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CITY COUNCIL

scrutiny



Children and Families

Inquiry into Exclusions, Elective Home Education
and Off-rolling – Statement of Progress

May 2022



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Children and Families Scrutiny Board

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Ms C Foote	School Staff Representative
Ms H Bellamy	School Staff Representative
Ms L Whitaker	Young Lives Leeds

Children and Families Scrutiny Board

Focusing on services affecting the lives of children and families across the city to monitor progress towards becoming a child friendly city; putting children first and developing active citizens.

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Further information about the work of the committee can be found here:

[Children and Families Scrutiny Board](#)

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1. Aims of the Inquiry

Best Council Priorities:

- **Supporting families to give children the best start in life;**
- **Improving educational attainment and closing achievement gaps for children and young people vulnerable to poor learning outcomes.**

1.1 During 2019/20, the Children and Families Scrutiny Board agreed to undertake an Inquiry into Exclusions, Elective Home Education and Off-rolling having acknowledged national concerns regarding the rising level of exclusions and elective home education (EHE) numbers, as well as reflecting the position in Leeds linked to school based data and the Council's own commitment towards addressing such matters as part of the Leeds 3As Plan. The Board was also keen to explore whether Leeds as a city will be able to respond effectively to any potential future national reforms and expectations stemming from national reviews such as those undertaken by the former Minister of Children, Edward Timpson, and the Children's Commissioner, Anne Longfield.

The agreed scope for this Inquiry involved consideration of the following:

- The data collated by the Council in relation to exclusions and EHE and any identified gaps that may need addressing;
- Methods of identifying and addressing the practice of off-rolling;
- The potential implications of any future reforms and expectations stemming from the recent national reviews by Timpson and the School Commissioner;
- Internal isolation approaches used by schools as a disciplinary measure;
- Examples of good practice locally in managing children identified as being at risk of exclusion and in reducing exclusion rates;
- The support available for schools in managing pupils who are at risk of exclusion, with particular reference to the role of local Area Inclusion Partnerships, and any identified gaps in this support;
- The provision of training for school governors in terms of their role in monitoring school exclusions and challenging head teachers on their strategies for reducing exclusion.
- The extent to which parents and carers are supported in understanding the exclusion process including arrangements for appeal.
- The views of young people, including case study evidence that provides an insight into the experiences of children at risk of, as well as having first-hand experience of, being excluded and the broader lessons that have been learned in terms of supporting the needs of such children.



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2. Purpose of Statement

- 2.1 Having originally agreed the terms of reference for this Inquiry in November 2019, the Board held two evidence gathering sessions during February and March 2020, with a further session planned for April 2020.
- 2.2 However, on 16 March 2020, in light of the Covid-19 pandemic, the Council took the necessary step to cancel a number of planned meetings of various Committees, Boards and Panels. This included all Scrutiny Board meetings.
- 2.3 Throughout the 2020/21 municipal year, the Children and Families Scrutiny Board focused its attention on how the Council and its partners worked to support all children and their families during such an unprecedented and difficult period. This resulted in the Board's Inquiry work being temporarily paused until the following municipal year.
- 2.4 In October 2021, the Board revisited the terms of reference of its ongoing inquiry and agreed to recommence its evidence gathering work in November 2021. However, due to other competing work demands, a number of the planned evidence sessions had been deferred. There have also been significant developments made nationally which will impact on the Board's ongoing work too.
- 2.5 As such, this Statement has been produced to summarise the progress made by the Scrutiny Board and to give a brief overview of the preliminary findings stemming from the evidence to-date. Moving forward, it also highlights a number of key considerations to help inform the next steps of the Scrutiny Board's work.

3. Evidence to-date

Scrutiny Board Meeting – 5th February 2020

- 3.1 At this meeting the following information was reported to the Board:
 - Scrutiny Inquiry Terms of Reference.
 - Further copy of the report provided to the Scrutiny Board on 23rd October 2019 by the Director of Children and Families regarding Exclusions, Elective Home Education and Off-rolling.
 - Children's Commissioner report 'Skipping School: Invisible Children' (February 2019).
 - Children's Commissioner report 'Exclusions' (May 2019).
 - Timpson Review of School Exclusion (May 2019).
- 3.2 The following key areas were covered during this session:



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- The data collated by the Council in relation to exclusions and EHE and any identified gaps that may need addressing;
- Methods of identifying and addressing the practice of off-rolling;
- The potential implications of any future reforms and expectations stemming from the recent national reviews by Timpson and the School Commissioner;
- Internal isolation approaches used by schools as a disciplinary measure;
- Examples of good practice locally in managing children identified as being at risk of exclusion and in reducing exclusion rates;
- The support available for schools in managing pupils who are at risk of exclusion, with particular reference to the role of local Area Inclusion Partnerships, and any identified gaps in this support.

Visit/working group meeting with the Leeds Youth Council – February 2020

3.3 A number of representatives of the Scrutiny Board took part in focus group discussions with the Leeds Youth Council on Saturday 15th February 2020. Feedback from this visit was relayed to the full Board during its meeting on 4th March 2020.

Scrutiny Board Meeting – 4th March 2020

3.4 At this meeting the following information was reported to the Board:

- Summary note from the Children and Families directorate on the training and support offered to governors and parents and how the views of young people are taken into account.
- Exclusion from maintained schools, academies and pupil referral units in England. Statutory guidance for those with legal responsibilities in relation to exclusion. Department for Education (September 2017).
- Report of the Children’s Commissioner ‘Exclusions. Children excluded from mainstream schools’ (May 2019).

3.5 The following key areas were covered during this session:

- The provision of training for school governors in terms of their role in monitoring school exclusions and challenging head teachers on their strategies for reducing exclusion.
- The extent to which parents and carers are supported in understanding the exclusion process including arrangements for appeal.
- The views of young people, including case study evidence that provides an insight into the experiences of children at risk of, as well as having first-hand experience of, being excluded and the broader lessons that have been learned in terms of supporting the needs of such children.

Scrutiny Working Group Meeting - 1st December 2020

3.6 During the Scrutiny Board’s October 2020 meeting, a Board Member had requested that the Board look urgently into safeguarding measures put in place within



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alternative education provision. While acknowledging that alternative education provision was already a key feature of its ongoing inquiry work, the Board agreed to hold a working group meeting to specifically consider this matter. This meeting took place on 1st December 2020 and Board Members met with representatives from the Children and Families Directorate to consider the governance and accountability structures surrounding alternative education provision and the Council's position in this regard.

Scrutiny Board Meeting – 3rd November 2021

3.7 At this meeting the following information was reported to the Board:

- Agreed terms of reference relating to part two of the Board's ongoing inquiry.
- A report by the Director of Children and Families presenting an update on data and trends in elective home education (EHE).

3.8 The following key areas were covered during this session:

- An update on any further developments stemming from earlier national reviews by Timpson and the School Commissioner.
- A general overview of attendance across local schools.
- Latest local figures relating to Elective Home Education (taking into account the impact of the Covid-19 pandemic) and the work being undertaken by the Council in offering support to those pupils, but also in terms encouraging and building confidence towards a return to mainstream education.

4. Preliminary Findings

4.1 This section provides a brief overview of the preliminary findings stemming from the Scrutiny Board's inquiry work to-date.

Working with school leaders and governors in reducing exclusions

4.2 At the start of its inquiry work, the Board learned that although the number of permanent exclusions in Leeds have decreased in recent years, the number of fixed term exclusions have increased. Members were advised that while a restorative approach is encouraged to all schools - with a reduced focus on exclusions – the approaches and ethos still vary across schools.

4.3 Despite there being statutory guidance from the Department of Education aimed at those with legal responsibilities around exclusions, Members were advised that such guidance allows for interpretation, which reduces the consistency across schools.

4.4 The Scrutiny Board acknowledged that the Government had commissioned Edward Timpson, the former Minister of Children, to undertake a review of exclusions in England



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due to concerns about the rate of exclusion, which had increased each year from 2014, as well as concerns that particular groups of children were more likely to be excluded. In conclusion, Edward Timpson had published his report '[Timpson Review of School Exclusion](#)' in May 2019.

- 4.5 The Timpson review recognised exclusion – both fixed period and permanent – as an important tool for head teachers as part of an effective approach to behaviour management. However, it also acknowledged that the roots of challenging behaviour have long been debated by educational experts and remains a complex matter. As such, the Timpson review covers both the need for effective behaviour management in schools (to establish and maintain high expectations) and the need to understand and respond to individual children (so they are supported to meet those expectations).
- 4.6 It particularly recognises that more could be done to support schools to understand and respond to individual children – particularly children with SEN, children in need of additional help and protection and children who are disadvantaged – who may need additional support and who might otherwise find themselves at risk of exclusion. Emphasis is also placed around taking the necessary steps to ensure exclusion from school does not mean exclusion from education, so that all children are getting the education they deserve.
- 4.7 The Timpson review resulted in thirty recommendations to Government which were shaped by a recognition that reducing exclusions and improving educational outcomes for those children and young people currently most vulnerable to exclusion requires a joined-up approach by schools, and local authorities and partner agencies. Such recommendations were acknowledged and supported by the Scrutiny Board.
- 4.8 The Scrutiny Board had noted that the Timpson review had made specific reference to the Department for Education needing to work with others to build the capacity and capability of governors and trustees to offer effective support and challenge to schools, to ensure exclusion and other pupil moves such as managed moves and direction into alternative provision are always used appropriately. This should include training as well as new, accessible guidance for governors and trustees.
- 4.9 As part of its own inquiry work, the Scrutiny Board took the opportunity to invite those Board Members with Governor responsibilities to share their own personal experiences regarding the provision of training received and to reflect on their role in monitoring school exclusions and challenging head teachers on their strategies for reducing exclusions.
- 4.10 The responses were variable in terms of the level of training provided and particularly their involvement in Exclusion Panel meetings. It was noted that while the DfE statutory guidance was helpful to Governors, it was also legally technical. As such, the Board felt that appropriate training surrounding this guidance should be applied to Governors, particularly in preparing them for taking part in any Exclusion Panel meetings.



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- 4.11 The Board noted the training offer made available to Governors around behaviour and graduated approach to behaviour that is run by a Senior Educational Psychologist, as well as training sessions around exclusion processes, which is offered annually.
- 4.12 Linked to this, the Board also raised the issue of internal exclusions within schools – often referred to as ‘isolation’ – and learned that schools are not obliged to provide this data to the local authority. In the absence of a formal reporting mechanism regarding internal exclusions, it was noted that Governors are still encouraged to request such information in terms of monitoring trends in detentions and exclusions, as well as providing effective challenge where there are repeated incidents.
- 4.13 The Board felt that Governors should also be empowered and supported to challenge schools in terms of the information provided to parents and carers regarding their rights surrounding fixed and permanent exclusions, and the advocacy and support that is also in place for them to access.

Feedback from the Leeds Youth Council on tackling behavioural issues

- 4.14 While many of the young people who took part in the focus group discussion with representatives from the Scrutiny Board had not necessarily experienced being formally excluded, they had shared their strong views on tackling pupil behavioural issues in school.
- 4.15 There was consensus amongst the young people that schools needed to have appropriate enforcement measures to deal with disruptive pupil behaviour. However, many felt that the use of internal exclusion was not being applied appropriately and would often be used as a sanction for minor offences, such as forgetting planners or not correctly adhering to the school’s uniform code. Consequently, those pupils would then miss their daily lessons.
- 4.16 The young people felt that more teachers would benefit from having mental health training to help them identify and deal more effectively with issues affecting pupils’ behaviour. Linked to this, the Board discussed the need to strengthen teacher training programmes in terms of having a greater emphasis around child development and how biological factors, such as puberty, can particularly affect behaviours.
- 4.17 The Board emphasised the importance of schools taking a more holistic approach towards tackling behavioural issues to help identify any potential underlying issues, such as having a troubled home life; being a young carer; or having underlying health conditions.
- 4.18 The Board also felt that schools should be reviewing their approach when repeated sanctions are being applied to a particular pupil with no remedial affect.



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Addressing the practice of off-rolling

- 4.19 While there is no legal definition of 'off-rolling', the definition provided by Ofsted is '*The practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil*'.
- 4.20 Off-rolling is distinct from formal exclusion, when a proper process must be followed. In February 2019, the former Children's Commissioner published [*Skipping School: Invisible Children*](#). This report was shared with the Scrutiny Board and sets out the Commissioner's view that while many parents who make a philosophical decision to home educate put a substantial amount of thought and dedication into providing their children with a high quality education, there are also many other families who have ended up home educating for other reasons and are struggling to cope.
- 4.21 While acknowledging the importance of schools maintaining the ability to exclude pupils as a last resort in order to maintain safe and effective classrooms for all children, the Commissioner makes clear the need for schools to follow the correct process for this to be lawful, with rights for parents, as set out in statutory guidance. Schools can only exclude pupils on disciplinary grounds – not for other reasons such as low attainment or because the child has emotional needs which the school feels unable to meet. Schools that off-roll for these reasons are effectively excluding children for non-disciplinary grounds, which is a form of informal and illegal exclusion.
- 4.22 In recognising that often the most vulnerable children and young people are at a higher risk of exclusion, Board Members sought assurance that particular efforts are made to ensure that children looked after are not subject to off-rolling. Members were advised that it is the responsibility of the Head of the Virtual School for children looked after to closely monitor the learning pathways and outcomes for all children looked after.
- 4.23 More generally, Board Members were advised that any situations potentially involving off-rolling could be explored at the point when families notify the local authority of their intention to home educate. However, where families choose not to give a reason then this can equally prove hard for the local authority to identify.
- 4.24 The Children Commissioner's report acknowledges and supports the ongoing work by Ofsted to identify and tackle off-rolling. Linked to this, Board Members noted the Commissioner's own recommendation that when inspecting schools with high levels of pupil movement, Ofsted should explore if there is any link between their behaviour policies and off-rolling. If particular behaviour policies are consistently a feature of schools found to be off-rolling, Ofsted should provide the evidence to the sector to enable schools to modify their policies.
- 4.25 Board Members had also acknowledged and welcomed a similar recommendation stemming from the Timpson Review in May 2019 which states that '*Ofsted must continue its approach set out in the draft framework and handbook of routinely*



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considering whether there are concerning patterns to exclusions, off-rolling, absence from school or direction to alternative provision and reflecting this in their inspection judgements. Where it finds off-rolling, this should always be reflected in inspections reports and in all but exceptional cases should result in a judgement that the school's leadership and management is inadequate'.

Governance structures surrounding alternative education provision

- 4.26 Board Members were informed that local authorities have no legislative powers over a school's decision to direct a pupil off-site for education to improve behaviour. Only in the instances where the pupil has a statement of special educational needs are local authorities entitled to be given clear information about the placement: why, when, where, and how it will be reviewed, as outlined in, *The Education (Educational Provision for Improving Behaviour) (Amendment) Regulations 2012*, which came into force on 1 January 2013.
- 4.27 Furthermore, it was noted that the local authority must recognise the statutory responsibility of schools and governing bodies to ensure the safety and wellbeing of all pupils placed at alternative provisions, as outlined in Section 201, Keeping Children Safe in Education 2020, which states: "*Where a school places a pupil with an alternative provision provider, the school continues to be responsible for the safeguarding of that pupil, and should be satisfied that the provider meets the needs of the pupil. Schools should obtain written confirmation from the alternative provider that appropriate safeguarding checks have been carried out on individuals working at the establishment, i.e. those checks that the school would otherwise perform in respect of its own staff.*"
- 4.28 In the absence of any legislative powers, particular focus was given to the role played by local Area Inclusion Partnerships (AIP) that had been established in Leeds to support inclusion, prevent exclusions and meet/support SEMH needs that may link to challenging and/or disruptive behaviours of learners in schools in their particular area. Every AIP offers advice on inclusion to schools and academies and each one offers different services to promote inclusion depending on their local area's needs. The Board considered the role of AIPs in conducting their own internal quality assurance visits on AIP providers as an additional support to schools, not negating each and every school's own responsibility. However, linked to this approach, Board Members were informed that the AIP's existing quality assurance model had also been reviewed for the academic year 2019/2020 in order to achieve greater consistency and transparency in the process, as well as encouraging the sharing of good practice.

Elective Home Education

- 4.29 Section 7 of the Education Act 1996 places a duty on parents to ensure that their child of compulsory school age receives a suitable, efficient education, either by regular attendance at school or otherwise. This can be fulfilled either by attending a school or by home educating.



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- 4.30 As part of the Board's inquiry work, much focus was given to issues surrounding elective home education (EHE). During the Board's meeting in November 2021, Members were advised that the proportion of the school age population being home educated at that stage was approximately 0.5%. However, it was acknowledged that children who have never been to school may not be registered as home educated as there is no legal obligation to inform the local authority. As such, they will not be included within the EHE list collected by the local authority.
- 4.31 Board Members learned that notification of intentions to EHE had increased significantly since the beginning of the COVID-19 pandemic, with a particular increase in whole families choosing to home educate and citing anxieties associated with COVID-19 as their primary reasoning for doing so. In November 2021, Board Members particularly noted and queried the reasoning for the recent increase in BAME families choosing to home educate and were advised that the impact of Covid to multigenerational families was often being cited as a main concern for those families from BAME communities. However, it was noted that the Equality and Diversity Board would be looking at disproportionality within education for children and young people from BAME backgrounds and is expected to explore the increase in EHE in further detail as part of this work. Members were also advised that the directorate is working with Leeds Gypsy and Traveller Exchange (GATE) who have highlighted that EHE is not a cultural choice, and that many families report racism and discrimination as the primary reason for removing their children from school settings.
- 4.32 The Board learned that there are no current duties set out in legislation for local authorities to provide specialised advice and guidance to parents. Despite this, it was highlighted that the council does provide general advice and guidance, which some families do choose to engage in. While access to specific services provided through school clusters are not available to families who home educate, they are still able to access a range of services, such as Mindmate, with information on this provided on the Leeds Offer.
- 4.33 Members were advised that all families are requested to submit an education plan in some form, and it is assessed by a teacher to identify whether the plan is suitable for the age, aptitude and special educational needs, if any, of an individual child. However, it was noted that local authorities have no powers to assess the plan based on a child's attainment.
- 4.34 Members were advised that if the Council does have any significant concerns due to lack of communication with a family, then safeguarding checks are undertaken at the home. If no response, social care are notified and a police welfare visit may be arranged. However, it was again highlighted that local authorities do not have powers to physically enter a EHE setting unless there are safeguarding concerns.
- 4.35 It was also confirmed that there is no duty for young people to take any formal examinations whilst home educated, and any examinations taken are at the expense of the family. The local authority therefore does not receive the data for examinations



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taken by home educated children as parents make individual arrangements for this that are not shared with the EHE team. Linked to this, Board Members expressed concern about the local authorities' ability to monitor young people in their choices post-16 and identify how many are Not in Education, Employment or Training (NEET). However, the Board was advised that efforts are still made by the Council's EHE team and the Pathways Team to contact all post-16 young people to provide signposting information about their next steps.

- 4.36 Overall, the Scrutiny Board acknowledged the frustration felt by local authorities in terms of the limitations of the existing legislation surrounding elective home education. Such frustrations were also being shared and reported nationally, including by the House of Commons Education Committee which published a report in July 2021 on [‘Strengthening Home Education’](#) and set out a number of recommendations based around having a statutory register for children out of school; supporting children with SEND and home education; an assessment of a ‘suitable’ education; better data on outcomes; and achieving a level playing field on access to examinations.
- 4.37 The Education Committee report had also made specific reference to the ‘Children not in school’ consultation which was launched by the Government on 2nd April 2019 and ended on 24th June 2019. This consultation sought views on four basic propositions for legislation:
- A duty on local authorities to maintain a register of children of compulsory school age who are not registered at schools of a specified type.
 - A duty on parents to provide information to their local authority if their child is within scope of the register.
 - A duty on education settings attended by children on the register to respond to enquiries from local authorities about the education provided to individual children.
 - A duty on local authorities to provide support to home-educated families if requested by such families.
- 4.38 At the time of writing its report, the Education Committee had highlighted that the Government had still not yet published its response. However, in February 2022 the Department for Education had published [‘Children not in school’ government consultation response](#) setting out its intention to legislate to enact the above proposals at the earliest opportunity and to work together with key stakeholders in making this happen.



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5. Moving forward: Key considerations

- 5.1 The following key considerations have been highlighted to help inform the next steps of the Scrutiny Board's work:
- *Acknowledging other independent review work featuring Elective Home Education undertaken by the Leeds Safeguarding Children Partnership and through Ofsted.*
- 5.2 In terms of complementing the inquiry work already undertaken by Scrutiny and providing additional assurances moving forward, it is helpful to acknowledge other independent review work featuring Elective Home Education that has been undertaken by the Leeds Safeguarding Children Partnership and also through the recent Ofsted inspection of children's services in Leeds.
- 5.3 The Children and Families Scrutiny Board was given the opportunity to consider the findings of the latest Ofsted inspection which took place between Monday 21 February to Friday 4 March 2022. Within its report, Ofsted had acknowledged that '*Leaders are tenacious in identifying and locating children who are missing education*' and that '*there are checks to ensure that parents who elect to educate their children at home have a clear understanding of what is expected and that the education provided is suitable*'.
- 5.4 The Leeds Safeguarding Children Partnership had previously considered the support provided to families who elect to home educate and in doing so, had lobbied Government for stronger statutory guidance around Elective Home Education. Moving forward, this remains a key feature of its priority work around Vulnerable Learners.
- *Understanding the implications of the recent 'Children not in school' government consultation response.*
- 5.5 Following the publication of the consultation response document in February 2022, the Scrutiny Board has not had an opportunity to consider this document in detail. While the government has committed to engage with local authorities and the home educating sector on the practical aspects of delivering on its proposals, there would be merit in the Scrutiny Board working closely with the Children and Families directorate to consider the implications of these proposals and identify any potential challenges at the earliest opportunity.
- *Consideration of the revised Behaviour in Schools Guidance and Suspension and Permanent Exclusion Guidance.*
- 5.6 In response to the Timpson Review, one of the commitments made by the Government was to work with sector experts to publish clearer, more consistent guidance to support schools to create positive behaviour cultures and ensure suspensions and permanent exclusions are conducted in a lawful, reasonable and procedurally fair way.



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- 5.7 On 3rd February 2022, the Department for Education published its consultation document '[Revised Behaviour in Schools Guidance and Suspension and Permanent Exclusion Guidance](#)' seeking views on proposed revisions to the Behaviour in Schools Guidance, the Suspension and Permanent Exclusion Guidance and associated changes to regulations. The Government is expected to publish its response to the consultation in Spring 2022, with the intention of the revised guidance documents coming into force in the school year 2022/23.
- *Consideration of other related forthcoming legislative changes.*
- 5.8 In March 2022, the Government had published a green paper on the future of the special educational needs and disabilities (SEND) and alternative provision (AP) system in England and launched a public consultation on the green paper's proposals, which is set out in the document '[SEND Review: Right support, right place, right time: Government consultation on the SEND and alternative provision system in England](#)'. The public consultation is expected to run until 22nd July 2022.
- 5.9 On 13 May 2022, the Schools Bill 2022-23 was also introduced to Parliament. This provides the legislative underpinning for the reforms set out in the Government's '[Opportunity for all: Strong schools with great teachers for your child](#)' White Paper, which was also published in March 2022 and reflects the government's long-term vision for a school system that helps every child to fulfil their potential by ensuring that they receive the right support, in the right place, at the right time.
- 5.10 Such forthcoming legislative changes will therefore prove to have significant implications warranting more detailed consideration over the coming months.
- *Reviewing progress against the recommendations stemming from the Timpson Review.*
- 5.11 The Timpson review had resulted in thirty recommendations for system improvement, all of which had been accepted in principle by the Government. In May 2019, the Department of Education had published '[The Timpson Review of School Exclusion: Government Response](#)' detailing its intentions for progressing each recommendation.
- 5.12 While the Covid pandemic will have had an impact on the Government's progress in implementing these recommendations, the Board may wish to also take stock of what recommendations have been implemented and what, if any, impact this has had locally.

Scrutiny Board (Children and Families)

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May 2022

Report author: Angela Brogden