



*School Admissions
and Exclusions in
Lincolnshire*



*A Review by the Children and Young
People Scrutiny Committee
January 2013*

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Chairman of the Task and Finish Group

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Introduction

Foreword by Councillor Steve Williams, Chairman of the Task and Finish Group



This review has highlighted the pressure that all schools are facing in trying to meet the floor targets set by National Government for educational attainment. There is no evidence to suggest that any formal procedures relating to school admissions and exclusions are not being followed as a consequence of this. However, the Group has been left with the impression that there remains a risk that some schools may look to steer some young people away from their own establishment prior to the Admission process to an alternative school nearby. One of the outcomes of this Review is to recommend that scrutiny has a leading role in monitoring future admissions and exclusions data to ensure that no child is disadvantaged. We shall also be writing to lobby National Government on a number of issues including the floor target situation.

Other findings in this review highlight that officers in the School Admissions Team and the Education Out of School Team are providing excellent support to both parents and carers, and maintained schools and academies in terms of advice relating to admissions and exclusions policies and procedures. Finally, I would like to thank all who took part in this Task and Finish Group, especially the young people and parents who came forward to give evidence in this, at times difficult, investigation.

A handwritten signature in black ink, appearing to be 'S Williams'.

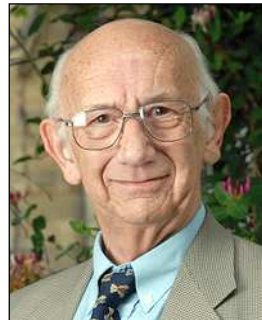
Cllr Steve Williams

Task and Finish Group Members

The Task and Finish Group also consists of the following Members:



Cllr Colin Davie



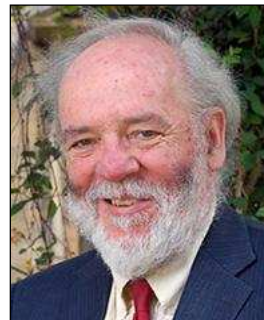
Cllr Mike Exton



Cllr Andrew Hagues



Cllr John Hicks



Cllr John Hough



***Mr Stephen Rudman –
Church Representative
Added Member***



Cllr Reg Shore



***Mrs Gill Wright
Church Representative
Added Member***

Executive Summary, Conclusions and Recommendations

The scrutiny review into School Admissions and Exclusions was established in January 2012 with the intention of scrutinising policies and procedures relating to school admissions and exclusions with the aim of ensuring that no young people are disadvantaged in the way that they are admitted to or excluded from a school.

This review was carried out between March and November 2012. As part of the review, the Task and Finish Group met eight times during which it reviewed extensive documentation, including national guidance and legislation, and the County Council's own policies. The Group also examined statistical information in relation to school admissions and exclusions, and considered a number of written responses from schools and parents. The Task and Finish Group received responses from eight schools, the Lincolnshire Parent Partnership Service, the Choice Advisors Service, the Sensory Education and Support Service, and three young people who had been excluded from school. In addition, the members of the Task and Finish Group visited five parents who had come forward to discuss their individual experiences and attended a meeting of the Shadow Transitions Board to speak to young people with learning disabilities and difficulties and their parents and carers about their own experiences with school admissions and exclusions.

There have been a number of national policy changes relating to school admissions and exclusions in 2012. A new School Admission Code and regulations came into force in February 2012 which applies to all maintained schools and which academies must comply with as required by their funding agreements. New exclusion guidance and regulations came into force in September 2012 which replaced independent appeal panels with independent review panels, which can no longer direct a reinstatement of an excluded pupil. Furthermore, in March 2012 the Office of the Children's Commissioner published a report entitled "They Never Give Up on You" following an Inquiry into School Exclusions. This Inquiry obtained detailed evidence that a minority of schools do unofficially exclude pupils and that certain groups of children and young people are more likely to be excluded from school. According to the report,

"In 2009-10, if you were a Black African-Caribbean boy with special needs and eligible for free school meals you were 168 times more likely to be permanently excluded from a state-funded school than a White girl without special needs from a middle class family."

The Task and Finish Group was satisfied that the County Council's policies in relation to school admissions and exclusions were compliant with the current legislation and regulations. There is evidence that the majority of schools and academies are conducting admissions and exclusions within the national legislation and regulations. However, there remains a concern that the pressure of meeting National floor targets for educational attainment is placing schools under unreasonable pressure and could even lead to schools looking to influence the decision of students and parents regarding their choice of school prior to submitting a formal application.

Conclusions

From the evidence and findings detailed in the report, the Task and Finish Group have drawn a number of conclusions:

- ❖ For the majority of pupils, the school admissions process works well and pupils on the whole can access one of their three preferred schools.
- ❖ There is pressure on the availability of school places, particularly in the primary sector and in the south of the county which meant that fewer parents of primary aged children have been able to achieve their first choice of school (92.6% in 2012 compared to 92.8% in 2011). In addition the

churn in pupils due to seasonal employment, especially on the coast, also has an impact on school admissions.

- ❖ A small minority of maintained schools and academies appear to be using practices to influence their pupil intake. Anecdotal evidence that has not been verified suggests that these practices may include discouraging parents from applying to their maintained school or academy or using some method of informal selection. Midyear admissions can have an impact on a school's performance figures, especially those transfers in Years 10 and 11. As a result, certain maintained schools and academies are reluctant to admit these pupils to reduce the impact on their floor targets and examination results. If the midyear admission is for a pupil in Year 10 or 11 then finding an alternative school proves even more difficult as there is a need to find courses which match the work that they have been doing at their previous school.
- ❖ The majority of maintained schools and academies view exclusions as a last resort and instead employ a wide range of strategies to cope with the pupil at risk of exclusion.
- ❖ Just under two thirds of the pupils who were excluded in Lincolnshire in the academic year 2011/12 had special educational needs (SEN).
- ❖ The anecdotal evidence from the review suggests that a small number of maintained schools and academies are unofficially excluding pupils in a number of ways, such as cooling off periods where the parent is asked to come and collect their child from school and keep them at home, suggesting to the parent and pupil about moving to another school for a fresh start and to avoid a formal exclusion, or managing when the pupil is in school such as part-time timetables. Often parents are unaware that these methods are illegal and often go along with what the maintained school or academy wants to avoid a permanent exclusion.
- ❖ The law relating to exclusions is clear, however, interpretation of this law by schools can lead to ambiguities. The Task and Finish Group believe that this includes some schools' interpretation of the independent review panels for excluded pupils.
- ❖ The School Admissions Team and the Education Out of School Team both provide excellent support and advice to parents and carers, and to maintained schools and academies, so that they fully understand their legal obligations and rights.

Recommendations

In light of the evidence and findings detailed in this report, the Task and Finish Group submit the following recommendations to the Executive:

1. The mid-term admission process introduced by this Council in 2010 has proven to be a very effective way of bringing children into education during the school year. The requirement for such a centralised system is to be removed from September 2013 and it is recommended that the system should be maintained after this date and for schools to be encouraged to use this process. (Page 14)
2. The Task and Finish Group noted the work of the Lincolnshire Parent Partnership Service and recommends that this Service is advertised as widely as possible to ensure that all parents who require assistance are made aware of the support available. (Page 15)
3. The Task and Finish Group noted the work of the Choice Advisers in supporting parents with the admission process to school and recommend that this service is promoted to the parents who require the service. (Page 15)

4. Lincolnshire County Council should write to the Secretary of State for Education enclosing a copy of this report and raising the following issues:
- a) to highlight the pressures that schools are placed under to meet national floor targets, and that the pupil profile of a particular school should be taken into account when setting these targets. (Page 20)
 - b) to request that a letter is sent to all local authorities in the country reminding them of their legal obligations in respect of informing receiving local authorities when they place children and young people within their electoral boundaries. This will allow the receiving local authority to monitor the impact on school admissions and the availability of school places. (Page 20)
 - c) to request clear and unequivocal guidance relating to unofficial exclusions from academies. This should include clear mechanisms around notification to the local authority of such exclusions and a formalised mechanism around recharging for educational provision for these pupils.
 - d) to highlight the costs implications on the local authority and the impact of informal exclusion and slow admission on the learner in the absence of clear and unequivocal guidance around implementation of fair access protocols including clear timescales for the admission of learners.
 - e) to request that the previous policy to reintegrate children who have been temporarily excluded from school is reintroduced with reference to the readmission meeting held by the school.

(The issues in Recommendation 4 are raised throughout the report.)

5. Lincolnshire County Council should write to the District Councils in Lincolnshire to request that the County Council is included as a statutory consultee when they consider planning applications for new residential developments or where there is a proposed change of use application in respect of independent children's homes. This will allow the County Council to highlight to the District Councils whether there will be any major impacts on school admissions and places in that area and for the County Council to be made aware that further school provision may be required to cope with additional pupils from outside of Lincolnshire. (Page 21)
6. The Task and Finish Group was keen to ensure that the Local Authority continues to have in place effective monitoring and accountability protocols to ensure that wherever possible and in accordance with parental preference and the legislative requirements that pupils are admitted into their local school speedily particularly in the context of increased academisation in Lincolnshire. The Local Authority should continue to monitor and challenge this and will provide appropriate information to the Children and Young People Scrutiny Committee on an annual basis. (Page 23)
7. Lincolnshire County Council should forward the final report to the Children's Commissioner for inclusion in the call for evidence for the Year 2 School Exclusions Inquiry looking at inequalities and unofficial exclusions. (Page 27)
8. The Task and Finish Group acknowledged that there is extensive helpful information provided to parents and carers around admissions and exclusions but agreed that the County Council needs to ensure that the information provided clearly sets out parental responsibilities and rights. (Page 27)

9. The Education Out of School Team should advise and support maintained schools and academies by:
- a) redistributing the Exclusions Policy to all maintained schools and academies as a reminder of their legal responsibilities and statutory duties when considering or implementing an exclusion; (Page 32 & 37)
 - b) writing to all maintained schools and academies in Lincolnshire to advise them of their responsibility to ensure that the Local Authority was informed should a young person on their roll not be in education; and
 - c) writing to all the existing academies in Lincolnshire and any new academy once it has opened, so that they are aware of their legal obligation to ensure that the new independent review panels for exclusions are independent. (Page 32)
10. The Task and Finish Group fully supports and values the work undertaken by the Education Out of School Team who provide valuable support to maintained schools and academies to ensure that they fully understand their legal obligations in respect of exclusions, and monitor exclusions at maintained schools during their transition into academy status. The Task and Finish Group recommends that the resource to this Team is maintained. (Page 32)
11. The Task and Finish Group recognised the value that the Lincolnshire Parent Partnership Service provides to parents and carers in Lincolnshire and that they are often made aware of specific issues around admissions and exclusions relating to SEN pupils. A process should be established for officers to obtain information and data from the Lincolnshire Parent Partnership Service on admissions and exclusions for children and young people with special educational needs so that any issues arising from the information can be addressed. This should be an annual report that is sent to the Children's Services Departmental Management Team and to the Children and Young People Scrutiny Committee. (Page 36)
12. The Task and Finish Group recognises the importance of the work undertaken by the Lincolnshire Teaching and Learning Centre and recommends that resources allocated for this service are maintained.
13. The Task and Finish Group has been mindful of the United Nations Convention on the Rights of the Child as this Review has progressed. In particular, every child's right to an education to develop each child's personality, talents and abilities to the fullest and to encourage each child to reach the highest level of education that they are capable of. The Group recommends that this Council remains mindful of this Convention in all strategies and policies it develops in relation to admissions and exclusions, and ensures that it reminds all schools in the County of these expectations as necessary.

Establishment of the Task and Finish Group

The Children and Young People Scrutiny Committee agreed at its meeting on 5 January 2012 that there was a need for a scrutiny review to investigate the issues around School Admissions and Exclusions in Lincolnshire after concerns had been raised about unofficial exclusions taking place across the county from a handful of sources. The Overview and Scrutiny Management Committee agreed at its meeting on 19 January 2012 to establish a Task and Finish Group to conduct this scrutiny review, and the following objectives were approved:

To examine the following issues across all types of schools in Lincolnshire:

- 1. What can the Local Authority do to support schools to reduce exclusions?*
- 2. How can the Local Authority best champion the needs of vulnerable children especially those with special educational needs to ensure that they can access their preferred school?*
- 3. How can the Local Authority ensure that the Fair Access Protocol is applied consistently and equitably across all schools and ensure that the protocol assists schools to meet the needs of this group?*
- 4. How can the Local Authority best support parents with children with special educational needs and disability needs to attend the school which would best meet their identified special educational needs in relation to their age, ability and aptitude?*

¹ "They never give up on you" Office of the Children's Commissioner School Exclusions Inquiry, Executive Summary, March 2012 (www.childrenscommissioner.gov.uk)

National Legislation

Nationally, school admissions are regulated through government legislation. The current School Admissions Code (the Code) came into force on 1 February 2012 and was issued under Section 84 of the School Standards and Framework Act 1998 (SSFA 1998). The Code applies to admissions to all maintained schools. Academies are also required by their funding agreements to comply with the Code and the law relating to admissions. The Code imposes mandatory requirements and includes guidelines setting out aims, objectives and other matters in relation to the discharge of functions relating to admissions by the bodies listed below:

- ❖ Admission authorities of maintained schools as defined in Section 88(1) (a) and (b) of the SSFA 1998
- ❖ Governing bodies and local authorities (when not admission authorities)
- ❖ Schools Adjudicators
- ❖ Admission Appeal Panels

The purpose of the Code is to ensure that all school places for maintained schools (excluding maintained special schools) and academies are allocated and offered in an open and fair way. Admission authorities and local authorities must comply with the regulations and legislation set out in the Code. The table below sets out the admission authority for each type of school in England.²

Type of School	Who is the admission authority?	Who deals with complaints about arrangements?	Who is responsible for arranging/providing for an appeal against refusal of a place at a school?
Academies	Academy Trust	Schools Adjudicator	Academy Trust
Community Schools	Local Authority	Schools Adjudicator	Local Authority
Foundation Schools	Governing body	Schools Adjudicator	Governing body
Voluntary aided schools	Governing body	Schools Adjudicator	Governing body
Voluntary controlled schools	Local Authority	Schools Adjudicator	Local Authority

Underpinning the Code are three sets of regulations which also came into force on 1 February 2012:

- ❖ The School Admissions (Admission Arrangements and Coordination of Admission Arrangements) (England) Regulations 2012
- ❖ The School Admissions (Appeals Arrangements) (England) Regulations 2012
- ❖ The School Admissions (Infant Class Sizes) (England) Regulations 2012

The 2012 School Admission Code introduced a new requirement whereby any school that refuses to admit a child with challenging behaviour outside of the normal admission round, even when places are available, must refer the case to the Local Authority for action under the Fair Access Protocol. The Fair Access Protocol is used for in year admissions of hard to place pupils. The Admissions Code makes it explicit that

“Each local authority must have a Fair Access Protocol, agreed with the majority of schools in its area to ensure that - outside the normal admissions round - unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible. In agreeing a protocol, the local authority must ensure that no school - including those with available places - is asked to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour. The protocol must include how the local authority will use provision to ensure that the needs of pupils who are not ready for mainstream schooling are met.”³

There are a complex set of arrangements to ensure that admissions of children with either a proposed statement of special educational needs or a final statement of special educational needs are admitted into the school of their preference. The legislative basis for these arrangements are outlined in the Education Act 1996 part 4 and the code of practice for Special Educational Needs 2001, and as updated by Special Educational Needs and Disabilities case law.

National Figures

According to the data released in March 2012⁴ the key points relating to school admissions to secondary schools nationally for the academic year 2012/13 are:

- ❖ 85.3% of families received an offer of a place at their first preference secondary school – an increase of 0.7 percentage points compared to March 2011 and continuing the recent rising trend.
- ❖ 95.9% of families received an offer of a place at one of their top three preferred secondary schools – an increase of 0.3 percentage points compared to March 2011 and continuing the recent rising trend.
- ❖ 97.6% of families received an offer of a place at one of their preferred secondary schools – an increase of 0.3 percentage points compared to March 2011 and continuing the recent rising trend.

The Department for Education does not collect figures on entry to primary schools, which means that there is no national data relating to school admissions to primary schools for comparative purposes.

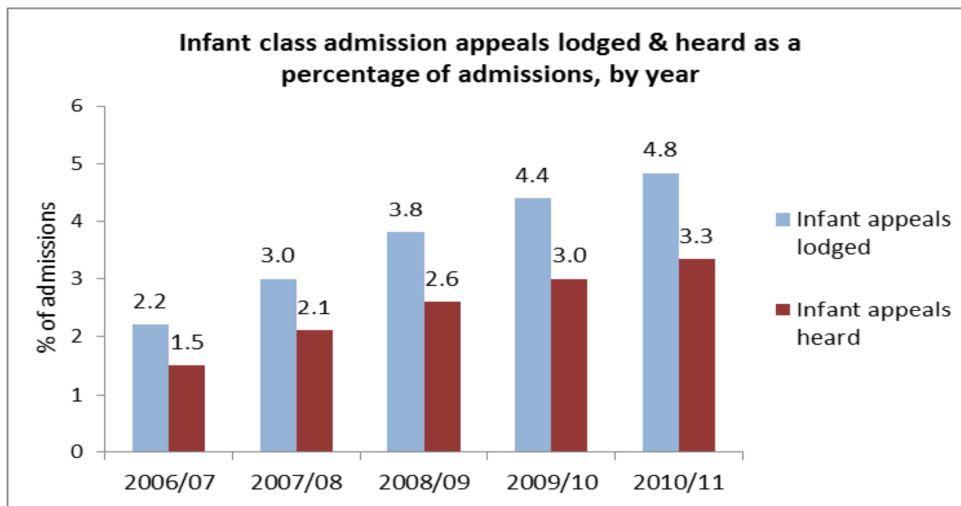
School Admission Appeals

National figures were released in October 2012⁵ on the number of appeals lodged by parents against non-admission of their children to their preferred school in 2010/11. The figures show that for maintained primary schools, including infant classes, the number of appeals rose for the fifth year running amid a shortage of primary school places, with one-in-20 parents appealing against decisions.

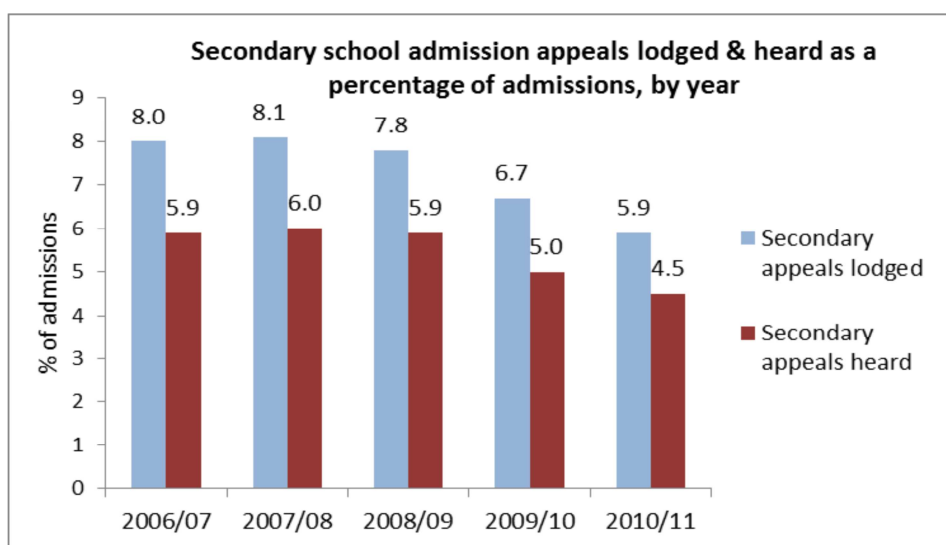
In 2010/11, 46,905 families (5.6% of all new admissions to maintained primary schools) lodged appeals against decisions to maintained primary schools, compared to 42,070 (5.1%) for 2009/10. Of these, 32,355 appeals (3.9%) were heard by a panel compared with 28,715 (3.5%) for the previous year. However, the percentage of appeals decided in the parents' favour for all primary classes has decreased for each of the last five years. 7,380 appeals were decided in favour of the parents compared with 7,045 in the previous year. This represents 22.8% of appeals heard by a panel, compared with 24.5% for the previous year.

In relation to infant classes in maintained primary schools only, the key points are

- ❖ The percentage of appeals lodged increased. 31,150 appeals were lodged for 2010/11 compared with 27,885 for 2009/10. For 2010/11, this represents 4.8 per cent of all new admissions, compared to 4.4% the previous year.
- ❖ The percentage of appeals heard by a panel increased. 21,470 appeals were heard by a panel for 2010/11 compared with 19,220 for the previous year. This represents 3.3% of all new admissions to infant classes within maintained primary schools, compared with 3.0% for the previous year.
- ❖ The percentage of appeals heard that were decided in favour of the parents decreased. 2,995 appeals were decided in favour of the parents for 2010/11 compared with 3,105 in the previous year. This represents 14.0% of appeals heard by a panel for 2010/11, compared with 16.1% for the previous year.



In terms of appeals to maintained secondary schools, there was a considerable decrease in the rate of appeals lodged. (For secondary school appeals, rates of appeal are referred to rather than appeal numbers because secondary school appeal numbers are affected by the increasing number of academies, which were not included in any of the figures.) For 2010/11, there were 36,565 appeals for maintained secondary schools which equated to 5.9% of admissions, compared to 43,095 (6.7%) for 2009/10. Likewise, the rate of appeals heard decreased. For 2010/11, the number of appeals heard was 27,655 which equated to 4.5% of admissions, compared to 32,135 (5.0%) for 2009/10. 33.7% of appeals heard by a panel for 2010/11 were decided in favour of the parents, compared with 34.4% for the previous year.



Local Practices

In Lincolnshire, the School Admission Team at Lincolnshire County Council is responsible for:

- ❖ Checking that all academy and school admission policies meet the requirements of the School Admission Code. (Section 3.2 of the School Admission Code.)
- ❖ Co-ordinated admissions, that is admission into reception at primary school, year 3 at junior school and year 6 at secondary school. (Statutory Instrument 2012 No 8 part 3)
- ❖ Appeals against the decision to offer a place at a community and controlled school where the parents are not happy with the offered school. Academies, foundation and aided schools are responsible for their own appeals. (Section 2.24 of the School Admissions Code and School Admissions Appeal Code)
- ❖ Mid-year admissions into all schools except special schools and nursery schools. (Section 2.21 of the School Admission Code and Lincolnshire Co-ordinated Mid-year Admission Scheme 2010)
- ❖ Referring admissions refusals by academies under the Fair Access Protocol to the Education Funding Agency for quick resolution.

Although Governors of schools control who is admitted through their admission policy, the Local Authority is responsible for administering a central co-ordinated scheme so that parents only have to fill in a single application form to apply for any school in Lincolnshire or indeed the country. Once the applications are received schools are asked to rank the applicants according to their individual admission policy. However, the School Admission Team ensures all the policies are legal and meet all the regulations, and the Team also checks that all schools have applied their admission policies correctly. Governors welcome the advice given by the School Admission Team to ensure their admission policy keep within the regulations. As of March 2012, there are currently 105 different admission policies in Lincolnshire and these are set to increase as more maintained schools convert to academies.

In addition to drawing up and consulting on the co-ordinated admission scheme, the School Admission Team is also responsible for consulting on the Local Authority admission policy, which applies to all community and controlled schools. The admission policy has to be reaffirmed every year by the County Council to ensure it is always fit for purpose.

The previous School Admission Code (February 2009) introduced a mandatory midyear admission scheme from September 2010, whereby the Local Authority became responsible for all midyear admissions into all schools and academies. This was a major change for Lincolnshire as unlike other local authorities Lincolnshire never had such a centralised system. According to one school,

“The mid-term admission process has been very successful. It has removed the work load across schools caused by parents applying individually to 2, 3 or more schools each of whom had to process the application even though only one place was required.”

However, the new School Admission Code (February 2011) has removed the need for such a system after September 2013 and it will only continue if schools agree that they wish to join such a system. The number of midyear transfers is extremely high in Lincolnshire but despite the extremely high numbers the system works well. From the start of the centralised system in September 2010 to the end of February 2012 (18 months) the Team has placed 2113 secondary children and 6149 primary aged children. This equates to 460 children every month or 115 every week.

The Task and Finish Group supports the approach taken by the School Admissions Team to continue to implement the mid-term admission process. Attached to this report at Appendix 1 is a letter and accompanying revised procedure for schools to use from January 2013 onwards.

Recommendation 1

The mid-term admission process introduced by this Council in 2010 has proven to be a very effective way of bringing children into education during the school year. The requirement for such a centralised system is to be removed from September 2013 and it is recommended that the system should be maintained after this date and for schools to be encouraged to use this process.

The School Admissions Team also passes on details to the Education Out of School Team for challenging children, which are mainly year 11 transfers and complex year 10 cases. There are often issues with these students because the curriculum cannot be matched with a receiving school, there have been attendance or behavioural issues, or there are no places in the year group in the area the family have moved into. It was recognised by the Task and Finish Group that the liaison between the School Admissions Team and the Education Out of School Team works very well and supports many Key Stage 4 pupils through this process to ensure, in the main, a positive school experience.

The Task and Finish Group noted that the Council's school admission policy would be amended to reflect the change to the sibling criteria. The amendment would then be consulted with schools before being presented to Council for formal adoption. This would allow those children and young people who had an older sibling who was leaving a school to be considered under the sibling criteria for attending the same school. The Task and Finish Group was satisfied that the current policy, once it had been amended to reflect the change to the sibling criteria, was fit for purpose and compliant with legislation and national guidelines.

Lincolnshire Parent Partnership Service/ Choice Advisers

The Lincolnshire Parent Partnership Service is provided by the Local Authority to support parents of children with special educational needs and Choice Advisers help parents with the admissions systems. Choice Advisers are Local Authority staff who support parents through the schools admissions process.

The Parent Partnership Service national guidelines state that the service should:

- ❖ Support, inform and advise parents whose children have special educational needs
- ❖ Make sure that parents' views are heard and understood
- ❖ Make sure that parents understand their rights, role and responsibilities

Due to the nature of the Service, it is provided at "arm's length" to the Local Authority. In Lincolnshire the Service works closely with a number of teams such as the Special Educational Needs and Disability Statutory Assessment and Provision (SENDSAP), School Admissions and Education Out Of School teams. The Lincolnshire Parent Partnership Service offers information, advice and support to parents of children with special educational needs (SEN) and also to those parents seeking help with the admissions system. Although the Service is accessible to all parents in these categories, it is usually by self-referral and the numbers of parents who access the Service are only a small minority of those whose children have special educational needs or who are going through the admissions system. During the 12 months from 1 April 2011 to 31 March 2012, 503 new parents referred themselves to the Service. 330 came for support on special educational needs. 173 families wanted help with admissions, although some of these families (49) had children with special educational needs. In addition, the School Admissions Team referred 122 families who had not returned their secondary school application before the deadline.

Recommendation 2

The Task and Finish Group noted the work of the Lincolnshire Parent Partnership Service and recommends that this Service is advertised as widely as possible to ensure that all parents who require assistance are made aware of the support available.

Recommendation 3

The Task and Finish Group noted the work of the Choice Advisers in supporting parents with the admission process to school and recommend that this service is promoted to the parents who require the service.

Local Figures

For secondary school admissions for the academic year 2012/13, 94.4% of families in Lincolnshire were allocated their first preference school, while 99.5% of families were allocated one of their three preferred schools. These figures are up on the 2011/12 entry, which were 92.7% and 99.3% respectively.

For primary school admissions for the academic year 2012/13, 92.6% of families were allocated their first preference school while 97.7% of families were allocated one of their three preferred schools. These figures are down from the 2011/12 entry, which were 92.8% and 98.1% respectively. The decrease in the number of families being allocated one of their three preferred primary schools highlights the increasing pressure on primary school places.

In terms of school admission appeals for maintained schools, 437 appeals were lodged in 2011/12, of which 209 (48%) were heard. This is down from 2010/11 where 597 appeals were lodged and 328 (55%) were heard. The table below provides a further breakdown of the number of appeals heard and upheld.

Primary (This also includes the Infant Class Size (ICS) figures)	
Appeals Lodged	272
Those Withdrawn	78
Those Heard	112
Those Upheld	29
Those Dismissed	83
Infant Class Size	
Appeals Lodged	174
Those Withdrawn	62
Those Heard	67
Those Upheld	5
Those Dismissed	62
Secondary	
Appeals Lodged	165
Those Withdrawn	14
Those Heard	97
Those Upheld	41
Those Dismissed	56
Primary % upheld	24
ICS % upheld	3
Secondary % upheld	25
Non ICS primary heard	46
Non ICS primary upheld	24
% of these upheld	52

Local Evidence

The Task and Finish Group has heard from eight maintained schools and academies, five parents and carers, three young people, the Lincolnshire Parent Partnership Service, Choice Advisers, and the Sensory Education and Support Service to establish if there are any issues or concerns around school admissions in Lincolnshire, in particular in relation to children and young people with special educational needs, and what the Council could do to support parents and carers to access their preferred school. Despite the best efforts of the Task and Finish Group to encourage participation in this review the number of people who provided information was very low.

From the information received, it is evident that officers in the School Admissions Team are providing excellent support to both parents and carers, and maintained schools and academies in terms of advice relating to admissions policies and procedures. For example, a 'Going to School in Lincolnshire' guidance booklet is available to every parent and carer at the time of transition either via hardcopy or electronically to make parents and carers aware of their rights and entitlements. This provides parents and carers with all the information they need to know about their children attending a school in the county. Despite this, however, there are still parents and carers who only include one school on the application form instead of three, which makes it very difficult to allocate a school should they be unsuccessful in achieving a place at their preferred school. This, however, is parental choice and is advised against within Local Authority documentation.

The Sensory Education and Support Service reported to the Task and Finish Group that no problems existed with the current sensory impaired cohort in respect of school admissions, with the main issue

being schools requiring some additional support when required to educate a child or young person with sensory impairments for the first time. The Sensory Education and Support Service work closely with schools and provide advice, guidance and support in the lead up to the child or young person starting with a school as well as providing on-going support whilst at the school which is seen as beneficial.

There is anecdotal evidence from some of those respondents that provided information that a small number of schools do not always understand admissions procedures and legislation. This is believed to manifest itself as:

Discouragement of Parents and Carers

A handful of parents who provided information and one head teacher believed that there were cases whereby parents and carers had been told by certain schools or academies that their children would be better suited elsewhere or that it was inappropriate for their children to be placed at that school or academy. One Headteacher commented that

“there is an issue about whether a school is not following its own policy. (Some) schools are good at this and sometimes say to parents that you will find the school down the road better and encourage parents to go to another school.”

Another Headteacher stated that

“we took a young girl from another part of the country under witness protection. The mum and girl had a horrendous experience when looking round a particular school. The mum had said that by the time they got half way round the first corridor it was clear they did not want us as we had problems. There is a perceived undue pressure on parents to leave or not to go to the school in the first place.”

The Lincolnshire Parent Partnership Service explained that occasionally parents believed that some schools had discouraged their application as they were a parent of a child with special educational needs. These parents said that they felt this took place prior to the admission application process and informally.

It is clear from local data that the majority of maintained schools and academies encourage applications from parents and carers regardless of the child's needs or abilities. However there is a variation on the proportion of the number of children with SEN in some schools. In Lincolnshire it is clear that only grammar schools can legally select all of their pupils. If a maintained school or academy has specialist status then they can legally select 10% of their pupil intake. Otherwise schools cannot select pupils but must admit up to their pupil admission number in each year group.

Impact of midyear admissions on Maintained Schools and Academies

Midyear admissions are an issue in Lincolnshire as they are nationally due in part to inward migration and parental desire to move their child to another school. Midyear transfers, particularly in Years 10 and 11, have a potential impact on a school's performance in terms of GCSE A* - C grades (including English and Maths) as disruption to a young person's education usually means that it is difficult for these grades to be achieved. In addition there are issues around finding a school which offers the same or similar courses that the student was studying. According to one Headteacher

“There is a recognised problem in providing adequate education for students moving in the middle of Y10 and during Y11. Examination courses are so varied that it is not possible to match GCSEs, BTECs, NVQs etc. school to school so students moving mid-course are unable to fulfil their potential. Anecdotally it seems SEN students are over represented in this group. Schools are reluctant to admit this group of pupils because of the impact on examination statistics and the difficulty of occupying them in a meaningful way during lessons they cannot access.”

Another issue raised by one SENCO was that they reported that they did not receive all the information they required prior to the child starting the school mid-year. She reported that there was an issue with information being received by her school speedily including information in one case regarding a child's statement of special educational needs.

Officers have advised the Task and Finish Group that there are two separate points being made here. It would be very unusual if the school did not receive the necessary information relating to a statemented child as before a school admits a child that school must have been consulted and all information sent to the school relating to the child's statement of special educational needs. The second point relates to a school being provided with information about a child's non-statemented needs via the midyear application process. A child's non-statemented needs have no bearing on the processing of an application for a midyear school place; therefore this information is not collected. The duty remains on a school to retrieve the school file from the previous school using the common transfer form. The Additional Needs Team has excellent relationships with the community of SENCOs and has embarked upon a three year training programme with Northampton University to ensure Lincolnshire SENCOs receive outstanding support. This three way partnership is very effective and has been cited by the University as one of their leading initiatives.

There was a perception by a small number of the respondents that obstacles can occasionally be put in place by maintained schools or academies to reduce the number of midyear admissions onto their roll. The Lincolnshire Parent Partnership Service suggested that they had experienced a number of cases where this has happened. The concerns were that:

- Schools may claim prejudice and refuse an application even when they are not full in the year group. However parents have the right to appeal against this decision in which case the school must justify its position of prejudice.
- A child's history of poor attendance, behaviour difficulties or special educational needs could affect admission to a few schools
- Sometimes when a parent persists and asks to appeal for a place there are delays by the schools to ensure a timely appeal process cannot be followed.

A couple of the schools who responded highlighted their concerns regarding the impact of other maintained schools and academies' admission practices and whether all maintained schools and academies are accepting their equitable share of children and young people, especially those with special educational needs. One school commented that:

"It feels, however, that some other schools may be viewing the current climate as a disincentive for schools to increase the quality of the SEN provision, as this is likely to attract an increasing number of students from outside the local area to already oversubscribed schools. This could lead to a greater burden on the school's SEN provision and should the percentage of SEN admissions continue to rise, this could affect the ethos of the school as the percentage of SEN pupils becomes disproportionate to the local community.

As we are committed to all of our students, it feels as if we are trying to adapt, and meet the needs of increased SEN numbers, whereas other schools are not. The most recent consultation referred to by-passing parental preference for specialist education, as they are full, whereas when we are over PAN we have to accept students; and then by-passing the named local school, as they are 'experiencing SEN issues'. A more transparent view of how SEN provision is allocated across the County would be welcomed."

Another school highlighted that they had concerns around the accuracy of published information relating to Fair Access Protocol directions.

“The school is full in every year group, with waiting lists. The school always defends its PAN (Published Admissions Number); despite this we have received 14 directed admissions so far this academic year. At the time of writing, 9 July 2012, an additional 5 directed admissions (1 parental choice admission appeal, 3 SEN consultations and 1 Out of School Team directed admission) are underway. If the school is directed to take these children; our directed admission for this academic year will total 19 pupils.

Our concerns are of equity. We feel that the number of admissions, when we are already full, feel very high and the absence of accurate published data makes it difficult to make comparisons with other schools to establish if admissions are being applied consistently and equitably across all schools and academies.”

It would be fair to say that data published is accurate but incomplete with regards to the total admissions to any one school. It is often misunderstood that accepting a pupil mid-year is a Fair Access Protocol request particularly in year 10 and year 11.

In conclusion, some schools and academies are therefore concerned about whether all maintained schools and academies are admitting an equitable share of pupils, in particular those with special educational needs and midyear admissions, or whether certain maintained schools and academies are taking a disproportionately smaller share of these pupils as a result of their admission activities. Midyear admissions can have an impact on maintained schools and academies and as a result some maintained schools and academies are reluctant to admit pupils during the year. If the midyear admission is for a pupil in Year 10 or 11, then finding an alternative school proves even more difficult as there is a need to find courses which match the work that they have been doing at their previous school. Unfortunately a large number of midyear admissions are for pupils with special educational needs, which may also discourage maintained schools and academies from admitting them due to the need for additional support or alternative provision which puts further pressure on a maintained school or academy’s resources. In addition the admittance of pupils with special educational needs may have an impact on a school’s floor targets and examination results, which is discussed in further detail below. Furthermore, the slow transfer of information about a pupil also makes it more difficult for the receiving school to put in place any additional support that is required.

Impact of SEN students and low achievers on Floor Targets and School Results

Some of the schools who responded to the Task and Finish Group reported an impact of SEN pupils and low achievers on the floor targets which maintained schools and academies have to achieve. The schools reported that they believed this was often one of the main reasons why some parents are reportedly discouraged by other maintained schools or academies from applying to them.

Government floor targets are a major concern and may act as a barrier to admissions.

Given the impact of SEN pupils and low achievers on a school’s floor targets and examination results, some of the Headteachers which the Task and Finish Group heard from were concerned that some maintained schools and academies were using selective methods to reduce this impact even though they are classed as a comprehensive school.

Officers have also highlighted their concerns to the Task and Finish Group about the pressures schools are under to meet floor targets which is having a perceived impact on accessing places in schools especially for Year 10 and 11 pupils. An example was cited where a Headteacher has said that they will only take a pupil if they get a letter from the parents to say that attendance will not drop below 98%. Some maintained schools and academies have flatly refused to take pupils under the Fair Access Protocol or to take Year 11 pupils after Christmas. All responses to a Fair Access Protocol request whether a maintained school or academy are considered on their merits. Where the Local Authority does not agree with the response from the maintained school or academy the Local Authority directs the school to take the pupil or refers the matter to the Secretary of State for Education for direction.

It was highlighted that all maintained schools and academies could refuse admission of a child on the grounds that placing them would prejudice the use of resources even if they were not full by using Section 86 (3a) of the 1998 School Standard and Framework Act. In such circumstances, the nearest school to the address of the young person in question would be contacted to seek a place on its roll. Academies were able to refuse 'challenging' pupils in the early stages of their establishment as a way of helping academies initially set up. This right ended in February 2012 and is no longer in the Admissions Code for academies.

In summary, it appears that some maintained schools and academies are very concerned about the impact of SEN and low achieving pupils on their floor targets and examination results. The Task and Finish Group believe that this can influence the school's approach to admitting pupils. This is, in the main, because if the midyear admission is for a pupil in Year 10 or 11 then finding an alternative school proves even more difficult as there is a need to find courses which match the work that they have been doing at their previous school.

Recommendation 4 (a)

Lincolnshire County Council should write to the Secretary of State for Education enclosing a copy of this report and raising the following issues:

- ❖ **to highlight the pressures that schools are placed under to meet national floor targets, and that the pupil profile of a particular school should be taken into account when setting these targets.**

Impact of Out of County Looked After Children Placed in Lincolnshire on Admissions

As of 26 October 2012, there were 305 children and young people placed in Lincolnshire from other local authorities, the majority of which were from Nottinghamshire, Norfolk and Nottingham City. This figure is constantly increasing and places further pressure on resources. In total, 54 authorities currently placed their Looked After Children in Lincolnshire. In comparison, Lincolnshire County Council placed approximately 25 Looked After Children with other local authorities in order that they could receive specialist care.

Local authorities are under a legal obligation to inform another local authority if they place a child or young person within their electoral boundaries. However, it was highlighted to the Task and Finish Group that this did not always occur and similarly some local authorities failed to provide up-to-date information about individuals. For example, some children and young people were placed in Lincolnshire but still accessed education outside of the county boundary. However, the local authority responsible for them had failed to inform Lincolnshire County Council which school they were attending. Officers had recently contacted all 54 of the local authorities that had placed children and young people in the county and it was reported that only 13 had responded so far.

Recommendation 4 (b)

Lincolnshire County Council should write to the Secretary of State for Education enclosing a copy of this report and raising the following issues:

- ❖ **to request that a letter is sent to all local authorities in the country reminding them of their legal obligations in respect of informing receiving local authorities when they place children and young people within their electoral boundaries. This will allow the receiving local authority to monitor the impact on school admissions and the availability of school places.**

If a young person has a Statement for Special Educational Needs then the cost of this and any associated transport is recouped from the placing local authority. In 2011/2012 the total amount recouped was £1,371,337.

The majority of other local authority Looked After Children are placed in the south east quadrant of the county. This is probably due to the number of independent residential homes in the south east of Lincolnshire and the cross border movement from Peterborough, Norfolk and Cambridgeshire.

Area	Other LA children with a Lincolnshire school recorded on ICS
North West including Lincoln	20
North East	31
South West	27
South East	45
Solutions 4 county wide	12

The Task and Finish Group raised concerns over independent children's homes, a number of which have been opened in Lincolnshire. There was a concern that more children and young people could be placed in Lincolnshire should additional independent homes be built in the county, as this would be more cost effective for other local authorities.

In conclusion, out of county looked after children placed in Lincolnshire can have a serious impact on admissions for some maintained schools and academies, especially if they are concentrated in areas where there is already a shortage of school places.

Recommendation 5

Lincolnshire County Council should write to the District Councils in Lincolnshire to request that the County Council is included as a statutory consultee when they consider planning applications for new residential developments or where there is a proposed change of use application in respect of independent children's homes. This will allow the County Council to highlight to the District Councils whether there will be any major impacts on school admissions and places in that area and for the County Council to be made aware that further school provision may be required to cope with additional pupils from outside of Lincolnshire.

Impact of Admissions on Home to School Transport

One Headteacher said that the admissions activities of other maintained schools or academies had an impact on the pupils that his schools were left to take, especially when a number of these pupils had special educational needs. Many of these children and young people actually travelled past other maintained schools and academies to attend his schools and therefore had to travel unnecessary distances to travel to school, which was not in their best interests. When looking at where some of these pupils travelled from, it raised questions as to why they had not attended other maintained schools or academies nearer to where they lived. Officers were clear however that this, in the main, was due to parental preference or availability of places in certain year groups.

Given the potential impact of increased travel on both the pupils and the home to school transport budget, the Task and Finish Group decided to investigate what effect admissions were having on home to school transport.

The County Council has a clear transport policy and transports approximately 23,000 children to school per day. A small number of these pupils are being transported to a further distant school as the nearest school is full and a place was not available at the time of application. A school is classed as full when the year group for the respective child was up to the full cohort at the time of the enquiry.

There have been problems in the south of the county, particularly around Year 10 and 11 pupils, where there has been a shortfall of places for young people. At certain maintained schools and academies, such as in the coastal areas of the county, they can be affected by seasonal churn of children entering local maintained schools and academies for the summer term and leaving in the autumn. There is a potential that at the start of term in September, according to their official roll, maintained schools and academies are full when it is likely that they have children on roll that would not return to the maintained school or academy after the summer.

As of 23 April 2012, there were a total of 726 pupils who were transported to a further distant maintained school or academy than their nearest or designated maintained school or academy because there is no place for them there. Of these 320 were primary school children and 406 were secondary school children. This figure had increased slightly to 745 as at 20 June 2012, although the Year 11 pupils were now not attending school in many cases because their examinations had concluded.

Placing children and young people at a further distance from their homes has an impact on the cost of home to school transport. The numbers entitled to transport on the oversubscription criterion for each of the last six financial years together with the costs, split between primary and secondary schools, are given below:

Numbers	Primary School		Secondary School/centre	
	Year	Cost	Year	Cost
211	06/07	£310,470.57	06/07	£574,649.14
197	07/08	£329,232.43	07/08	£543,326.82
156	08/09	£334,018.59	08/09	£507,883.61
213	09/10	£291,332.26	09/10	£537,139.81
225	10/11	£298,958.38	10/11	£458,883.38
345	11/12	£417,743.59	11/12	£428,127.82
N/K	12/13	£94,745.87 (as of June 2012)	12/13	£93,445.66 (as of June 2012)

These sets of figures indicate a rising trend which then reduces as the demographic cohort moves through the school years from primary through secondary phases. However, the current rise in demand for primary school places will have an impact on the secondary sector in the next four or five years. This additional demand is being met through the increase in school places in key areas of the county to ensure sufficient school places.

Lincolnshire County Council provides a number of Local Authority Teaching and Learning Centres (Pupil Referral Units) across the county for young people who have been excluded and cannot access a maintained school or academy. From September 2012 the Lincoln Teaching and Learning Centre will open a primary provision with a capacity for between 8 – 10 pupils. This will result in a significant reduction in transport costs and a reduction in the duration of travel time for the young people involved.

All children living in Lincolnshire are entitled to a school place in the county regardless of their status or origin. This places an additional pressure on the number of school places available. The 2012 January School Census for Lincolnshire shows that the largest secondary school year group cohorts are currently Year 9 (8220) and Year 10 (8272), with a total of 8635 places available per year group. As the larger year groups move through they are being replaced by increasingly smaller Year 7 intakes. Only

7347 places were offered for September 2012. There are however, some parts of the county that are experiencing pressure on places in some year groups, in particular Grantham and Sleaford. European migrant families and inward internal net migration into Lincolnshire continue to put pressure on primary and secondary provision in addition to the pressures from increasing birth rates.

In conclusion, for a number of pupils who are unable to access their nearest maintained school or academy it is due to a shortage of places which is being addressed through the increase in educational provision.

Recommendation 6

The Task and Finish Group was keen to ensure that the Local Authority continues to have in place effective monitoring and accountability protocols to ensure that wherever possible and in accordance with parental preference and the legislative requirements that pupils are admitted into their local school speedily particularly in the context of increased academisation in Lincolnshire. The Local Authority should continue to monitor and challenge this and will provide appropriate information to the Children and Young People Scrutiny Committee on an annual basis.

² School Admissions Code 2012 (www.education.gov.uk)

³ School Admissions Code 2012 (www.education.gov.uk)

⁴ Statistical Release Applications And Offers For Entry To Secondary Schools In England In Academic Year 2012/2013 (22 March 2012) (www.education.gov.uk)

⁵ Statistical First Release Admission Appeals For Local Authority Maintained Primary And Secondary Schools In England 2010/11 (4 October 2012) (www.education.gov.uk)

National Legislation

School exclusions are also heavily regulated by government legislation. The policy concerning school exclusions has been in the process of changing since the introduction of the Education Act 2011. New arrangements for school exclusions came into force in September 2012 through the new guidance “*Exclusion from maintained schools, Academies and pupil referral units in England: A guide for those with legal responsibilities in relation to exclusion.*” The primary legislation to which this guidance relates to is:

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

Related legislation also includes the Education Act 1996 regarding special educational needs and the Equalities Act 2010 in relation to disabilities discrimination.

The new School Exclusion Regulations “*The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012*” came into operation on 1 September 2012. The guidance and regulations will apply to any pupil excluded on or after 1 September 2012 from a maintained school, academy school / Free School, alternative provision academy / Free School or pupil referral unit in England.

Under the new arrangements, the process for challenging a school’s decision to permanently exclude a pupil will change. The current system of independent appeal panels will be replaced by independent review panels.

Unlike the independent appeal panels, an independent review panel will not have the power to direct a governing body to reinstate an excluded pupil. The independent review panel will only be able to either uphold the decision to permanently exclude a pupil, recommend that the governing body reconsider its decision, or direct the governing body to reconsider its decision. A direction to reconsider will be limited to circumstances where a panel decides that the school has acted illegally, irrationally or where there are significant flaws in procedure. Where a governing body decides not to offer to reinstate a pupil following a direction from a panel to reconsider its decision, the panel will be expected to require an adjustment to a schools budget or payment of £4,000 towards the cost of alternative provision.

Also as a result of the new Exclusions guidance, local authorities are unable to make representation to an academy Governing Body. The result of the removal of the 6 day time limit following an exclusion may mean that a disciplinary meeting is held within a very short timescale. This may result in the Local Authority being unaware that a disciplinary meeting has indeed taken place. The new arrangements also give parents some additional rights. A parent can request that a special educational needs (SEN) expert is appointed by the local authority or academy trust to advise the independent review panel. In addition, if a parent alleges discrimination under the Equality Act 2010 in relation to a fixed period or permanent exclusion, they will also be able to make a claim to the First-tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination).

The Task and Finish Group was concerned about the independence of the new independent review panels at academies where they can establish their own review panels and appoint the SEN expert on behalf of parents and carers. The Local Authority is however invited to these meetings and can make representation.

For permanently excluded pupils, maintained schools and academies are responsible for providing education up to day six of the exclusion. Between day six and any independent review, the Local Authority is responsible for providing interim provision. Once the independent review panel has reached a decision the pupil may either be reinstated to the school or the exclusion quashed. Should the exclusion be quashed by the independent review panel the Local Authority would provide full time education provision from that point.

National Figures

National statistics were released in July 2012⁶ on exclusions from schools and exclusion appeals in England during 2010/11. The key points are

- ❖ In 2010/11 there were 5,080 permanent exclusions nationally, which is equivalent to 7 pupils in every 10,000. The number has decreased by 11.5% since 2009/10, continuing the recent downward trend.
- ❖ There were 324,110 fixed period exclusions in 2010/11, although some pupils (174,280) received more than one fixed period exclusion. This is a decrease of 2.2% since 2009/10 and also continues the downward trend. 271,980 were fixed-period exclusions from state-funded secondary schools, 37,790 fixed-period exclusions from state-funded primary schools and 14,340 fixed-period exclusions from special schools.
- ❖ The average length of a fixed-period exclusion in state-funded secondary schools was 2.4 days and for state-funded primary schools the average length of a fixed-period exclusion was 2.1 days.
- ❖ The permanent and fixed-period exclusion rates for boys were approximately three times higher than that for girls. Boys are more likely to be excluded (both permanently and for a fixed period) at a younger age than girls, with very few girls being excluded during the primary years. The most common point for both boys and girls to be excluded is at ages 13 and 14 (equivalent to years 9 and 10). Around 52% of all permanent exclusions were of pupils at these ages.
- ❖ Pupils with SEN statements are around nine times more likely to be permanently excluded than those pupils with no SEN. The number of pupils with statements of SEN receiving one or more fixed period exclusions is six times higher than for pupils with no SEN.
- ❖ Children who are eligible for free school meals are nearly four times more likely to receive a permanent exclusion and around three times more likely to receive a fixed-period exclusion than children who are not eligible for free school meals.
- ❖ Pupils of Black Caribbean ethnic origin are nearly three times more likely to be permanently excluded than the school population as a whole. The fixed period exclusion rate for pupils of Black Caribbean ethnic origin is twice that for the school population as a whole.
- ❖ The most common reason for exclusion was persistent disruptive behaviour, accounting for 33.7% of permanent exclusions and 24.8% of fixed period exclusions from all schools.
- ❖ In 2010/11, there were 480 appeals lodged by parents against the permanent exclusion of their child, a decrease of 8.1% since 2009/10. Of the appeals heard, 26.5% were determined in favour of the parent, compared to 24.1% in 2009/10. Reinstatement of the pupil was directed in 40 cases (34.2% of the appeals determined in favour of the parent/pupil).

National Evidence

“They Never Give Up On You”

In March 2012, the Office of the Children's Commissioner published a School Exclusions Inquiry report entitled *“They Never Give Up On You”*. This report followed eight months of work gathering evidence from the Government, key partners in education, pupils and visiting schools across England. The

Exclusions Inquiry report has discovered tangible evidence of illegality in the practice of some schools, as well as endorsing the persistent reality of clear inequalities for some excluded children and young people within the education system.

The report identified that exclusions frequently happen due to a child's behaviour, which often originates from a troubled family and home life and also recognised that some groups were more likely to be excluded than others. According to Dr Maggie Atkinson, Children's Commissioner for England:

*"Although overall exclusion rates have fallen for several years, and it's clear schools are working hard to keep children in learning so they can achieve what they should, certain groups, such as students with special educational needs and from some ethnic groups, continue to be over represented. This cannot be right. We need to act to address the issue."*⁷

The national report also found strong evidence of "unofficial" or "informal" exclusions. These are situations where a school may ask a young person to leave the premises for a fixed period of time but does not record it as a formal exclusion or when a pupil or their family is persuaded to move school as an alternative to a permanent exclusion. According to the report, the common illegal exclusion methods used by schools include:

- ❖ unrecorded short-term exclusions to allow children to "cool off";
- ❖ pupils being "sent home" and not allowed back into school until after a meeting has taken place with their parents. If parents are unwilling or unable to attend a meeting, the informal exclusion may run for a week or even longer;
- ❖ pupils being coerced by head teachers into moving to different schools; and
- ❖ in one extreme case, a head teacher admitted that he managed Year 11 pupils from Christmas until May: *"we will get their parents in and ask them to keep their children at home for the rest of the academic year; otherwise it's a permanent exclusion. The pupils are coded as 'C' and slip under the radar."*⁸

Given its importance, the Task and Finish Group asked for the following statement by the Children's Commissioner for England, Dr Maggie Atkinson, to be highlighted:

"For the first time schools are on record saying they had illegally excluded pupils. Due to the informal nature of such exclusions it is difficult to know how widespread this practice is but it is worth further examination. Our Inquiry, which took evidence from a wide range of education partners and young people, found both good practice and serious causes for concern.

Our report recognises that exclusion may in rare cases be a necessary last resort. It should happen only if a child is a danger to his or herself or others, or when learning is so disrupted that only exclusion is possible. But all exclusions must be within the law. They must be seen to be fair, and proven to be effective in solving the problems they are meant to address."⁹

During her recent question session at the Westminster Briefing on the 6th November 2012, Dr Maggie Atkinson replied to a question on illegal exclusion in which she stated:

"We made a recommendation that Ofsted would say if a school had been proven to do it, and you could find time to look through things like registers and postcodes, and has this child moved without moving post codes? And when did they arrive and where are their records? And where were they for that fortnight?"

What Sir Michael agreed in his letter back to me after the report was that if they find those practices a school cannot be deemed to be better than 'in need of improvement', even if it was outstanding the last time it was looked at."

The Exclusions Inquiry report also uncovered the concern that the majority of children, young people and parents caught up in the exclusions system did not understand their rights around this issue. The Office of the Children's Commissioner has recently announced a second year of work on its School Exclusions Inquiry. The second year will focus on two areas that stood out in the original report, which are inequalities and illegal exclusions.

A detailed piece of research will be commissioned to analyse data to further investigate the issue of illegal exclusions. This piece of work will seek to probe claims such as "We know it happens and who does it but we can't say and we don't do it here of course." Illegal exclusion, by its very nature, is difficult to scrutinise given that it is not meant to happen in the first place and is therefore frequently covert.

Another piece of research will be undertaken to analyse further the findings relating to the inequalities in characteristics among the excluded population. The Exclusions Inquiry report has highlighted that the following children remain more likely to be excluded than others in their cohorts:

- ❖ children eligible for free school meals
- ❖ boys
- ❖ some ethnic and cultural groups
- ❖ children with SEN of whatever type and
- ❖ whether with a recognisable visible disability or not

Recommendation 7

Lincolnshire County Council should forward the final report to the Children's Commissioner for inclusion in the call for evidence for the Year 2 School Exclusions Inquiry looking at inequalities and unofficial exclusions.

Recommendation 8

The Task and Finish Group acknowledged that there is extensive helpful information provided to parents and carers around admissions and exclusions but agreed that the County Council needs to ensure that the information provided clearly sets out parental responsibilities and rights.

National Parent Partnership Network

The outcomes from the Exclusions Inquiry report have been reiterated in a survey¹⁰ recently conducted by the National Parent Partnership Network to determine the state of illegal exclusions from a parent partnership service viewpoint. 63 Parent Partnership Services (PPS) responded to the survey. The survey has highlighted that:

- ❖ The majority of the PPS think that the number of illegal exclusions has increased over the past few years.
- ❖ Half of the PPS said they had worked with parents of approximately 10 children who were illegally excluded in the last school year but the other half said they had supported more, some up to 100 children.
- ❖ Parents were regularly agreeing with the school to ensure that their child didn't have an exclusion on their school record.
- ❖ The illegal exclusions often appeared to be as a result of the school not being able to manage the child's SEN.

- ❖ Children with statements that contain a set amount of hours of support are being sent home when they don't have that support.
- ❖ Parents are often not aware that these exclusions are illegal.

The survey has also emphasised that the main methods of illegal exclusions used by schools are:

- ❖ Parents are being asked during the day to come and pick up their child because they are being disruptive.
- ❖ Lunchtime exclusions
- ❖ "Cooling off" periods
- ❖ Part-time timetables

Local Practices

In Lincolnshire, the Education Out of School Team act as a facilitator and co-ordinator for all exclusions and some managed moves between schools and academies.

Department for Education (DfE) Guidance on Exclusion from Maintained Schools, Academies and Pupil Referral Units in England

The Council Policy is to operate within this DfE statutory guidance at all times.

The Task and Finish Group was satisfied that the current practice, supported by the DfE guidance, incorporating the changes proposed following the publication of the latest guidance, was fit for purpose and compliant with legislation and national guidelines.

Managed Move Protocol

All Lincolnshire maintained schools and academies have agreed to participate in a Managed Move Protocol which the Council facilitates. A revised protocol is currently being written to ensure that the Local Authority is aware of every case. This enables children and young people to have a fresh start in another maintained school or academy as an alternative to a permanent exclusion. A maintained school or academy may ask for support from the Local Authority to facilitate a pupil move. Occasionally maintained schools or academies may permanently exclude a pupil with a Statement of Special Educational Needs and then decide to "rescind" that exclusion following engagement from the Education Out of Schools Team. This approach is consistent with the Department for Education's guidance and expectations.

Fair Access Protocol

The Education Out of School Team is also responsible for the operation of the Fair Access Protocol. The School Admissions Code makes it explicit that Fair Access Protocols exist to ensure that access to education is secured quickly for children who have no school place but for whom a place at a mainstream school or alternative provision is appropriate, and to ensure that all maintained schools and academies in an area admit their equitable share of children with challenging behaviour, including children excluded from other maintained schools or academies. Lincolnshire County Council challenges any maintained school or academy that refuses to admit young people in accordance with the Fair Access Protocol.

The Fair Access Protocol has worked very well in Lincolnshire with every excluded child being admitted to a new maintained school or academy in Lincolnshire. According to one school,

“The Fair Access Protocol has been used equitably and the additional money facilitates support of difficult children, often these are non-statemented whose SEN is behavioural/emotional.”

Local Figures

In the academic year 2011/12 (September 2011 to July 2012), there were 144 permanent exclusions and 2974 fixed term exclusions. The number of primary school and academy permanent exclusions increased in Lincolnshire, but secondary and special school permanent exclusions went down. In relation to fixed term exclusions, there was a decrease at primary and secondary schools across Lincolnshire, but an increase in academies and special schools. The academy increase and decrease at secondary school relates directly to the conversion of secondary schools to academies. 75% of all secondary pupils are now educated in academies.

Type of School	Number of Permanent Exclusions 2011/12	Number of Fixed Term Exclusions 2011/12
Primary	43	514
Secondary	45	906
Academy	55	1420
Special	1	134
Total	144	2974

As of July 2012, there had been 21 rescinded permanent exclusions so far this year. Of these 11 were for pupils with Statements, 4 were Independent Appeal decisions, 1 was for a Child Looked After, and 3 were Pupil Disciplinary decisions.

In Lincolnshire, the main reasons for exclusions in 2011/12 were physical assault against a pupil (726 exclusions), persistent disruptive behaviour (662 exclusions), and verbal abuse/threatening behaviour towards an adult (657 exclusions).

The number of appeals against permanent exclusion from maintained schools and academies which were lodged and determined in the school year 2011/12, which is between 1 September 2011 and 31 August 2012, were:

- ❖ Total number of appeals lodged: 14
- ❖ Number of appeals determined in favour of the school: 9
- ❖ Number of appeals determined in favour of parent/pupil and where reinstatement was not directed: 4 non reinstatement

(The remaining appeal was one appeal lodged by a minor and has therefore been considered as withdrawn given that the parent did not write in to support the appeal on the child's behalf.)

Local Evidence

Having looked into why particular maintained schools and academies utilise the exclusions process more than other maintained schools and academies in Lincolnshire, it was highlighted by officers that a high number of exclusions usually occur for the following reasons:

- ❖ change in leadership at senior level
- ❖ risk of Ofsted intervention

- ❖ internal mechanisms within schools
- ❖ behavioural issues

Officers emphasised to the Task and Finish Group that they would be more concerned where there were no exclusions at a maintained school or academy as this might highlight that the maintained school or academy is using informal exclusions instead. There was therefore no issue with a particular school sector or specific geographical locations in Lincolnshire in respect of exclusions. Where a concern is raised it is looked at individually by Officers and addressed.

The Education Out of School Team work closely with maintained schools and academies to ensure that they fully understand their legal obligations in respect of exclusions. In addition, the Team pay particular attention to maintained schools during their transition into academy status, specifically with regard to exclusions.

From the responses received from parents, carers, schools and academies, the Task and Finish Group has identified a number of issues around exclusions in Lincolnshire and these are set out below.

Support received by Parents, Carers, Schools and Academies from Lincolnshire County Council

As part of the review, the Task and Finish Group wanted to find out what the Local Authority could do to support maintained schools and academies to reduce exclusions. The Education Out of School Team provides support and advice to maintained schools and academies, for example when they are considering permanent exclusions and managed moves. On the whole, the majority of the maintained schools and academies who responded felt that they have received good support from the Local Authority:

“The EOOST (Education Out Of School Team) are very supportive. Their knowledge and advice is accessible via telephone support, attendance at meetings, PRU placement, assistance to help prevent permanent exclusions, Managed Moves. We value their advice and support.”

“I have recently required the support of the LA to provide Governor training on exclusion, owing to one permanent exclusion being given this year. The LA has supported the school well throughout this process.”

“The school’s admissions and exclusions teams at Lincolnshire County Council provide an excellent service and I have no complaints at all with their work. They have always been clear in their advice and prompt in their response.”

“Schools have received information regarding Fair Access protocol. Training was offered (by the Education Out of School Team) and accepted but did not take place. The LA has also offered a buy-back service to support with Admissions Appeals; to date there has been excellent support received from the Admissions Team.”

“No support has been received from Lincolnshire County Council in terms of exclusions of SEN pupils from our School.”

“Even before we became an Academy we received little help with excluded SEN students although we were able to access PRU for KS3 children and, if lucky, Soln4 for KS4.”

(Soln4 (Solutions 4) is now part of The Lincolnshire Teaching and Learning Centre.)

Some parents have also reported that they have received good support from the Local Authority:

“Manager of EOOST was extremely helpful and supportive. He spoke to the school about rescinding the exclusion which the school has now done, due to his intervention.”

“Lincolnshire County Council has been extremely helpful” and have “supported us throughout”.

“Direct contact from the Education Out of Schools team/Inclusion team regarding the options available to us would have been much appreciated. This way, we could have received unbiased information regarding our options, not just those the head shared with us. We only found out about some things in the Independent Appeal Panel meeting when we challenged whether things had been considered as they were never mentioned to us.”

Although there are a few incidences where more support and advice from the Education Out of School Team would have been welcomed, on the whole parents, carers, maintained schools and academies are satisfied with the support they receive from the Local Authority in relation to exclusions.

Support available for Children and Young People at risk of Exclusions

The Task and Finish Group wanted to find out what support maintained schools and academies provide to children and young people at risk of exclusion. The following responses were received:

“Pupils are raised to school action plus, and placed at either TAC or on a PSP. Multi-agency meetings are set at a minimum of every 6 weeks, alongside support work from school and agencies supporting the child and family. If behaviour continues, they are placed in our internal inclusion unit where intensive support with a high staff ratio is available. If behaviour continues then managed moves are considered. We try to avoid exclusions, in particular permanent exclusions so that the pupil has a fresh start without their past staying on their record.”

“As a school we very rarely exclude a pupil – exclusion is used as a last resort. When a pupil’s behaviour/concern is such that they are at risk of exclusion, meetings are held with parents, outside agencies consulted as appropriate, and a course of action is planned. We have used Pupil Strategy Plans with agreed steps of action to be taken to try to deal with the issue. These plans are signed by the pupil themselves, the Parent, the Teacher and myself, the Head teacher & SENCO.”

“The school uses a range of internal and external strategies and agencies to avoid exclusions which are appropriate to the child’s individual needs.”

“We work closely with pupils with SEN and their families. We work with numerous agencies e.g. autism outreach, dyslexia outreach, STAPs etc. and meet regularly with parents. We have instigated PSP's for pupils at risk from exclusion and review these regularly. This followed advice from EOOST which came about via the exclusions process. As head teacher another head recommended I speak to EOOST for support. We have considered part time timetables. We have provided additional support in the form of 1-1. Towards the end of last year I received a few weeks emergency funding for a child - the provision we had in place cost more than the funding. Currently no statement is through and I don't know whether I will have any emergency funding for the start of term. The additional support we put in place comes at a cost to the school and other pupils and with very tight budgets is difficult for us.”

“We operate a differentiated support system for all students with interventions becoming stronger the more intractable the problem becomes. We also work with parents and offer advice on how they can seek support and in some cases respite care.”

“We aim to avoid permanent exclusion by use of counselling, personal support plans (which are very heavy on staff time and so must be used sparingly) and alternative curriculum. Generally sanctions for SEN are at a commuted level however as a mainstream school it is important that discipline is seen to

be fair by other students and their parents and that other students do not have their learning frequently disrupted by poor behaviour.”

In summary, maintained schools and academies seem to put in place a number of strategies to support pupils at risk of exclusion. This includes working closely with other agencies and parents and carers. It is encouraging to note that most of the maintained schools and academies the Task and Finish Group heard from highlighted that they tried to avoid exclusions and see them as a last resort after trying other strategies.

Recommendation 9

The Education Out of School Team should advise and support maintained schools and academies by:

- a) redistributing the Exclusions Policy to all maintained schools and academies as a reminder of their legal responsibilities and statutory duties when considering or implementing an exclusion;**
- b) writing to all maintained schools and academies in Lincolnshire to advise them of their responsibility to ensure that the Local Authority was informed should a young person on their roll not be in education; and**
- c) writing to all the existing academies in Lincolnshire and any new academy once it has opened, so that they are aware of their legal obligation to ensure that the new independent review panels for exclusions are independent.**

Recommendation 10

The Task and Finish Group fully supports and values the work undertaken by the Education Out of School Team who provide valuable support to maintained schools and academies to ensure that they fully understand their legal obligations in respect of exclusions, and monitor exclusions at maintained schools during their transition into academy status. The Task and Finish Group recommends that the resource to this Team is maintained.

Correlation between SEN and Exclusions

The Task and Finish Group was interested in finding out whether there is any correlation between exclusions and special educational needs. Pupils with SEN who are statemented have additional legal rights in terms of admissions and exclusions. As one Headteacher of a school stated

“Children with special educational needs, once they have qualified for the school, have priority on admissions if they have a statement. There is particular provision for children with special educational needs and disability in the exclusions policy, but in essence it is illegal to exclude as a result of a child’s special educational needs or disability.”

According to the exclusion figures, the majority of children and young people who are excluded tend to be at School Action Plus. When pupils with statements, at School Action Plus or School Action are taken together, 64.8% of all exclusions in Lincolnshire relate to pupils with special educational needs.

Type of Exclusion	Pupils with Statements	Pupils at School Action Plus (SAP)	Pupils at School Action (SA)	Pupils with No Special Provision (N/A)
Primary Permanent	3	30	3	4
Secondary Permanent	0	25	5	15
Academy Permanent	0	29	14	12
Primary Fixed Term	74	292	58	90
Secondary Fixed Term	91	284	166	365
Academy Fixed Term	106	436	315	563
TOTAL	274	1096	561	1049

This statistical evidence has been supported by a number of comments received from Special Educational Needs Co-Ordinators (SENCOs), maintained schools and academies in relation to exclusions at their maintained school or academy:

“Only those on the register for behaviour, and recently these are short term exclusions only, due to unsafe or dangerous behaviours towards themselves or others. If a pupil begins to display behaviour which requires fixed term exclusions our pastoral team work initially with the child and family. If that does not work they are placed on the SEND register so that agencies can become involved to avoid exclusion and support the pupil to make the right choices. Therefore short term exclusions are dealt with using BESD support and become SEND until behaviour improves. In the academic year beginning September 2010 we had 3 permanent exclusion, all on the SEND register as we had put in work to support them and their family before they ended up being permanently excluded, since then we have had none.”

“Those most at risk of exclusion are, unfortunately, often those who’s identified SEN is behavioural.”

“Exclusion is a rare occurrence in our school. Over the last three academic years, I have only made six exclusions, all short term fixed exclusions. All of the exclusions have had a direct correlation with SEN with the exception of one. There have been no permanent exclusions.”

However, a Headteacher of a small primary school highlighted to the Task and Finish Group that if the maintained school or academy is small, then a child or young person with behavioural difficulties can have a huge impact on the rest of the school. As a result, their view was that a whole school picture needed to be considered and not just the individual pupil.

The Sensory Education and Support Service informed the Task and Finish Group that no problems had been experienced by their cohort in respect of exclusions.

The Task and Finish Group heard from the Lincolnshire Parent Partnership Service that they had 27 referrals directly related to exclusions. However, many other referral categories such as concerns over “level of support” would also include references to exclusions. On examination of case records, around 80 cases included concerns about exclusions (permanent, fixed term, unofficial or a combination of types). According to the Lincolnshire Parent Partnership Service,

“parents often feel that their child’s special educational needs are not being met or their disability not being taken into account when fixed or permanent exclusions are issued. This seems to be particularly the case when children have autism or ADHD which present with particular behaviours, such as impulsivity and lack of social understanding.”

This trend reflects the national picture. The national Exclusions Inquiry report has highlighted that the following children remain more likely to be excluded than others in their cohorts:

- ❖ children eligible for free school meals
- ❖ boys
- ❖ some ethnic and cultural groups
- ❖ children with SEN of whatever type and
- ❖ whether with a recognisable visible disability or not

In conclusion, there is some evidence of a correlation between exclusions and special educational needs as highlighted by national evidence and local responses.

Unofficial Exclusions

One of the initial reasons for undertaking the review was the allegations received by some Councillors that some maintained schools and academies were excluding pupils unofficially. The Task and Finish Group has explored this issue in depth and has concluded that there are some incidences where this is happening, at both maintained schools and academies. Some of the maintained schools and academies who took part in the review made the following comments on unofficial exclusions:

“There have been occasional instances where we have come to learn that some pupils in the County have received unofficial exclusions (fixed term). However, this is usually through parental disclosures and therefore, as a school we would not support that this is necessarily the case.”

“We have parents coming to us where the child has not been in school for 5/6/7 weeks and parents have been told by another school that their child is not suitable for them. Child ends up doing well, but has not been excluded officially.

A number of parents are placed under undue pressure to take their child out of school.”

A number of parents that we spoke to also had some experiences of their child receiving an unofficial exclusion:

“Parents were concerned that there may be some exclusion letters missing from the school. There were also concerns about unofficial exclusions when the mother was phoned by the school and asked to collect her son part way through the school day.”

“Mother was twice asked to take son home and keep him at home until the next day. Following the second exclusion parents were told that their son could return to school part-time, for the mornings. Parents then received a letter which “suggested” that their son return part time, which the parents had to agree in writing.”

“Whilst at School, mother did receive phone calls from the school asking her to collect her son for part of the day and then take him back in during the afternoon. This happened for a period of 2/3 months and there is no record from the school about how many times this happened.”

“There were a few occasions when the school asked mother to fetch son during the school day. Mother made sure that school formally excluded him before agreeing to collect him.”

“Daughter had two one or two day official exclusions. Daughter also had two unofficial exclusions, one of which was for two days. This was in relation to an alleged threat that daughter was going to take a knife in and attack another pupil. School took the word of the other pupil involved. School rang parent and told parent to keep daughter at home and away from school. Parent then got the talk about moving schools as the school did not want to permanently exclude daughter.”

According to the Sensory Education and Support Service, there had not been any experiences in respect of unofficial exclusions in relation to their cohort. Most children and young people with sensory impairments attended their local maintained school. The only other circumstances where this occurred would be when a school felt that specialist provision would be more appropriate for an individual, which would be discussed with parents and the child at an early stage.

The Lincolnshire Parent Partnership Service provided detailed evidence highlighting that a number of parents that they had dealt with have experienced unofficial exclusions. According to the Lincolnshire Parent Partnership Service:

“A small number of parents (7) in the past couple of years have asked for help in finding a school place because the present school had removed the child from the roll. Parents have also come to us having been told that their child is in danger of permanent exclusion and that it would be better to avoid this by seeking another school or by electively home educating.

Parents report feeling under pressure to avoid permanent exclusion and thus agree to unofficial exclusions.

Parents report unofficial exclusions, such as being asked to take their child home at lunch time or when teaching assistant support is not available. We also have reports of extended use of part time timetables and of parents being asked to support their child in school during lunch and break times. It is not always easy to evidence this as by their very nature unofficial exclusions have no paper records. Unofficial exclusions often come as part of a complex case which may also involve fixed term and/or permanent exclusions.

Unofficial exclusion may be suggested by the school with the threat of permanent exclusion if the parents do not agree to the former. Parents fear the authority of “professionals” and if unaware of their rights, feel powerless in relation to their child.

Sometimes there is additional pressure from other parents to exclude certain children.

We have heard of several incidents of late start/early finish, parents being asked to take their child home at lunchtime or other parts of the day. Parents are often unaware that this amounts to an unofficial exclusion and that it is unlawful.

Parents are often unaware that part time timetables should be exceptional and done with their permission and as part of a re-integration plan over a short term. They do not know that they have a right to be involved in formulating the re-integration and pastoral support plans. Parents don't realise long term use of part time timetables could amount to disability discrimination. This would be the case if their child were not receiving their educational entitlement, purely because of their disability.

Parents are not aware that it is unlawful for a child to be allowed in to school only when individual support is available. For instance, when a child has 20 hours adult support quantified on their statement, parents may then believe it is permissible for the school to suggest they attend for 20 hours a week, whereas the statement is issued on the basis of 20 hours support being required over a full school working week.

Parents have also expressed concerns about their child spending large amounts of time in “units” within the school, rather than with the majority of other children. This is not unlawful and in some cases is part of a support package that enables a child to stay in schools.

Parents accept the suggestion of a “cooling off period” as an alternative to exclusion to keep their child’s school record “clean”. The child may then be quick to see the advantages of this situation and some are able to manipulate it to their advantage.

Schools often use Health and Safety as a reason to deny access to school – either the H&S of the child or other pupils. This reason is often used when excluding children from school trips. Risk assessments and reasonable adjustments are often not carried out. Parents have been known to be encouraged to pay for a trip, only to be told at the last minute that their child cannot attend. They have not had their deposit refunded.”

The Lincolnshire Parent Partnership Service provided three case studies which illustrated some of the issues parents are facing with unofficial exclusions and how they were resolved. These are attached at Appendix 2.

The Task and Finish Group was satisfied that officers are dealing with those incidences of unofficial exclusions as and when they are identified. The issue remains that due to their nature, unofficial exclusions are difficult to monitor, and with many parents not realising or understanding that some of the practices employed by schools are illegal, this makes it difficult for officers to obtain evidence that these illegal practices are happening. As one parent stated

“Parents need more information about the admissions and exclusions process, statementing and greater support when going through appeals. In particular there is a lack of understanding about what classes as an illegal exclusion and that parents can initiate the statementing process themselves.”

Recommendation 11

The Task and Finish Group recognised the value that the Lincolnshire Parent Partnership Service provides to parents and carers in Lincolnshire and that they are often made aware of specific issues around admissions and exclusions relating to SEN pupils. A process should be established for officers to obtain information and data from the Lincolnshire Parent Partnership Service on admissions and exclusions for children and young people with special educational needs so that any issues arising from the information can be addressed. This should be an annual report that is sent to the Children’s Services Departmental Management Team and to the Children and Young People Scrutiny Committee.

Failure to Comply with Regulations for Exclusions

From the evidence received during the review, it has become apparent that certain maintained schools and academies are not always timely in addressing exclusions, in particular short term exclusions as parents are not always being informed properly about the conditions of the exclusion. The Task and Finish Group has received the following evidence from parents:

“Mother was never invited to any reviews at the school, was just invited to comment on the notes afterwards.”

“The mother only found out about the permanent exclusion when she was phoned whilst taking her son to school. The school said that the permanent exclusion was due to a build-up of incidents and something in particular that had happened the previous day.”

“Mother was informed of exclusions often after they started – the excuse was that they had given son a letter to hand to mother the same day. Confirmation letter would arrive in post several days later – when questioned the excuse was that they could not be held responsible for royal mail delivery times.”

“At the Governors’ Appeal, parents were not issued with the same information as the governors before or during the Appeal, even though the Parents had requested all information and the School legally had to provide it.”

Whilst there is no statutory duty placed upon schools to hold a re-integration meeting following a fixed term exclusion many Lincolnshire schools continue to make this offer available to parents.

The Local Authority continues to promote reintegration meetings following fixed term exclusions, however, it should be noted that a re-integration meeting must not form part of any condition in relation to readmission to the school.

In summary, there are a small number of maintained schools and academies who appear, from the evidence of parents, to not always be providing parents with information prior to and after exclusions. The issues appear to be particularly around informing parents properly about the process. The Task and Finish Group agreed that it would be worth reminding all maintained schools and academies of their statutory obligations in relation to exclusions.

Recommendation 9 (a)

The Education Out of School Team should advise and support maintained schools and academies by:

- ❖ **redistributing the Exclusions Policy to all maintained schools and academies as a reminder of their legal responsibilities and statutory duties when considering or implementing an exclusion.**

⁶ Statistical First Release on Permanent and Fixed Period Exclusions From Schools and Exclusion Appeals In England, 2010/11 (25 July 2012) (www.education.gov.uk)

⁷ “Children’s Commissioner’s major Inquiry reveals first evidence of illegal school exclusions” News Release on 19 March 2012 (www.childrenscommissioner.gov.uk)

⁸ “They never give up on you” Office of the Children’s Commissioner School Exclusions Inquiry, Executive Summary, March 2012 (www.childrenscommissioner.gov.uk)

⁹ “Children’s Commissioner’s major Inquiry reveals first evidence of illegal school exclusions” News Release on 19 March 2012 (www.childrenscommissioner.gov.uk)

¹⁰ Illegal exclusions, National Parent Partnership Network (October 2012) (www.parentpartnership.org.uk)

Appendix 1 - Mid-Term Admissions

Midyear admissions

December 2012

Dear colleague

I am writing to you about some necessary changes to the midyear admissions system. I have attached the administrative detail separately and hope this format is helpful. I have also included data about midyear admissions in the period September 2012 to December 2012 – this format will replace that currently on the secure area of the admissions website.

The midyear system is a statutory requirement for the rest of this school year; in the summer a consultation with schools showed that the majority of respondents wished it to continue beyond this.

We take the view that to continue midyear coordination beyond the requirement in the code is sensible for safeguarding, to minimise delays for children seeking new school places and wherever possible to avoid children becoming classed as “children missing education”. Although the Task and Finish group’s final report will only be available later this month we understand that it will support this approach.

We also take the view that the coordinated process creates a clear audit trail to demonstrate to oversight bodies (Local Government Ombudsmen, Education Funding Agency, Department for Education, Ofsted, Schools Adjudicator) that all involved in dealing with these applications are working together in a timely manner to place children as quickly as possible.

The Ombudsman in particular has severely criticised schools and local authorities where delays in dealing with admissions requests have resulted in avoidable time out of school for children, or parents being unable to exercise their legal right of independent appeal.

Experience now shows that to meet our statutory duty under section 19 of the Education Act 1996 to make educational provision within 10 school days we need to ask schools to respond to midyear requests within 2 school days. We appreciate that this is a very tight schedule and have addressed some of the common questions about this in the attachment.

Please note that two groups of children may need places midyear, but do not come under the midyear arrangements.

- Children with statements who need to move schools midyear are placed by the Special Educational Needs/Disability Statutory Assessment Proceeding (SENDSAP) team under their processes.
- The Education out of School Team may seek to place children who have been permanently excluded, or who are at risk of permanent exclusion; these requests are also separate from both the usual midyear admissions process and the midyear fair access protocol.

The Fair Access Protocol

For midyear applicants the protocol is triggered when there is no place available for a child within a “reasonable” distance; for primary children we define this as 8 miles, for secondary children 20 miles. We will only approach schools with these requests when we can document that this is the case.

These children are admitted exceptionally above PAN, ahead of any children on a reserve list and irrespective of whether appeals have been heard or are planned. The admissions code disapplies the requirement to comply with parental preference in operating the protocol, although it is still an important consideration.

We appreciate that we are asking for much swifter responses to midyear applications, but hope that you will see that this is in the best interests of the children concerned and that prompt responses compliant with the code are the best way to secure the school’s position from external challenge.

If you would like to discuss these arrangements please contact me.

Yours sincerely

Steve Gamble
School Admissions Manager

Midyear admissions timetable from January 2013

School day	School Admissions Team	School
1	Receives midyear form. Checks form is completed correctly, resolves any issues. Sends form for scanning.	
2	Adds the scanned form to the midyear system and emails it to parent's preferred school(s) or the relevant LA for out of county schools.	Receives application.
3		Decides on response (see below). Schools may offer over PAN if they can manage the child within current organisation and resources.
4		Emails decision to admissions (see below)
5	Follows up on any outstanding responses from schools. If more than one school can offer a place the team offers the highest available parental preference and sends the offer letter. If no preferred school can offer the team sends a refusal letter so parents can appeal promptly if they wish. Rings round schools in increasing order of distance from the child's home to find the nearest school place if no preferred school can offer. Sends copy of application form to the next nearest school once it is identified.	Contacts parents of a child to be admitted to make practical arrangements to get the child off to a good start. Offers/refuses next nearest place over the phone to school admissions
6	Sends an offer of the nearest possible school place. If there is no place available within a reasonable distance (8 miles for primary, 20 miles for secondary) considers using the Fair Access Protocol (FAP). If necessary sends FAP email to the selected school asking for a response in 24 hrs. Alerts Education Out Of School Team (EOOST) that interim provision may be necessary.	Receives FAP email and responds within 24 hours.
7	Offers agreed place under FAP procedure. Confirms to EOOST whether provision is needed or not. If an academy refuses a FAP request begins filling out the form to refer to Education Funding Agency (EFA) for a direction from Secretary of State.	
8	Sends formal request for direction of an academy to EFA	
9		
10	Child to be placed in education provision	

Reasons for refusing a place

In our view there are only two possible responses to a parental application for a place. These are:

- Yes, we will admit this child.
- No, we will not admit this child, together with the reason for refusal

The School Standards and Framework Act 1998 only allows refusals in the normal year of entry if the cohort is up to the PAN (unless the child has not qualified in the tests for a selective school).

In our view schools refusing a place must give one of the following reasons for refusal allowed by the School Admissions Code and the School Standards and Framework Act 1998:

- The year group is up to PAN and another child will take a class over the infant class size limit (either now or in the future)
- Although the year group is below PAN another child will take a class over the infant class size limit (either now or in the future)
- The year group is up to PAN and another child will prejudice the provision of efficient education or the efficient use of resources
- Although the year group is below PAN another child will prejudice the provision of efficient education or the efficient use of resources
- This is a grammar school and the child has either not taken the selection tests or has taken them and not reached the qualifying standard (this may be in combination with a refusal based on fullness, grammar schools must make this clear when responding)

Unacceptable reasons for refusing a place

In our view the admissions codes states that schools must not refuse children because:

- Information has not been received from the child's previous school
- They have followed a different curriculum at their previous school
- They are not of the relevant faith in the case of a faith school
- The school is of the view that the child's special educational needs should be assessed before admission
- There are negative reports of the child's previous behaviour, attendance, attitude or achievement
- There are negative reports of the previous behaviour, attendance, attitude or achievement of other children in the family
- The family have not yet visited the school

In some cases schools resisting admission in this way may run the risk of appearing to discriminate on special needs or disability, or seeking to operate a selective practice.

The code specifically bans interviews in connection with the admissions process, therefore it would be poor practice to require the family to visit the school prior to making a decision about the application.

Challenging children

- The current code is much less detailed than the previous version.
- The code does not give a definition of a “challenging” child.
- The code now states that schools (normally only those with a high proportion of challenging or previously excluded children) wishing to resist the admission of a challenging child **must** refer the child to the local authority for consideration under the fair access protocol.
- The code no longer gives schools in an Ofsted category the right to refuse places to any further applicants

The Education out of School Team Manager may not accept that such children are challenging and therefore come under the FAP, in which case they would have to be considered as any other midyear application.

Midyear applications where no house move has taken place

The admissions code specifically says that any parent may apply for a place in any school at any time.

However, in these cases our view is that a move will not usually be the best thing for the child, especially in Y6, and Y9 and above.

When we receive these applications we will initially write to the parent recommending that they work with the current school to see if any issues can be resolved, we will send the current school a copy of this letter.

We also recommend that parents gather as much information as they can before pursuing their application, perhaps visiting the preferred school, to make sure that a move would in fact benefit the child. We do this because we have found that parents do not always appreciate that a move could disrupt a child’s education, for example by forcing them to give up an option subject that is really important to them.

Where parents insist that the only way forward is to change schools we will work with the preferred schools to resolve the application but will not offer a next nearest place if no preferred school is able to admit the child.

Appendix 2 - Unofficial Exclusions Case Studies

Case Study 1

Parent A contacted Parent Partnership in October 2011 to complain about failings in her child's SEN provision from his current school, and their inability to follow the correct procedures and offer support required to successfully request Statutory Assessment for her child. At the same time this parent disclosed that for many months the school had been calling her on a regular basis to come and collect her child and take him home when the school was unable to manage his difficult and challenging behaviours. The school convinced the parent that this was a better course of action rather than issuing an official fixed term exclusion which would be logged on his school record. The parent was now unhappy with this and had complained to the Out Of School team, as well as Parent Partnership. The head teacher of the school was contacted and informed that unofficial exclusions were illegal and if the child's behaviour warranted an exclusion then this should be done officially with all the appropriate paperwork. This school was also not following the guidance as set out in the Code of Practice and failing to put the resources in place to address his SEN and also did not record the evidence effectively for Statutory Assessment which delayed this process. Unfortunately, the school continued to use unofficial exclusions for a further two months, as a means of managing this child's disruptive behaviour and his Mother was very frustrated about having to collect him from school during the school day and for this not being recorded officially. She decided that she would refuse to collect him unless it was an official exclusion. After further discussions the school did start using fixed term exclusions, and eventually he was given a permanent exclusion, and is now at a Teaching and Learning Centre undergoing Statutory Assessment.

Case Study 2

Y has a statement of SEN and was admitted to a academy in September 2011. Since that time she has had 3 fixed term exclusions. She has been on a part time time-table since October 2011, only being allowed in school for 10 hours a week when a teaching assistant (TA) is available. Y has been educated on her own for these 10 hours away from the rest of her class in a separate room. This has effectively been an 'internal' exclusion. Y's timetable has been different hours on different days according to the availability of her TA and not dependent on Y's needs. As other children in the school are on a full time table this could be seen as a case of disability discrimination. Y's mother has never been in agreement with the part time timetable but has been told by school that if they increase Y's hours in school she would be 'at risk of permanent exclusion'. The provision stated in part 4 of Y's statement of SEN has not been provided since Oct 2011. School requested an early annual review with a view to asking for more hours as this might 'make the LA more agreeable to a special school placement'. School were unable to provide details of the provision they would provide if the LA agreed that Y needed her statement amending to ensure her needs could be met in a mainstream school.

Case Study 3

X has a rare genetic disease affecting his limbs and heart. X has mobility issues and his manual dexterity and coordination is severely restricted. A nursery session can often leave him exhausted because of his heart condition and he faces a number of operations on both his heart and limbs.

X's parents chose to send him to the nearest nursery school so that his Mother, who does not have a car, would be able to get him there as easily as possible and would be able to get to the nursery if there are any medical issues during the day. Nursery Staff have become experienced in dealing with X's

medical situation and a specific support assistant was recruited after a successful bid for funding, although a request for a Statutory Assessment of SEN has only just been initiated. X is a very shy child but has settled into the Nursery well and his Mother is very keen that he goes to the school on the same site with the other children. The nursery has been making preparations for X's transition with the adjoining School where planned building work has meant that adaptations can be incorporated to prepare for X for example adapted taps. Discussions have already taken place about the level of support X will need and what preparations will need to be made. X's Mother has had to apply for X's school place through the normal admissions process. Although the Nursery is the closest nursery to X's home, the attached school is not the nearest school. As the school's admissions policy does not include medical grounds X has been ranked on the other criteria and has not been allocated a place. An appeal has been lodged but this will be an infant class size appeal therefore severely limiting the grounds for her appeal. X was referred to the Parent Partnership Service by the School Admissions Team for support. A member of the Parent Partnership team has visited the family and given advice about appeals and is assisting the family to prepare for the appeal.

The Task and Finish Group has been advised that all the issues described in these case studies have now been successfully resolved.

Appendix 3 - Glossary

ADHD	Attention Deficit Hyperactivity Disorder
BESD	Behaviour, Emotional and Social Difficulties
BTEC	Business and Technology Education Council
EAL	English as an Additional Language
Ed Psych	Educational Psychologist
EOOST	Education Out Of School Team
EWO	Education Welfare Officer
GSCE	General Certificate of Education
H & S	Health and Safety
HT	Head Teacher
LA	Local Authority
PAN	Published Admissions Number
PPS	Parent Partnership Services
PRU	Pupil Referral Unit
PSP	Pupil Strategy Plans
RAF	Royal Air Force
SATs	Standard Assessment Tests
SEN	Special Educational Needs
SENCO	Special Educational Needs Co-Ordinator
SEND	Special Educational Needs and Disabilities
SENDSAP	Special Educational Needs and Disability Statutory Assessment and Provision
Soln4	Solutions 4 (now part of The Lincolnshire Teaching and Learning Centre)
SSFA	School Standards and Frameworks Act 1998
STAPS	Specialist Teaching and Applied Psychology Service
TA	Teaching Assistant
TAC	Team Around the Child

Appendix 4 - Contributors to the Review

The Task and Finish Group would like to extend their gratitude to all the following people/groups who have contributed to this review:

- Lincolnshire Shadow Transitions Board
- Graham Aisthorpe-Watts – Democratic Services Officer, Lincolnshire County Council
- Karen Bailey - Looked After Children Education Services Manager, Lincolnshire County Council
- Rachel Boothby - Lincolnshire Parent Partnership Service
- Councillor Mrs Patricia Bradwell – Executive Councillor for Children’s Services and Lifelong Learning, Lincolnshire County Council
- Alison Buckley-Jones - Transitions Support Co-Ordinator, Action for Children
- Debbie Barnes – Executive Director of Children’s Services, Lincolnshire County Council
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- Chris Wrench – Pupil Services Manager, Lincolnshire County Council

The Task and Finish Group would also like to extend their thanks to all the young people, parents and carers, Headteachers, SENCOs, maintained schools, and academies who took part in the review.

More Information

If you would like any more information about the work of Overview and Scrutiny at Lincolnshire County Council then please get in touch with the Scrutiny Team by calling 01522 552164 or by emailing the Team at scrutiny@lincolnshire.gov.uk