

Just for Kids Law & the Children's Rights Alliance for England's submission to the Department for Education call for evidence on behaviour management strategies, in-school units and managed moves

August 2021

Key messages

- **Behaviour policies:** Too often young people are punished and excluded from school because of behaviour which reflects an unmet need or difficult circumstances in their lives. The Department for Education (DfE) must support schools to understand the underlying causes of young people's behaviour and to provide appropriate pastoral support. It should include clearer guidance on this in the forthcoming revision of the exclusions statutory guidance. The forthcoming SEND review also needs to address the systematic underfunding and failings in the current system.
- **Disparities in school discipline:** Some groups of young people, including pupils from ethnic minority backgrounds, pupils with special educational needs, and victims of criminal exploitation, are disproportionately likely to be excluded because of circumstances beyond their control. The Department has an opportunity to make sure that its revised behaviour guidance supports schools to break these links. It should also take action to address the root causes of these disparities.
- **Removal rooms:** Placing children and young people in isolation is often psychologically harmful, as well as damaging to their education. The Department should work with schools to end the use of isolation as a punishment and set this out clearly in the revised guidance. Pupils who are removed from the classroom should always have opportunities to learn, to talk to someone who understands their needs, and to return to mainstream classes as soon as they are ready.
- **Managed moves:** Parents and young people are often not meaningfully involved in decisions leading to a managed move. In many cases they are left without basic information about what to expect from the process. The Department should ensure there is a consistent process for managed moves in the revised guidance to ensure that they are not used as a form of informal exclusion that does not address the child's underlying needs. Schools should also take every opportunity to involve pupils and parents in their decision-making.

About Just for Kids Law and the Children's Rights Alliance for England

Just for Kids Law is a UK charity that works with and for children and young people to ensure their legal rights are respected and promoted, and their voices heard and valued. Our work includes legal support for young people through the process of challenging school exclusions. We advise children on their legal rights and entitlements and provide representation in exclusion reviews and discrimination appeals. Our youth advocates work with young people to secure support from health and special education services before, during and after an exclusion. Our participation team works with young people to process the experience of exclusion, express their feelings and inform our work to create change. In 2019, we launched the School Exclusions Hub, providing an online toolkit for advice and community organisations to provide support to families facing exclusion across England and Wales.¹

¹ Just for Kids Law, *School Exclusions Hub* <https://www.justforkidslaw.org/school-exclusions-hub>

The [Children's Rights Alliance for England](#) (CRAE) merged into Just for Kids law in 2015 and works with over 100 members to promote children's rights and monitor government implementation of the UN Convention on the Rights of the Child.

About this submission

In its introduction to the consultation, the Department says that it wants to know how schools can create environments where all pupils feel safe, welcome, and wanted. Many of the children and young people we work with have had experiences which left them feeling like school was not a safe or welcoming environment for them. They tell us that things could have gone differently. Practical changes to how teachers and schools responded to them could have given them the opportunity to flourish in school and not miss out on their right to education.

This response is based on feedback from Just for Kids Law's education solicitors who have supported children to challenge exclusions and have their voices heard for the past decade, a focus group with four young people from our School Exclusions Campaign and ongoing engagement with the group on the issues in the consultation, as well as our existing policy and legal expertise. A separate response from the young people's School Exclusion Campaign has been sent to the Department.

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The consultation process

1. There can be a significant gap between how schools understand the impact of their interventions, and how those interventions are felt and experienced by children and young people. Policies designed to tackle disruptive behaviour can sometimes leave young people feeling unwanted by their school, damage their trust in the wider education system, and push them further away from opportunities to learn. The DfE can avoid these unintended consequences by designing its approach to behaviour policy together with children and young people.
2. The Department has committed to gathering the views of children and young people as part of its forthcoming consultation on the statutory guidance in the autumn, and it should set out these plans in more detail. It should run specific engagement events to hear from children of both primary and secondary school age, as well as from young people who belong to groups which are disproportionately likely to be excluded from school. This includes pupils from ethnic minority backgrounds, pupils with SEND or experience of mental health problems, children on Free School Meals, pupils who have experienced Adverse Childhood Experiences (ACE) and those in the care system. We regret that there have not been any formal opportunities for open consultation with young people to gather their views on this call for evidence. The consultation questions are aimed at schools and other educational bodies, and it's not clear how young people can share their views. The short time frame of six weeks over the summer holidays has also made it difficult for organisations to carry out any meaningful consultation.
3. **Recommendation: To ensure the changes to the behaviour and exclusions guidance are evidence based, the Department for Education (DfE) should set out its plans for meaningful and effective consultation with children and young people for its forthcoming consultation on the statutory guidance on exclusions.** It should create opportunities to involve young people from groups who are most likely to face exclusion and repeated contact with school disciplinary processes.

Behaviour management strategies

9/10. Prior to the COVID-19 pandemic, what pupil-level practices or interventions did you find were most effective in supporting pupils to address persistently disruptive behaviour/low-level disruptive behaviour? Which of these approaches helped to better understand the triggers to inappropriate behaviour? Please include any evidence that would help to evaluate these practices for effectiveness.

Tackling the underlying causes of disruptive behaviour

4. The majority of the young people who have been referred to us for exclusions cases have SEND. In most cases this has not been recognised or diagnosed by their school. Others are managing a mental health problem without support, have experienced criminal exploitation, domestic abuse or other adverse childhood experiences which have led to their behaviour.

"Someone like me who has Asperger's syndrome can get really overwhelmed. People have meltdowns. They can be screaming or throwing stuff, but they're not doing that to be horrible people. For me I usually shut down - and people didn't understand that. When people kept pressuring me, that's when I have outbursts. And I'm not trying to be bad but you're trying to convince me that I am without understanding what's going on."

Young person²

5. DfE statistics show the largest number of permanent exclusions are for "persistent disruptive behaviour".³ Often, the permanent exclusion will have been preceded by a series of fixed term exclusions. The fact that these cases involve a pattern of behaviour over time shows that the schools will have had opportunities to intervene and avoid the need for a permanent exclusion. The statutory guidance states that schools must investigate the possibility that disruptive behaviour is the result of unmet need, and act to reduce the risk of permanent exclusion. Too often we do not see this happening in practice. We have also seen the Government's and its Behaviour Tsar's recent push and narrative around stricter or 'zero tolerance' policies playing out through an increase in the number of exclusions, as schools appear to prioritise punishment over understanding the reasons behind challenging or persistent disruptive behaviour. This has also been documented by the Education Select Committee.⁴
6. Negative experiences of behaviour policies can leave young people feeling disengaged from school and mistrustful of the teachers around them. For younger children this can set up an adversarial relationship with education system which has a lasting impact on their ability to learn and progress at school.⁵

² Focus group with young people who have experienced school exclusion

³ Department for Education (2021), *Statistics: exclusion* <https://www.gov.uk/government/collections/statistics-exclusions>

⁴ Education Select Committee (2018) *Forgotten children: alternative provision and the scandal of ever increasing exclusions*. See paragraph 25 <https://publications.parliament.uk/pa/cm201719/cmselect/cmeduc/342/342.pdf>

⁵ Ibid

"I was in fifty-minute detentions after school every single day. They used to tell me 'you must love being in detention'. And I really didn't. I'd go home with problems and come to school with problems, and the only time I felt comfortable was when I was walking to school. But they would get upset with me for not doing well because they removed me. I don't want you to punish me. I'd rather you help and support me because that's the point of me coming here."

Young person⁶

7. Schools that respond most effectively to 'disruptive behaviour' take steps to understand each pupil and identify circumstances in their life which might be driving their actions and behaviour.⁷ The law says that in such circumstances schools should be taking serious and purposeful steps to intervene and prevent the situation from reaching a permanent exclusion.
8. The UN Committee on the Rights of the Child (UNCRC) has advised that schools which involve children in decision-making can create 'a social climate in the classroom which stimulates cooperation and mutual support needed for child-centred interactive learning'.⁸ There is a growing body of evidence to support this. UNICEF UK's Rights Respecting Schools Award helps schools embed a human rights approach to teaching and learning. It includes a strong focus on involving children and young people in decision-making. The programme evaluation found that participating schools improved relationships between pupils and staff, developed positive attitudes towards diversity, and reduced or eliminated school exclusions.⁹
9. There are practical and effective alternatives to highly punitive or 'zero tolerance' approaches to behaviour. A recent systematic review of school-based mental health interventions found strong evidence to support programmes which aim to develop young people's social, emotional, and behavioural skills. In practice these programmes focus on supporting young people to recognise and voice their feelings, resolve conflict, regulate their behaviour, and understand other people's perspectives. They have been effective at helping young people achieve better outcomes at school as well as reducing symptoms associated with anxiety and depression.¹⁰

"The badly behaved kid is a special one who just needs some extra attention. Something that I would do is have every child who is deemed to be behaving badly to have a mentor or a pastoral teacher. I was on report, but I'd report to a deputy head. It would have been better to have a report system where I reported back to a mentor or pastoral lead. They'd be trained and they could build a personal relationship. A mentor could help build up a child."

Young person¹¹

⁶ Focus group with young people who have experienced school exclusion

⁷ For more on this see discussion of review 1 findings in: Education Endowment Foundation (2019) *Improving Behaviour in Schools: Evidence Review* https://educationendowmentfoundation.org.uk/public/files/Improving_Behaviour_in_Schools_Evidence_Review.pdf

⁸ UN Committee on the Rights of the Child (2009) *General comment No. 12 (2009): The right of the child to be heard*, <https://www.refworld.org/docid/4ae562c52.html>

⁹ Sebba, J. & Robinson, C. (2020), *Evaluation of UNICEF UK's Rights Respecting Schools Award*, <https://www.brighton.ac.uk/pdf/research/education/rrsa-uk-evaluation-full-report.pdf>

¹⁰ Early Intervention Foundation (2021), *Adolescent mental health A systematic review on the effectiveness of school-based interventions* <https://www.eif.org.uk/report/adolescent-mental-health-a-systematic-review-on-the-effectiveness-of-school-based-interventions>

¹¹ Focus group with young people who have experienced school exclusion

10. Recommendations: The DfE should help schools take an evidence-based approach to addressing poor behaviour so that it prevents children being excluded. When it updates its statutory exclusions guidance, the Department should:

- include a stronger focus on recognising and seeking to understand the underlying factors which drive children and young people's behaviour
- emphasise the need for schools to give children and young people the time and space to talk about difficult and sensitive issues and implement a trauma informed approach
- encourage schools to involve pupils in the development and monitoring of their behaviour strategies.

11. However, even for schools that have adopted a more inclusive approach, there is also a crisis in SEND funding for schools and associated services, which makes it difficult for schools to take effective action to intervene early. This is true even when schools have the will to do so.¹² There is a huge funding gap and systematic changes are needed to the SEND funding and Education, Health and Care Plan (EHCP) system which we need the forthcoming SEND Review to address. We endorse the Special Educational Needs Consortiums (SEC) submission which covers many of these issues.

12. Schools have experienced a continued per capita fall in funding for addressing SEND.¹³ As a result, applications for Education, Health and Care Plans (EHCP) have increased, as families try to secure support.¹⁴ The system has not kept up with this pressure, and deadlines for making provision are routinely missed.¹⁵ Support often fails to materialise, and local authorities regularly fail to meet resourcing commitments. The quality of decision-making is also poor. Appeals against local authority decisions to refuse support are largely successful. However, this process is long due to a significant backlog, with some taking more than six months, before being resolved in their favour.¹⁶ This means that young people with high level needs, who are hugely vulnerable to exclusion, are left without the support they need. Just for Kids Law have found repeated instances of young people permanently excluded whilst waiting for an EHCP to come into effect.

13. Recommendation: The SEND Review should urgently address the SEND funding crisis and increase capacity in the system. It should ensure schools are able to effectively support children with SEND to get the support they are entitled to and avoid being unnecessarily excluded.

Giving teachers the time to provide effective pastoral support

14. It is important for schools to recognise that it can take time to build trusting relationships with pupils and parents. A young person who is behaving in ways a school considers disruptive might not feel comfortable disclosing a mental health problem or talking about their experience of criminal exploitation on the first occasion they find themselves in trouble. It might be that the member of staff they feel safe talking to is not someone who has a direct role in their pastoral care or the disciplinary process.

¹² Public Accounts Committee (2019) *Support for children with special educational needs and disabilities* <https://committees.parliament.uk/publications/941/documents/7292/default/>

¹³ National Audit Office (2019) *Support for pupils with special educational needs and disabilities in England* <https://www.nao.org.uk/wp-content/uploads/2019/09/Support-for-pupils-with-special-education-needs.pdf>

¹⁴ Department for Education statistics (2019) *Statements of SEN and EHC plans* <https://www.gov.uk/government/statements/statements-of-sen-andehc-plans-england-2019>. See table Statements and EHC plans, January 2019.

¹⁵ Ibid. See table % of new EHC plans issued in 20 weeks (20 weeks being the lawful time limit from request to completion)

¹⁶ Keer M. (18 June 2019) 'The latest SEND Tribunal figures paint a troubling picture' *Special Needs Jungle* <https://www.specialneedsjungle.com/latest-send-tribunal-figures-paint-a-troubling-picture/>

15. Young people we work with have told us that teachers' workloads made it difficult for them to spend time listening to young people and that teachers who feel stressed and unsupported are unlikely to be able to provide effective support themselves. In the 2020 Teacher Wellbeing Index, Education Support set out a series of recommendations to improve teacher wellbeing and highlighted the need to provide further investment so that schools and teachers have adequate resources to meet their duties.¹⁷
16. Qualitative research carried out by Ofsted in 2018/19 found that, in schools which had reduced numbers of support staff, those remaining were left with 'less capacity to build relationships with pupils' and to deal with barriers to learning, including 'problems at home and emotional issues'.¹⁸ In a 2018 survey of more than 3000 school support staff, a third (33%) said that their schools had reduced the amount of pastoral support over the previous year. At the same time more than half (56%) said that they didn't have the time, space or privacy to talk to children about the issues they face.
17. **Recommendation: The DfE should help support and fund schools to provide effective pastoral support.** The Department should make sure that teachers have the resources they need so that they can spend time listening to young people and addressing the underlying causes of disruptive behaviour. This should include setting out an updated plan to improve teacher wellbeing and address the root causes of excessive workloads.

Supporting children who are victims of criminal exploitation

18. Through decades of working with children in the criminal justice system, who have often been excluded from school, we have seen a particular gap in understanding around children who are victims of criminal exploitation. It is common for a child who is a victim of exploitation to carry a weapon or drugs, or to otherwise act in ways which a school will find concerning and can often lead to an immediate exclusion. However, this behaviour is a direct result of their exploitation, and a school which only addresses the behaviour without identifying the cause will risk further entrenching that exploitation. Young people who are excluded from school will often see their trust in the education system damaged, while at the same time having the opportunity to spend more time with the people who are exploiting them.
19. Stefan one of the young campaigners from our School Exclusion Campaign had this happen to him:

"When someone gets kicked out of school [they are] pushed right into the groomers' hands. There's people out there looking to make a fast buck off someone's child. If you're not in school, what else are you doing? You're going to be on the street with other people, other kids, that was my situation. When you push a child outside of school straight away someone's going to find him. The groomer is going to buy them new trainers and other [gifts]. But it all comes at a price. They buy you things, then you owe them. Once the school has pushed [the child] out, someone else starts to look after them. It's basically like

¹⁷ Education Support (2020) *Teacher Wellbeing Index 2020* <https://www.educationsupport.org.uk/resources/research-reports/teacher-wellbeing-index-2020>

¹⁸ Ofsted (2020), *Making the cut: how schools respond when they are under financial pressure* <https://www.gov.uk/government/publications/making-the-cut-how-schools-respond-when-they-are-under-financial-pressure>

selling your soul, that person owns you. Anything they want you to do, you do—you have sold your soul."

However, Stefan said the role of teachers in this process of criminal exploitation should not be underestimated. By consistently excluding a child they are taking them from a safe environment and placing them in a risky one.

"Kicking me out of school put up a barrier [...] I would have nothing to do most of the day. So, I'd think, 'oh, you know what, I might as well call my [friends] and meet up. We're young so we're going to end up doing dumb stuff."

Stefan believes teachers are aware of how quickly this becomes a path to criminal activity.

"Numerous times teachers said to me; 'you're going to be dead or end up in prison,' So they must know, [if they] exclude me, what I'm going to be doing if I'm not in the classroom. All these things have an effect on a person."

Not only were teachers casting these judgements in front of other students, but they were also telling his peers' parents. Labelling Stefan in this way and pushing him away from other students were powerful actions from a person in authority.¹⁹

20. In the criminal courts, if a child is referred through the Home Office's Single Competent Authority National Referral Mechanism (NRM), and found to be the victim of CCE, they may have a defence in law to the offences they are charged with.²⁰ However there is no equivalent defence in the process of challenging a school exclusion.

21. **Recommendations: The DfE should ensure schools and appeal bodies are better equipped to spot the warning signs of criminal exploitation and better protect children from it.** There are already a range of practical and evidence-based guidelines and training to help understand potential signs of criminal exploitation. These include resources which are currently in use by the Home Office.

- The Department should make reference to these materials in the updated exclusions guidance to ensure that all schools and members of appeal bodies understand the links between criminal exploitation and the exclusions process, have the confidence to protect children who are at risk, and avoid furthering children's exploitation.²¹
- The Department should incorporate into the Statutory Guidance a requirement that schools and appeal bodies consider the influence of CCE on a young person's behaviour prior to exclusion, as well as the risk that proceeding with an exclusion will lead to CCE.

Addressing racial disparities in school discipline

22. From our experience, the way a school approaches disruptive behaviour has a disproportionate impact on pupils from ethnic minority backgrounds. The DfE is aware that children from Black Caribbean backgrounds are 2.5 times more likely than White British pupils to be permanently excluded. This figure rises to four times more likely for pupils from Gypsy, Roma, or Traveller (GRT)

¹⁹ To read Stefan's whole story, go to: <https://www.mylondon.news/news/teachers-told-id-end-up-21348103>

²⁰ Section 45, Modern Slavery Act 2015

²¹ For more detail on this recommendation and links to existing resources on spotting the signs of child criminal exploitation, see JfKL (2020) *Excluded, exploited, forgotten: Childhood criminal exploitation and school exclusions* https://www.justforkidslaw.org/sites/default/files/fields/download/JfKL%20school%20exclusion%20and%20CCE_2.pdf

backgrounds.²² There are at least two ways in which behaviour policies can entrench this disadvantage. Firstly, we find certain rules and policies can lead to indirect discrimination. For example, rules around uniform and grooming can punish black pupils for wearing their hair in a natural style. Secondly, we routinely find that through unconscious bias or prejudicial attitudes, school staff can be more likely to interpret the behaviour of black pupils or other pupils from ethnic minority backgrounds as disruptive when compared to similar or identical behaviour from White British pupils. These experiences can be compounded by 'zero-tolerance' behaviour policies which amplify the effects of any unfair decisions and result in children being excluded.

"There are 6 children of colour in their classroom...when black children spoke loudly, they were shouted at, disciplined and given a sanction. Whilst when the white children were being loud, they were not responded to in this way."

Parent²³

23. Recommendations: To tackle these racial disparities the DfE should:

- **Help schools eliminate racial bias in the disciplinary process.** The Department should make sure that the revised exclusions guidance allows schools to understand how young people from ethnic minority backgrounds can face bias and discrimination in the disciplinary process. The revised guidance should strengthen the protections against exclusion for these pupils. It should require decision makers to consider the own biases and those of their staff in considering behaviour and reaching a decision on whether to exclude and give schools the confidence to explicitly address racial bias in their behaviour strategies.²⁴
- **Improve the way racial bias is addressed in teacher training.** The Department should work with teacher training providers to embed content about how to address racial disparities and the disciplinary process into initial teacher training. Workforce training needs to go beyond the basics of schools' duties under equalities legislation.
- **Increase the diversity of the teaching profession.** The Department should develop and fund a dedicated recruitment campaign aimed at increasing the diversity of the teaching profession. This should include a focus on increasing diversity at senior leadership team level.

12. What challenges would or do you face in banning mobile phones from the school day and do you have any concerns about banning phones from the school day?

- 24. Many of the children and young people we work with have expressed concern about the unintended consequences of banning mobile phones in schools.** For example, one young person used her phone during the school day to stay in touch with her mother who was experiencing domestic abuse. Staying in contact was a way for her to support her mother, but also to reassure herself that her mother was safe so she could take part in school. Taking away that security would have been distressing, as well as counterproductive, making it more likely that she would struggle

²² Ethnicity Facts and Figures (2021) *Permanent exclusions* <https://www.ethnicity-facts-figures.service.gov.uk/education-skills-and-training/absence-and-exclusions/permanent-exclusions/latest#main-facts-and-figures>

²³ JfKL (2020) *Race, poverty and school exclusions in London* <https://justforkidslaw.org/news/new-research-reveals-children-poverty-and-black-children-london-are-more-likely-be-excluded-school>

²⁴ For a fuller analysis and list of recommendations on tackling the links between race and exclusions, see JfKL (2020) *Race, poverty and school exclusions in London*

to get through the school day. Other children have used their phones to stay in touch with relatives as part of a coping strategy for anxiety, or to fulfil caring responsibilities. While some of these situations indicate that the child or young person has an unmet support need, it's still the case that removing their mobile phone would cause further harm or put them at risk. This is especially true when schools keep pupils' phones overnight, potentially leaving them unable to arrange transport home, and cutting them off from important sources of support and safety. Young people have told us about instances where their phones were confiscated for weeks at a time, without any information about how they could get them back.

"It's really important not to remove phones in every situation. I've had times where I've gone on my phone because there was nothing else for me to do. At the time I was being bullied I had nothing to do or no-one to talk to, so I'd go on my phone and listen to music so I could have peace of mind, but I'd always get in trouble for that. Sometimes there's a different reason for why someone's doing something."

Young person²⁵

25. Young people we work with have told us that they understand the need to make sure that the classroom is an environment that promotes learning, and that there are circumstances when teachers will need to confiscate phones. Some felt strongly that mobile phones could be used as a tool to facilitate bullying, and that schools have a wider responsibility to tackle this. At the same time, they told us that an overly punitive approach is counterproductive. For example, if a young person is using their phone because they are disengaged from school or struggling to make sense of what they are being taught, moving straight into a system of sanctions and punishments may reinforce those feelings and lead to that young person 'acting out' in other ways. Instead that behaviour could be a prompt for a teacher to try to have a wider conversation with the pupil about what help they might need to support their learning.

26. Recommendations: The Department should encourage schools to take a balanced and proportionate approach to the use of mobile phones.

- Schools should set out in their behaviour policies when they will confiscate phones and the process for returning them to pupils.
- They should also make sure they do not confiscate phones overnight and provide allowances for extenuating circumstances so that no pupil has their phone removed in circumstances which would present a safeguarding risk.

²⁵ Focus group with young people who have experienced school exclusion

Removal rooms

15. What factors are most integral to the success of removal rooms in managing pupil behaviour and what are the barriers to success? Please explain how this is used to improve future behaviour when a pupil returns to the classroom including any evidence you have of their effectiveness (or otherwise).

16. How do you support vulnerable pupils, especially those with SEND, when placing them in removal rooms? Please comment on the challenges, if any, you have faced in these circumstances.

27. Many young people have shared experiences with us in which being placed in a removal room was psychologically harmful, damaging to their education, and potentially a breach of their human rights. Often, they have had to spend days or weeks in isolation, without any support to address the behaviour or circumstances which led to them being removed.

"When you're ready to go back you should be able to go back to class. What's the point of sitting in silence the whole day? Aren't you just going to turn up to school again the next day with the same emotions?"

Young person²⁶

28. In 2011 the UN Committee on the Rights of the Child (UNCRC) concluded that placing a child in solitary confinement or isolation breaches that child's right to be free from all forms of violence, abuse, and neglect.²⁷ In 2016 it recommended that the UK Government abolish the use of isolation rooms.²⁸ We have heard from young people, including children in primary school, who while in isolation were not allowed to go to the toilet or to go outside during breaktime. Others were given no work to complete during their time in isolation, instead simply being asked to write lines or an apology letter to their teacher. In some cases, isolation rooms are designed in a similar way to secure facilities, with furniture fixed to the floor and screens separating young people from any visitors. One young person told us that when he first entered prison, he felt at home because of his experience of removal rooms while he was at school.

"The isolation room looks exactly like a prison. You're setting a young person up for jail time. There are cubicles on either side, and you can't see anyone and you're just facing the wall all day. That is not healthy. We've all experienced lockdown for who knows how long and how many people have come away with mental health issues? What do you think that's doing to young people in schools? What would be better would be a classroom setting with assistant teachers who can help the young person carry on with what they were learning in that lesson."

Young person²⁹

29. Children and young people tell us there is very little transparency about both the decision to place them in a removal room, and the length of time they will be kept there. One of our clients was kept in isolation for six months without being given a clear reason as to why. Another would be

²⁶ Ibid

²⁷ UN Committee on the Rights of the Child (2011) *General comment No. 13 (2011): The right of the child to freedom from all forms of violence* <https://www.refworld.org/docid/4e6da4922.html>

²⁸ UN Committee on the Rights of the Child (2016) *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland* <http://www.crae.org.uk/publications-resources/un-crc-committees-concluding-observations-2016/>

²⁹ Focus group with young people who have experienced school exclusion

informed at the start of each new school day that her time in isolation would be extended. This process went on for weeks.

30. Recommendations:

- **The DfE should eliminate the use of removal rooms and isolation as a punishment.**
 - The Department should include clear guidelines about removal from the classroom as part of its expanded behaviour guidance. It should state clearly that removal and isolation should never be used as part of the disciplinary process. It should emphasise the risk that these practices pose for a child's right to an education and right to be treated with dignity.
 - The Department should also require schools to place clear time-limits on removals, to provide appropriate pastoral support to pupils who are removed, and to give clear reasons to both pupils and parents which explain the decision to temporarily remove a child from a classroom.

- **Schools should provide supportive environments for children who need to be temporarily removed from class.**
 - Children should only be removed from their classroom as a last resort and where there is no practical alternative that will keep young people safe and allow lessons to proceed.
 - Whenever there is a need to temporarily remove a pupil from the classroom to avoid harm, schools should make sure that children are taken to a space designed and staffed in a way which supports them to stay safe and well. They should always be offered pastoral support and the chance to take breaks outside. They should be set schoolwork appropriate for their level of education.

In-school behavioural units

22. What factors are most integral to the success of these units and what are the barriers to success?

24. How has the unit improved outcomes for pupils? Please comment on attainment, attendance, reintegration into mainstream classes, wellbeing and referrals to AP.

31. Many of the young people we work with who are required to attend behavioural units have unmet needs, including special educational needs. Often their experiences in these units mirror their experiences of removal and isolation. This can include limited opportunities to continue learning at the level taught in mainstream classes, a lack of pastoral support, and a sense of stigma and shame about being required to learn in a different environment to their peers. In many cases there is no clear plan to help young people move from a behavioural unit back into mainstream education. These experiences are reinforced by the findings from IFF Research's investigative research into alternative provision, which found that some schools see internal units as 'sanction rooms' designed as a form of punishment rather than a supportive environment in which to learn.³⁰

³⁰ IFF (2018), *Investigative research into alternative provision*

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/748910/Investigative_research_into_alternative_provision.pdf

32. One of the most significant barriers to success for behavioural units is a lack of funding for high-quality support to help young people with special educational needs at an early stage. We often support parents and pupils who first ask their schools for additional help long before the pupil experiences internal exclusion or is required to learn in a behavioural unit. Further investment in SEN funding (as mentioned in paragraphs 20 and 22) would reduce the need for behavioural units, while meaning that young people who are experiencing forms of internal exclusion could access the help they need to transition back to mainstream education.
33. **Recommendations: To reduce the inappropriate use of behavioural units and internal exclusion:**
- The DfE should include clear guidelines about the use of in-school behavioural units in its revised statutory guidance. These should state explicitly that pupils should not be required to learn outside of a mainstream environment as a form of punishment.
 - The Government should urgently bring forward proposals to increase investment for SEN as part of the SEND Review.

Managed moves

27. What does effective engagement with pupils, parents, carers, and other agencies look like throughout the managed move process? Please refer to any practice you may be aware of outside of your own school, trust, or local authority.

34. We routinely hear from children and parents who say they have not felt engaged or part of a genuine conversation about a managed move. Some parents have told us that, contrary to the statutory guidance, they felt that a managed move was forced on them, with schools implying that the only alternative would be permanent exclusion. Others were not given enough information about the managed move process to make an informed decision. For example, one parent was not told that there would be an initial trial period, with a risk that their child could then be sent back to their original school pending a permanent exclusion. Others were under the assumption that their child would stay registered with both schools before the final decision and were later caught by surprise when the child was removed from the roll of their original school without any explanation.

"If there's a way to avoid a permanent exclusion and get a child into mainstream education that'd be better. It's another environment which might be better for them. But my managed move failed. A school can easily say they don't want this child without any decision or meeting. Literally one day the guy just said, 'Oh I think you should maybe go back to your school'. And then I was back the next week."

Young person³¹

"They pushed the managed move on me in a meeting and said that this was the only route that was on the table for you and if you don't accept this route then your child would not be able to go to another school. " Parent³²

³¹ Focus group with young people who have experienced school exclusion

³² JfKL (2020) *Race, poverty and school exclusions in London* <https://justforkidslaw.org/news/new-research-reveals-children-poverty-and-black-children-london-are-more-likely-be-excluded-school>

35. Young people we work with have mixed views about the purpose of managed moves and their value. Many felt that the consequences of permanent exclusion and being moved to alternative provision would be so damaging, that any attempt to keep a young person in mainstream education through a managed move would be worth trying. However, some pointed out that a managed move would 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. Others said that they had expected a managed move to be a fresh start, but the fact that teachers at their new school had the full details of their past behaviour meant that damaging assumptions and labels had followed them between schools.

"Having a managed move doesn't make sense if the students are carrying their same problems to a different school. It just didn't make sense. I ended up being excluded from the new school too. I ended up getting passed around like I was a statistic. Young person³³

36. We also hear from parents who were not meaningfully involved in conversations about which school their child will be moved to. In many cases parents believe that schools made decisions about a managed move purely based on logistical considerations, for example by choosing a school where the respective headteachers have an existing relationship, rather than by starting with the individual needs and wishes of the young person involved. In other cases, parents have told us that their wish to pursue a managed move was dismissed by a headteacher because of concerns that the pupil's behaviour could represent a threat to the school's reputation. Cases like these often lead to a child being permanently excluded without any proper consideration of whether a managed move may have allowed that child to stay in mainstream education.

37. **Recommendations:**

- **The DfE should set out a standard process for managed moves** to ensure it is not used as a form of informal exclusion by schools. It should make clear that the driving factor should be the pupil's needs and addressing the underlying factors for the move in the first place, rather than avoiding responsibilities to provide support.
- The DfE should expand the statutory exclusions guidance to include an expectation that a managed move will be subject to a trial period of between six and twelve weeks. During this time pupils should remain on the roll of both schools. Schools should involve parents and pupils in conversations around what will happen at the end of the trial.
- **Schools should give pupils and parents a voice in the managed move process.** This should include consulting early on the managed move, providing clear and accessible information about what the process involves, agreeing the information which needs to be shared with the receiving school, and setting out alternative options for discussion.

Contact details: If there's anything in this response you'd like to discuss further, please get in touch with Ayaz Manji, Policy Officer (School Exclusions): ayazmanji@justforkidslaw.org, 020 8187 2439

³³ Focus group with young people who have experienced school exclusion