

## Permanent and fixed period exclusion of children aged 3 – 7 from maintained schools and academies

### Coram Children's Legal Centre briefing, March 2016

Coram Children's Legal Centre (CCLC), part of the Coram group of charities, is an independent charity working in the United Kingdom and around the world to protect and promote the rights of children, through the provision of direct legal services; the publication of free legal information online and in guides; research and policy work; law reform; training; and international consultancy on child rights. Founded in 1981, CCLC has over 30 years' experience in providing legal advice and representation to children, their parents and carers and professionals throughout the UK. The CCLC's legal practice specialises in education, family and immigration law and CCLC operates the Child Law Advice Service and the Migrant Children's Project Advice Line. As part of CCLC's work to promote the implementation of children's rights, CCLC has undertaken amicus curiae interventions in a number of significant cases, including in the European Court of Human Rights, the Supreme Court and the Court of Appeal, providing assistance to the court on matters of children's rights and best interests.

#### Overview

In 2013 to 2014, 19,560 children aged seven or under were subject to fixed period exclusions from schools (3% of the school population). 370 were subject to permanent exclusion, 30 of whom were aged four or younger.<sup>1</sup> This represents an increase of over 60% on figures from 2009 to 2010,<sup>2</sup> and the number of children aged three to seven years excluded from schools is likely to be significantly higher than this as unofficial/unlawful exclusions by schools are not recorded in Department for Education (DfE) data, as they are not recognised as 'official' exclusions.<sup>3</sup> Furthermore, these statistics do not include exclusions by Academies.

Pupils with special educational needs (SEN), with and without statements (or Education, Health and Care Plans (EHCPs)), account for seven in ten of all permanent exclusions. Pupils with SEN but without statements or EHCPs have the highest permanent exclusion rate and are around nine times more likely to receive a permanent exclusion than pupils with no SEN. Pupils with a statement of SEN or EHCP have the highest fixed period exclusion rate and are around nine times more likely to receive a fixed period exclusion than pupils with no SEN.

This is clearly a complex area. Ofsted has highlighted that often the schools with a high rate of exclusion of four to seven year olds are in deprived areas, with many children subject to exclusions having experienced disruption and difficulties at home and the involvement of Children's Services or

<sup>1</sup> Department for Education, Permanent and fixed-period exclusions in England: 2013 to 2014, at

<https://www.gov.uk/government/statistics/permanent-and-fixed-period-exclusions-in-england-2013-to-2014>

<sup>2</sup> In 2009 – 2010, there were 11,860 fixed period exclusions of those aged 7 or under and 230 permanent exclusions of those aged 7 or under.

<sup>3</sup> Office of the Children's Commissioner, 'Always someone else's problem' – report on illegal exclusions, 24 April 2013, at <http://www.childrenscommissioner.gov.uk/publications/%E2%80%99Always-someone-else%E2%80%99s-problem-report-illegal-exclusions>

other support agencies.<sup>4</sup> However, despite a number of reports highlighting concerns regarding school exclusions in recent years, data from Coram Children’s Legal Centre Child Law Advice Service (CLAS) indicates that the exclusion of children aged three to seven years old is still prevalent and not enough is being done to address this problem.<sup>5</sup> There are four issues of concern:

- 1) The number of permanent exclusions of children aged three to seven;
- 2) The use of unofficial and unlawful exclusions of children aged three to seven;
- 3) The lack of support for children aged three to seven with Special Educational Needs (linked to (1) and (2)).
- 4) Differential treatment in the exclusion of children with SEN with a statement or EHCP and those without statutory support.

From April 2014 to December 2015,<sup>6</sup> the CLAS dealt with 115 calls relating to the exclusion of children aged between three and seven. 31 those calls were regarding permanent exclusions and 43 unofficial exclusions. 92 of the 115 children (80%) had suspected or diagnosed SEN.

Age of child	Number of permanent exclusions	Number of fixed term exclusions	Number of unofficial or unlawful exclusions
3	0	3	2
4	4	15	11
5	10	22	14
6	13	22	6
7	4	22	10
Total	31	84	43

The consequences of exclusion on a young person have been widely documented.<sup>7</sup> Many children who are excluded do not re-engage with formal education before school leaving age, which puts them at significant disadvantage in terms of qualifications and future life opportunities.<sup>8</sup> The government has also acknowledged a link between exclusion and young people in the criminal justice system.<sup>9</sup> The consequences of this are potentially even more far reaching when a young child is excluded, especially when there are special educational needs or the child has been in care or is from a low-income family.

<sup>4</sup> Ofsted, The exclusion from school of children aged four to seven, 2009, at [http://dera.ioe.ac.uk/4175/1/The\\_exclusion\\_from\\_school\\_of\\_children\\_aged\\_four\\_to\\_seven%5B1%5D.pdf](http://dera.ioe.ac.uk/4175/1/The_exclusion_from_school_of_children_aged_four_to_seven%5B1%5D.pdf)

<sup>5</sup> We have selected this age range as it is the age at which children commence nursery school up until the end of Key Stage 1 (first and second form infants). Ofsted used 4 – 7 years in a previous examination of this issue, but we have expanded the category in recognition that children aged 3 years are also being excluded from nursery schools.

<sup>6</sup> 1<sup>st</sup> April 2014 – 31<sup>st</sup> December 2015

<sup>7</sup> See, for example, Barnardo’s ‘Not present and not correct: Understanding and preventing school exclusions’, 2010; Gazeley, L., The role of school exclusion processes in the re-production of social And educational disadvantage, British Journal of Education Studies, Vol. 58, No. 3, pp. 293 – 309; Youth Cohort Study: Activities and Experiences of 17 Year Olds: England and Wales 2005. Department for Education, November 2005.

<sup>8</sup> Office of the Children’s Commissioner, ‘They never give up on you’ - Office of the Children’s Commissioner School Exclusions Inquiry, March 2012, page 40 at <https://www.childrenscommissioner.gov.uk/sites/default/files/publications/They%20never%20give%20up%20on%20you%20summary.pdf>

<sup>9</sup> Thematic report by HM Inspectorate of Prisons. Resettlement provision for children and young people: Accommodation and education, training and employment.HM Inspectorate of Prisons, June 2011.

## Legal and Policy Framework

The law governing school exclusions is contained in section 52 Education Act 2002, the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 and statutory guidance.<sup>10</sup> It should be noted that, with the exception of claims under the Equality Act 2010, the legal provisions referred to in this section only apply to state schools (maintained schools, academies etc), not independent schools.

Primary schools can exclude pupils by reason of their behaviour, provided the school acts within the law. Schools maintained by the local authority, academies and nurseries which are attached to either of these types of school must have regard to the Department for Education (DfE) guidance on Exclusions.<sup>11</sup> Exclusions can be permanent, where the child is removed from the school's roll, or for a fixed term, where the child remains on the school's roll but is forbidden from entering the premises for a defined period.

The legal framework sets out the following minimum standards regarding exclusions:

- Only a head teacher can exclude a pupil;<sup>12</sup>
- a child can be excluded for a fixed term of up to 45 days in an academic year or permanently;
- every time a child is sent home from school must be for a disciplinary reason;<sup>13</sup> the reason for exclusion must reach a set legal threshold;<sup>14</sup>
- the decision to exclude must be lawful, rational, reasonable, fair and proportionate;
- the head teacher must be satisfied that it is more likely than not that a fact for excluding is true;
- there is a duty to notify parents;
- the exclusion must be formally recorded.<sup>15</sup>

An exclusion must not be a result of the school being unable to meet a child's needs and the threat of exclusion must not be used as a way of influencing parents to remove their child from a school or accept a managed move elsewhere.<sup>16</sup> Schools must also take account of their statutory duties in relation to special educational needs,<sup>17</sup> including early intervention to address the underlying causes of disruptive behaviour and multi-agency assessments to pick up on unidentified special educational

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<sup>10</sup> Statutory Guidance on Exclusions from maintained schools, academies and Pupil Referral Units in England 2012 <https://www.gov.uk/government/publications/school-exclusion>

<sup>11</sup> School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012, Regulation 9

<sup>12</sup> Education Act 2002, s52(1)

<sup>13</sup> Statutory guidance, paragraph 12

<sup>14</sup> Ibid, Paragraph 15

<sup>15</sup> Ibid, Paragraph 13

<sup>16</sup> Ibid, Paragraph 14

<sup>17</sup> Ibid, Paragraph 11

needs, mental health or family problems.<sup>18</sup> All early years providers in the maintained, private, voluntary and independent sectors that a local authority funds, are required to have regard to the Special Educational Needs and Disability Code of Practice.<sup>19</sup> Providers must have arrangements in place to support children with SEN or disabilities. These arrangements should include a clear approach to identifying and responding to SEN.<sup>20</sup> Furthermore, the Code specifically states that '[w]here there are concerns, there should be an assessment to determine whether there are any causal factors such as undiagnosed learning difficulties, difficulties with communication or mental health issues. If it is thought housing, family or other domestic circumstances may be contributing to the presenting behaviour, a multi-agency approach, supported by the use of approaches such as the Early Help Assessment, may be appropriate. In all cases, early identification and intervention can significantly reduce the use of more costly intervention at a later stage'.<sup>21</sup>

A decision to exclude a pupil permanently should only be taken:

- in response to a serious breach, or persistent breaches, of the school's behaviour policy **and**
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

A permanent exclusion is usually issued when an incident is exceptionally serious. This may be, for example, because the child has threatened or used serious violence; carried out an act of sexual abuse or assault; supplied illicit drugs or been found to be carrying a weapon. The headteacher should take into account factors such as recent bereavement, mental health issues and bullying.

In the event of an exclusion, parents must be notified, without delay, of the reasons for exclusion; the period of exclusion; their right to make representations to the governing body and how to do so.<sup>22</sup> For exclusions totalling more than 15 school days the governing body must consider reinstatement of an excluded pupil and parents must be invited to attend the governing body review meeting and can be represented or bring a friend.<sup>23</sup> The governing body must consider all of the evidence to conclude whether the decision to exclude was 'lawful, reasonable and procedurally fair taking account of the head teacher's legal duties'.<sup>24</sup> The governing body can either uphold an exclusion or direct reinstatement of the pupil immediately or on a particular date.<sup>25</sup>

A parent can dispute the decision of the governing body not to reinstate a permanently excluded pupil which can be heard by an Independent Review Panel. This panel can make the following decisions:

- uphold the exclusion;

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<sup>18</sup> Ibid, Paragraph 18

<sup>19</sup> Department for Education Statutory Guidance: Special educational needs and disability code of practice: 0 to 25 years, January 2015, paragraph 5.2

<sup>20</sup> Ibid, Paragraph 5.4

<sup>21</sup> Ibid, Paragraph 6.21

<sup>22</sup> School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012, Reg 5; Statutory Guidance on Exclusions from maintained schools, academies and Pupil Referral Units in England 2012

<https://www.gov.uk/government/publications/school-exclusion, paras 25 - 37>

<sup>23</sup> Ibid, Reg 6; guidance paras 50-59

<sup>24</sup> Ibid, para 67

<sup>25</sup> Ibid, para 62

- recommend the governing body reconsiders the decision;
- quash the decision and direct the governing body to consider the exclusion again if the decision was flawed (i.e. head teacher acted beyond their legal powers, the decision not to reinstate was unreasonable or the process of exclusion was so unfair that justice was clearly not done).<sup>26</sup>

Parents have a right to request that a SEN expert attend the panel hearing. The decision of the Review Panel is binding on all parties and the panel has the power to direct that the governing body place a note on the pupil's educational record.<sup>27</sup> If the panel quashes the decision of the governing body and directs that it is reconsidered and the governing body either fails to reconsider within 10 school days or decides not to reinstate the pupil then the panel can direct that the school's budget is adjusted by £4000.<sup>28</sup>

If a governing body does decide not to reinstate a pupil or does not reconsider within the timeframe a parent or carer may seek a judicial review and/or claim for disability discrimination if appropriate; the independent review panel does not have the power to consider the matter again.

## Permanent exclusion

Of the 115 calls received on exclusions of children aged 3 -7 by the CLAS there were 31 permanent exclusions and 84 fixed term exclusions. The most commonly cited reasons for permanent exclusions were violence and disruptive behaviour. The majority of the 31 calls received about permanent exclusions were official exclusions.

Of those 84 fixed term exclusions, 16 of the children were at risk of permanent exclusion. Of those 16 children at risk of permanent exclusion, all had suspected or diagnosed SEN but none of those pupils had a statement of SEN or Education, Health and Care Plan and only three were in the process of being assessed for statutory support.

In 2012, the Office of the Children's Commissioner recommended that '[t]here should be a presumption against permanent exclusions from primary schools. This should be reflected in revised Statutory Guidance. To ensure this presumption is upheld, every permanent exclusion of a primary school age child should be reviewed independently, regardless of whether a review is requested by the child's parents or carers'.<sup>29</sup> The Commissioner also recommended that no primary school should permanently exclude a child in Reception or Key Stage 1. Some schools already operate a 'zero exclusions' policy for pupils up to the age of 11. However, these recommendations have not been implemented on a national basis to date.<sup>30</sup>

<sup>26</sup> School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012, Regulation 7

<sup>27</sup> Ibid, Reg 7(5)(a)

<sup>28</sup> Ibid, Reg 7(5)(b)

<sup>29</sup> Office of the Children's Commissioner, "They never give up on you", March 2012, page 21

<sup>30</sup> Policy Paper, Children's Commissioner's reports on school exclusions: the government's response 9 August 2013 available at <http://www.gov.uk/government/publications/childrens-commissioners-reports-on-school-exclusions-the-governments-response>. The Department for Education issued a response in August 2013<sup>30</sup> to the Office of the Children's Commissioner reports "They go the extra mile" and "Always someone else's problem" but no response can be found to the March 2012 report "They never give up on you" where the specific recommendation of presumption against permanent

## Unofficial exclusions

Statutory guidance explicitly states that ‘informal or unofficial exclusions, such as sending pupils home to cool off are unlawful regardless of whether they occur with the agreement of parents or carers’.<sup>31</sup> Unlawful exclusions also include exclusions where the school has failed to follow the statutory guidance without good reason (for example, a failure to inform parents of their right of appeal, a failure to provide the written notification of exclusion) or where a school has incorrectly stated that the guidance does not apply to them or has refused to educate a child unless particular conditions are met.

In 2013, the Office of the Children’s Commissioner estimated that several hundred schools in England may be excluding children illegally, affecting thousands of children every year.<sup>32</sup> The OCC found evidence of pupils being excluded without proper procedures being followed; pupils being placed on extended study leave or part-time timetables; pupils being coerced into leaving their current school; and schools failing to have due regard to their legal responsibilities regarding the exclusion of children with statements of Special Educational Needs. This illegal activity was found to impact disproportionately on children with SEN, and those who are least likely to know, or have adults in their lives that know, the law and their rights.

Of the 115 exclusion calls, 43 were unofficial or unlawful exclusions. These cases including those where children were sent home at lunchtime without the matter being formally recorded as an exclusion; and children were placed on a part-time timetable or otherwise restricted in the length of time the child can attend school.

## Lack of support for children aged 3-7 with Special Educational Needs

From the CLAS data 92 of the 115 children (80%) aged 3 – 7 had suspected or diagnosed SEN. In many cases parents and carers reported that the child’s special educational needs were not being supported by the school and in some cases parents were being informed by the school that it is too soon to assess the child for any special educational needs.<sup>33</sup> In some instances, the child had a statement of SEN or an Education Health and Care Plan in place but the school stated that it could no longer meet the child’s needs.<sup>34</sup> There have been a number of cases of schools imposing a part-time timetable upon the child, without the parent or carer’s full consent, amounting to an unofficial and unlawful exclusion.<sup>35</sup>

Data from CLAS also suggests the differential treatment of children with SEN and a Statement or Education, Health and Care plan and those without when it comes to exclusion of young children. Of the 92 children with suspected or diagnosed special educational needs, 17 of the children (19%) had either a statement of SEN or EHCP. 20 of the children (22%) were going through the statutory

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exclusions from primary schools was raised. The Children’s Commissioner notes on their website that there was a formal response and they were in consultation with DfE when drawing up the 2012 guidance, however there is no specific mention that the presumption was endorsed or reflected in the guidance.

<sup>31</sup> Paragraph 13

<sup>32</sup> Office of the Children’s Commissioner, “Always Someone Else’s Problem”- report on illegal exclusions, April 2013

<sup>33</sup> Appendix 1, Child Law Advice Service Case Studies

<sup>34</sup> *ibid*

<sup>35</sup> *ibid*

assessment process, and 55 of the pupils (60%) were neither being assessed nor receiving any statutory support for their suspected or diagnosed SEN.

The Department for Education recognises that pupils with special educational needs have the highest rate of both permanent and fixed term exclusion.<sup>36</sup> Research has highlighted that mainstream educational institutions frequently lack the staff expertise, financial resources and time to accommodate SEN students.<sup>37</sup>

In March 2012 the Office of the Children’s Commissioner noted that ‘no evidence from any source has been submitted that supports excluding very young children, even in extreme circumstances... For these children, extremely disruptive or even violent behaviour can of course occur, however young they are. However, it poses less risk to others (primarily because of the size of the children concerned) and is often a symptom of SEN, a family difficulty, or a more complicated developmental issue...Schools should see examples of such extreme behaviour by very young children as a symptom of the bigger issues to be addressed, not simply a problem where the child is blamed. For extreme cases, where the child is affecting others’ right to an education, additional support should be available, but within the school setting’.<sup>38</sup>

An Ofsted survey in 2009 identified that a school’s rate of exclusion was a result of “[the school’s] philosophy, capacity to meet challenges and sometimes, the response received from its local authority and outside agencies when they were asked to help”.<sup>39</sup> From the anecdotal evidence collected by Coram Children’s Legal Centre CLAS, parents and carers are being told that the school lacks the available resources to effectively meet a child’s needs. Furthermore, parents and carers have been discouraged in seeking support from the local authority where the school refuses to support a request for a Statement of SEN or an Education, Health and Care Plan.

While there is provision for a SEN expert in IRP cases, the experience of CCLC’s education lawyers is that even if the SEN expert finds fault with the support provided by a school for the child and the IRP returns the matter to the Governing Body to reconsider, the Governing Body will ordinarily accept the £4000 fine rather than take further action. While the role of the SEN expert is a good idea, it does not work in practice as the IRP cannot overturn the exclusion.

While some parents whose children are ‘disabled’ under the Equality Act 2010 would be able to lodge a disability discrimination claim with the First Tier Tribunal, which has jurisdiction to overturn an exclusion and order reinstatement, not all children with SEN would be considered disabled under the Equality Act and therefore their parents cannot effectively challenge their child’s exclusion from school.

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<sup>36</sup> Department for Education, Statistics - national statistic: Permanent and fixed-period exclusions in England: 2012 to 2013, 31 July 2014

<sup>37</sup> CEN report

<sup>38</sup> Office of the Children’s Commissioner, “They never give up on you”, March 2012, pages 85 - 86

<sup>39</sup> Ofsted, The exclusion from school of children aged four to seven, 2009, page 4

## Recommendations

### General

- More support and training should be provided for teachers to understand and deal with disruptive behaviour of young children, especially when there are concerns of underlying Special Educational Needs or mental health issues. This could take the form of departmental guidance for schools, governors and local authorities with strategies for managing behaviour, or as recommended by Ofsted in 2009.<sup>40</sup> The Children's Commissioner recommended that training on handling a variety of SEN types be incorporated in to the Teacher Training course.
- Direction by the Secretary of State for Education that the exclusions guidance does apply to children below compulsory school age attending nursery classes attached to a maintained school or academy (as per their Education Funding Agreement) as confirmed in the preamble to the guidance.

### Unlawful exclusions

- To protect children and young people's legal rights, more must be done to prevent illegal exclusions. One means of addressing this would be to create mandatory standard wording for documentation sent to parents in cases of exclusion and to insist on that wording's inclusion in the home-school contract, school prospectus and on school's website. Include updated details of charitable organisations that can advise on this such as the Child Law Advice Service (our old 0808 number is in the 2012 DfE exclusions guidance)
- Schools should inform all parents as to their, and their child's, rights in regards to exclusion at the point at which their child enrolls in primary and secondary school.

### SEN

- Raise awareness that parents and carers can request an assessment of and support for their child's Special Educational Needs directly from the local education authority without needing to go through the school first. Include details of charitable organisations that can advise on this such as the Child Law Advice Service.

### Permanent exclusion

- There should be a statutory presumption against permanent exclusion from primary schools, and this should be reflected in revised statutory guidance. All permanent exclusions of a primary-school aged child should be subjected to independent review and no primary school should permanently exclude a child in reception or key stage 1.
- There should be no permanent exclusion of a child without a full assessment of needs.

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<sup>40</sup> In 2009, Ofsted's recommendations were that the Department for Children, Schools and Families (DCSF) collect annual data on individual schools about the use of exclusion to question local authorities about the support given to primary schools with high rates of exclusion.<sup>40</sup> It is also recommended that the DCSF investigate mental health support services and produce guidance for school governors about the exclusion of young children. It recommended that schools 'minimise the exclusion of young children by developing a range of strategies to manage behaviour'



- More consideration of managed moves as an alternative to permanent exclusion where school unable to meet child's needs. The need for statutory guidance or departmental advice on managed moves to ensure consistency in their operation, this can reflect good practice which was recognised by the inquiry of the Office of the Children's Commissioner.<sup>41</sup>

### **Right of appeal**

- The Education Act 2011 should be amended to reinstate Independent Appeals Panels, as they were constituted prior to the Act. We agree with the findings of the Administrative Justice and Tribunals Council and Office of the Children's Commissioner that these appeal panels do not comply with Article 6 European Convention Human Rights the right to a fair hearing.<sup>42</sup>

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<sup>41</sup> Office of the Children's Commissioner, 'They never give up on you', March 2012, page 26

<sup>42</sup> Office of the Children's Commissioner, 'They never give up on you', March 2012, page 19; Legislative Scrutiny: Education Bill; and other Bills - Human Rights Joint Committee, at <http://www.publications.parliament.uk/pa/jt201012/jtselect/jtrights/154/15404.htm>

## Appendix 1: Case studies

### **Case study 1:**

Mrs OT has a 4 year old grandson who lives with her after being placed in her care by Children's Services due to physical abuse from the mother. The child is under a Child Protection Plan. The child is demonstrating bad behaviour in school, including elbowing, spitting and kicking towards teachers. The school has told the grandmother that the child can no longer attend the breakfast and after school clubs, and has excluded the child for 2 days fixed term and informed Mrs OT that the child is at risk of permanent exclusion.

The child has visited a paediatrician who stated that the child has underlying anxiety problems and suspected autism but was reluctant to diagnose until she had seen the child the following year. The school SENCO has indicated that the child requires support for his social needs but has not put any arrangements in place.

### **Case study 2:**

Mrs SG has a 5 year old son who attended a maintained primary school. The child has suspected autism but no diagnosis. He does not have a statement of SEN or EHCP but the school put in place an Individual Education Plan which stated that whenever the child was going into a crisis he should be removed from the room immediately. Both the school and local authority were considering a managed move to another school.

There was an incident where the child threw his dinner across the room, and deliberately dropped his cutlery on the floor a number of times. He was not removed and he became more aggressive, punching another child in the stomach. Before a teacher could intervene the child picked up a knife and held it threateningly. The headteacher of the school permanently excluded the child and informed Ms SG that he had been told by the Local Education Authority that if he could not cope with the child that he should permanently exclude him. The child has been out of school for five days and the local authority is stating that they cannot provide alternative provision until the exclusions officer returns from annual leave.

### **Case study 3:**

Ms NG has a 5 year old son with suspected special educational needs. He is currently being assessed for an Education, Health and Care Plan. He has been excluded on eight occasions and is currently on a one week exclusion. The school has told Ms NG that they will only allow her son to attend school for one hour a day for the next two weeks.

### **Case study 4:**

Ms JT has a 6 year old daughter who has a diagnosis for attachment disorder. There are other suspected special educational needs but these are as yet undiagnosed. The child has a Family Support Worker from the Early Intervention Team. The child is currently being assessed for a statement of SEN. The child is on School Action scheme which recommends that the child has a consistent support worker but the school has stated that it lacks the resources to provide this.

The child is frequently excluded from her maintained school for 1 – 3 days at a time for behavioural problems and is at risk of permanent exclusion. Ms JT has been told by the school that she has to collect her daughter for one hour during every lunch time as there is no staff member available to supervise her during these periods and the child poses a risk to the welfare of other pupils.

**Case study 5:**

Ms OD has a 6 year old son who has a statement of SEN for behavioural difficulties, sickle cell anaemia and emotional instability. He attends a maintained school, named in the statement, but was recently excluded for 15 days for aggressive behaviour towards a teacher and attempting to run away from school. The school has informed Ms OD that it feels unable to provide the child with a safe learning environment due to his physical aggression and complex emotional needs.

The child is currently attending a Pupil Referral Unit and he will be transitioned across to an Education, Health and Care Plan. The local authority is reluctant to change the provision for the child.

**Case study 6:**

Ms AC has a 7 year old son who attends an academy. He has received 20 fixed term exclusions in the last 2 years for swearing and abusive language towards members of staff. The child does not have a statement or EHCP but is currently undergoing a diagnosis for autism and Pathological Demand Avoidance syndrome. The academy recognises that the child may have special educational needs but is refusing to provide any support until the child is fully assessed.

**Case study 7:**

Mr E has a 7 year old daughter with autism and ADHD who has a Statement of Special Educational Needs for a maintained school. She has been excluded 17 times in the past 6 months, predominantly for hitting other children once provoked. Mr E feels that the school is not managing the child's behaviour and is trying to encourage her to attend a different school especially because he is pursuing a disability discrimination claim against the school.

Mr E appealed two of the 17 exclusions and the school Governing Body upheld both exclusions but admitted that the school staff does not have adequate training to manage the child's needs.

**Case study 8:**

Ms W has a 7 year old daughter with suspected Autism who was attending an Academy school. The child was excluded for fixed terms a number of times due to outbursts of bad behaviour. Ms W was told in April that the child needed a Statement of SEN but the school said it would not pursue this until September the following year. The caller was not aware that she could apply independently from the school for a Statement of SEN.