explanation of terms

- 2.1 **Exclusion** – this term is used in this policy as a collective term covering both fixed term exclusion and permanent exclusion.
- 2.2 **Fixed Term exclusion** – is where a student will be unable to return to school for a fixed period i.e. a set number of days (at most 45 days in any one school year). The student will be given a date when they will be able to return to school and will not be allowed to return to school until that date.
- 2.3 **Permanent exclusion** – is where a student is permanently removed from the school.
- 2.4 **Internal reflection** - is where a student is removed from a class for a fixed period but not excluded from the school. This will allow time for the incident to be unpicked and reflected upon and for work to be done with the other students/class involved.

3.0 Roles and responsibilities

- 3.1 The Disabilities Trust are responsible for:
 - a) ratifying and regularly reviewing this policy to ensure it conforms to relevant law and guidance
 - b) the content of this policy
 - c) providing the support services that enable the Headteacher and Governors of Heathermount school to implement this policy
- 3.2 The Board of Governors at Heathermount School is responsible for:
 - a) communicating to students, parents/carers and staff the school's expectations of standards of conduct, with reference to the policies and procedures that are in place to promote good behaviour and appropriate conduct, including the school's behaviour policy
 - b) Ensuring the Headteacher effectively implements this policy within the school
 - c) monitoring its implementation through regular meetings with staff and visits to the school

- d) Monitoring the effectiveness of the policy
- f) ensuring that its implementation is in accordance with the all relevant law and guidance.

3.3 The Headteacher at Heathermount School is responsible for:

- a) determining a behaviour policy as required by law
- b) ensuring staff are aware of this policy and have the appropriate training to enable them to understand and implement this policy and its procedures and that school procedures are followed
- c) providing professional leadership, vision and direction to the school so that the staff work together to provide the highest standard of autism education and reduce the need for any exclusion.
- d) informing the Chair of the Board of Governors and the Disabilities Trust of any decision to exclude a student
- e) following the Exclusion Procedure detailed in this policy
- f) ensuring that he/she acts in accordance with the all relevant statutory guidance.

3.4 All staff at Heathermount are responsible for:

- a) valuing every student and enabling and supporting students to recognise a range of feelings, both positive and negative and to develop their skills of emotional self-regulation
- b) monitoring and reporting to the tutor/senior leadership team any escalation of behaviour that they find challenging to support and that may lead to circumstances where exclusion may be considered.
- c) Any further action/support is detailed in the behaviour policy.

3.5 Heathermount School expects parents and carers to be responsible for:

- a) keeping the school informed about concerns, problems and family circumstances which may affect their child's behaviour or well-being
- b) working with school staff to implement actions/support as detailed in the behaviour policy.
- c) attending meetings called by the school to discuss concerns about their child and/or meetings to discuss fixed term or permanent exclusion
- d) following the procedures set out in this policy, including by complying with the school's instructions as to how to appeal a decision to exclude should they wish to do so.

4.0 Factors that the Headteacher should consider before taking the decision to exclude

4.1 The Headteacher will be responsible for authorising any exclusions within the school. In his/her absence, the Deputy Headteacher will have responsibility.

Permanent exclusion is a final consequence when the school has exhausted all means at its disposal to meet a student's needs. It should only be used as a last resort, in response to a serious breach or persistent breaches of the school's behaviour policy; and where allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school.

Fixed term exclusion may be appropriate in response to a serious breach or persistent breaches of the behaviour policy.

Any decision to exclude a student must be lawful, reasonable and fair.

This means that:

- a) Where the school has concerns about a student's behaviour, it should try to identify whether there are any causal factors and intervene early in order to reduce the need for a subsequent exclusion. In this situation, the school will consider whether a multi-agency assessment that goes beyond the student's educational needs is required.
- b) Decisions to exclude will be made only when the school had already offered and sought to implement support and management strategies.
- c) Decisions to exclude will be made on an individual basis and should always be a reasonable and measured response.
- d) The behaviour of a student outside school can be considered grounds for an exclusion.
- e) There may be occasions when a one-off incident will justify an exclusion.
- f) The context of the situation will always play a key part in the decision-making process.
- g) Circumstances in which it may be appropriate to exclude a student include (but are not limited to):
 - Incidents where the safety of the student, other students or staff is seriously compromised
 - Incidents of knife crime or the deliberate use of weapons in school
 - Incidents of a sexual nature or sexual violence
 - Incidents of significant deliberate damage to property
 - Intent to supply (or actual supply of) illegal drugs.
- h) The school will take account of the special educational needs of the student when considering whether or not to exclude them. In particular, the school will check that the provision to meet their special education needs in the EHC plan is being provided and will consider whether the EHC plan needs to be changed (in which case it may be possible to arrange an early review of the EHC plan or a re-assessment of the student's needs). However a student may still be excluded in a sufficiently serious case in particular if protection of the welfare or education of others requires it, or if an EHC plan cannot be satisfactorily amended in a reasonable timeframe.
- i) The school will not discriminate against students based on any protected characteristics, including disability, sex, gender, race, religion/belief and sexual orientation.
- j) The school will check that reasonable steps, in line with the Equality Act 2010, have been taken by the school to respond to the student's disability and that the student is not treated less favourably for reasons related to his or her disability unless this can be justified as a proportionate means of achieving a legitimate aim, such as ensuring safety.
- k) The school will ensure that there is sufficient recorded evidence to support the decision, including a record of whether the school considers the decision is discriminatory and – if so – why the discrimination is justified and lawful.

4.2 Following a decision to exclude:

- a) The exclusion will start on the day of the decision to exclude, regardless of any appeal.
- b) Parents/carers will be informed initially by telephone and then with a letter to explain the reasons for the exclusion, the period, and their right to appeal by making representations about the exclusion to the Board of Governors.
- c) An exclusion will not be enforced if doing so may put the safety of the student directly at risk. In cases where parents will not comply by, for example, refusing to collect the child, the child's welfare is the priority. In this situation, depending on the reason for exclusion, the school may consider an internal exclusion until the end of the day, implementing the original exclusion decision from the time the child is collected from school, or, in more severe circumstances the school may contact Social Services and/or the Police to safely take the student off site.

4.3 During a fixed term exclusion:

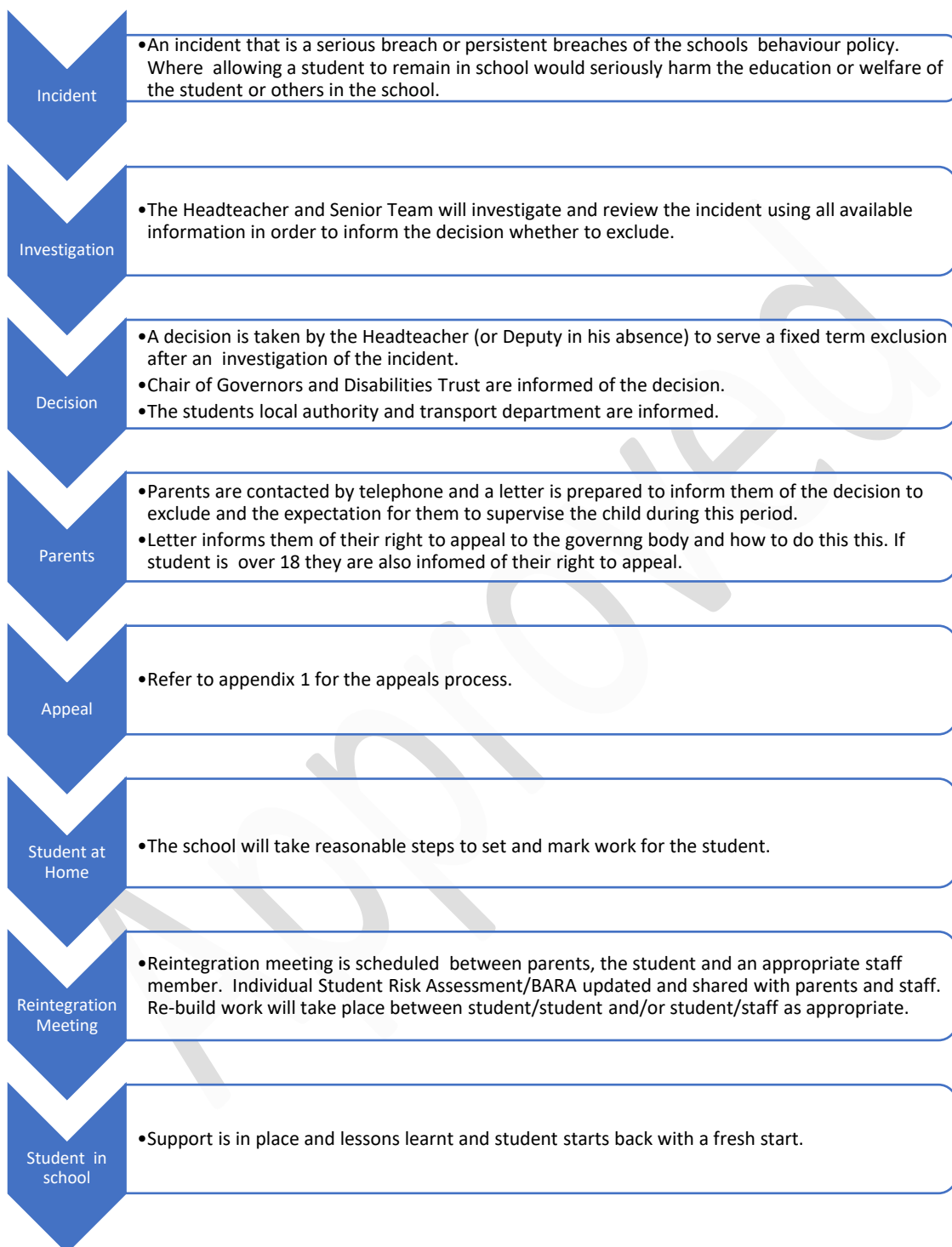
- Parents should ensure their child is not in a public place during this period and ensure they are supervised.
- The school will take reasonable steps to set and mark work for students during the first five school days of an exclusion; and alternative provision must be arranged from the sixth day by the appropriate local authority.

4.4 After a fixed term exclusion:

- The schools will implement a strategy for reintegrating the student and for managing their future behaviour.
- The school will hold a meeting with parents and the student to reintegrate a student who returns to school following a fixed-period exclusion and for managing their future behaviour. This meeting will include information of how the student will return to learning and the support in place to help them return to learning.

5.0 Procedure

5.1 Serious incident: Fixed term exclusion



5.2 Serious incident: possible permanent exclusion and change of placement



For the avoidance of doubt, Heathermount is a non-maintained special school and is not subject to the detailed legislative provisions governing exclusions in the Education Act 2002, the Education and Inspections Act 2006 and associated regulations nor to statutory guidance on Exclusion from maintained schools, academies and student referral units in England. The principal legislation relevant to this policy is:

- the Education and Inspections Act 2006 (sections 88-89);
- the Education Act 1996; and
- the Equality Act 2010.

Appendix

This Appendix sets out the school's detailed procedure for appeals against decisions to exclude.

1. The right to appeal

Following a decision by the Headteacher to exclude a student, the school will contact the student's parents/carers by telephone and send a letter to them informing them of the decision to exclude and that they will need to supervise the student during the period of exclusion.

Save in the case of a fixed term exclusion that does not bring the student's total number of days of exclusion to more than five days in a term, the letter will inform the parents/carers of their right to appeal the decision to exclude by making written representations to the governing body by letter or email. The letter will also inform them that any written representations must confirm if they wish to attend a meeting (in person or by video link) with the governing body.

If the student is over 18, they will also be informed of their right to appeal and they may make representations on their own behalf, unless the school considers that the student does not have capacity to do so.

Before sending this letter the school will cross-check records to identify if the parents/carers require any reasonable adjustments with regard to the way the school interacts with them, and in any case the letter will ask parents/carers to notify the school if they require reasonable adjustments in order to allow them to make representations or attend a meeting.

A student remains excluded pending the outcome of an appeal.

Where there is an allegation of discrimination (under the Equality Act 2010) in relation to a fixed-period or permanent exclusion, parents can also make a claim to the First-tier Tribunal (Special Educational Needs and Disability) for disability discrimination, or the County Court for other forms of discrimination.

2. The role of the Governing Body (board of governors)

The Governing Body will be informed of the Headteacher's original decision to exclude in circumstances where there is no appeal

If a parent/carer/student (hereafter referred to as the "appellant") makes written representations to the board of governors appealing a decision to exclude a student, those representations will be considered in accordance with paragraph 4 below.

The board of governors has no power to increase the severity of an exclusion. It can either uphold the decision to exclude or direct the student's reinstatement, either immediately or by a particular date, save that in the case of fixed term exclusion that does not bring the student's total number of days of exclusion to more than five days in a term the board of governors cannot direct reinstatement.

3. Discipline / Appeals Committee

The Board of Governors has established a discipline/appeals committee to which it delegates its functions in respect of exclusions, to include taking decisions on any appeal. (Hereafter referred to as 'the committee').

The committee consists of at least three governors at any one time. The committee will be decided by the Headteacher and Chair of Governors.

The board of governors ensures that all governors who serve on the committee have received training to help them discharge their duties. A clerk to the discipline committee is also appointed by the board of governors.

If one of the members of the committee has knowledge of the student(s) involved in the exclusion, or of the incident that led to that exclusion that could affect his/her impartiality, he/she should step down and (if the number of members therefore falls below 3) the board of governors must appoint a different committee member.

Committee decisions are taken by a simple majority. The chair has a casting vote in all cases where an even number of governors are considering the case.

If the exclusion could result in a student missing a public examination, the committee will make every effort to meet before the date of the examination. Should this not be possible, then the Chairman of the board of governors will consider the exclusion decision and decide whether to reinstate the student (these are the only circumstances in which the Chairman alone will review an exclusion). When this occurs, the parents also have the right to make oral representations. If possible, the chairman of the board of governors will have the advice of the clerk or an LA officer.

The committee or chairman of governors may agree to allow a student back on to the school premises for the sole purpose of sitting an examination, but they are not obliged to do so.

4. Considering written appeal representations

If the governing body receives written representations from an appellant:

- a) The committee will confirm whether it can consider any representations from the student, taking into account the age and capacity of the student.
- b) Subject to (b) above, the committee will consider the representations.
- c) Representations will be considered within a reasonable period.
- d) If the appellant does not request a meeting, the committee will reach a decision on the papers which will be ratified by the governing body and communicated to the appellant in writing.
- e) If the appellant requests a meeting the procedure under paragraph 5 of this Appendix applies.

5. Convening an Appeal Meeting

Fixed Term Exclusions of 1-15 Days:

Upon receipt of written representations appealing against a decision to exclude for [1-15] days that request a meeting with the governing body, the committee has the discretion to agree to a meeting and, once having agreed to hold a meeting, will hold that meeting between the 6th and the 50th school day after receiving notice of the exclusion from Head teacher.

Paragraphs 6-8 below will apply to the conduct of the meeting.

Longer Fixed Term Exclusions and Permanent Exclusions:

Upon receipt of written representations appealing against a decision to exclude for more than 15 days, or where the total of fixed term exclusions is more than 15 days that term (including a permanent exclusion):

- the committee will convene a meeting to be held between the 5th and 16th school day after the date of receipt of the written representations.
- The parents, the Headteacher (and an LA officer if the school or parent chooses) will be invited to the meeting at a time and a place convenient to all the participants within a reasonable time frame. If the LA officer is not available, the school has the choice to go ahead or to wait. The parent and the school may each be accompanied by a friend/advisor.
- The committee will ask for any written statements including witness statements in advance of the meeting.
- The clerk will circulate in advance of the meeting any written statements and a list of those who will be present at the meeting to all parties including the Student if it is known that he/she will be present.

N.B. if a student has a number of lunchtime exclusions in any one term which add up to more than 5 school days, the rules above also apply to permit appeals against the first exclusion decision that takes the number of days over 5.

6. Prior to the Appeal Meeting

The board of governors should;

- Not discuss the exclusion with any party outside the meeting.
- Take steps to enable and encourage the excluded student to attend the meeting and speak on his or her own behalf.

7. Conduct of the Appeal Meeting

The meeting will be conducted as follows:

- a) No party (i.e. the appellant(s) and any representatives, the school's representative(s) and any representative from the LA) to the appeal meeting will be alone with the committee before, during or after the meeting
- b) The clerk will make all introductions and explains the reason for the meeting and the powers held by the committee either to uphold an exclusion or re-instate the student.

- c) The school representative, usually the Headteacher, will present the school's case. He/she can be questioned by all the other parties.
- d) The appellant(s) will be asked to give their reasons for appealing. A friend/advisor may present the appellant's case, providing that no party may be legally represented. In which case the appellant(s) will be asked if they have anything to add.
- e) The student, if present, will be asked if they wish to say anything.
- f) The other parties and the committee may question the appellant (or the appellant's representative) and/or comment on what has been said.
- g) If present, the LA representative will provide information on support for students in the LA and how similar incidents have been dealt with by other schools, and can be questioned by the committee on these, but may not comment on the specific case being discussed.
- h) The school sums up its case.
- i) The appellant(s) or their representative sum up their case.
- j) All the parties leave.

8. The Decision

After the hearing, the committee will apply the 'balance of probabilities' standard of proof to the allegation(s) against the student and decide whether or not (1) the conduct alleged occurred and (2) if it finds that it did whether the Headteacher's decision to exclude the student was justified, based on the evidence. The more serious the allegation, the more convincing the substantiating evidence needs to be to find that it occurred. This is not the same as requiring the criminal standard of 'beyond all reasonable doubt' to be applied.

The clerk may help the committee in making its decision by reference to notes taken, by reminding them of good practice procedures and the procedures outlined in this policy where relevant and by wording the decision letters afterwards.

In reaching a decision, the committee should be mindful that exclusion cannot be justified by:

- A breach of uniform or appearance, except for persistent defiance
- Minor incidents such as failure to complete homework or to bring in money owed
- Poor academic work
- Lateness or truancy
- Pregnancy

The committee will also take into account government guidance which sets out reasons why it would normally be inappropriate to reinstate a student. These are:

- Serious actual or threatened violence against another student or a member of staff
- Sexual abuse or assault
- Supplying illegal drugs
- Persistent and malicious disruptive behaviour, including open defiance or refusal to conform to school rules.

Fixed term exclusions:

In the case of fixed term exclusion, it is possible that the exclusion may already have expired, and the student is back in school. In that case the outcome will be added to the student's record for future reference.

In rare cases, the parents may have already decided that they do not want their child reinstated whatever the committee's decision. Under those circumstances, the committee should simply record whether they believed that the conduct alleged took place and whether the Headteacher's decision was justified. This view should be recorded and sent to the parents/appellants.

If the fixed term or permanent exclusion is still operative at the time of the committee's decision:

- The committee will decide whether or not the Headteacher's decision to exclude was justified.
- They can either uphold the exclusion, which will have to run its course, or direct the student's reinstatement either immediately or on a named (earlier) date
- The committee through the clerk must inform the appellant (and the student if aged 18 or over) and the Headteacher of their decision in writing within one school day of the hearing, giving the reasons. They may not attach any conditions to any direction they have given the Headteacher to reinstate the student.
- The school has in place established procedures both for the return to school of a student whose fixed term exclusion has been upheld, and for the reinstatement of a student whose exclusion has been overturned. On their return, a student first has a meeting with the Head teacher or another senior member of staff, responsible for the student's welfare, along with his/her parents.

When the committee decides to uphold a permanent exclusion, a letter to the appellant (and to the student if aged 18 or over) will state:

- Their reason for the decision
- The right to appeal to an Independent Review Panel, together with the name and address of the person to whom any request for a review should be sent (see paragraph 9 below)
- The date by which any request for a review should be lodged
- That any request for a review must set out the grounds on which the request is made

If the committee decides to overturn the exclusion, again as with fixed term exclusions, the decision as to whether there is to be an immediate reinstatement or a later date for this to occur will be conveyed to all parties. A note of the governing body's views on the exclusion will be placed on the student's school record with copies of relevant papers.

9. Independent Review Panels

We advise parents/carers/students aged 18 or over that they can request a review of the decision by the committee to uphold a permanent exclusion by an independent review panel.

The Disabilities Trust is responsible for managing and training independent panels concerning cases of permanent exclusion and must ensure that all panel members and clerks have received training within the two years prior to the date of the review.

An independent review panel can either uphold the decision of the committee or recommend that the committee reconsiders its decision, taking account of the findings of the panel. If the panel has grounds for believing that the committee's decision was flawed, it can direct the committee to reconsider their decision.

The Disabilities Trust may appoint a clerk to provide advice to the panel and parties to the independent review on procedure, legislation and statutory guidance on exclusions.

If requested by parents, the Disabilities Trust must appoint a SEN expert to attend the panel and will cover the associated costs of the appointment.

Where an application for an independent review has been made within 15 school days the student will remain on the school roll until the review has been held and its outcome known.

The Headteacher will, however, remove the name of the student from the school admissions register if:

- 15 school days have passed since the parents were notified of the committee's decision to uphold the permanent exclusion.
- The parents have stated in writing that they will not be applying for an independent review.

If either a First Tier Tribunal or the County Court upholds a claim of discrimination against the school, the school will comply with any order made by that body to reinstate the student.

10. Parenting Orders

Under the anti-social Behaviour Act 2003, LAs have powers to apply for a parenting order to help address children's behaviour in school. A parenting order is a court order which compels parent(s) to comply for a period not exceeding twelve months with requirements as determined necessary by the court (such as attending parenting classes) for improving their child's behaviour.

Parenting orders will only be considered following a permanent exclusion or a second fixed term exclusion within 12 months, particularly if parents have not responded to the opportunity to meet with us or the governor's committee.