

Cheshire West & Chester Council

Frequently asked  
questions and answers

# Exclusions from School

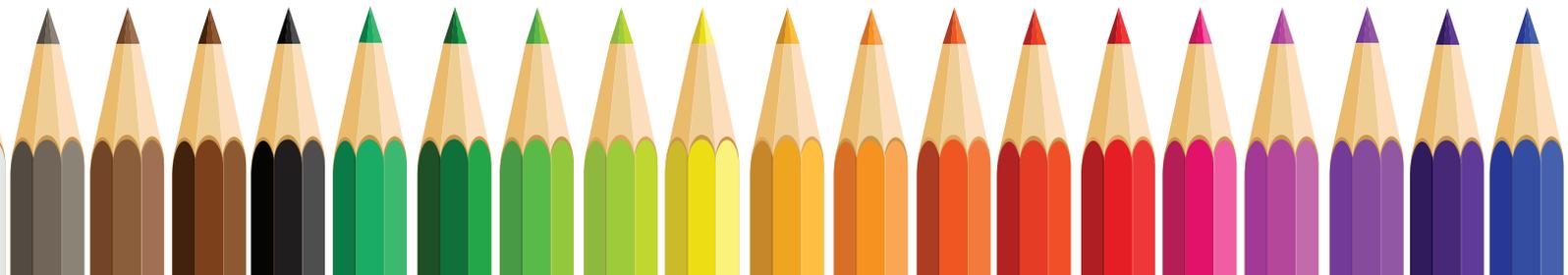
Information for  
Parents and Carers

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Cheshire West  
and Chester

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### What is an Exclusion from school?

Exclusion is when a Head Teacher decides to keep a child out of school for serious misbehaviour.

Exclusion from school is a formal step taken by the Head Teacher in response to breaches of the school's behaviour policy (see page 5).

Your child can be excluded from school either temporarily called a fixed term exclusion or permanently called a permanent exclusion.

If your child was at risk of being excluded, the school should have tried to take measures to avoid reaching a permanent exclusion.

### What is a fixed term exclusion?

This when a child is not allowed in school for a certain fixed number of days. After this time the child goes back to school. A child can receive more than one fixed term exclusion but the total number of days cannot be more than 45 in a school year.

### What is a permanent exclusion?

This is a formal step taken by the Head Teacher in response to serious breaches of the school's behaviour policy. The Head teacher has made a decision that your child cannot return to the school. It will usually be the final step in a process for dealing with disciplinary offences.

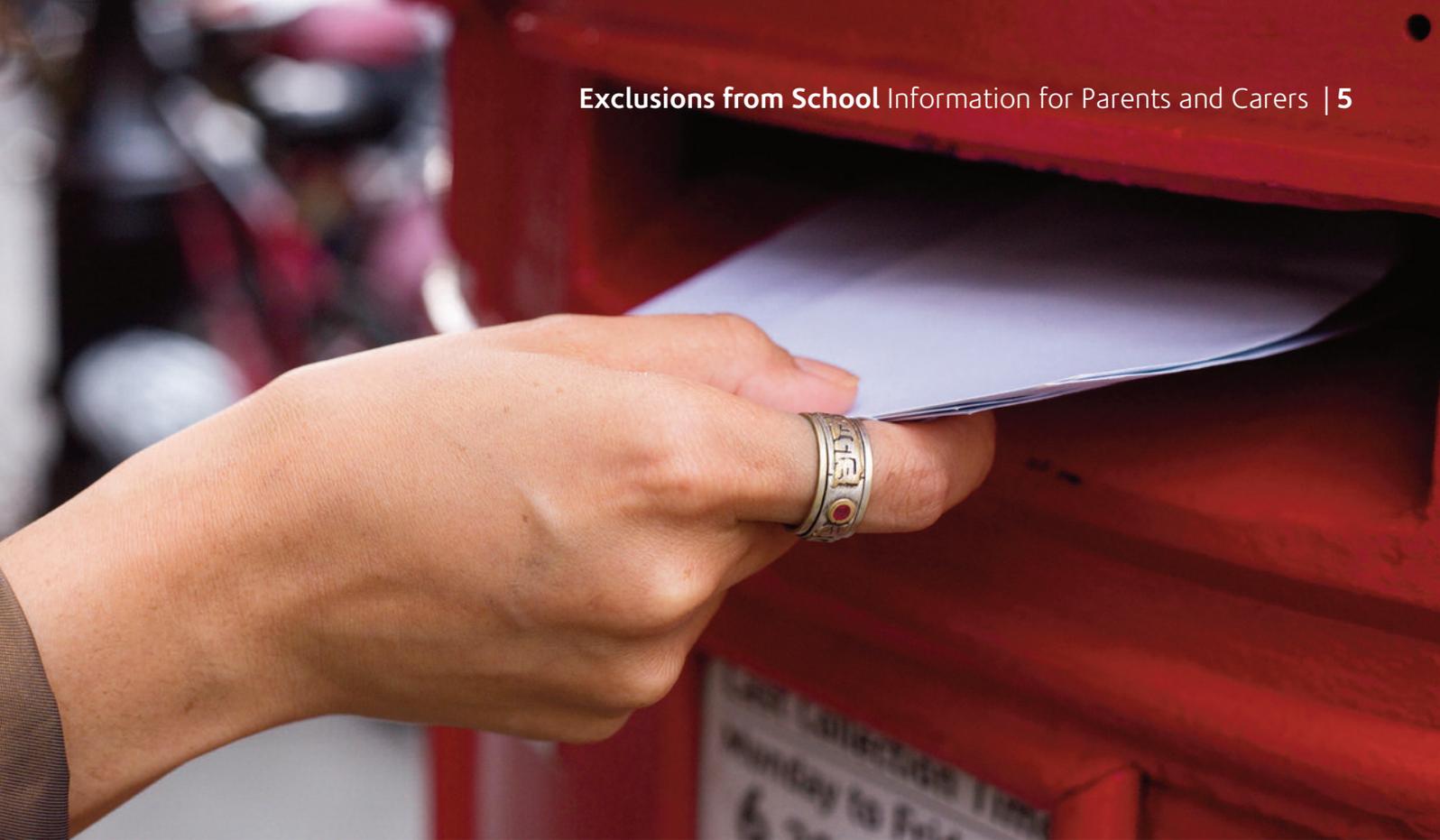
### What is parents responsibility during an exclusion?

The school is responsible for providing work for the pupil. The parent is responsible for ensuring the pupil completes this work. They may also need to collect work from school and return when completed.

The parent must ensure that their child is not found in a public place in school hours during the first five days.

If the child is found to be in a public place without reasonable justification then a penalty notice may be issued by the Local Authority.





## What is a school behaviour policy?

Each school has their own Behaviour Policy which sets out rules and regulations that the school have in place. The Behaviour Policy must:

- promote good behaviour
- develop self-discipline and respect
- prevent bullying
- ensure that pupils complete assigned work
- regulate the conduct of pupils

The Head Teacher must decide the standard of behaviour expected of pupils at the school. He or she must also determine the school rules and any disciplinary measures for breaking the rules .

The Head Teacher must publicise the school behaviour policy, in writing, to staff, parent and pupils at least once a year.

## How will you know your child has been excluded?

You will be informed straight away, ideally by telephone and then followed up by a letter.

The letter should explain:

- The fact that this is a permanent or fixed term exclusion
- The date it takes effect (for a fixed term exclusion there must be a date to return to school)
- Any relevant previous history
- The reason for the exclusion
- Your right to make representation to the gover-nors' disciplinary committee (GDC) (see page 11)
- Who you should contact if you wish to state your case
- Your right to see your child's record
- The latest date the GDC must meet to consider the exclusion



## Why would the school issue an exclusion?

The Head Teacher may decide to issue an exclusion if:

- There has been a serious breach of a school's discipline policy; and
- Allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school

In most cases other action/s should have been taken before excluding a pupil. However, it might be necessary for the Head Teacher to take immediate action to protect pupils and staff.

## What is the purpose of a fixed term exclusion?

The purpose may be:

- To allow a cooling off period
- To allow school time to get appropriate support
- To allow school to seek external advice
- To signal to the young person the severity of their behaviour

- To give the school time to look into the reasons behind the young persons behaviour.

## Exclusions should not be used for

Exclusions should not be used for:

- Poor academic performance
- Lateness or truancy
- Pregnancy
- The behaviour of parents/carers.

## Can the exclusion be extended?

Yes it can. This is usually if further evidence has come to light. A fixed term exclusion may be extended or converted to a permanent exclusion. The Head Teacher must write again to the parent/carer explaining the reasons for the change.

A permanent exclusion cannot be backdated and so can only come into effect when you are notified about it.



## What is an 'unofficial exclusion'?

This is when the school sends your child home for bad behaviour without following the proper exclusions procedure. The school might say this is:

- To "cool off"
- Until you go to a meeting
- While you find another school
- While they investigate the incident

This is not legal and you should not agree to this happening

## Why do parents agree to this?

- They do not want an exclusion on their child's record
- They are worried that if they do not agree there will be a more serious consequence
- They do not want to make a fuss
- They do not know about the statutory regulations regarding exclusions



## Why should all exclusion be official?

- If there are no official records of exclusions it may appear that the pupil is not having difficulties in school
- A formal exclusion gives the parent/carer the right to meet the governors who will consider the exclusion
- Unofficial exclusions are unlawful
- The Head Teacher is responsible for the safeguarding of all pupils on roll during the school day. The only times that they are not responsible is if the pupil is ill and has been kept at home or if they are formally excluded and the responsibility goes to the parent/carer.
- Paragraph 3.13 of the Statutory Guidance states that 'informal' or 'unofficial' exclusions are unlawful regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for a short period of time, must be formally recorded.

## What about lunchtime exclusion?

Pupils who misbehave may be excluded just for a lunch time. Each lunchtime counts a half a day. Lunchtime exclusions should not continue indefinitely—they should have a start and end date. If a pupil is entitled to free school meals the school should offer to provide a packed lunch.



## Who can exclude a child from school?

Only the Head Teacher or person acting as the Head Teacher can exclude a child from school. They must keep records of all exclusions. The Head Teacher can also make an exclusion shorter or rescind (withdraw) an exclusion.

## Is it possible to be permanently excluded for a 'first offence'?

In exceptional circumstances, yes it is. Examples of these offences are:

- Serious actual or threatened violence against another pupil or staff member
- Sexual abuse or assault
- Supplying an illegal drug
- Carrying an offensive weapon.

## What happens when a pupil is excluded?

Before asking the pupil to leave the site, the Head Teacher should:

- Investigate and ensure there is sufficient evidence on the balance of probabilities (more likely than not) that a pupil has committed a disciplinary offence.
- Consider all of the information available including mitigating circumstances (information that makes the incident seem less serious or more excusable).
- Check if the pupil is a victim of bullying or harassment of any kind
- Allow and encourage the pupil to say what happened
- Keep a written record of actions taken, including any interview with the pupil or any witness statements.

## My child's behaviour has been an ongoing concern, should something have been done before she/he was permanently excluded?

Yes. If your child's behaviour has been a cause for concern and he/she was at risk of a permanent exclusion, the school should have tried to take measures to avoid reaching the decision to permanently exclude.

You should have been involved in the discussions/plan..



## What could the alternative be to an exclusion?

Identifying early that your child is at risk of exclusion can be useful in developing support strategies that may help.

You could discuss with your school whether they feel that your child would benefit from extra support in the classroom.

Schools have the opportunity to have meetings and discuss pupils who need extra support so they can find solutions. Sometimes in the meeting there may be other professionals.

The school should consider a multi-agency assessment that goes beyond a child's educational needs and provide additional support in school. This might be a Pastoral Support Plan or an Individual Behaviour Plan.

If your child is being assessed or receiving support for their special educational needs, the school should make every effort to avoid exclusions.

If your child already has a Statement of Special Educational Needs or an Education, Health and Care Plan (EHCP) an early/interim or emergency review can be requested to discuss the circumstances around the exclusion.

Internal seclusion could be an alternative in a designated area within the school.

A pupil can be educated off site or at another school for a short period of time.

To avoid a permanent exclusion a pupil can be transferred to another school as part of a 'managed move' with the consent of the parties involved which includes the parents/carers. This is for an agreed period of time and the pupil remains on roll of their current school. If successful the pupil will go on roll at the new school.

The threat of an exclusion must not be used to influence parents to remove their child from that school.

### If your child has special educational needs you can contact :

**Information Advice and Support Service**  
(formerly known as the Parent Partnership Service)

<http://www.westcheshirelocaloffer.co.uk/>

Telephone: 0300 1237001

Email:

[iasservice@cheshirewestandchester.gov.uk](mailto:iasservice@cheshirewestandchester.gov.uk)

or you can also contact

**Edge**

Email: [is@edgeinc.co.uk](mailto:is@edgeinc.co.uk)

Telephone: 07947100727

**These are both independent support services for parents/carers of children with special educational needs.**



## For children in care

Head Teachers should make every effort not to exclude any child in care.

In order to support schools to avoid exclusion the Virtual School should be informed and involved at the earliest opportunity. Then the Virtual School, working with others, can:

- Consider what additional assessment and support needs to be put in place to prevent the need for exclusion;
- Make any additional arrangements to support the child's on-going education in the event of an exclusion.

**1st day provision** The Virtual School should encourage Head Teachers to follow best practice by making a full-time learning offer to children in care from the 1st day of a fixed term exclusion.

### Permanent Exclusion

No looked after child should be permanently excluded before social workers, carers, IRO and Virtual School Head Teacher have had a chance to meet together with the school to consider alternatives.

If a Head Teacher does permanently exclude a looked after child then social workers and carers should be supported to attend the meeting of governors that must be called to either uphold or overturn the Head Teacher's decision.



## Can I appeal against my child's fixed term exclusion?

You cannot actually appeal the decision but you can ask for it to be reviewed. If the exclusion is between 1 and 15 days or the total number of days excluded that term are over 5 days then you can ask for a meeting of the school governors' disciplinary committee where the exclusion is reviewed by the governors.

This is your chance to tell the governors what you think about the exclusion. If you request it then the school must hold the meeting within 50 school days.

If the exclusion is for more than 15 days or the total number of days excluded is more than 15 in that term then you can ask for a meeting of the school governors' disciplinary committee. This is your chance to tell the governors what you think about the exclusion. If you request it then the school must hold the meeting within 15 school days.

If your child has special educational needs and you think he/she has been excluded because of his/her disability and that there has been discrimination you can appeal and/or make a claim to the First-tier Tribunal or the County Courts.

## Can I appeal against my child's permanent exclusion?

There is not an actual appeal however there must be a meeting of the school governors' disciplinary committee (GDC) (see page 11) within 15 school days of the permanent exclusion where the decision to permanently exclude is reviewed by the governors. You will be invited to the meeting. The head Teacher and in some cases the Local Authority (LA) representative will also be present. You should make every effort to attend so that you can have your say.

If the decision of the governors' disciplinary committee is to uphold the permanent exclusion you can ask for it to be reviewed at an Independent Review Panel (IRP) (see page 13)

You can also ask the LA to appoint a Special Educational Needs Expert to come to the IRP.

If you are unhappy with the outcome of the IRP and you think there was disability discrimination you can appeal and/or make a claim to the First-tier Tribunal or the County Court .

## What is a governor's disciplinary committee meeting (GDC) and what happens?

The Governors' Disciplinary Committee (GDC) MUST review the Head Teacher's decision to exclude your child. If they do not agree and the exclusion is for more than 5 days (or the exclusions total more than 5 days in the term), the Head Teacher must allow your child to return to school.

The meeting is conducted formally as below:

- The disciplinary committee is made up of three or five Governors
- The committee will hear and consider the evidence presented by the Head Teacher and by the parents/carers and young person
- The Head Teacher will explain the reasons for the exclusion and the strategies used to try to avoid the exclusion
- The LA Officer may send in a statement (see page 12)
- Summing up of the review
- The Head Teacher, parents, young person (if there) and Local Authority Officer leave the room
- The committee decide whether or not to uphold the exclusion
- The clerk will write to you with the decision.

## What is the purpose of the GDC?

The purpose of the GDC is:

- To allow you and your child to hear the reasons for the exclusion and to ask questions
- To enable you to have your say and to give you the opportunity to ask questions
- To give you the opportunity to put information forward
- To allow all of the statements to be heard and considered (all written statements are circulated 5 days before the meeting).

## What the GDC cannot do:

The GDC cannot:

- Make a fixed term exclusion longer
- Make a fixed term exclusion permanent
- Add conditions to you child's return to school
- Remove an exclusion from your child record, but you can ask for a statement from you to be placed on your child's record.

## How do i have my say at the GDC?

You can tell the Governors' Disciplinary Committee what you think about the exclusion:

- By writing a statement
- By asking for a meeting to have your say
- You can ask a friend or legal representative to attend the meeting with you
- Your child can go to the meeting if you both agree
- The exclusion letter will let you know how you can contact the governors

## What is the role of the education access officer?

If the exclusion is a permanent exclusion the Education Access Officer can:

- Explain your rights and responsibilities through the process
- Give you information about a permanent exclusions
- Ensure that your child receives an education whilst the process is ongoing
- Attend the Governing Body's Discipline committee (GDC) to give advice on how other Cheshire West and Chester schools might deal with similar problems. They cannot speak for you or make representations on your behalf

## What are the powers of the GDC?

The GDC can make one of two decisions

1. To uphold the head teacher's decision, or
2. To overturn the head teacher's decision.

If the governors overturn the exclusion they will place a copy of their findings on your child's school report if the exclusion was for 5 days or less. In all other exclusions the governors can direct that your child returns to school.

If your child has been excluded permanently, and this decision was upheld by the school governors, you have a right to ask for the decision to be reviewed by an Independent Review Panel (IRP) (see page 13)

## What if you are not happy with the decision of the GDC to uphold the permanent exclusion?

If you are not happy with the decision of the GDC to uphold the permanent exclusion you have the right to request that their decision is reviewed by an Independent Review Panel (IRP).

## What is an independent review panel?

If the Governing Body uphold a permanent exclusion, parents have the right to request that their decision is reviewed by an Independent Review Panel (IRP).

Parents must lodge their application for a review within 15 school days of notice being given to the parents by the Governing Body of their decision to uphold a permanent exclusion.

These are strict deadlines and any application made outside of the legal time frame must be rejected by the Local Authority / Academy Trust.

Parents may request an Independent Review Panel even if they did not make a case to, or attend, the meeting at which the Governing Body considered the exclusion..

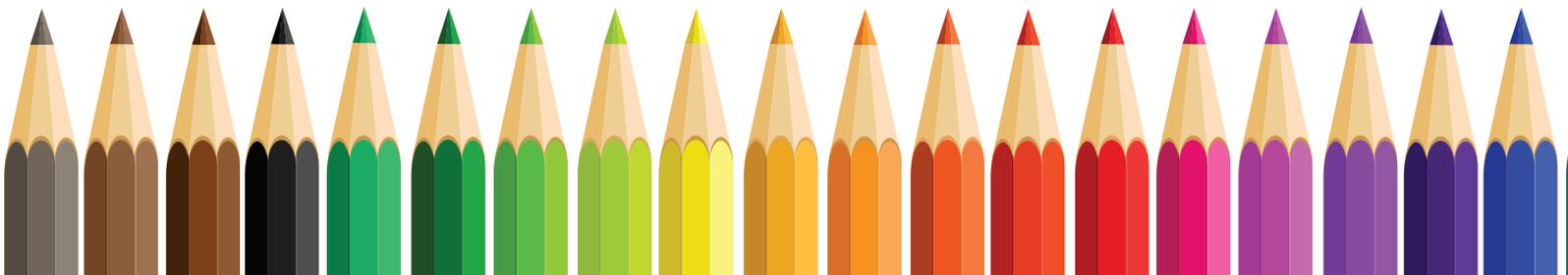
## What is the role of the independent review panel?

The role of the panel is to review the Governing Body's decision to not reinstate a permanently excluded pupil. In reviewing the decision the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school.

## What are the powers of the independent review panel?

The panel can decide to:

- Uphold the exclusion decision;
- Recommend that the Governing Body reconsiders their decision.



## What would it take for a decision to quash (overturn) or reject the permanent exclusion?

When considering the Governing Body's decision, the panel should apply the following tests which need to be satisfied to quash the decision:

- **Illegality** - did the Head Teacher and / or Governing Body act outside the scope of their legal powers in taking the decision to exclude?
- **Irrationality** - was the decision of the Governing Body not to reinstate the pupil so able that it was not one a sensible person could have made?
- **Procedural impropriety** - was the process of exclusion and the governing body's consideration so unfair or flawed that justice was clearly not done?

If any of these criteria are met then the panel may decide to quash the decision of the governing body and direct that they consider the exclusion again.

In all other cases the decision should be to uphold the exclusion.

When considering the Governing Body's decision, the panel should apply the following tests which need to be satisfied to quash (reject or overturn) the decision.

## What if i'm still not happy with the decision to uphold?

There is no further right of appeal against the decision of an Independent Review Panel. However the decision can be challenged in the following way:

If you feel that the review panel process was unfairly run, you may be able to take this further by complaining about maladministration by the IRP. A successful complaint may result in a recommendation that a new IRP should be arranged, but the decision to uphold the exclusion cannot be overturned.

## What about your child's education?

If your child has had a fixed term exclusion then for the first 5 days or less the school will give your child work to do. During the exclusion your child should not be allowed in a public place during school hours because they should be completing the work set by the school. The school is responsible for setting and marking work.

If the exclusion is for more than 5 days the school will provide work for your child for the first five days and then full time education will be provided at another building. The school will tell you where the education will be provided during the exclusion.

If your child has had a **permanent exclusion** then for the first 5 days the school will give your child work to do. Your child should not be allowed in a public place during the exclusion because they should be doing the work set by the school. From the sixth day the Local Authority will provide suitable full time education and a member of the local authority's Education Access Team, called an **Education Access Officer** will be in touch with you about this.

## What if your child has exams and has been excluded?

The governing body have a power to meet to consider re-instatement before the date of the examination. This power allows the chair of the governing body on his / her own to consider this exclusion and make a decision as to whether or not to re-instate the pupil in order for them to sit the exam.

In the case of a permanent exclusion then the school could still allow the pupil to sit the exam in another setting if it was in the first 5 days following the exclusion. If it was from the 6th day the LA would liaise with the home school to see if they could support the pupil to sit the exam.

## Where can i get help and support?

### You can get information and guidance from the local authority

If you require further information on exclusions please use the following details:

The Education Access Team, Tarvin Meadow Professional Centre, Meadow Close, Tarvin, CH3 8LY

Telephone: 01244 972825 or email [exclusions@cheshirewestandchester.gov.uk](mailto:exclusions@cheshirewestandchester.gov.uk).

### Support if you are the parent/carer of a child with special educational needs?

If your child has special educational needs you can contact :

**Information Advice and Support Service** (formerly known as the Parent Partnership Service)

<http://www.westcheshirelocaloffer.co.uk/>

Telephone: 0300 1237001

Email: [iasservice@cheshirewestandchester.gov.uk](mailto:iasservice@cheshirewestandchester.gov.uk)

or you can also contact

#### Edge

Email: [is@edgeinc.co.uk](mailto:is@edgeinc.co.uk), Telephone: 07947100727

**These are both independent support services for parents/carers of children with special educational needs.**

## Other support, information and guidance

### Support if the permanent exclusion has been upheld and you need help in finding another school for your child

If your child will not be returning to the school because the permanent exclusion was upheld you will need to find another school for him/her.

Although it is your responsibility as the parent/carer to secure another school the Education Access Officer will help you approach new schools and support you and your child at admission meetings.

### Coram children's legal centre

Coram Children's Legal Centre aims to provide free legal advice and information to parents on state education matters.

They can be contacted on 0300 3305485 or on <http://www.childlawadvice.org.uk/>.

The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24th December to the 1st January

### Traveller education service

Telephone: 01606 2 71540

Email: [Antoinette.vanommen@cheshirewestandchester.gov.uk](mailto:Antoinette.vanommen@cheshirewestandchester.gov.uk).



## If you think the exclusion has occurred as a result of discrimination

You should also be aware that if you think the exclusion has occurred as a result of discrimination then you may make a claim to the First-tier Tribunal (Special Educational Needs and Disability) in the case of disability discrimination, or the County Court, in the case of other forms of discrimination. Such a claim must be lodged within 6 months of the date your child was excluded

<https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability>

## Statutory guidance on exclusions

Statutory guidance on exclusions can be found by visiting

<http://www.education.gov.uk/schools/pupilsupport/behaviour/exclusion>

## Cheshire West and Chester Council's local offer

You can find help, information and services on Cheshire West and Chester's Local Offer website.

<http://www.westcheshirelocaloffer.co.uk/>



### Accessing Cheshire West and Chester Council information and services

Council information is also available in Audio, Braille, Large Print or other formats. If you would like a copy in a different format, in another language or require a BSL interpreter, please email us at

**[equalities@cheshirewestandchester.gov.uk](mailto:equalities@cheshirewestandchester.gov.uk)**

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**email:** [equalities@cheshirewestandchester.gov.uk](mailto:equalities@cheshirewestandchester.gov.uk)

**web:** [www.cheshirewestandchester.gov.uk](http://www.cheshirewestandchester.gov.uk)

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