

Government consultation on Revised Behaviour in Schools Guidance and Suspension and Permanent Exclusion Guidance

Response of the Association of School and College Leaders

A. Introduction

1. The Association of School and College Leaders (ASCL) represents over 21,500 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business managers and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million young people in more than 90 per cent of the secondary and tertiary phases, and in an increasing proportion of the primary phase. This places the association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types.
2. ASCL welcomes the opportunity to contribute to this consultation.

B. General points

3. The suggestion in the framing of this report that poor behaviour is a reflection of poor choices is unhelpful.
4. ASCL would like to see a language of consequences rather than sanctions.
5. Schools require sufficient time to establish and refresh vision, values and consistent strategies. This requires protected CPD time. In ASCL's [Blueprint for a Fairer Education System](#) we recommend schools and colleges are provided with more time for engaging with professional learning.
6. Behaviour is everybody's business, and the adoption of whole school responsibilities requires a model of distributed leadership. This needs to be made even clearer in the guidance.
7. ASCL would like the behaviour guidance to explicitly link exclusion policy with other policies and guidance including Safeguarding, SEND, Attendance and Mental Health and Wellbeing and ensure these policies are aligned.
8. Ensure the guidance is accessible to all including parents and pupils. Create a summary document for parents to understand the policies and procedures around exclusion.
9. The lead for behaviour should work strategically with the Designated Safeguarding Lead, SENCO and pupil premium lead.
10. ASCL would recommend the guidance encourages regular collaboration with the Virtual School Head and the Designated Teacher.
11. ASCL would like to see a more contextual approach to understanding the behaviours of children and young people and greater importance placed on relationships between staff and pupils.

C. Changes to the Behaviour in Schools Guidance

Section 1 – creating and maintaining high standards of behaviour

Question 1: Paragraphs 7–8 outline what should be included in a school behaviour policy, for example information on purpose, leadership & management, school systems and pupil support. Do you agree with this approach? If not, please explain why.

12. Yes.

13. ASCL is pleased to see a greater emphasis here on relationships. We would like to see reference to the importance of developing a school culture of belonging, and of seeing school as place where young people can have trusted relationships and feel safe.

Question 2: In paragraph 12, we propose a new national minimum expectation of behaviour which gives schools the ability to set a benchmark for behavioural standards. This sets out high standards of expectations from schools - for example, pupil behaviour not routinely disrupting teaching, routines, and leaders visibly and consistently supporting all staff to implement the school behaviour policy. Do you agree with this approach? If not, please explain why.

14. No.

15. ASCL believes that schools do have high expectations of behaviour. If there is to be a national standard there needs to be much greater recognition of the complexity of behaviours, contextual challenges and the need for these behaviour expectations to be appropriate. A one-size-fits-all set of expectations undermines the Equalities Act as it fails to take account of the differing needs and experiences of a significant minority of pupils.

16. ASCL would like to see a set of behaviour **principles** upon which high expectations of behaviour are based, rather than a set of standards.

17. ASCL believes that behaviour should not be considered in isolation and that any set of principles and/or standards must reflect the child and young person as an active part of the wider community, where there is a reciprocal duty to meet their needs. For example, a young person with mental health issues who can't access CAMHS support or a child with no additional adult when waiting for an EHCP may experience behaviours that are beyond their control and they should not be considered outside of a set of standards that cater for a majority rather than for all.

18. A set of principles that articulated expectations and approaches that schools should adopt would be particularly helpful and could align with other statutory guidance, such as KCSIE and legislation such as the SEND Code of Practice, where context and reasonable adjustment are a fundamental expectation not a tolerated anomaly to the norm.

Question 3: Paragraphs 13-15 outline how schools should adopt a whole school approach to behaviour so it can be consistently and fairly implemented across the whole school, with all staff adhering to the same expectations. Do you agree with this approach? If not, please explain why.

19. Yes.

20. A whole school approach is an enabler to a positive school culture. ASCL believes that consistency and fairness is what schools must work to continuously improve and refine.
21. Our members tell us that adopting a trauma-informed lens to their whole school behaviour approach has led to positive impact on both staff agency and pupil behaviour. We would like to see reference to the role that Virtual School Heads can play in supporting schools to develop their capacity to effectively support young people who are struggling to regulate their behaviours. ASCL would like the government to share the growing body of evidence that supports this approach.

Question 4: Paragraphs 33-37 set out the approach to behaviour expectations for pupils with SEND so that everyone can feel they belong in the school community and expectations are not lowered for any pupils. Do you agree with this approach? If not, please explain why.

22. *Yes, we agree there should be high expectations for all pupils including young people with SEND.*
23. Paragraph 34 states: *'Some behaviours are more likely to arise from types of SEN or disabilities, such as a pupil with a specific learning difficulty such as dyslexia who may seek to distract from the fact that they find it difficult to access written material'*. We can see the intention here to explain the challenge a young person with SPLD may experience, but this articulation has unintended consequences and needs to be reframed. Tying a specific behaviour to a specific condition is conveying assumptions rather than expecting teachers to respond to the evidence they have about this individual. The SEND Code of Practice asks teachers to make assessments of their pupils behaviour not assumptions defined by their label.
24. Unfortunately, we consider this section does not yet adequately reflect the moral or legal requirements schools must meet, in particular in respect of pupils with social and emotional disabilities (e.g. ASD, ADHD).
25. We don't think these current expectations align with the messaging about how to teach pupils with SEND in the SEND Review. We would suggest rewording. Children and young people with SPLD may try to mask their difficulties in accessing the curriculum and this can, on occasion, lead to dysregulated behaviour. This behaviour should be a cue for the teacher to recognise they need to adapt their instructional approach.

Question 5: We outline in paragraphs 31-32 the crucial role of parents in helping schools develop and maintain good behaviour. We suggest that parents should be encouraged to know the school behaviour policy and take part in the life of the school. There is also an expectation that schools should build and maintain positive relationships with parents. Do you agree with this approach? If not, please explain why.

26. Yes.
27. ASCL believes that parents should be consulted on the development of behaviour policies. However, the framing of these expectations suggests hierarchy rather than collaboration, which contradicts messaging in other policy areas.

Question 6: We are aware that schools often gather feedback from pupils to hear their views on the school's behaviour policy and wider culture. What is the best way to capture pupil voice and what is the impact on the behaviour standards?

28. Our members tell us that it's important for pupils to regularly contribute to the review of policies. It's important this is authentic and not tokenistic.
29. School leaders have provided examples of the roles school councils can play, but others suggest this can be tokenistic, and instead ensure they form panels that specifically include and value the voices of young people from minority groups, particularly LGBT and SEND.
30. Some schools have referred to their use of the Lundy model of participation.

Question 7: What would be the workload implications for schools and in particular teachers in developing and implementing a behaviour policy as outlined in section one of the guidance?

31. Most schools already have a well-developed behaviour policy.
32. The additional work comes with extending the breadth of engagement to include a wide range of stakeholders, including parents, pupils and staff across the school community.

Section two – after incidents of misbehaviour

Question 8: The guidance offers advice on de-escalation techniques to help prevent further behaviour issues arising and recurring, for instance schools may use pre-agreed scripts and phrases to help calmly restore order. What other de-escalation techniques could be used by schools?

33. Effective deescalation techniques recommended by ASCL members include;
Change of face - swapping adults but maintain consistency of approach. This can be helpful if pupil's behaviour is being taken personally by the adult who has been with them.
34. Adaptive strategies relating to the task - maintain the objective but enable child to come at it from a point of interest to them
35. Take up time - time requested or acknowledged by the pupil which will give space to self regulate - needs skilled management to allow child some control whilst maintaining over control.
36. With any approach adopted it is imperative for the adult to be self regulating their own behaviour and modelling calm through exterior body language; this can be enacted even if not feeling it inside - dropped shoulders, soft facial features, arms by sides with open hands

Question 9: Paragraphs 77-78 outline the support that schools may want to provide to pupils following behaviour incidents or a pattern of incidents. This includes engagement with the pupil or parents or inquiries into circumstances at home, conducted by the Designated Safeguarding Lead or a deputy. What other pastoral support should schools consider when trying to support students following behaviour incidents?

37. ASCL members recommend empowerment of students to be trained in advocacy and restorative practices.
38. Contextual safeguarding, as referenced in KCSIE, uses models of restorative justice which should be encouraged as a transferable approach to whole school behaviours and strengthening whole school culture.

Question 10: As set out in paragraph 79, removal (sometimes known as isolation) is now defined as “where a pupil, for disciplinary reasons, is required to spend a limited time out of the classroom, at the instruction a member of staff”. The guidance says: “The use of removal should allow for continuation of the pupil’s education in a supervised setting”. Do you agree with this definition and guidance? If not, please explain why.

39. ASCL agrees that the process around any decision to remove a pupil from class must be clear and the strategies for support must be consistent. We support the use of a space where a child can calm down, feel safe again and, when appropriate, continue to learn.
40. **Question 11: As set out in paragraph 82, removal should be distinguished from the use of separation spaces (sometimes known as sensory or nurture rooms) for non-disciplinary reasons. These generally involve focused, in-school, teacher-led interventions for small groups of pupils with identified SEN or other needs: for instance, where a pupil is taken out of the classroom to regulate their emotions because of identified sensory overload. Do you agree with this approach? If not, please explain why.**

41. Yes.

42. However, schools have become more skilful in recognising the overlap of misbehaviour and behaviours triggered by particular mental wellbeing, SEND or attachment needs. They are increasingly using in class interventions that support pupils to regulate their behaviours successfully.

Question 12: In paragraph 81, we outline that removal should only be used as a last resort to:

1. restore order and calm following an unreasonably high level of disruption
2. enable disruptive pupils to be taken to a place where education can be continued in a managed environment.

Do you agree with these reasons? If not, please explain why.

43. Yes.

44. ASCL believes that this process of relocating the pupils can be helpful but must be timebound, and pupils should be reintegrated into the classroom as early as possible.

Question 13: Paragraph 83 outlines the ways in which headteachers should govern the use of removal:

1. maintain overall strategic oversight of the school’s arrangements for any removals, as set out in the school’s behaviour policy;
2. make sure the reasons that may lead to pupils being removed are transparent and known to all staff and pupils;
3. outline in the behaviour policy the principles governing the length of time that it is appropriate for a pupil to be in removal;

4. ensure that the removal location is in an appropriate area of the school, that the room is stocked with appropriate resources, and is a suitable place to learn, and is staffed by suitably trained members of staff;
5. design a clear process for the re-integration of any pupil in removal into the classroom when appropriate and safe to do so.

Do you agree with these proposals? If not, please explain why.

45. Yes.

46. With regard to point 4, having the opportunity to continue to learn is important, and children and young people should be returned to the classroom when ready.

Question 14: Paragraphs 84-85 outline that schools should monitor who is removed from classrooms and frequently review this data to identify any patterns relating to any individual pupil and pupils with protected characteristics. Do you agree with this approach? If not, please explain why.

47. Yes.

Question 15: Paragraph 86 outlines the specific actions schools should take when dealing with individual removal cases. Both include clear reference to pupils with SEND and their specific needs. Do you think the updated advice provides helpful guidance to schools on the decision-making process over using removal where necessary for pupils with SEND? If not, please explain why.

48. No.

49. ASCL believe these steps need to be taken in response to the wider context.

Section three - Preventing recurrence of misbehaviour

Question 16: Paragraphs 96-100 outline how schools should adopt a range of initial intervention strategies to help pupils manage their behaviour and help to reduce the likelihood of suspension and permanent exclusion. We list a range of interventions including providing mentors, in-school units and engagement with parents. What other types of early intervention work well to address behaviour issues?

50. No.

51. Again, this needs to be viewed within a wider context. Interventions should not be limited to a narrow focus on how the young person manages their behaviour but a recognition of the adjustments to their environment.

Question 17: Paragraph 101 outlines our definition of an in-school behaviour unit as “planned interventions that take place in small groups outside of normal lessons. The approach taken in such a unit should be aligned to the culture of the whole school and delivered in line with the school’s behaviour policy”. Do you agree with this definition? If not, please explain why.

52. No.

53. ASCL would like this to communicate the re-engagement expectation that should be aligned to any in-school unit and say 'aligned to the inclusive culture' of the whole school.
54. ASCL would recommend that wherever possible any form of in school intervention takes place within lessons to avoid structural exclusion becoming normalised as part of school culture.
55. However, where behaviour units are used to avoid suspension and exclusion then in school behaviour units offer a positive opportunity.
56. Any interventions should determine the cause of behaviour changes and appropriately address the cause alongside learning to regulate the symptomatic behaviours.
57. Identifying and addressing student needs is key.
58. Involving young people in decision making
59. Develop self regulation strategies
60. Work as a bridging facility to reintegration and re- engagement of young people who have disengaged.

Question 18: Paragraph 105 outlines factors and processes schools should consider when developing an in-school behaviour unit which includes the following:

- Referring pupils based on their needs, including sharing information on previous behaviour incidents with multi-agency partners if appropriate and consulting with parents on the in-school behaviour unit placement.
- Delivering a broad and balanced curriculum offer that aligns to the curriculum in mainstream lessons and supports reintegration.
- Maintaining a visible presence from school leaders to make in-school behaviour units an integral part of the school with wider school staff. Do you agree with this governance approach? If not, please explain why.

61. ASCL agree that there should be good governance of in-school units. As described in response to question 17 the pupil needs identified should be holistic needs and not limited to understanding a behaviour history as suggested in paragraph 105.

Question 19: Paragraph 108 also outlines how schools should re-integrate pupils back to mainstream lessons, including holding meetings and considering what support pupils may need to help them return to mainstream education. In what additional ways should pupils be re-integrated back into mainstream lessons?

62. Yes.

Section four – responding to specific behavioural incidents

Question 20: Paragraph 113 outlines how schools should be clear in every aspect of their culture that sexual violence and sexual harassment are never acceptable and will not be tolerated. It is especially important not to pass off any sexual violence or sexual harassment as 'part of growing up'. This is because it can lead to the normalisation of unacceptable behaviours and an unsafe environment for pupils. How can schools practically avoid unacceptable behaviour becoming normalised?

63. Schools can do this by building the relevant knowledge and understanding for young people through the PSHE curriculum, and by working with outside experts to develop the confidence and expertise of staff across the school. Adopting a whole school approach and responding consistently to disclosures about sexual harassment and abuse is key.
64. Research from UCL shows that punitive, reactive regulation is unhelpful here. KCSIE provides useful guidance on this. It's therefore important within school that the DSL works closely with the behaviour lead to ensure high and consistent expectations of pupil behaviour but also of teacher response.
65. Recent feedback from ASCL members tells us that confidence of DSLs in this area has grown but this is not the case for all staff. Schools would benefit from ongoing training on this issue.
66. There should be a programme of peer mentoring for boys and girls. Scotland has had particular success with this for challenging misogynistic attitudes.
67. ASCL co-badged a recent report with Professor Ringrose and colleagues from UCL and the University of Kent. Their research on understanding and combatting image-based sexual abuse tells us that technology facilitates such sexual abuse. Image-based sexual abuse impacts all young people, but has the greatest impact on girls.
68. This research tells us that image-based sexual abuse is heavily influenced by gender norms, and an intersectional approach to contextualised harm is needed. This has clear implications for CPD and the need to shift and shape school and college culture. It also tells us that there is evidence to support the need for more effective and age-appropriate digital sex education. The research makes clear that support should be provided through knowledge-building within the curriculum, dialogue and mentoring to improve behaviours, not through messages of prevention.

Question 21: Schools should be clear that the same standards of behaviour are expected online as offline, including the importance of respect for others. Inappropriate online behaviour including bullying, the use of inappropriate language, the soliciting and sharing of nudes or semi-nudes, and sexual harassment should be addressed in accordance with the same principles as offline behaviour. Do you agree with this approach? If not, please explain why.

69. No.
70. Evidence shows that punitive approaches actively reduce reporting because young people are afraid of such approaches.
71. Evidence also shows abstinence approaches to sexting don't work because they are victim blaming and often focus on the image being illegal instead of the harmful sexual behaviour of sharing and showing images non-consensually.
72. ASCL sits on the UKCIS Advisory Board and regularly signposts our members to UKCIS resources. It would be helpful to include links to this advice regarding online image based harms and for schools to receive regular updates from UKCIS.

Question 22: Are there any particular issues you feel are not covered in the revised Behaviour in Schools Guidance?

73. Easy access to recent research on image based sexual harassment and abuse.

74. Easy to use updates on the language we should use when discussing these online harms with children and young people.
75. Explicit links within the behaviour document to KCSIE guidance.

Equalities Act Duties

Question 23: Under the Equality Act 2010, schools must not discriminate against, harass or victimise pupils because of: sex; race; disability; religion or belief; sexual orientation; pregnancy/maternity; or gender reassignment. What do you consider to be the equalities impacts of the revised guidance documents on individuals with particular protected characteristics?

76. ASCL is pleased that this guidance has made clear the expectations for accommodations to individual needs. It is now clearer that schools must consider whether applying the Behaviour Policy to a pupil with a protected characteristic (including those with disabilities manifesting in misbehaviour) and/or SEN without adjustment/differentiation is discriminatory under the Equality Act 2010 or not consistent with SEN duties.
77. We agree with the move to include consideration of what reasonable adjustments/SEN provision have been put in place.

D. Changes to the Suspension and Permanent Exclusion Guidance

Paragraph 12 sets out how a headteacher may not bring a permanent exclusion to an end after it has begun. In addition, a headteacher may not end a suspension earlier than the agreed end-date once it has begun (that is, when the pupil is no longer attending school).

Question 1: Do you agree with this proposed change in the law? If not, please explain why.

78. Yes.
79. We agree unless new and relevant information comes to light. In this case we would argue the headteacher and governing body must have the autonomy to act based on the new evidence.

Question 2: Is the associated guidance at paragraph 12 sufficiently clear? If not, please explain why.

80. No, it requires the caveat outlined above.

Paragraph 54 introduces a deadline for the headteacher to notify the parents of a pupil's suspension or permanent exclusion, the reasons for this and the period of any suspension. The obligation to do this 'without delay' will remain, but the regulations will also specify that in no case must this take longer than three days.

Question 3: Do you agree with this proposed change in the law? If not, please explain why.

81. Yes.

Question 4: Is the associated guidance at paragraph 54 and throughout sufficiently clear? If not, please explain why.

82. Yes.

Paragraph 68-70 expands the headteacher's duty to inform relevant professionals of their decision to suspend or permanently exclude to include social workers. As a result, if a pupil with a social worker is excluded, the social worker must be notified in writing and involved in the governing board meeting and independent review panel, where possible.

Question 5: Do you agree with this change in the law? If not, please explain why.

83. Yes.

Question 6: Is the associated guidance at paragraphs 68-70 sufficiently clear? If not, please explain why.

84. Yes.

Virtual School Heads (VSH) should already be closely involved with a school if a looked after child (LAC) is at risk of suspension or permanent exclusion. Paragraphs 68-70 extend the headteacher's duty to inform a VSH if a LAC is suspended or permanently excluded. If a LAC is excluded, the VSH must be notified in writing and, where possible, involved in the governing board meeting and independent review panel.

Question 7: Do you agree with this change in the law? If not, please explain why.

85. Yes.

Question 8: Is the associated guidance at paragraph 68-70 sufficiently clear? If not, please explain why.

86. Yes.

During the coronavirus pandemic when school attendance was restricted, the department amended the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 to regulate the use of remote meetings for governing board considerations of reinstatement and independent reviews. We are proposing to make these rules a permanent option in any circumstances. This is a measure that would benefit governing boards, parents and pupils and enable schools to meet the statutory timescales sooner for such reviews as set out in the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012.

Question 9: Do you agree with virtual meetings being made a permanent option under any circumstances? If not, please explain why.

87. Yes.

Question 10: Do you think virtual meetings should be made at the request of the parent only? Please explain why.

88. ASCL believes the parent should have the deciding option here. Some parents want to come back into school.

We have sought to provide best practice on the use of managed moves and off-site direction and how they should be used as an early intervention measure for pupils at risk of exclusion. We have set out our expectation of the process and the safeguarding measures that should be put in place for pupils in paragraphs 31-43.

Question 11: To what extent is the process outlined clear and suitable for all involved? Please explain why.

89. ASCL believes that the explanation of a managed move should go further and make clear that the driving factor should be meeting the pupil's needs and addressing the underlying factors for the move in the first place.

90. The DfE should expand the statutory exclusions guidance to specify a trial period and specific criteria for assessing the success of a transfer, rather than simply referring to the pupil or young person being, 'well settled'.

Question 12: Please describe both the benefits and risks of introducing stricter oversight of pupil movements between education settings, such as a revised statutory framework for all pupil movement between education settings?

91. Having a well documented record of pupil movements between education settings is important.

92. ASCL believes a managed move will only be effective if the young person was given support to address the issues which led to them being caught up in their home school's disciplinary process.

Question 13: Following a period of suspension or off-site direction, what are the best approaches to reintegrating a pupil into a mainstream setting? Please explain why and copy and paste any relevant information.

93. **Strategies for reintegrating should relate to the needs of the individual pupil. For example, for pupils who are displaying anxiety it is important to offer – a safe space within school where they can go if lessons become overwhelming**

Small group re-integration will be important for some

Consistent access to a trusted member of staff

Mentoring support in line with the school's behaviour policy

Intervention sessions that address the reasons for the suspension.

An adapted curriculum to maximise access to learning and rebuild confidence for a time limited period.

94. **ASCL is also aware of schools who have a policy of re-integration. This would form a useful annex to school behaviour policies.**

The guidance emphasises the importance of monitoring and understanding suspension and permanent exclusion data. Schools, local authorities, and local

forums should work together to track and review the information on children who leave schools, by exclusion or otherwise, to establish a shared understanding of how the data on the characteristics of such children feeds local trends. Where patterns indicate possible concerns or gaps in provision, we expect headteachers and other local leaders to use this information to ensure they are effectively planning to meet the needs of all children.

Question 14: Do you agree with this revision? If not, please explain why.

Yes

95. Throughout the revised guidance we have set out when and where pupils should be included in the suspension and permanent exclusion process.

Question 15: Is this sufficiently clear? If not, please explain why.

96. Yes

97. In addition, ASCL would like to see a pupil and parent friendly version of the policies and procedures.

The current limit on the total number of days a pupil can be suspended in a school year is 45 school days:

Question 16: Should this limit be changed or not? Please explain how and why.

98. ASCL members tell us that they want to avoid exclusions at all cost.

99. However, where additional wrap around support from wider services needs to be galvanised a period of suspension can help to avoid permanent exclusion.

Question 17: What potential impact would there be if the 45-day limit for suspensions in a school year was reduced? Please explain why.

100. ASCL believes the reduction would support the more effective resourcing and use of in-school units and early intervention.

To inform the wider special educational needs and disabilities (SEND) Review and Alternative Provision (AP) Reforms programme, we would like to understand more about the barriers to providing alternative provision before the sixth school day of a suspension or permanent exclusion. Your answers to the following questions will help us to understand what more we need to do to ensure timely support and education is put in place:

Question 18: In your experience, what continuity of education is provided following the suspension or permanent exclusion of a pupil before the sixth school day?

101. This is very patchy and varied and depends entirely on the excluding school. Many children, following a permanent exclusion, will have no work or education provided until the pupil arrives in the sixth day provision. Even then, many AP settings will do a graduated introduction to their setting with many pupils not receiving full time provision on the sixth day. This is mainly due to the challenges of planning for these often challenging placements with little notice and with limited information.

Question 19: What are the barriers to providing alternative provision before the sixth school day when a child is suspended or permanently excluded from school? Please explain why.

102. AP settings need to have latent capacity in their system so that the introduction of additional pupils at very short notice does not cause major disruptions. This is why AP settings need to be funded as full even if they aren't full. The AP needs to be fully ready and staffed ready to receive pupils at short notice. The staff need to be well trained too.
103. If a setting is 'ready' then the actual day of referral becomes irrelevant and could be less than six days. If we are to provide full time education, on day six, for pupils who have been permanently excluded, then APs need to be specifically commissioned to do this and be given appropriate resources. Sixth day provision is different from other forms of AP and therefore should be viewed differently. Without a specific commission and appropriate provision, sixth day placements (or less) can be highly disruptive to the education of other pupils in AP settings.

Question 20: Following a suspension or permanent exclusion, after how many school days should there be a requirement for schools to provide alternative provision for a pupil (currently 6 school days)? Please explain why.

104. Schools using suspension should provide education as quickly as possible and within 48 hours. This could be online learning (using resources we are now familiar with from the pandemic, e.g. Oak Academy). They should be required to have resources ready to be deployed. This should not have to be a teacher delivering live sessions. Where schools can access appropriate online resources they can support pupils on suspensions the following day.
105. ASCL believes that even where a school sees no alternative but to use permanent exclusion, these schools should have a responsibility to provide this level of remote learning until a successful handover to an AP (or even another mainstream school) can be facilitated.
106. Responsibility for the education of the permanently excluded pupil should remain with the school until they are on the roll of another setting. This responsibility should include provision of remote education and safeguarding checks.
107. ASCL believes that if APs are funded appropriately in order to receive pupils at short notice then there is no reason why this can't be fewer than six days turnaround. There has to be a continued responsibility from the excluding school until the pupil is settled and roll at another setting.

Recently, a High Court case considered the legal position for mandatory off-site education for the purpose of keeping pupils apart for safeguarding reasons. This case involved allegations of child-on-child sexualised behaviour by young pupils in a primary school setting. We need to consider, following the court's decision, whether it is right to suspend or permanently exclude based on safeguarding reasons rather than just disciplinary reasons. We would like to know how this will affect practice in schools and whether there is any further need to clarify or change the law or guidance in this area.

Question 21: Do you think it is positive or negative that the Court has made it clear that pupils can be temporarily excluded for safeguarding reasons as described in the judgement? Please explain why.

108. This is obviously a difficult subject to address as we all believe that children need to be safe in school. However, to be 'excluded' for a safeguarding issue is not a positive outcome.
109. That said, ASCL believe headteachers need to have the authority to protect children and can direct pupils to Alternative Provision settings for support.
110. AP needs to be seen as an intervention not a sanction.

Question 22. Are there any particular issues you feel are not covered in the revised Suspension and Permanent Exclusion Guidance?

111. More detailed descriptions of communication expectations across all stakeholders would be helpful.
112. More consideration of pupil voice.

Equality Act 2010 Duties

Question 23: What do you consider to be the equalities impacts of the revised guidance on individuals with particular protected characteristics?

113. Whilst there are numerous references to compliance with the Equality Act and to the monitoring of exclusion data, there is no requirement for exclusions to be monitored against the protected characteristics.
114. In the absence of such guidance ASCL would like to see an expectation for closer monitoring of exclusions data against protected characteristics to track and support early intervention.

E. Conclusion

115. ASCL welcomes the focus on the positive use of in-school behaviour units in order to avoid suspensions and exclusions.
116. ASCL believe the positive reference to re-integration back into school is positive and could be a valuable addition within school behaviour policies.
117. I hope that this response is of value to your consultation. ASCL is willing to be further consulted and to assist in any way that it can.

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30 March 2022