INCLUSION AND ACCESS

**Autumn Term 2022/23 Update**

**5 September 2022**

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| **INTRODUCTION:** |

This Brief is annually produced to update Head teachers[[1]](#footnote-2) and TFC Services on the following;

* Department of Education (DFE) Suspensions and Permanent Exclusions statutory guidance and any updates in relation to their duties when excluding pupils.
* the referral process to the Vulnerable Pupils Panel
* the current Fair Access Protocols (which incorporates, In Year Transfers and Fair Access)
* the current Managed Move Protocols
* the responsibility of headteachers to inform their Local Authority of children missing out on education

The DfE has produced a number of guides to support schools and local authorities in ensuring carry out their statutory duties when educating children and young people.

**Please be reminded that the Inclusion and Access Team now work agilely and remotely. Please see Useful Contacts, page 13 for contact details. Any documentation must be sent electronically.**

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| 1. **BEHAVIOUR:** |

* 1. **General Information**The DfE has recently published a variety of guidance documents which can be related to behaviour in schools which includes; the Behaviour in Schools guidance, updated Suspension and Permanent Exclusion guidance, and updated Searching, Screening and Confiscation guidance. Behaviour in Schools and the Suspensions and Permanent Exclusion Guidance was updated to reflect the consultation that took place between 3 February 2022 and 31 March 2022.

Disciplinary powers that school have remain in place, and as always permanent exclusions should only be used as a last resort and consistent with relevant legislation. See Section 2 – Suspensions and Exclusions for further guidance relating to exclusions.

Response to the public consultation can be found at [Revised behaviour in School guidance and suspension and permanent exclusion guidance: government response to the public consultation](https://www.gov.uk/government/consultations/revised-behaviour-in-schools-guidance-and-suspension-and-permanent-exclusions-guidance)

* The updated [Behaviour in Schools guidance](https://www.gov.uk/government/publications/behaviour-in-schools--2) has been rewritten to provide more practical advice for all school staff and is organised into four sections: Creating and Maintaining High Standards of Behaviour, Responding to Behaviour, Preventing Recurrence of Misbehaviour, and Guidance on Specific Behaviour Issues. The updated guidance provides further advice which reflects the importance of the proactive and preventative work that schools can do to ensure high standards of behaviour. Further details below.
* The updated [Suspension and Permanent Exclusion guidance](https://www.gov.uk/government/publications/school-exclusion) sets out legislative changes to expand the headteacher’s duty to inform where relevant social workers and virtual school heads if a child in their care has been excluded and to notify local authorities of all suspensions immediately. These legislative changes are reflected in the School Discipline (Pupil Exclusions and Reviews) (England) (Amendment) Regulations 2022. The guidance also includes information on the limitations of the headteacher’s power to cancel an exclusion, the use of managed moves, off-site direction, examination of data by governing boards and off-rolling.
* The updated [Searching, Screening and Confiscation guidance](https://www.gov.uk/government/publications/searching-screening-and-confiscation) – The former Secretary of State for Education Rt Hon Nadhim Zahawi MP committed to an urgent review of the Searching, Screening and Confiscation guidance following the events involving Child Q. Specifically, the guidance has been updated to emphasise safeguarding policies as well as being restructured to provide clear advice to staff and parents on how and when to safely screen or search a child. The guidance also provides new advice on recording searches, informing parents, and supporting the voice of the child.

It is recommended that your behaviour policies reflect the changes in the guidance accordingly. Don’t forget to ensure that children, parents/carers are informed of any subsequent changes to policies.

* 1. **Behaviour in Schools**

[](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1101597/Behaviour_in_schools_guidance_sept_22.pdf)The DFE’s Behaviour in Schools Guidance provides advice and related legal duties of headteachers and members of staff on behaviour in schools. The guidance was produced to support headteachers and staff to improve and maintain high standards of behaviour in schools.

The guidance sets out advice around; communicating the behaviour policy; whole school approach to behaviour; behaviour curriculum; the role of school leaders, teachers and staff; the role of pupils and the role of parents; behaviour expectations and pupils with special educational needs and/or disability. The guidance also offers advice around responding to behaviour and strategies to use to support good behaviour in schools.

It is advisable that all staff read the guidance. Some important points from the guidance include;

* + 1. **Behaviour Policy**A behaviour policy is the starting point for laying out a school’s vision for behaviour in school. Schools should be clear about which behaviours are permitted and prohibited, the values, attitudes and beliefs they promote throughout the school community. Headteachers are responsible for implementing measures to secure acceptable standards of behaviour and they should ensure the school’s approach to behaviour meets the national minimum expectation which is aligned with the Ofsted ‘good’ grade descriptor for assessing Behaviour and Attitudes. School leaders should visibly and consistently support all staff in managing pupil behaviour through following the behaviour policy.  
         
       Further details regarding the principles of a behaviour policy and what it should include is detailed in the Behaviour in School guidance, Page 8.
    2. **Sanctions**The Behaviour in Schools guidance also refers to acceptable forms of sanctions and provides examples of sanctions that that could be included in a behaviour policy (i.e. verbal reprimand; setting of written tasks; loss of privileges; school based community service; regular reporting). The law allows teachers to sanction pupils whose conduct falls below the standard which could reasonably be expected of them. A sanction is lawful if it satisfies the following three conditions;

*(a) The decision to sanction a pupil is made by a paid member of school staff (but not one who the headteacher has decided should not do so) or an unpaid member of staff authorised by the headteacher;*

*(b) The decision to sanction the pupil and the sanction itself are made on the school premises or while the pupil is under the lawful charge of the member of staff; and*

*(c) It does not breach any other legislation (for example in respect of equality, special educational needs and human rights) and it is reasonable in all the circumstances.*

The Behaviour in Schools guidance outlines what the law allows issuing **detentions** as a sanction, see page 21 of the guidance**.**

The guidance includes;

1. A school’s behaviour policy should make clear that a detention can be used as a possible sanction and should include what could be considered when imposing detentions.
2. Teachers have the authority to issue detentions, including same-day detentions. However, this should be laid out clearly in the behaviour policy.
3. Detentions outside normal school hours can be lawful if certain conditions are met.

**Removal from classroom** should be considered as a serious sanction and should only be used when necessary and once other behavioural strategies have been attempted, unless the behaviour is so extreme as to warrant immediate removal, see page 23 of the Behaviour in School Guidance. Headteachers should make it clear in the school behaviour policy that removal may be used as a response to a serious misbehaviour. The guidance provides three reasons why removal should be used;

1. *to maintain the safety of all pupils and to restore stability following an unreasonably high level of disruption;*
2. *to enable disruptive pupils to be taken to a place where education can be continued in a managed environment; and*
3. *to allow the pupil to regain calm in a safe space.*

A school’s behaviour policy should outline the principles governing the length of time that it is appropriate for a pupil to be in removal. Pupils should not be removed from classrooms for prolonged periods of time, without the explicit agreement of the headteacher. The removal location should be in an appropriate area of the school, stocked with appropriate resources, a suitable place to learn and is supervised by trained members of staff – trained in both the school behaviour policy and the interpersonal skills necessary to manage pupils with a variety of challenging behaviours and contexts. There should be a clear process for the reintegration of a removed pupil. Governance advice regarding removal from the classroom is also detailed in the Behaviour in Schools guidance, see page 24.  
  
If a pupil has a social worker, it is recommended that their social worker should be notified if they are removed from class. If the pupil is cared for, ensure their Personal Education Plan is appropriately reviewed and amended and notify their Virtual School Head.

**Suspension and Permanent exclusion** are other sanctions that a school may consider. See Section 2. below.

Behaviour in Schools and the Suspension and Permanent Exclusion Guidance also refers to **managed moves** as essential behaviour management tools. See Sections 2.1.5. and 4. for further information.

* 1. **Other Useful Documents and Websites Links**
     1. [Use of reasonable force in schools](https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools)– advice for school leaders, staff and governing bodies.   
        It is recognized that there are circumstances when it is appropriate for staff in schools to **use reasonable force** to safe-guard children. Reasonable force covers the broad range of actions used by staff that involve a degree of physical contact to control or restrain children. Members of staff have the power to use reasonable force to prevent pupils committing an offence, injuring themselves or others, or damaging property and to maintain good order and discipline at school. The Behaviour in Schools guidance also states that authorized staff may also use such force, as is reasonable, when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco, fireworks, pornographic images or articles that they reasonably suspect have been or are likely to be used to commit an offense or cause harm. Force may not be used to search for other items banned under the school rules. **N.B.** force cannot be used to search for other items banned under the school rules.
     2. [**Keeping children safe in education**](https://www.gov.uk/government/publications/keeping-children-safe-in-education--2?utm_medium=email&utm_campaign=govuk-notifications&utm_source=006309a8-532e-408a-8143-78ea3ab9eef7&utm_content=daily)All school staff have a responsibility to provide a safe environment in which pupils can learn. It is also essential that all staff are aware of their safeguarding responsibilities as set out in statutory guidance Part 1 of Keeping children safe in education (KCSIE).  
        Statutory guidance for schools and colleges on safeguarding children and safer recruitment came into effect on 1 September 2021, replacing previous versions. The guidance was updated on 1 September 2022 and includes some further updates compared to the version published in May 2022. Annex F provides changes made. See [Keeping children safe in education 2022](https://www.gov.uk/government/publications/keeping-children-safe-in-education--2?utm_medium=email&utm_campaign=govuk-notifications-topic&utm_source=0ce27317-f79a-4e37-a37e-a28e4fe95d25&utm_content=daily).
     3. [Creating a culture: a review of behaviour management in schools](https://www.gov.uk/government/publications/behaviour-in-schools) - Tom Bennett’s independent review on behaviour in schools
     4. [Behaviour and discipline in schools](https://www.gov.uk/government/publications/behaviour-and-discipline-in-schools-guidance-for-governing-bodies) - statutory guidance for governing bodies
     5. [Respectful school communities: self-review and signposting tool](https://educateagainsthate.com/resources/respectful-school-communities-self-review-signposting-tool-2/)
     6. [Improving school attendance: support for schools and local authorities](https://www.gov.uk/government/publications/school-attendance/framework-for-securing-full-attendance-actions-for-schools-and-local-authorities)
     7. [Mental health and behaviour in schools](https://www.gov.uk/government/publications/mental-health-and-behaviour-in-schools--2)
     8. [Teaching about mental wellbeing](https://www.gov.uk/guidance/teaching-about-mental-wellbeing)
     9. [Promoting children and young people’s emotional health and wellbeing](https://www.gov.uk/government/publications/promoting-children-and-young-peoples-emotional-health-and-wellbeing), published by Public Health England (PHE)
     10. [Preventing bullying](https://www.gov.uk/government/publications/preventing-and-tackling-bullying)
     11. [SEND code of practice: 0 to 25 years](https://www.gov.uk/government/publications/send-code-of-practice-0-to-25)
     12. [Back to school advice (England)](https://contact.org.uk/advice-and-support/covid-19/back-to-school-advice-(england)/)
     13. [Whole school approach: managing poor behaviour](https://www.gov.uk/government/case-studies/whole-school-approach-managing-poor-behaviour), case study
     14. [Using rewards: encouraging good behaviour](https://www.gov.uk/government/case-studies/using-rewards-encouraging-good-behaviour), case study
     15. [School behaviour management case studies report](https://www.gov.uk/government/publications/school-behaviour-management-case-studies-report), case study
     16. [Behaviour interventions](https://educationendowmentfoundation.org.uk/education-evidence/teaching-learning-toolkit/behaviour-interventions), published by the Education Endowment Foundation (EEF)
     17. [Low-level disruption in classrooms: below the radar](https://www.gov.uk/government/publications/below-the-radar-low-level-disruption-in-the-countrys-classrooms), published by Ofsted

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| **2. SUSPENSIONS / PERMANENT EXCLUSIONS:** |

* 1. [](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1101498/Suspension_and_Permanent_Exclusion_from_maintained_schools__academies_and_pupil_referral_units_in_England__including_pupil_movement.pdf)**Statutory Requirements / Guidance**

The DfE Suspension and Permanent Exclusion Guidance was updated and came into effect in September 2022.

The main changes to the guidance includes;

1. Headteachers may cancel a permanent exclusion that has not been reviewed by the governing board. This was previously referred to as withdrawing an exclusion (also in some instances known as rescinding). If this occurs, Headteachers should notify parents, the governing board and the local authority and if relevant, the social worker and Virtual School Headteacher (VSH). Parents should be offered the opportunity to meet with the headteacher to discuss the circumstances that led to the exclusion being cancelled. Governors should be informed at least once per term on the number of exclusions cancelled. The pupil should be allowed back into school.
2. When headteachers suspend or permanently exclude a pupil they must, without delay, notify parents. Legislative changes mean that if a pupil has a social worker, or if a pupil is cared for, the headteacher must now, also without delay after their decision, notify the social worker and/or VSH, as applicable.
3. When headteachers **suspend** or permanently exclude a pupil, they must also notify the local authority, without delay. Legislative changes mean that this must be done regardless of the length of a suspension. Previously schools did not have to inform the L.A without delay of suspensions.
4. The Guidance provides further details on the role of a social worker and VSH, during governing board meetings and Independent Review Panel meetings.

**Governing Board Meetings**Social workers should, as far as is possible, attend the governing board meetings to share information. This should include helping to identify how the pupil’s circumstances may have influenced the circumstances of the pupil’s suspension or permanent exclusion and ensuring that safeguarding needs and risks and the child’s welfare are taken into account.   
  
The VSH should also, as far as possible, attend the governing board meeting to share information where the pupil is cared for, providing information that helps the governing board to understand the pupil’s background and circumstances. They should also be able to advise the board on the possible contribution that the pupil’s circumstances could have made to the suspension or permanent exclusion.   
  
**Independent Review Panels**Where a social worker or a Virtual School Headteacher are present the Independent Review Panel must have regard to any representation made. The focus of the social worker’s advice should be on whether the pupil’s welfare, safeguarding needs and risks were considered in the lead up to the permanent exclusion. If the social worker believes that this was not the case, they should, where possible, advise the panel on the contribution that the pupil’s needs could have made to the circumstances of the pupil’s permanent exclusion. Guidance to Virtual School Heads on their attendance at an independent review.   
  
The focus of the VSH role for any LAC should be on helping the panel consider whether the child's background and educational needs were considered by the headteacher in the lead up to the permanent exclusion, including whether any additional support to the pupil could be provided to improve their behaviour and avoid exclusion where possible. If the VSH believes that this was not the case, they should, where possible, advise the panel on the contribution that the pupil’s needs could have made to the circumstances of the pupil’s permanent exclusion.

1. Guidance on managed moves, what they are and how they should be used. The Behaviour in School guidance states; *A managed move is used to initiate a process which leads to the transfer of a pupil to another mainstream school permanently*. *Managed Moves should only occur when it is in the pupil’s best interests*. See Section 4 for further details.
2. Clarified guidance on the use of off-site direction as a short-term measure that can be used as part of a maintained school’s behaviour management strategy. The Suspension and Permanent Exclusion guidance states; *An Off-site direction is when a governing board of a maintained school requires a pupil to attend another education setting to improve their behaviour, Section 29A of the Education Act 2002.* Although this legislation does not apply to academies, Academies can arrange off-site provision for such purposes under their general powers. See Section 5 for further details.
3. Further guidance on the practice of involving pupils so that any pupil suspended/excluded is enabled and encouraged to participate at all stages of the suspension or permanent exclusion.   
     
   When deciding to suspend or permanently exclude headteachers should take the pupil’s views into account, unless it would not be appropriate to do so, and should inform the pupil about how their views have been factored into any decisions made.   
     
   When preparing for the consideration of a suspension or permanent exclusion steps should be identified to enable and encourage the suspended or permanently excluded pupil to attend the governing board meeting (when applicable[[2]](#footnote-3)), and speak on their behalf, taking into account the pupil’s age and understanding and how they may feed in their views by other means if attending the meeting is not possible.
4. Guidance for governing boards to ensure that they review data to consider the level of pupil moves and the characteristics of pupils who have been permanently excluded to ensure the sanction is only used when necessary as a last resort. Further details of the duties of the Governing Body when considering a suspension or permanent exclusion, which have also been updated, can be found in Section 7 of the Suspension and Permanent Exclusion Guidance.
5. The guidance also provides further details on unlawful exclusions and off-rolling. For instance, telling or forcing a pupil to leave school, or not allowing them to attend school, is a suspension (if temporary) or permanent exclusion (if permanent). It would also be unlawful to exclude a pupil simply because they have SEN or a disability that the school feels it is unable to meet.
   1. **Risk of Suspension / Permanent Exclusion**As mentioned in a previous Inclusion and Access brief and as the Coronavirus is still active and continues to have some impact on pupils, please remember when pupils begin to re-engage with school routines following a long period of absenteeism it is predicted that a pupil’s behaviour may become challenging and children may display behaviours that could be deemed as in breach of school’s behaviour policies. In these instances, please consider previous advice as outlined below;

* School teams should risk assess and consequently develop a school-based plan designed to meet the pupils needs, reduce the risk of incidents occurring and consider the safety and wellbeing of the pupil themselves, other pupils and school staff.
* Reference should be given to the SEN Range Guidance, EHCPs and other assessment processes. School staff can consider proactive and responsive plans based on their understanding of the child’s needs.
* Pastoral Support Plans and Behaviour Plans are all useful templates for school-based plans. These can also be supported by resources which can be found on the [Link School’s Behaviour Support Service website](https://www.linkschool.org.uk/services-to-schools/behaviour-support-service/). All plans should be monitored, reviewed and adapted where necessary.
* Where the individual planning for identified pupils with SEN is providing challenging school staff should liaise with their SEN Support Officer and well as other agencies that the child and family may be involved with.
* Where an alternative to a mainstream timetable is considered, parent/carer and other agencies that the child is working with should be consulted and a consensus agreed. Schools should ensure that the child is included on the CMOOE (children missing out on education) template which is requested on a termly basis (see section 6 below).
* Where detailed planning and implementation has taken place and the behaviour continues to prove to be challenging schools can refer the pupil to the Vulnerable Pupils Panel (see Section 3 below).
* If a child has an EHCP and there are specific concerns about the individual’s needs in attending school this should be addressed through a discussion with parents and considered via the SEND risk assessment.

2.3. **A recap and summary of Statutory guidance for those who have a legal responsibility for schools**  
No school wishes to suspend or permanently exclude a pupil however, where there is significant breach or persistent breaches of the school behaviour policy and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others then headteachers can consider a suspension or a permanent exclusion.  
  
Parent/carer should be notified of the suspension/exclusion and the reasons for it without delay. Where the pupil is open to social care, schools should inform the social worker prior to the exclusion where possible and if the child is cared for schools should also contact the Headteacher of the Virtual School.

Parent/carer should also be notified **in writing,** without delay; the reason for the suspension/permanent exclusion; the period of a suspension or if a permanent exclusion the fact it is permanent; parent’s right to make representation to the governing board and how the pupil may be involved; how any representation should be made and the parent’s right to attend a meeting when applicable. Written notification can be provided by delivering it directly to the parents, leaving it at their usual or last known home address, or posting it to that address. Notices can be given electronically if the parents have given written agreement for this kind of notice.  
  
The length of time a pupil can be suspended has not changed. The guidance states that a child can only be suspended up to 45 school days in one school year, **even if the pupil has changed schools during the academic year.** If it is becoming apparent that a child is receiving a number of numerous suspensions the Headteacher should consider whether suspension is providing an effective sanction.  
  
Refer to relevant web links referred to in the Exclusion guidance which includes.

* Sunderland Information, Advice and Support Services: <https://cyp.iassnetwork.org.uk/service/sunderland-send-information-advice-and-support-service-parent-partnership/>
* Coram Children’s Legal Centre - <http://www.childrenslegalcentre.com/>
* ACE Education - <http://www.ace-ed.org.uk/>
* National Autistic Society (NAS) Education: Exclusion Service (England) - <https://www.autism.org.uk/advice-and-guidance/topics/education/exclusions>
* Independent Parental Special Education Advice - <https://www.ipsea.org.uk/>
* Council for disabled children - <https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network>

The law **does not** allow for extending a suspension or ‘converting’ a suspension into a permanent exclusion.

Only the headteacher of a school can suspend or permanently exclude a pupil on disciplinary grounds. Any decision of a headteacher, including suspension or permanent exclusion, must be made in line with the principles of administrative law, i.e. that is: **lawful** (with respect to the legislation relating directly to suspension and permanent exclusion and a school’s wider legal duties); **reasonable; fair; and proportionate**. When establishing the facts in relation to a suspension or a permanent exclusion decision the headteacher 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.

2.4. **Notifying the L.A. of suspension/permanent exclusions.**The Headteacher has a duty to inform the local authority of all suspensions and permanent exclusions without delay. For a child that has been permanently excluded where the pupil lives outside the local authority of which the school is located the headteacher must also inform the ‘home authority’ of the permanent exclusion and the reason for it without delay. The local authority must be informed of the reason of the suspension/permanent exclusion the date of the permanent exclusion or the duration of a suspension.

Schools in Sunderland notify the Local Authority, by emailing or posting a copy of the letter notifying the parent/carer of the suspension/permanent exclusion to – [Exclusion@togetherforchildren.org.uk](mailto:Exclusion@togetherforchildren.org.uk) This process ensures L.A. data and school data corresponds in a timely manner.

The Headteacher must inform the governing board, without delay of;

* any permanent exclusion (including where a suspension is followed by a decision to permanently exclude the pupil);
* any suspension which would result in the pupil being suspended for a total of more than five school days (or more than ten lunchtimes) in a term; and
* any suspension or permanent exclusion which would result in the pupil missing a public examination or national curriculum test

2.5. **Full-time education (suspensions)**  
For a **suspension** of more than five school days, the governing body must arrange suitable full-time education for any pupil of compulsory school age.  Provision must begin no later than the sixth day of the suspension.Where it is not possible to arrange full-time education **within the first five days of a suspension,** schools should take reasonable steps to set and mark work for pupils. Where a child receives consecutive suspensions, these are regarded as a cumulative period of suspensions and therefore education must be arranged for the sixth school day of the suspension, regardless of whether this as a result of one suspensions or multiple.   
  
All suspensions/exclusions must be formally recorded.  
  
For cared for children, DFE guidance states that schools and local authorities should work together to arrange alternative provision **from the first day following the exclusion/suspension**.

* 1. **Full-time education (permanent exclusion)**If a pupil is permanently excluded from any school, Together for Children, on behalf of Sunderland City Council, has the duty to provide other suitable education.   
       
     For a pupil that resides in Sunderland Local Authority, from the sixth school day of the exclusion Together for Children, on behalf of the Local Authority, will provide a full time, interim blended programme, comprising face to face and where applicable online learning, leading to a permanent placement in an appropriate setting. Arrangements for full-time education will be organised by the Inclusion and Access Team. The Inclusion and Access Team will liaise with appropriate alternative providers and pupils’ parents to arrange appropriate educational placements. For those pupils that reside in a different local authority the Inclusion and Access Team will liaise with the local authority that the child resides in to confirm that arrangements have been made.
  2. **Internal suspensions**

Many schools in Sunderland offer internal suspensions as part of their behaviour management process prior to or instead of a suspension. Internal suspensions are used for disciplinary reasons and the objective is to remove the pupil from class, but not from the school site. It may be a formal process, but it’s not legally a suspension.

If internal suspension is one of the disciplinary measures used by a school and a child is removed to a pupil support unit, it should be reflected in the school's behaviour policy. The Behaviour in Schools, DfE Guidance refers to Pupil support units as a planned intervention occurring in small groups and in place of mainstream lessons, whose purpose can be two-fold;

* as a planned intervention for behavioural or pastoral reasons
* as a final preventative measure to support pupils at risk of exclusion.

It is recommended that when developing such units that headteachers refer to page 29 of the Behaviour in Schools, DfE Guidance. If schools have developed such units to accommodate pupils from other schools they need to consider this as a form of alternative provision and mush adhere to their legal duties, which are set out in the legislation and summarized in the [Alternative Provision Statutory Guidance](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942014/alternative_provision_statutory_guidance_accessible.pdf).

Where a pupil has an EHCP and is placed in a pupil support unit the relevant statutory duties will continue to apply.

* 1. **School Exclusions for cared for children and those pupils who have a social worker**Statutory guidance, Promoting the education of looked after children, updated February 2018 states that *“Headteachers should, as far as possible, avoid excluding any looked-after child.* This has not changed. It also states; *Where a school has concerns about a looked-after child’s behaviour, the Virtual School Head should be informed and where necessary, involved at the earliest opportunity so they can help the school decide how to support the child to improve their behaviour and avoid exclusion being necessary”.*The DfE, School suspension and permanent exclusion guidance, states that where a pupil has a social worker and they are at risk of suspension or permanent exclusion the headteacher should inform their social worker, the Designated Safeguarding Lead (DSL) and the pupil’s parents to involve them all as early as possible in relevant conversations. Where a cared for child is likely to be subject to a suspension or permanent exclusion, the Designated Safeguarding Teacher (DT)L should contact the L.A. Virtual School Headteacher (VSH) as soon as possible. The VSH and the DT and others (i.e. where relevant, social worker, foster carers, or children’s home workers), should consider what additional assessment and support need to be put in place to help the school address the factors affecting the child’s behaviour and reduce the need for suspension or permanent exclusion.   
     Schools should contact the Head teacher of the Virtual School or designated lead immediately when suspending or permanently excluding a looked after child.  
       
     The Virtual School Acting Headteacher is Anita Swales, see contact details at section 10 below.
  2. **Governing Body’s duty to consider a suspension/permanent exclusion**

Parents/carer s have a right to request the governing body consider a suspension and/or permanent exclusion. How governors consider this varies on whether it is a suspension or a permanent exclusion and if a suspension the number of days a child has been suspended.

* If a suspension does **not** bring the pupil’s total number of days of suspension to more than five in a term, the governing board must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.
* If a suspension brings a pupil’s number of days suspended over 5 days but less than 16 days in a term, and if the parents make representations, the governing board must consider and decide within 50 school days of receiving the notice of suspension whether the pupil should be reinstated. In the absence of any representations from the parents, the governing board is not required to meet and cannot direct the reinstatement of the pupil.
* The governing board **must** consider and decide on the reinstatement of a suspended or permanently excluded pupil within 15 school days of receiving notice of a suspension or permanent exclusion from the headteacher if;
* It is a permanent exclusion
* It is a suspension which would bring the pupil’s total number of school days out of school to more than 15 in a term; or
* It would result in the pupil missing a public examination or national test.  
  1. **Removing a permanently excluded pupil from the school register.**Schools are to be reminded that it is **illegal to remove a pupil from roll immediately after issuing a permanent exclusion.** Schools must ensure that removing a pupil from the school register is done under the circumstances prescribed by the Education (Pupil Registration) (England) Regulations 2006, as amended. Where a pupil has been permanently excluded a pupil should not be removed from roll until;
* 15 school days have passed since the parents were notified of the governing body’s decision to not reinstate and no application has been made for an independent review panel (IRP). Or
* The parents have stated in writing that they will not be applying for an IRP.

The deletion from the school register cannot be backdated to when the permanent exclusion began.

Where an application for an IRP has been made, the Headteacher must wait until the review has been determined, or abandoned, and until the governing board has completed any reconsideration that the panel has recommended or directed it to carry out, before removing a pupil’s name from the register. Where a pupil’s name is to be deleted from the school’s admission register a return must be made to the Local Authority. In Sunderland, schools must complete a ‘Removal from Roll’ form and forward it to EHAAT. The removal from roll form can be found at [Children Missing From Education - Together for Children](https://www.togetherforchildren.org.uk/children-missing-from-education) - Related media section.

2.11. **Data Recording - Exclusions**

It is pleasing to report that the number of exclusion data anomalies in Sunderland, reported during Census from COLLECT, the Department for Education’s centralised data collection and management system, has reduced over the last year. However, on some occasions school data returns do not correspond with Local Authority returns regarding the **reason** for the suspension or permanent exclusion. The anomalies are occurring whereby a school has identified multiple reasons for a suspension or permanent exclusion. We have been advised that management information systems can accommodate at least 3 reasons for a suspension or permanent exclusion. Therefore, please ensure that notification in writing to the parent of the suspension or permanent exclusion and the recording on the school’s data management information system correspond. Schools should identify the reason for the suspension or permanent exclusion from the DFE codes identified at Appendix 1.   
  
Where a suspension duration includes half a day, please ensure that you record on the school’s MIS system whether the exclusion commenced or ended during a morning (a.m.) or afternoon (p.m.) session. This must correspond with the notification in writing to the parent/carer.

2.12. **Statutory guidance to schools on marking attendance registers following exclusion**

Whist an excluded pupil’s name remains on a school’s admissions register the pupil should be marked using the appropriate attendance code.

* Where an alternative provision has been made (that meets the requirements of the pupil registration regulations), and the pupil attends, Code B (Education off-site) or Code D (Dual Registration), should be used.  Code D is used for dual registration of pupils attending a DFE registered school (i.e. Sunderland Link Schools, Beacon of Light, special school or another local school). Where pupils are attending alternative provision that is not registered with DFE then Code B should be used.
* Where pupils are not attending an alternative education setting, they should be marked absent using Code E.

2.13. **Exclusion/Suspension Templates**

Suspension letter templates have been updated and are available on the TfC webpage [Suspensions and permanent exclusions](https://www.togetherforchildren.org.uk/excluded-pupils).   
  
For those schools that use SIMS, we have been informed that each school that received SSC support has now appointed an alternative SIMS support provider of their own choice. Therefore, I suggest that you download the templates from the TfC webpage and request your support provider to make them available in SIMS, if required. If you require a permanent exclusion template, please contact the Inclusion and Access Team direct.

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| 1. **VULNERABLE PUPILS PANEL (VPP)** |

Vulnerable Pupils Panel Protocols has been amended to accommodate any changes to the alternative provision placement for the next academic year. This has resulted in some adaptions to the VPP Application form. there have been no changes to the Terms of Reference. Updates to the protocols and the application form include;

* Application form now requests some additional information relating to a child accessing Young Mums Tuition and clarifies the mandatory information required when considering home tuition provision.
* Application form has been amended to ensure all essential information for the panel to make an informed decision is included. Where essential information is not included and/or attached referral will be returned and not considered by the Panel.
* Protocols amended to include any change in details of an alternative provisions’ placement in relation to entry, process and exit and provides a clearer link to the SEN ranges for children with SEMH.
* Any updates in change in contact details.
* Clarification around applications must be signed by the headteacher of the school where the pupil’s main registration is.
* Notification that any schools referring a cared for or previously cared for pupil to the VPP they must contact the Acting Headteacher of the Virtual School.
* Notification that any school referring a child with and EHCP for a Hopespring placement must liaise with their L.A. SEN case worker.

All headteachers and core members of the Panel have been notified of the dates and times of meetings. **N.B.** See Appendix 2 of this document as there has been a slight amendment to the original dates.

The updated application form will be uploaded onto the Together for Children Website w/c 05/09/22. See [Vulnerable Pupils Panel | Together for Children](https://www.togetherforchildren.org.uk/services/vulnerable-pupils-panel).

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| 1. **MANAGED MOVES** |

The government recognises that managed moves can be an essential behaviour management tool and can be used to establish high standards of behaviour in schools.   
  
The DfE refer to a managed move as a preventative measure to exclusion, however DfE also stipulates that a managed move is a permanent measure. It should be used to initiate a process which leads to the transfer of a pupil to another mainstream school permanently. It continues to be a voluntary arrangement and should be agreed with all parties involved, including parents and the admission authority of the new school. Managed moves should only occur when it is in the best interests of the pupil.  
  
Where a child has an EHC plan and the child’s current school is considering a managed move, the child’s current school should contact the local authority prior to the managed move taking place. Where the local authority, both schools involved and the parents are in agreement with the managed move the local authority will need to follow the statutory procedures for amending a plan. Where a pupil has an EHCP, the relevant statutory duties on the new school and the local authority will apply.

As with our current protocols, the managed move should be preceded by information sharing between the original school and the new school. This should include data on prior and current attainment, academic potential, a risk assessment and advice on effective risk management strategies. The new school should also provide the pupil with an effective integration strategy.

Where a parent believes that they are being pressured into a managed move or they are unhappy with a managed move, they can take up the issue through the school’s formal complaints procedure, and where appropriate the local authority.

DFE also state that; *Ofsted will consider any evidence found of a parent being pressured into a managed move that has resulted in off-rolling and is likely to judge a school as inadequate on the basis of such evidence.*

The DfE guidance also states that if a temporary move needs to occur to improve a pupil’s behaviour, then an off-site direction should be used.

An initial meeting to discuss changes to the current local protocols for managed moves will take place **on 16 September 2022.** For further information, please contact Michelle Burlinson or Shelley Robson.

It is recommended that those pupils that are currently engaging in a managed move continue to do so, however schools need to be mindful that the DfE have stipulated that a managed move should be used to initiate a transfer for a permanent move.

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| 1. **OFF-SITE DIRECTION** |

The government recognises that an off-site direction can be an essential behaviour management tool and can be used to establish high standards of behaviour. The DfE Suspension and permanent exclusion guidance clarifies the guidance on the use of off-site direction, as a short -term measure that can be used as part of a school’s behaviour management strategy. Headteachers should refer to Section 29A of the Education Act 2002. The legal requirements and statutory guidance relating to this power are set out in guidance on alternative provision: <https://www.gov.uk/government/publications/alternative-provision>. Whilst the alternative provision guidance section does legally apply to maintained schools, academy trusts are also encouraged to follow this guidance.

Off-site directions should only be used where in-school interventions and/or outreach have been unsuccessful or are deemed in appropriate. They should also only be used to arrange a temporary stay in either alternative provision or another mainstream school.

During an off-site direction to another school, pupils must be dual registered.   
  
Any off-site provision should be approved by the pupil’s main school and supervised by someone authorized by the school. The main school are responsible for the safeguarding and welfare of pupils taking part in an off-site educational activity.

Depending on the individual needs and circumstances of the pupil the alternative provision can be full-time or a combination of part-time support in alternative provision and mainstream provision. A proposed maximum period of time should be discussed and agreed upon as part of the planning phase of an off-site direction. During the planning phase alternative options should be considered once the time limit has been reached.

Monitoring of progress should take place within appropriate timescales. The governing board must ensure that parents (and the local authority if a child has an EHCP) are notified in writing and provided with information about the placement after the direction has been made. Parents and, where a pupil has an EHCP, the local authority, can request in writing that the governing board hold a review meeting. Governing bodies must comply with the request unless there has already been a review meeting in the previous 10 weeks. Review meetings should be held whilst the requirement remains in effect. Parents must receive a written invitation to attend or submit their views as to whether the off-site direction should continue, six days before the date of a review meeting. The placement must be kept under review and each review meeting should discuss whether the requirement should continue and for what period of time. Review meetings should take place between the school, parents, pupil and other agencies, including the local authority if the child has an EHC plan. Reviews should be recorded in writing and be frequent enough to provide assurance that the off-site direction is achieving its objectives.

An appropriate reintegration plan should be considered to support a pupil attending alternative provision and the focus of the intervention should ensure that a pupil continues to receive a broad and balanced curriculum whilst any inappropriate behaviours which require intervention are being addressed.

If a pupil with a disability or SEN has been moved off-site, the duties under the Equality Act 2010 and the Children’s Families Act 2014 continue to apply.

There is no time limit stipulated in any DfE guidance on the length of an off-site direction, however the length of time a pupil spends in another mainstream school or AP will depend on what best supports the pupil’s needs and potential improvement in behaviour.

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| 1. **CHILDREN MISSING OUT ON EDUCATION (CMOOE)** |

When carrying out inspections, Her Majesty’s Inspectors will ask for detailed and specific data on school-age children, for whom the local authority is responsible, but who are not engaging in full-time education. All Local Authorities have a statutory duty to arrange suitable full-time education[[3]](#footnote-4) for children of compulsory school age at school, or otherwise for children and young people who do not attend school in the usual way[[4]](#footnote-5)In Sunderland, primary, secondary and special schools and academies complete a template on a termly basis and now forward it to the Together for Children, School Improvement Data Team. All information sent between the local authority and schools that contain individual pupil data is encrypted and sent securely. Children included on this template will be those children that schools currently have on roll and who are not receiving their full-time entitlement at the pupil’s main school.

See Appendix 3 below for the schedule timetable for CMOOE returns for 2022/2023. If you require a copy of the CMOOE Template and/or guidance, please do not hesitate to contact the School Improvement Data Team, Michelle Burlinson or Shelley Robson.

CMOOE is different to children missing in education (CME). Please refer to [Children Missing From Education | Together for Children](https://www.togetherforchildren.org.uk/children-missing-from-education), in the Media Related Section, for the referral form for those children that are no longer attending school and you believe may be missing from education.

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| 1. **IN YEAR FAIR ACCESS (In Year Application Process)** |

Sunderland’s Fair Access Protocols were updated in May 22 following consultation.

They are incorporated in the In Year Application Process. These were updated as a result of the changes to the [School Admissions Code Statutory Guidance](https://www.gov.uk/government/publications/school-admissions-code--2?utm_medium=email&utm_campaign=govuk-notifications&utm_source=d458d514-799b-464a-a342-04352eae1940&utm_content=daily), which came into effect from September 2021. The DfE’s [Fair Access Protocols Guidance](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1012993/FAP_Guidance.pdf) was also updated recently in line with the changes to the Admissions Code.



The In Year Application Process now incorporates a referral form to be completed when a school is referring an application for a school place under the Fair Access protocols.

Transfer applications still need to be processed in the normal way and parents have the right to appeal against any application declined, even if referred under Fair Access protocols. Fair Access meetings are scheduled to meet on a weekly basis as from Friday 16/09/22.   
  
Further information can be obtained from Michelle Burlinson or Shelley Robson or email [IYFA@togetherforchildren.org.uk](mailto:IYFA@togetherforchildren.org.uk).

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| 1. **BEHAVIOUR AND ATTENDANCE PARTNERSHIP** |

The Behaviour and Attendance Partnerships (BAPs) are held five times a year. There are two BAPs, one for Primary Headteachers and one for Secondary Deputy or Assistant Headteachers responsible for Behaviour and Attendance in schools.   
  
The Purpose of the BAPs are to work together to improve behaviour and reduce absenteeism in schools. The Partnership provide a conduit for; sharing best practice, providing training/resources and guest speakers and updating schools on any developments/services within Together for Children.   
  
The first BAPs for the academic year 2022/23 are scheduled to take place on 13th and 14th October 2022. See Appendix 4 for the schedule of BAP Meetings.

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| 1. **ALTERNATIVE PROVISION** |

The [Alternative Provision Directory](https://www.togetherforchildren.org.uk/services/alternative-provision-directory) has been updated and will be available on the Together for Children’s website from w/c 05/09/22. Updates reflect any changes to the provisions included in the directly. The directory was developed to provide free and impartial information to schools on alternative provision and/or services that can support children with social, emotional and mental health difficulties.   Together for Children is not responsible for quality assuring the alternative providers or services contained in the directory. Together for Children cannot endorse or recommend any providers listed. Whilst every effort has been made to ensure the accuracy of the information on this site, Sunderland City Council and Together for Children cannot guarantee the accuracy of any information supplied by service providers; third parties or for any information accessed via links to other websites. Together for Children would recommend that you always check with providers listed to ensure that their service or organisation meets your requirements.

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| 1. **USEFUL CONTACTS** |

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| Michelle Burlinson Access and Inclusion Officer Together for Children  Mobile:07769 887602 email:[michelle.burlinson@togetherforchildren.org.uk](mailto:michelle.burlinson@togetherforchildren.org.uk) | Shelley Robson Access and Inclusion Business Support Together for Children  Mobile: 07765 429145 email:[shelley.robson@togetherforchildren.org.uk](mailto:shelley.robson@togetherforchildren.org.uk) |
| **Business Support – Exclusion**  Together for Children email: [Exclusion@togetherforchildren.org.uk](mailto:Exclusion@togetherforchildren.org.uk) | **Vulnerable Pupils Panel**  email: [VPP@togetherforchildren.org.uk](mailto:VPP@togetherforchildren.org.uk) |
| **In Year Fair Access Referrals** email: [IYFA@togetherforchildren.org.uk](mailto:IYFA@togetherforchildren.org.uk) | **CME and Removal from Roll**  Tel: 0191 561 2837 email: <https://www.togetherforchildren.org.uk/services/children-missing-education> |
| **Children Missing out on Education (CMOOE)**  Template and guidance to be obtained from Michelle Burlinson, Shelley Robson or the School Improvement Data Team. | Anita Swales Acting Head Teacher Virtual School – Sunderland  Tel: 07900 350502 or email: [Anita.Swales@togetherforchildren.org.uk](mailto:Anita.Swales@togetherforchildren.org.uk) |
| Donna Walker, Headteacher  **Headteacher – The Link School, Sunderland**  The Link School - Pallion  Waverley Terrace  Sunderland  SR4 6TA  Tel: 0191 561 4777 or 561 5777 email: [donna.walker@schoools.sunderland.gov.uk](mailto:donna.walker@schoools.sunderland.gov.uk) | **School Improvement Data Team**  [school.improvement2@togetherforchildren.org.uk](mailto:school.improvement2@togetherforchildren.org.uk)  [mark.chandler@togetherforchildren.org.uk](mailto:mark.chandler@togetherforchildren.org.uk) |

Further information on the content of this brief or any other comments, please contact Michelle Burlinson, Inclusion and Access Officer at [michelle.burlinson@togetherforchildren.org.uk](mailto:michelle.burlinson@togetherforchildren.org.uk)

**APPENDIX 1 – EXCLUSION/SUSPENSION CODES AND DESRIPTORS**

The table below provides a full set of the descriptors of reasons for exclusions. This is to be used as a guide and is not intended to be used as a tick list for exclusions.

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| **Exclusion/Suspension Code** | **Pupil Exclusion/Suspension Reason** | **Descriptor** |
| **BU** | **Bullying** | Verbal, physical, cyber bullying or threatening behaviour online, racist bullying, sexual bullying, homophobic, biphobic and transphobic bullying, bullying related to disability |
| **DA** | **Drug and alcohol related** | Possession of illegal drugs  Inappropriate use of prescribed drugs  Drug dealing  Smoking  Alcohol abuse  Substance abuse |
| **DB** | **Persistent Disruptive Behaviour** | Challenging behaviour  Disobedience  Persistent violation of school rules  Raising of fire alarms falsely |
| **DM** | **Damage to property** | Damage includes damage to school or personal property belonging to any member of the school community  Vandalism  Arson  Graffiti |
| **DS** | **Abuse relating to disability** | Derogatory statements or swearing about a disability  Bullying related to disability  Disability related graffiti,  Disability related taunting and harassment |
| **LG** | **Abuse against sexual orientation and gender identity** | Derogatory statements about sexual orientation (e.g. heterosexual, lesbian, gay, bisexual) and gender identity (e.g. transgender)  Homophobic, biphobic and transphobic bullying  LGBT+ graffiti  LGBT+ taunting and harassment  Swearing that can be attributed to LGBT+ characteristics |
| **MT** | **Inappropriate use of social media or online technology** | Sharing of inappropriate images (of adult or pupil)  Cyber bullying or threatening behaviour online  Organising or facilitating criminal behaviour using social media |
| **OW** | **Use or threat of use of an offensive weapon or prohibited item** | Carrying or bringing onto the school site an offensive weapon / prohibited item such as knives, sharp instruments and BB guns,  Carrying any article that has been or is likely to be used to commit an offence, cause personal injury or damage to property  Use of an offensive weapon |
| **PA** | **Physical assault against adult** | Violent behaviour  Wounding  Obstruction and jostling |
| **PH** | **Willful and repeated transgression of protective measures in place to protect public health** | Deliberate breaching of protective measures such as (but not limited to): non-compliance with social distancing, causing distress such as through purposefully coughing very near to other pupils or adults, or any other deliberate breach of public health protective measures which the school has adopted. |
| **PP** | **Physical assault against pupil** | Fighting  Violent behaviour  Wounding  Obstruction and jostling |
| **RA** | **Racist Abuse** | Racist taunting and harassment  Derogatory racist statements  Swearing that can be attributed to racist characteristics  Racist bullying  Racist graffiti |
| **SM** | **Sexual Misconduct** | Sexual abuse  Sexual assault  Sexual harassment  Lewd behaviour  Sexual bullying  Sexual graffiti |
| **TH** | **Theft** | Stealing school property  Stealing personal property (pupil or adult)  Stealing from local shops on a school outing  Selling and dealing in stolen property |
| **VA** | **Verbal abuse / threatening behaviour against an adult** | Threatened violence  Aggressive behaviour  Swearing  Verbal intimidation |
| **VP** | **Verbal abuse / threatening behaviour against pupil** | Threatened violence  Aggressive behaviour  Swearing  Verbal intimidation |
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**APPENDIX 2 – VULNERABLE PUPILS PANEL SCHEDULE**

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| **Vulnerable Pupils Panel** | **Deadline for VPP Referrals** |
| 3pm – 5:30pm, Thursday 22 September 2022 | 12 noon, Thursday 15 September 2022 |
| 3pm – 5:30pm, Thursday 6 October 2022 | 12 noon, Thursday 29 September 2022 |
| 3pm – 5:30pm, Thursday 20 October 2022 | 12 noon, Thursday 13 October 2022 |
| 3pm – 5:30pm, Thursday 10 November 2022 | 12 noon, Thursday 3 November 2022 |
| 3pm – 5:30pm, Thursday 24 November 2022 | 12 noon, Thursday 17 November 2022 |
| 3pm – 5:30pm, Thursday 8 December 2022 | 12 noon, Thursday 1 December 2022 |
| 3pm – 5:30pm, Thursday 12 January 2023 | 12 noon, Thursday 5 January 2023 |
| 3pm – 5:30pm, Thursday 26 January 2023 | 12 noon, Thursday 19 January 2023 |
| 3pm – 5:30pm, Thursday 9 February 2023 | 12 noon, Thursday 2 February 2023 |
| 3pm – 5:30pm, Thursday 2 March 2023 | 12 noon, Thursday 16 February 2023 |
| 3pm – 5:30pm, Thursday 16 March 2023 | 12 noon, Thursday 09 March 2023 |
| 3pm – 5:30pm, Thursday 30 March 2023 | 12 noon, Thursday 23 March 2023 |
| 3pm – 5:30pm, Thursday 27 April 2023 | 12 noon, Thursday 20 April 2023 |
| 3pm – 5:30pm, Thursday 11 May 2023 | 12 noon, Thursday 4 May 2023 |
| 3pm – 5:30pm, Thursday 25 May 2023 | 12 noon, Thursday 18 May 2023 |
| 3pm – 5:30pm, Thursday 15 June 2023 | 12 noon, Thursday 8 June 2023 |
| 3pm – 5:30pm, Thursday 29 June 2023 | 12 noon, Thursday 22 June 2023 |
| 3pm – 5:30pm, Thursday 13 July 2023 | 12 noon, Thursday 6 July 2023 |

**APPENDIX 3 – CHILDREN MISSING OUT ON EDUCATION (CMOOE) TEMPLATE TIMESCALES.**

* Close of business on 21 October 2022
* Close of business on 17 February 2023
* Close of business on 26 May 2023

**APPENDIX 4 – BEHAVIOUR AND ATTENDANCE PARTNERSHIP MEETINGS.**

**N.B. Venue/Location for these meetings are to be confirmed.**

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| **Primary Behaviour and Attendance Partnerships 2022/23** | **Secondary Behaviour and Attendance Partnerships 2022/23** |
| 9:30 – 11:30 Friday, 14 October 2022 | 9:30 – 11:30 Thursday, 13 October 2022 |
| 9:30 – 11: 30 Friday, 9 December 2022 | 9:30 – 11: 30 Thursday, 8 December 2022 |
| 9:30 – 11:30 Friday, 10 February 2023 | 9:30 – 11:30 Thursday, 9 February 2023 |
| 9:30 – 11:30 Friday, 21 April 2023 | 9:30 – 11:30 Thursday, 20 April 2023 |
| 9:30 – 11:30 Friday, 23 June 2023 | 9:30 – 11:30 Thursday 22 June 2023 |

1. Headteacher or Principal [↑](#footnote-ref-2)
2. See 2.8 regarding the governing body’s duty to consider a suspension/permanent exclusion. [↑](#footnote-ref-3)
3. ‘Suitable education’ in relation to a child or young person means efficient education suitable to his/her age, ability and aptitude and to any special educational needs he or she may have [↑](#footnote-ref-4)
4. ‘Usual way’ refers to the provision attended by the vast majority of children and young people of compulsory school age in England [↑](#footnote-ref-5)