

Open Report on behalf of Debbie Barnes, Executive Director of Children's Services

Report to:	Children and Young People Scrutiny Committee
Date:	18 October 2013
Subject:	School Admissions and Exclusions in Lincolnshire

Summary: This Report provides:

- A.** The first monitoring update on the implementation of the School Admissions and Exclusions Action Plan agreed by the Children and Young People Scrutiny Committee on 1st March 2013 following the Scrutiny Review received in January 2013.
- B.** A synopsis of the findings of "*Always Someone Else's Problem*"- the Office of the Children's Commissioner's Report published in April 2013 and the government's subsequent response.
- C.** An outline of the supplementary Action Plan accepted by the Children's Services Directorate Management Team in consultation with headteachers and governors in August 2013 to address concerns about still rising exclusion rates.

Actions Required:

The Children and Young People Scrutiny Committee is requested to:

- 1. Receive the report.
- 2. Comment on the content and progress on both the original and supplementary action plan.
- 3. Agree to receive further recommendations early in 2014 following completion of the in-depth consultation described in the supplementary action plan.

1. Background

A. The first monitoring update on the implementation of the School Admissions and Exclusions Action Plan agreed by Children and Young People Scrutiny Committee on 1st March 2013 follow the Scrutiny Review received in January 2013.

- i) In January 2013, the Children and Young People Scrutiny Committee concluded an in depth review¹ into school (including academy schools) admissions and exclusions issues in Lincolnshire. The review found that:
 - Admissions processes work well for most families.
 - There are increasing pressures for places in some areas and for some age ranges.

- Regarding both exclusions and admissions, support by the local authority for schools and families is good.
 - The majority of schools view exclusion as a last resort.
 - Students with Special Educational Needs and Disabilities are disproportionately represented in the cohort of excluded pupils.
 - Interpretation of the law regarding exclusions by schools is variable.
- ii) Questions were raised regarding that variability and it was felt that central government could do more to bring clarity. It was also felt that parents should be signposted to the excellent services available locally to help them navigate complex systems. The report made a number of recommendations that were accepted by the Children and Young People Scrutiny Committee in January, 2013. These became the principle foci of the Action Plan endorsed by the Children and Young People Scrutiny Committee in March 2013.
- iii) Annex 1 reports the progress made against the action points by September, 2013.

B. A synopsis of the findings of “*Always Someone Else’s Problem*”- the Office of the Children’s Commissioner’s Report published in April 2013.

- i) The Children and Young People Scrutiny Committee’s review report was offered as evidence as part of a concurrent review of the exclusions issue by the Office of the Children’s Commissioner. The latter reported in April 2013 under the title: “Always someone else’s problem” – Office of the Children’s Commissioner’s Report².
- ii) Drawn from National but anonymised research, the report cited evidence of:
- Pupils being excluded without proper procedures being followed. These exclusions are usually for short periods, but may be frequently repeated, meaning that the child misses substantial amounts of education.
 - Pupils being placed on extended study leave, on part time timetables, or at inappropriate alternative provision, as a way of removing them from school.
 - Pupils being coerced into leaving their current school, either to move to another school or to be educated at home, under threat of permanent exclusion.
 - Schools failing to have due regard to their legal responsibilities regarding the exclusion of children with statements of Special Educational Needs (SEN) or Looked After Children (LAC).
 - Schools failing to have due regard to their responsibilities under the Equality Act 2010.
 - Some local authorities failing to deliver their legal responsibility to provide full time alternative education for children from the sixth day of exclusion.

- iii) The Office of the Children’s Commissioner considered that exclusions outside the formal systems happened for four main reasons:
- Lack of awareness of the law.
 - Gaps in the accountability framework for schools.
 - As an unintended consequence of the incentives in place for schools.
 - The lack of a meaningful sanction.
- iv) Many of these conclusions parallel the findings of the Children and Young People Scrutiny Committee’s Report of January 2013.
- v) In August, 2013, the Department for Education published the Government’s response³ to the recommendations of “*Always Someone Else’s Problem*”. Both the recommendations and the Government’s responses are outlined in Annex 2. To some extent these address the Children and Young People Scrutiny Committee’s concerns regarding lack of clarity in the interpretation of primary legislation, particularly by schools.

C. Rising Exclusions and the Supplementary Action Plan

- i) While ‘informal’ exclusions remain of concern, of at least equal concern is the fact that the trend in Lincolnshire and nationally with regard to exclusions is upwards. Although there are new entrants to the market, the principal provision in Lincolnshire for permanent excludees and for ‘sixth-day provision*’ is within our Teaching and Learning Centres (TLC - known nationally as Pupil Referral Units or PRUs). At times over the last year the number of pupils in our TLCs has approached maximum capacity. This in turn reduces capacity for preventative outreach work which relies in part on the availability of TLC teaching staff to work with young people at risk of exclusion in their home schools.
- ii) Lincolnshire’s TLC have recently been graded Good (with some Outstanding features) by Ofsted and outcomes, particularly at Key Stage 4, are better than in many other local authorities. Nevertheless, educating children away from their peers for extended periods is not a long term solution for their learning or for their social inclusion. It jeopardises their future prospects. Equally, such specialist provision places immense demands on the High Needs Funding block that also has to meet the needs of children and young people with a complex range of special educational needs and disabilities. Escalating exclusions involve a shift in a finite resource that may soon become unsustainable. Prompt and effective action to contain and ultimately reduce exclusions is a financial as well as a moral imperative.
- iii) Following consultation with headteachers and governors and within Children’s Services and our partner organisations, a number of immediate actions have been implemented over the past few months to help reduce the rate of exclusions while reducing the time that young people stay in the TLCs before returning to mainstream or special school settings. These are listed in Annex 3. Through consultation we have also

identified a number of possibilities that require further exploration. These are also listed in Annex 3. Many are based on approaches that we know are being trialled in other local authorities facing similar difficulties but also on the suggestions that have arisen through preliminary consultations with Headteachers in Lincolnshire.

iv) Six principles have been agreed to underpin our collective approach to the issues:

- We will ensure that we take collective ownership of all issues.
- The prevention of exclusions is of paramount importance.
- We will ensure that all schools are involved in the gatekeeping and referral process.
- We will support and encourage positive practice and challenge negative trends in the future.
- We will aspire to zero exclusions.
- We will ensure that there is a reduction of pressures on the High Needs Funding Block caused by exclusions.

v) The scope of the consultation currently being undertaken by an independent consultant includes:

- Delegation
- Behaviour Partnerships
- Outreach and Support
- Development of in-school Expertise

Annex 3 expands upon these headings.

vi) The consultation will result in a report that is scheduled to be completed by the end of December and that will be brought back to Children and Young People Scrutiny Committee early in 2014.

*The local authority has a statutory duty to make provision for pupils on the sixth day of any fixed-term exclusion from school.

2. Recommendations

- I. The Children and Young People Scrutiny Committee continues to monitor the original Action Plan arising from the recommendations in its review of School Admissions and Exclusions in Lincolnshire.
- II. The Children and Young People Scrutiny Committee receives a report early in 2014 detailing the results of in-depth consultation on the issues associated with rising exclusions in Lincolnshire.
- III. The Children and Young People Scrutiny Committee comments on the options that will be contained in the report before any long-term strategies are agreed or implemented.
- IV. The Children and Young People Scrutiny Committee continues to monitor the trend in exclusions as a measure of impact of any immediate and long-term proposals that might be agreed.

3. Conclusion

Progress is being made both locally and nationally with regard to improving understanding of admissions and exclusions regulation and ensuring that children and families are supported. However, there is growing concern about rising levels of exclusion that potentially jeopardises the life chances of young people, requires the diversion of significant resource and presents a significant capacity issue that must be addressed with urgency both short and long term. The Children and Young People Scrutiny Committee is urged to support all four recommendations above.

4. Consultation

3. a) Policy Proofing Actions Required

N/A.

4. Appendices

These are listed below and attached at the back of the report	
Annex 1	Response To School Admissions And Exclusions In Lincolnshire - Action Plan Arising From Recommendations
Annex 2	Government's Response to the recommendations of 'Always Someone Else's Problem'
Annex 3	Exclusions And Admissions - Supplementary Action Plan

5. Background Papers

- 1 “School Admissions and Exclusions in Lincolnshire”- a Review by the Children and Young People’s Scrutiny Committee, January 2013
- 2 “Always someone else’s problem” – Office of the Children’s Commissioner’s Report published April 2013 available at:
http://www.childrenscommissioner.gov.uk/content/publications/content_662
- 3 “The Children’s Commissioner’s reports, ‘They Go The Extra Mile’ and ‘Always Someone Else’s Problem’: the government’s response”, August 2013 available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/226526/Government-response-to-the-Childrens-Commissioner.pdf

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**Annex 1: RESPONSE TO SCHOOL ADMISSIONS AND EXCLUSIONS IN LINCOLNSHIRE –
ACTION PLAN ARISING FROM RECOMMENDATIONS**

Recommendation	Recommendation Accepted? Yes/No	Initial Response	Action	Timescale	Who	Progress
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.	Yes	Schools must make their own decision around joining in a centralised system however, the current system is found beneficial by most schools and parents.	Admissions teams to write to schools.	June 2013	John O'Connor	Majority of respondents agreed to continue with the Local Authority coordinating mid-year admissions from September 2013.
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.	Yes	Welcome the recognition of the valuable work of Parent Partnership services.	Parent Partnership to review Communication Strategy.	September 2013	David McWilliams	The Parent Partnership Service (PPS) website has been remodelled and updated making it more accessible to parents. In addition, 5 Parent 'drop ins' have been delivered across the county attended by parents representing 70 children with Special Educational Needs (SEN) to raise awareness of the support service available to them. The Stakeholder Board of PPS have recommended

Recommendation	Recommendation Accepted? Yes/No	Initial Response	Action	Timescale	Who	Progress
						that all paper based information products are 'put on hold' for updating until legislative changes on SEND presented in the Children and Families Act 2014 are clear.
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.	Yes	Welcome the recognition of the value of the Choice Advisers.	The promotion of Choice Advisers reviewed.	Formal merger September 2013 End of Transition Phase April 2014	John O'Connor	The Choice Advice Service and the Parent Partnership Service were merged after a formal consultation during the summer 2013. The new, 'integrated' Service took effect from the 1 st September. However, we have agreed a phased approach to the transition and will continue to support parents up until April 2014. This will allow time to resolve existing issues and to ensure both parents and staff are fully conversant in the new approach to providing support.

Recommendation	Recommendation Accepted? Yes/No	Initial Response	Action	Timescale	Who	Progress
<p>4. Lincolnshire County Council should write to the Secretary of State for Education enclosing a copy of this report and raising the following issues:</p> <p>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.</p> <p>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.</p> <p>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</p>	<p>Yes</p>	<p>The Executive Councillor welcomes this recommendation by the task group.</p>	<p>The report along with a letter highlighting key points will be sent by the Executive Councillor to the Secretary of State.</p>	<p>Originally April 2013 - deferred to October 2013 in the light of the publication of "Always Someone Else's Problem and the Government Response to it" (published late August 2013)</p>	<p>Clr Bradwell</p>	<p>The Children & Young People Scrutiny report was submitted to the National Review conducted by the Office of the Children's Commissioner. The letter to the Secretary of State was deferred until the outcome of "Always Someone Else's Problem and the Government Response was known (August). To some extent the issues originally identified have been partially addressed in the Government's response. The letter will focus on those that have not.</p>

Recommendation	Recommendation Accepted? Yes/No	Initial Response	Action	Timescale	Who	Progress
<p>provision for these pupils.</p> <p>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.</p> <p>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.</p>						
<p>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</p>	Yes	Welcome the support of District Councils.	A letter will be sent to District Councils from the Director of Children's Services.	April 2013	Debbie Barnes	Completed. Letter sent (copy available on request)

Recommendation	Recommendation Accepted? Yes/No	Initial Response	Action	Timescale	Who	Progress
<p>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.</p>						
<p>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.</p>	Yes	The processes and protocols have been reviewed during the life of the task group and are robust.	An annual report will be brought in the autumn term for the previous academic year.	December 2013	John O'Connor / Gary Nixon / David McWilliams	Annual Report will be ready by due date.

Recommendation	Recommendation Accepted? Yes/No	Initial Response	Action	Timescale	Who	Progress
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.	Yes	Completed	Completed	Completed		Completed
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.	Yes	Information on admissions and exclusions includes information for parents.	As and when information is revised, a review of parent information will be included in the process.	April 2014	Head of Service	Letter drafted and information will be sent out to schools in November 2013 with updated legislation.
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	Yes	Welcome task groups recommendation to continue to highlight the work of the Education Out of School Team and guidance on exclusions to all schools in Lincolnshire.	The Education Out of School Team will ensure that schools receive the information as outlined in the recommendation.	September 2013 onwards	Gary Nixon / Phil Whitworth	All schools will have received the relevant letters and information by the end of November 2013

Recommendation	Recommendation Accepted? Yes/No	Initial Response	Action	Timescale	Who	Progress
<p>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</p> <p>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.</p>						
<p>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.</p>	Yes	The work of Education Out of School Team is valued.	The views of the task group are noted.	Completed.		Completed

Recommendation	Recommendation Accepted? Yes/No	Initial Response	Action	Timescale	Who	Progress
<p>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.</p>	Yes	The value of the Parent Partnership is recognised and the suggestion of information from the service on an annual basis welcomed.	Information from the Parent Partnership service to be included in an annual report on Exclusions and Admissions to Scrutiny as with in Action 6.	December 2013	John O'Connor / Gary Nixon / David McWilliams	6 Weekly Meetings now take place and in relation to the issues of sharing data, these issues have been resolved and processes for sharing data in a safe and timely manner are currently being developed.
<p>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.</p>	Yes	The value of the Teaching and Learning Centre is noted.	The recommendation is noted subject to legislative changes.	Completed.		Completed

Recommendation	Recommendation Accepted? Yes/No	Initial Response	Action	Timescale	Who	Progress
<p>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.</p>	<p>Yes</p>	<p>The Council is mindful of the United Nations Convention on the Rights of the Child and will continue to be so.</p>	<p>Staff reminded of the United Nations Convention on the Rights of the Child at meetings and when drafting policies.</p>	<p>December 2013</p>	<p>David McWilliams</p>	<p>The local authority and the wider Children's Partnership have a Children, Young People and Families Participation Strategy. This is underpinned by the principles and Values of the United Nations Convention on the Rights of the Child and in particular Article 12. The LCC Participation Team champion the strategy and this work is also carried forward through the Lincolnshire Participation Action Group (LPAG).</p>

Annex 2: Government's Response to the recommendations of 'Always Someone Else's Problem'

Recommendation 1

We recommend that the DfE should work together with the Government Equalities Office and Equality and Human Rights Commission to produce statutory guidance for schools and other public educational bodies in interpreting the Public Sector Equality Duties with regard to exclusions.

Response to recommendation 1

Revised statutory guidance on exclusion now makes clear that schools' duties under the Equality Act 2010 apply in relation to their use of exclusion and the Government has issued additional advice on how schools can meet their duties under the Act. Since this response, the Equality and Human Rights Commission has published its own advice to schools on the Equality Act. Officials in the Department commented on this advice, which includes a specific focus on equality in the use of exclusion. The Government does not believe that further guidance is needed on this matter.

Recommendation 2

We recommend that governors be empowered to provide a more robust challenge to schools which exclude. Repeatedly, witnesses to the Inquiry have stated that governing bodies are neither equipped nor willing to provide effective challenge to head teachers when it comes to exclusions, either formal or informal.

Recommendation 3

We recommend that governing bodies be required to nominate a Member to have overall responsibility for behaviour and exclusions, in the same way that they do for LAC, SEN and other issues. This governor should have a specific remit to examine the school's policy and practice on behaviour management, including exclusions, and should receive mandatory training to support them on this. Governing bodies should have a responsibility to review the school's behaviour policy on an annual basis, as they do with numerous other school policies, and a responsibility to ensure that it complies with the law.

Response to recommendations 2 and 3

The Government recognises the vital role that governing bodies play in school accountability and ensuring that every child receives the best possible education. We have high expectations of governing bodies and want to see them focusing their efforts on their three core strategic functions of: setting vision; holding headteachers to account; and making sure school budgets are well spent. In line with these functions, governing bodies have a specific responsibility for performance management of the headteacher. Our role is not to micromanage this process but to put in place a framework that enables effective governance. We are cutting red tape by removing and simplifying duties on

governing bodies, enabling peer-support through the National Leaders of Governance Programme, increasing the availability of leadership development training for chairs, and equipping governors with better performance data. Within this context, it is for individual governing bodies to identify the specific training they need to perform their functions.

Since September 2012, the School Inspection Framework has placed a strong focus on the quality of school governance. It has a specific focus on the effectiveness of governance as a central part of the overall judgement on the quality of a school's leadership and management. This will help to promote high quality governance and improve weak governance arrangements. Ofsted has set out nine criteria for judging the effectiveness of governing bodies. These criteria reflect governing bodies' three core strategic functions and include the extent to which governing bodies hold headteachers to account for teaching, achievement, behaviour and safety, and challenge and strengthen their leadership. Every inspection report will contain an explicit comment on the quality of a school's governance in light of these criteria. Where governance is weak in a school that 'requires improvement', inspectors may recommend an external review of governance arrangements.

The Government has also clarified our expectations and the legal duties on governing bodies in a new plain English, Governors' Handbook. This replaced the Governors' Guide to the Law and, for the first time, covers both maintained school and academy governing bodies. The Handbook makes clear that governing bodies must comply with their legal responsibilities for administering the exclusion process, as set out in the statutory exclusion guidance, and reinforces the wider role that governors have in holding headteachers to account for the lawful use of exclusion.

Recommendation 4

We recommend that all school-based professionals should have a clear route of accountability which enables them to draw problems to the attention of the relevant external body without fear of reprisals if they consider that a school is informally excluding pupils.

Response to recommendation 4

There is already a clear route for employees to raise concerns that individuals or schools are acting in a discriminatory or unlawful manner. In the majority of cases concerns are best resolved at a local level and the employers of school-based professionals should have established procedures for dealing with whistleblowing and handling grievances. If an employee felt unable to tell their employer that a school was acting unlawfully they could raise their concerns with the Department. Employees that raise concerns are protected from discrimination and unfair dismissal by Employment Tribunals, which have the power to direct reinstatement and require compensation to be paid.

Recommendation 5

We recommend that all schools should, as a matter of course, publish their behaviour policies prominently on their website. Where they do not already contain information on exclusions, they should be amended to do so. This information should include information on the rights of children and their parents, as set out elsewhere in this report. These rights should also be issued to all parents alongside home-school agreements.

Response to recommendation 5

Maintained schools are already required to publish their behaviour policy on the school website. Where schools do not have a website the governing body must make arrangements for the behaviour policy to be put on another website and to make the address and details of the website known to parents. In setting the school's behaviour policy headteachers must determine the standard of behaviour the school expects of its pupils and the sanctions that will be imposed if a pupil's behaviour falls short of those principles.

Academies are also required to have a behaviour policy. The governing body must ensure that there is a written policy to promote good behaviour which sets out the sanctions to be adopted if pupils misbehave. An academy's behaviour policy must be made available to parents and prospective parents. Whilst academies are not required to publish their behaviour policy on their website, in practice many do so.

The Department funds a number of organisations to provide free and impartial advice to parents on matters relevant to exclusion. This includes the Coram Children's Legal Centre, a link to which is included on the Government's new information website, www.GOV.UK. Statutory exclusion guidance makes clear that headteachers and governing bodies should draw parent's attention to relevant sources of advice when notifying parents about an exclusion.

Recommendation 8

The gap regarding accountability for identifying and addressing informal exclusions should be closed. We consider that the legal position is, in many ways, already clear, but that the responsible bodies do not give due regard to their duties in this area.

Recommendation 9

For the sake of clarity, we consider that, for maintained schools, local authorities have responsibility for identifying and addressing informal exclusions. For the increasing number of Academies (including free schools) this responsibility rests with the EFA. We recommend that, as part of its response to this report, the DfE makes a clear statement that it agrees with this assessment, and expects these statutory bodies to give due regard to this issue. This includes an expectation of improvements to the timely and thorough investigation of any complaints made regarding informal exclusions, and the imposition of appropriate sanctions where schools are acting informally.

Response to recommendations 8 and 9

Wherever possible, complaints about schools are best resolved at the local level. Initially this would be through a school's own complaints procedure. The local authority might also help to resolve complaints about maintained schools.

Where the local complaints process has been exhausted, or there is a need for urgent action, then the Department will consider a complaint that a school has acted unlawfully. The Education Funding Agency is the Department's delivery agency for funding and compliance, with a specific responsibility for considering complaints about academies, including free schools.

The Department has recently reformed and aligned its processes for considering complaints about maintained schools and academies to ensure that complaints are handled promptly, fairly and proportionately. This includes introducing a single online portal for the public to register complaints about schools. The Department has issued guidance to support complainants with clear information about its role in handling complaints.

In considering a complaint the Department takes seriously any evidence that a school has acted unlawfully. It is not the role of the Department to impose sanctions against schools, but if it was identified that a pupil had been informally excluded we would act urgently to ensure that the pupil was receiving suitable, full time education. Where appropriate, this would include taking steps to ensure the pupil was readmitted to the excluding school. Evidence of any unlawful activity would be passed to Ofsted to consider and, if relevant, drawn to the attention of an individual's employer.

Recommendation 10

We recommend that the following measures be considered so as to remove the potential incentive on schools to exclude informally:

- *Any informal exclusions which are found to have taken place should immediately be reported to Ofsted. Ofsted should record this information as part of its monitoring data on schools.*
- *Informal exclusions identified by the EFA (in the case of Academies) or the local authority (in the case of maintained schools) should be reported to, and recorded by, the school's governing body. They should then form part of the evidence provided to the head teacher's annual performance review. This should also be dealt with as a disciplinary matter for the head teacher.*
- *Where a school is found to have falsified registers in order to hide an informal exclusion, this is a criminal offence and should be dealt with accordingly. The head teacher should be referred to the National College for Teaching and Leadership for professional misconduct.*

- *Where a child has been identified to have been informally excluded for a period of one month (either in a continuous period or as a result of repeated short-term informal exclusions), the school should have a financial penalty imposed equal to the amount of funding it receives for that child annually.*

Response to recommendation 10

The Government's view is that the revised school inspection system and individuals' accountability to their employer provide a robust mechanism of accountability.

As set out above, school inspection has been refocused to reinforce accountability for behaviour and governance. Where the Department identifies information that would be relevant to school inspection then it is reported to Ofsted. This would include evidence that a school had acted informally in excluding a pupil. Ofsted has indicated that evidence of informal exclusion would be taken very seriously and would inform the judgements made about a school. The Department and Ofsted have committed to keeping their process for sharing information under-review to ensure that it is sufficiently robust.

Part two of the new Teachers' Standards sets the benchmark for the conduct and behaviour expected of all teachers in England at all times, including those teachers who work in academies and independent schools. This includes the expectation that teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

Where a school considers a teacher to have breached the Standards, they may decide that it is necessary to take disciplinary action against the teacher. If a teacher is found to have committed gross misconduct and is subsequently dismissed from their post, or would have been dismissed had they not already resigned, the teacher's employer must consider whether it is appropriate to make a referral about the teacher to the Secretary of State. Members of the public may also refer an allegation of serious misconduct by a teacher. The National College of Teaching and Leadership is responsible for acting on behalf of the Secretary of State in considering these matters. In serious cases, this can lead to the Secretary of State prohibiting the teacher from teaching.

Annex 3: EXCLUSIONS AND ADMISSIONS- Supplementary Action Plan

Annex 3 a: ACTIONS CURRENTLY BEING ACTIONED FOLLOWING INITIAL CONSULTATION

Action	Priority	By When
Ensure a closer scrutiny of mid-year admissions to check the validity of such admissions.	High	2 nd September 2013
Refocus the Out of School Team (OOST) on re-integration	High	2 nd September 2013
Continue to monitor the length of stay and interventions of Teaching and Learning Centre registered pupils. Including reappraisal of readiness of re-integration and refocusing of TLC outreach on prevention and re-integration.	High	2 nd September 2013
Explore integrated support for families – TAC, Families Working Together, Youth Offending Service, Child in Need (CIN), Police and other agencies before permanent exclusion.	High	2 nd September 2013
Re-appraisal of readiness for re-integration and refocusing of TLC outreach on prevention and re-integration.	High	September 2013
Review how many pupils in the Teaching and Learning Centres and Solutions 4 are recorded as having a TAC and how many pupils are involved in other aspects of Children's Services	Medium	1 st October 2013
Liaise with the LSCB with regard to any links to their action plan and act on those findings.	Medium	1 st October 2013
Review the use of "negative language" – ensuring that children are not labelled as "SEN"	Medium	1 st October 2013
Review the use of fixed term exclusions as a disciplinary tool	Medium	1 st October 2013
Verify the number and nature of SEN statements for pupils accessing the Teaching and Learning Centres	Medium	1 st October 2013
Liaise with the Governor Support Service with regard to training for SEN Governors to raise awareness of the remit of the SEN Governor.	Low	18 th October 2013
Ensure schools receive relevant information on outreach support, autism and SEN training modules and support available for adopted children.	High	October 2013
Develop a business model by which schools can purchase places in the Teaching and Learning Centres at KS4 without recourse to permanent exclusion (To be presented DMT once legalities are verified – see Annex 3 of Exec DMT Report)	High	October 2013
Review the reasons for permanent exclusions and to identify immediate and longer term measures	High	October 2013

Annex 3b : The following sections will provide the focus for the commissioned consultation and options appraisal:

<p>Delegation</p> <ul style="list-style-type: none"> • To investigate the possibilities for delegation or partial delegation of funding to schools. • To explore the possibility of developing different approaches within each key stage. • To explore the possibilities of creating a range of options available to schools and encourage them to share expertise, with the ability to “grow their own” expertise. • To explore possibility of promoting a culture change to encourage schools to offer provision to the best of their abilities that meets the needs of the child.
<p>Scope of Review</p>
<p>Review the impact on the High Needs Block</p>
<p>Consider the deployment of school underspends</p>
<p>Continue to challenge headteachers and SEN governors with regard to accountability, gatekeeping and collective responsibility</p>
<p>Explore strategies for increasing the accountability and collective responsibility of headteachers</p>
<p>Review blockages for SEND cohort</p>
<p>Produce a costed implementation plan and long term strategy for TLCs, exclusions and admissions</p>

<p>Behaviour Partnerships</p> <ul style="list-style-type: none"> • To explore the possibility of creating collaborative partnerships which match “areas” of need. If collaborative partnerships are a way forward to explore ways of the sharing of information and good practice within those partnerships. • To explore possibility of promoting a culture change to encourage schools to offer provision to the best of their abilities that meets the needs of the child. • To explore the possibility of schools being further encouraged to access support, including outreach support. • To explore the possibility of establishing a “Reward and Accreditation” scheme.
<p>Scope of Review</p>
<p>Explore the possibility of establishing behaviour partnerships, nurture groups and peer mentoring between schools.</p>
<p>Review school exclusion policies</p>
<p>Explore the need to develop strategies to address informal exclusions</p>
<p>Explore how schools and parents can be encouraged to address the SEN of pupils before it occurs</p>
<p>Explore ways to address the threshold for exclusions and work with schools to enable them to manage behaviour</p>
<p>Explore the possibility of managed move protocols.</p>
<p>Consider “Assessment Centre+” Possibilities</p>

<p>Outreach and Support</p> <ul style="list-style-type: none"> • To explore the possibility of schools being further encouraged to access support, including outreach support. • To explore the possibilities of creating a range of options available to schools and encourage them to share expertise, with the ability to “grow their own” expertise. • To explore the possibility of promoting a culture change to encourage schools to offer provision to the best of their abilities that meets the needs of the child. • To explore the possibility of developing different approaches within each key stage. • To investigate the possible need to cultivate an alternative education market that schools can access.
<p>Scope of Review</p>
<p>Create capacity within the Teaching and Learning Centres (TLC) for TLC staff to provide more outreach support by monitoring the use of the TLCs to ensure children and young people are there for shorter periods of time and that only the most serious cases are referred to the TLC</p>
<p>Review TAC, School Action and School Action+ processes with the view of developing one single process, encouraging further agency engagement.</p>
<p>Explore possible links with the Armed Forces to further develop expertise</p>
<p>Produce a directory of support for schools</p>

<p>Development of in-school Expertise</p> <ul style="list-style-type: none"> • To explore the possibility of schools being further encouraged to access support, including outreach support. • To explore the possibilities of creating a range of options available to schools and encourage them to share expertise, with the ability to “grow their own” expertise. • To explore the possibility of promoting a culture change to encourage schools to offer provision to the best of their abilities that meets the needs of the child. • To explore the possibility of creating collaborative partnerships which match “areas” of need. If collaborative partnerships are a way forward to explore ways of the sharing of information and good practice within those partnerships. • To explore the possibility of establishing a “Reward and Accreditation” scheme. • To explore the possibility of developing different approaches within each key stage.
<p>Scope of Review</p>
<p>Explore the need to develop strategies to address informal exclusions</p>
<p>Explore ways to address the threshold for exclusions and work with schools to enable them to manage behaviour</p>
<p>Encourage greater collaboration with parents/carers, gathering their views, with the help of Parent Support Advisers, on changing “no engagement” to “willing engagement”.</p>
<p>Explore the possibility of establishing behaviour partnerships, nurture groups and peer mentoring between schools.</p>