



ISLINGTON

Permanent and Fixed Period Exclusion from Primary and Secondary School - Overview

16 July 2018

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Overview

- As a Borough, we are committed to providing the best start in life for all Islington children. One vital element of this work is supporting children at risk of exclusion from school.
- This involves both promoting inclusion and reducing escalation through the education system, by successfully meeting children's needs in their local school and being responsive to changing needs.
- This report provides the Children's Services Scrutiny Committee with overview and analysis of two types of exclusion - permanent and fixed period - from Islington primary and secondary schools, to support an examination of local performance in this area.

Context

- It is well established that school exclusion remains closely linked to deprivation factors and social vulnerability; and that once exclusion occurs, outcomes - both academic and social - are poor.
- Department for Education (DfE) guidance on exclusions states:
“Good discipline in schools is essential to ensure that all pupils can benefit from the opportunities provided by education. The Government supports head teachers in using exclusion as a sanction where it is warranted. However, permanent exclusion should only be used as a last resort, 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”.
- The DfE also recognise that exclusion data alone is an unreliable mechanism for establishing and measuring the cohort, providing ‘a minimum estimation to work from’ (Taylor, 2012). This is because exclusion figures represent a partial picture due to variance in local reporting and inclusion practice. But it is a helpful place to start....

What the data tells us

- Exclusion (fixed period and permanent) escalates with age, and affects boys three times more than girls nationally.
- Nationally, there is also over-representation of pupils with certain ethnic groups and those from lower socio-economic groups.
- Analysis of exclusion vulnerability factors largely reflects these national trends locally, although with some interesting differences.
- Nationally (as in Islington), **persistent disruptive behaviour** is the most commonly recorded reason for exclusion.
- There is no common definition of what constitutes persistent disruption; school level behaviour policy, intervention approaches and staff expectations are all factors in determining where the line would be drawn for such a circumstance.
- However, persistent disruption - by its nature - provides the opportunity for on-going intervention and adaptation as part of a consistent framework, so this could be a helpful starting point?

Legal Framework

The principal legislation governing exclusions includes:

- Education Act, 2002, as amended by the Education Act 2011
- School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Education and Inspections Act 2006
- Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007
- Equality Act, 2010
- Human Rights Act, 1998

For more information:

- www.education.gov.uk/schools/pupilsupport/behaviour/exclusion

Equality Act, 2010

Paragraphs 9-11 of the revised exclusions guidance 2017 state:

- Under the Equality Act 2010, schools must not discriminate, against, harass or victimise pupils because of their: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy/maternity; or because of a gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices and the provision of auxiliary aids.

- ...schools must also have due regard to the need to:
 - eliminate discrimination...
 - advance equality of opportunity between people who share a protected characteristic and people who do not; and
 - foster good relations between people who share a protected characteristic and people who do not share it.

- These duties need to be complied with when deciding whether to exclude a pupil. Schools must also ensure their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion...

Statutory Guidance

- ***Exclusion from maintained schools, academies and pupil referral units in England, 2017***
 - Statutory guidance for those with legal responsibilities in relation to exclusion
 - Applies to all schools and academies (including Free Schools)
- AND
 - All pupils in them, including those above and below compulsory school age (e.g. nursery and sixth form)
- The guidance distinguishes between what '**must**' be done and what '**should**' be done:
 - '**Must**' indicates a legal requirement
 - '**Should**' indicates best practice.

Key Principles from the guidance

- Exclusions must be lawful, rational, reasonable, fair and proportionate in line with the principles of administrative law (i.e. Judicial Review principles)
- As far as possible, head teachers should avoid permanently excluding any pupil with an Education, Health and Care Plan, or who is looked after
- Fixed period exclusions should be for the shortest time possible
- Permanent exclusion should be used as a last resort
- Excluded pupils should be enabled and encouraged to participate in the exclusion process.

Types of Exclusion

- **Fixed Period**
 - Minor breaches of the school's behaviour policy
 - No standard tariffs
 - Includes lunch time exclusion (which counts as half a day)
 - Up to a maximum of 45 days in one school year
 - Pupil returns to the school at the end of the exclusion
- **Permanent**
 - A serious breach, or 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
 - Pupil cannot return to the school unless reinstated by the Governing Body.

Fixed Period Exclusions

- Single stage process
- Governors only become involved if a parent asks them to review the head teacher's decision, or where a pupil has had fixed period exclusions totaling 16 days or more in one term, or will miss a public exam
- Governors Hearing
 - Opportunity for Governors to review the Head Teacher's decision
 - Outcomes:
 - Uphold the Head Teacher's decision
 - Reinstatement of the pupil with immediate effect or by a particular date (no conditions can be attached)
- Exclusions of 5 days or less cannot be reinstated
- There is no recourse to appeal or further review by an Independent Panel.

Permanent Exclusions

- Two stage process
- **First stage:** Governors Hearing
 - Opportunity for governors to review the Head Teacher's decision
 - Outcomes:
 - Uphold the Head Teacher's decision and decline to reinstate the excluded pupil
 - Reinstate the pupil with immediate effect or by a particular date (no conditions can be attached)
- **Second stage where governors uphold the Head Teacher's decision:** Independent Review Panel
 - Opportunity for parent to ask for the Governors' decision to be reviewed by an Independent Panel.

Independent Review Panel

- The Independent Review Panel can:
 - uphold the exclusion
 - ask Governors to review their decision
 - quash the Governors' decision where judicial review principles are contravened (e.g. the exclusion is illegal; irrational or procedurally unfair).
In this case, the local authority must impose a £4,000 penalty on the school
- Where requested by the parent, an SEN Expert must be made available, even if the school has not identified that the pupil has SEN
- Independent Review Panels are arranged by the Council's Democratic Services to ensure independence from the school and education services.

Decision to exclude

- Only head teachers have the power to exclude
- Exclusions must only be used for disciplinary reasons, and can extend to behaviour outside school
- A full and thorough investigation must take place before coming to a decision to exclude
- In making their decision, Head Teachers must take into account:
 - the school's behaviour policy
 - the pupil's version of events
 - accounts from witnesses (pupils and staff/adults)
 - any contributing factors (e.g. bullying, mental health issues, bereavement)
- In establishing the facts, the Head Teacher must apply the civil standard of proof using the '*balance of probabilities*' rather than the criminal standard 'beyond reasonable doubt'
- The head teacher may withdraw an exclusion that has not been reviewed by the governing body.

Lawful reasons for exclusion

- Although the DfE statutory guidance does not provide a list of reasons, exclusions must be reported to the DfE using the following headings:
 - **Bullying**
 - **Damage**
 - **Drug & Alcohol related incident**
 - **Persistent disruptive behaviour**
 - **Physical assault against adult**
 - **Physical assault against pupil**
 - **Racist abuse**
 - **Sexual misconduct**
 - **Theft**
 - **Verbal abuse/threatening behaviour against adult**
 - **Verbal abuse/threatening behaviour against pupil**
 - **Other**
- In Islington, 'Other' is reserved for weapon related incidents.

Unlawful reasons for exclusion

- Pupils **cannot** be excluded for:
 - Truancing
 - Being late
 - Not wearing the right uniform
 - Failing to do their homework
 - Academic attainment/ability
 - The action of their parent/s
- However, a pupil who repeatedly fails to follow academic instructions, *could* be subject to exclusion

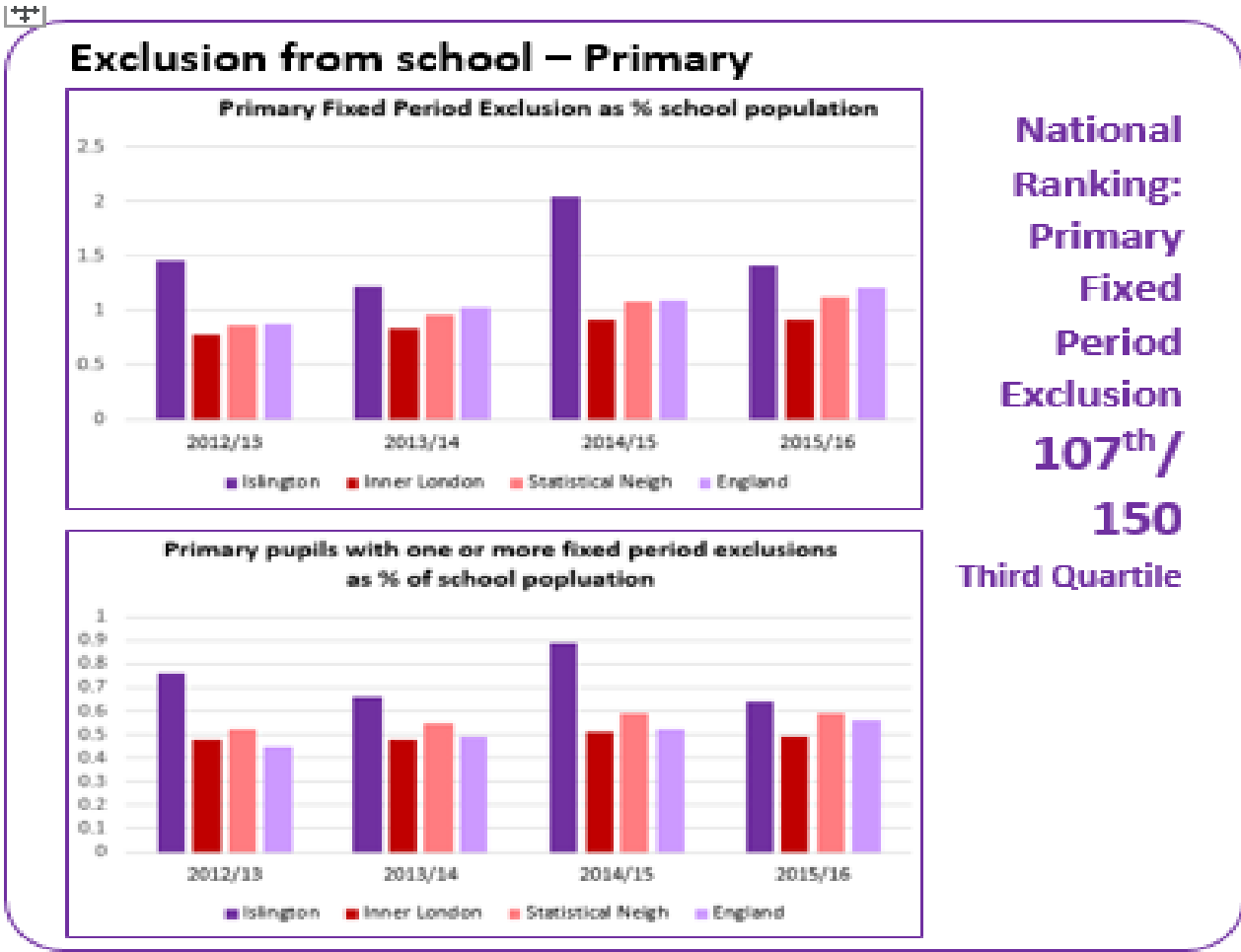
Unofficial or Unlawful Exclusions

- Exclusion is the only lawful means for removing pupils from school sites for disciplinary reasons
- Unlawful procedures include:
 - ‘Cooling off’ periods
 - Indefinite period of exclusion
 - Not allowing the pupil to return to school until the reintegration interview takes place
 - Advising parents that if their child returns to school they will be permanently excluded
 - Asking disruptive pupils to stay at home during Ofsted inspections
 - Extending study leave beyond recommended length of time

Duties for the school following exclusion

- Inform the parent - verbally as soon as possible, in writing within 1 school day
- Provide work during the first 5 days of an exclusion (applies to both fixed period and permanent exclusions)
- Arrange suitable, full-time supervised provision from Day 6 of a **fixed period** exclusion. For permanent exclusions, this duty applies to the 'Home' local authority
- Arrange a governors hearing to review the head teacher's decision where:
 - a. a pupil has fixed period exclusions totalling 16 days or more in one term
 - b. an excluded pupil will miss a public exam
 - c. a pupil has been permanently excluded
 - d. a parent requests it
- Ensure exclusion hearings are held within timescale (within 15 school days for a-c and 50 school days for d).

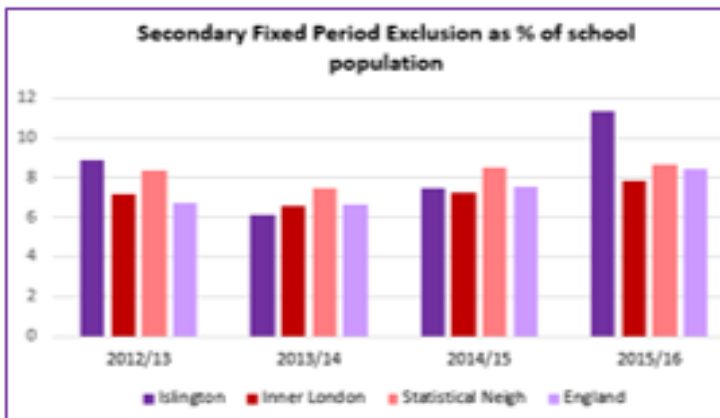
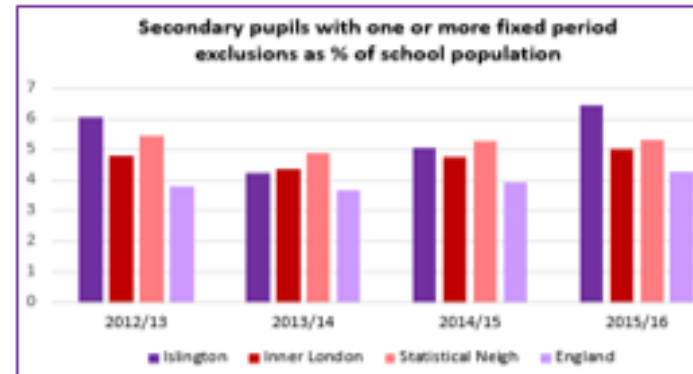
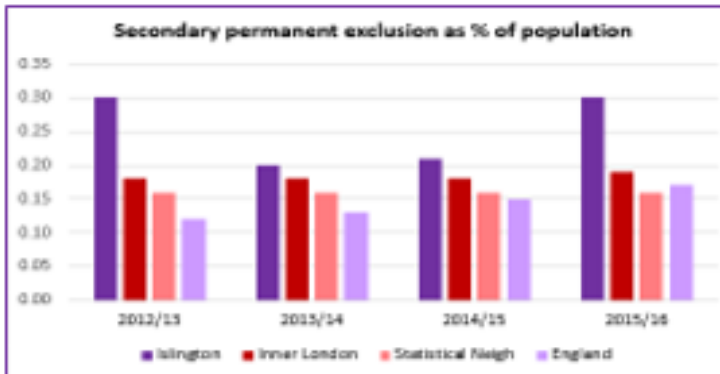
Data overview: Primary



National Ranking: Primary Fixed Period Exclusion 107th / 150 Third Quartile

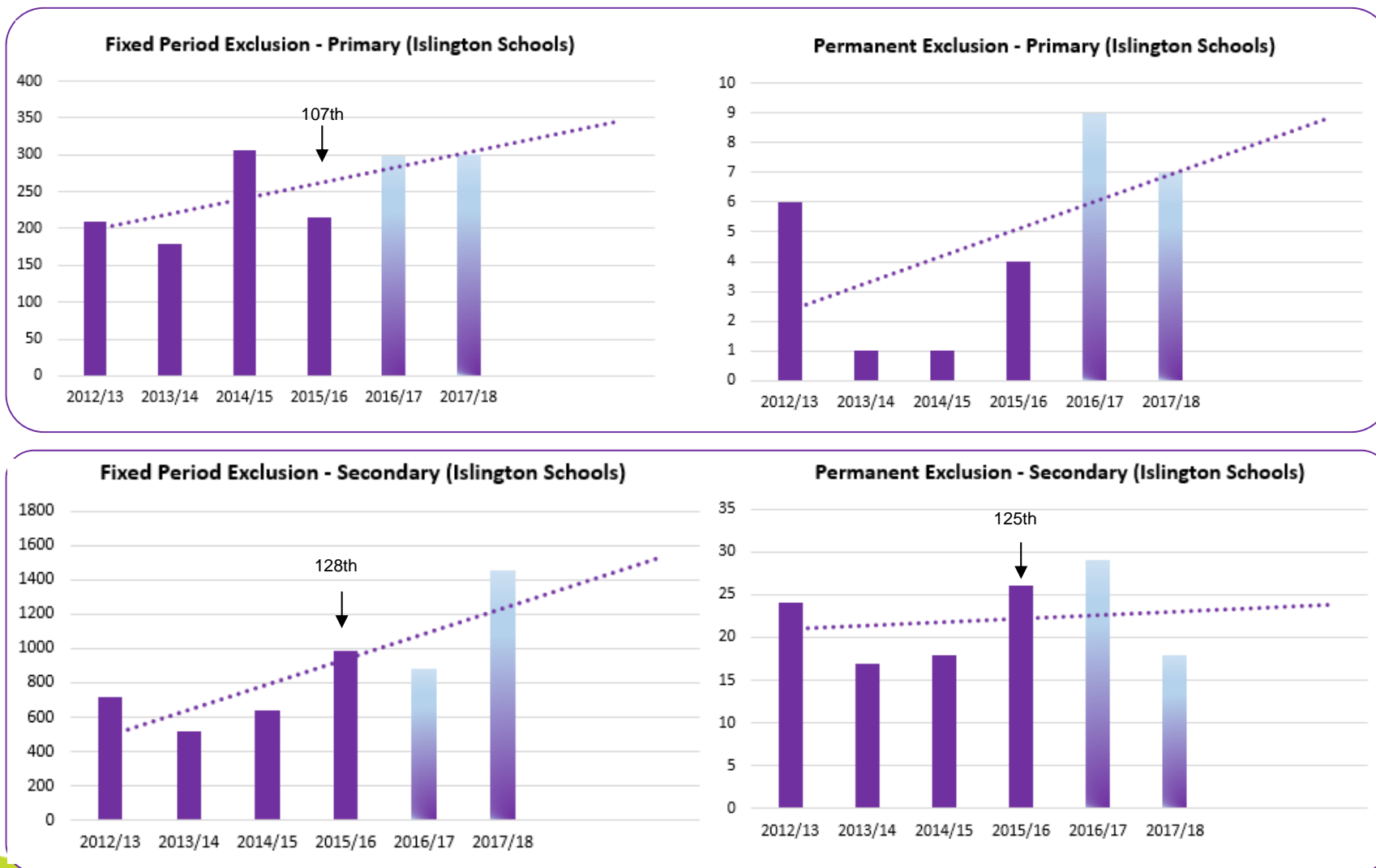
Data overview - secondary

Exclusion from school - Secondary

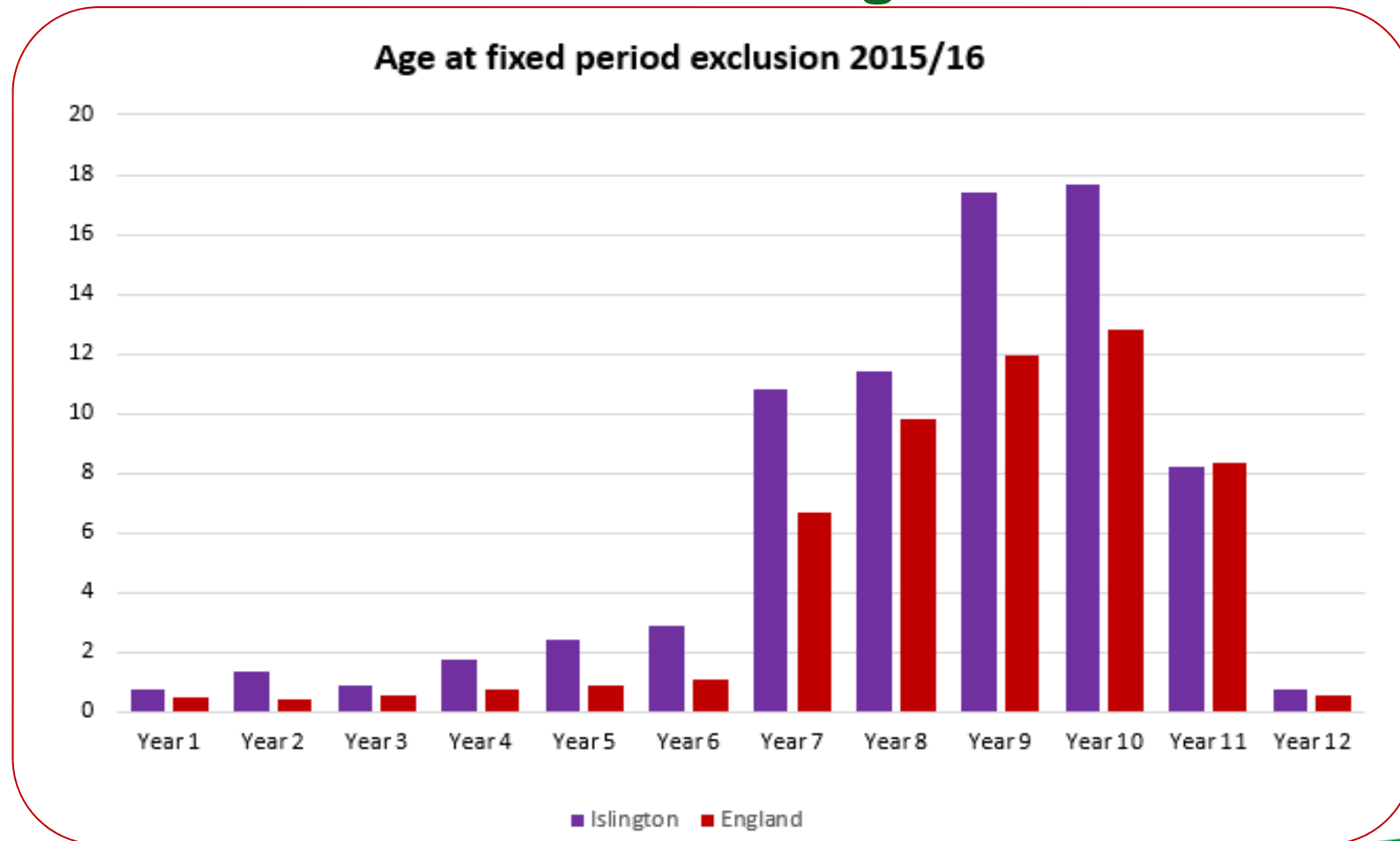


National Ranking:
Secondary Permanent Exclusion
125th/150
 Bottom Quartile
Fixed Period Exclusion
128th/150
 Bottom Quartile

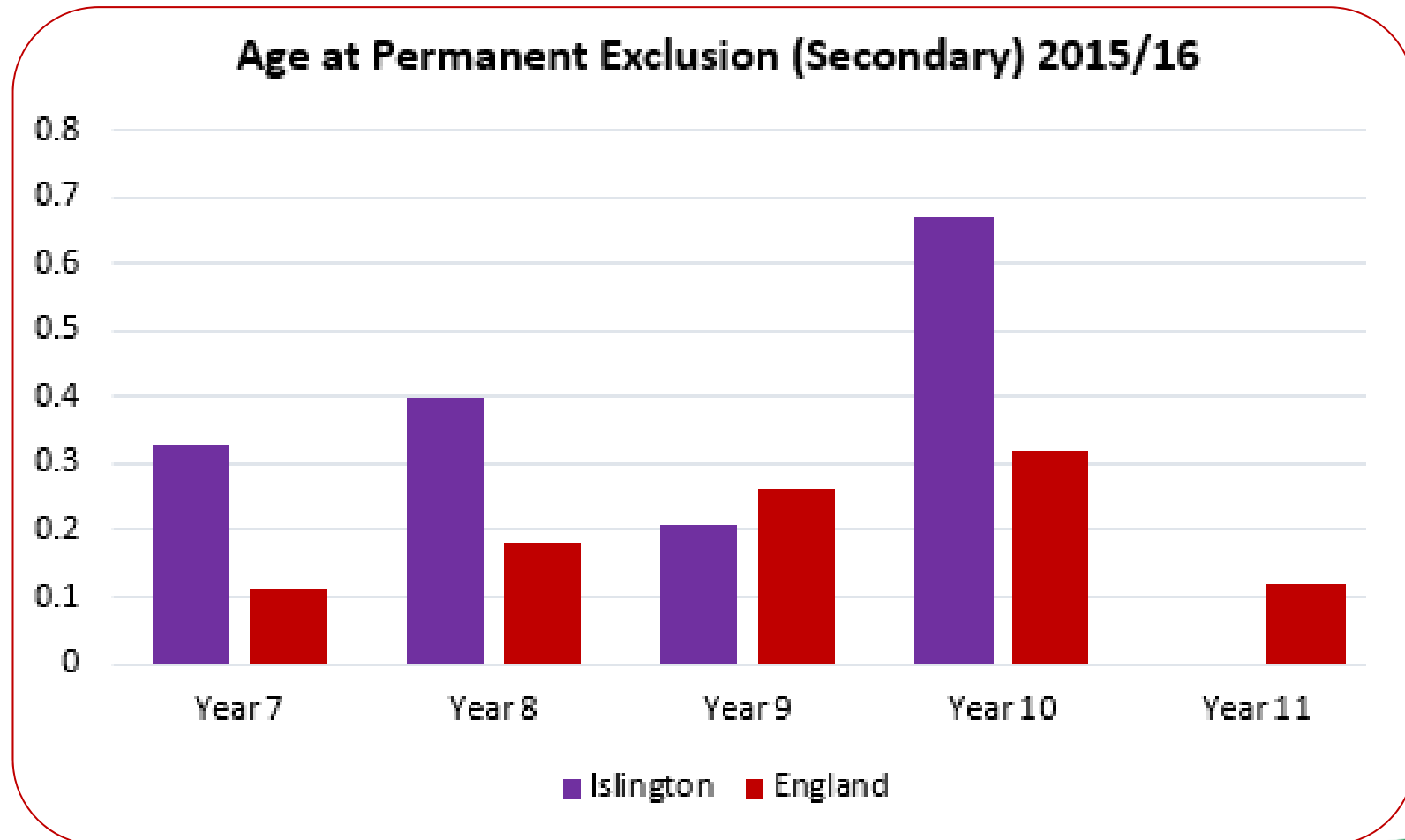
Direction of travel (provisional)



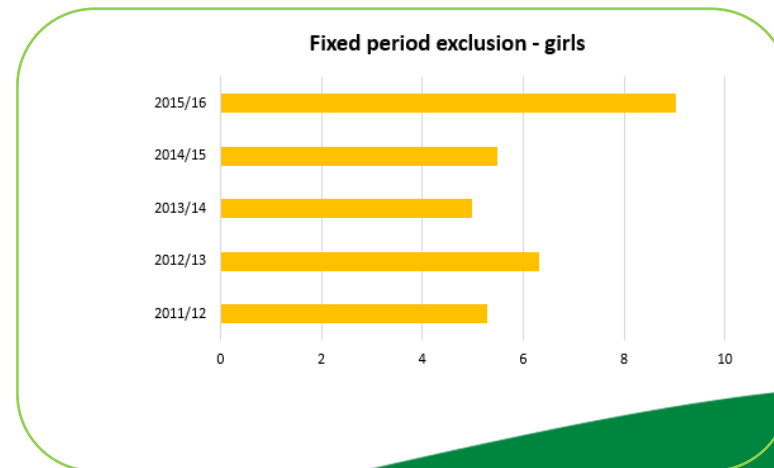
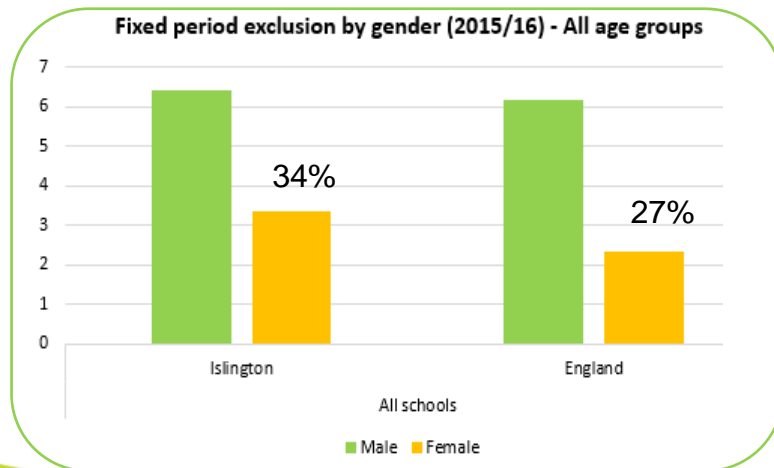
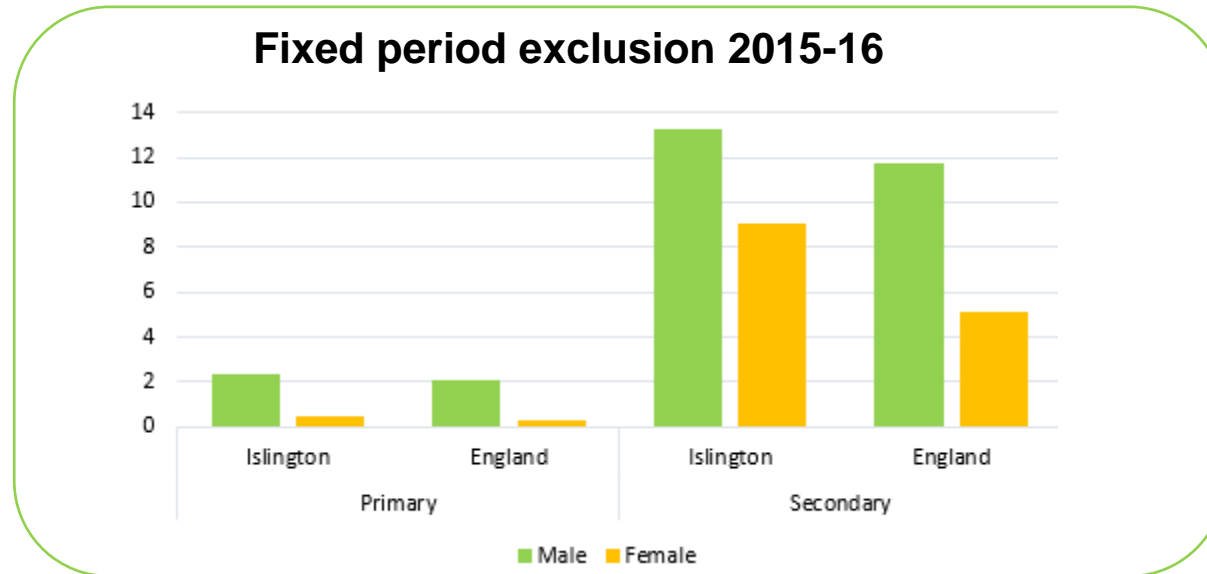
Exclusion Characteristics: Age



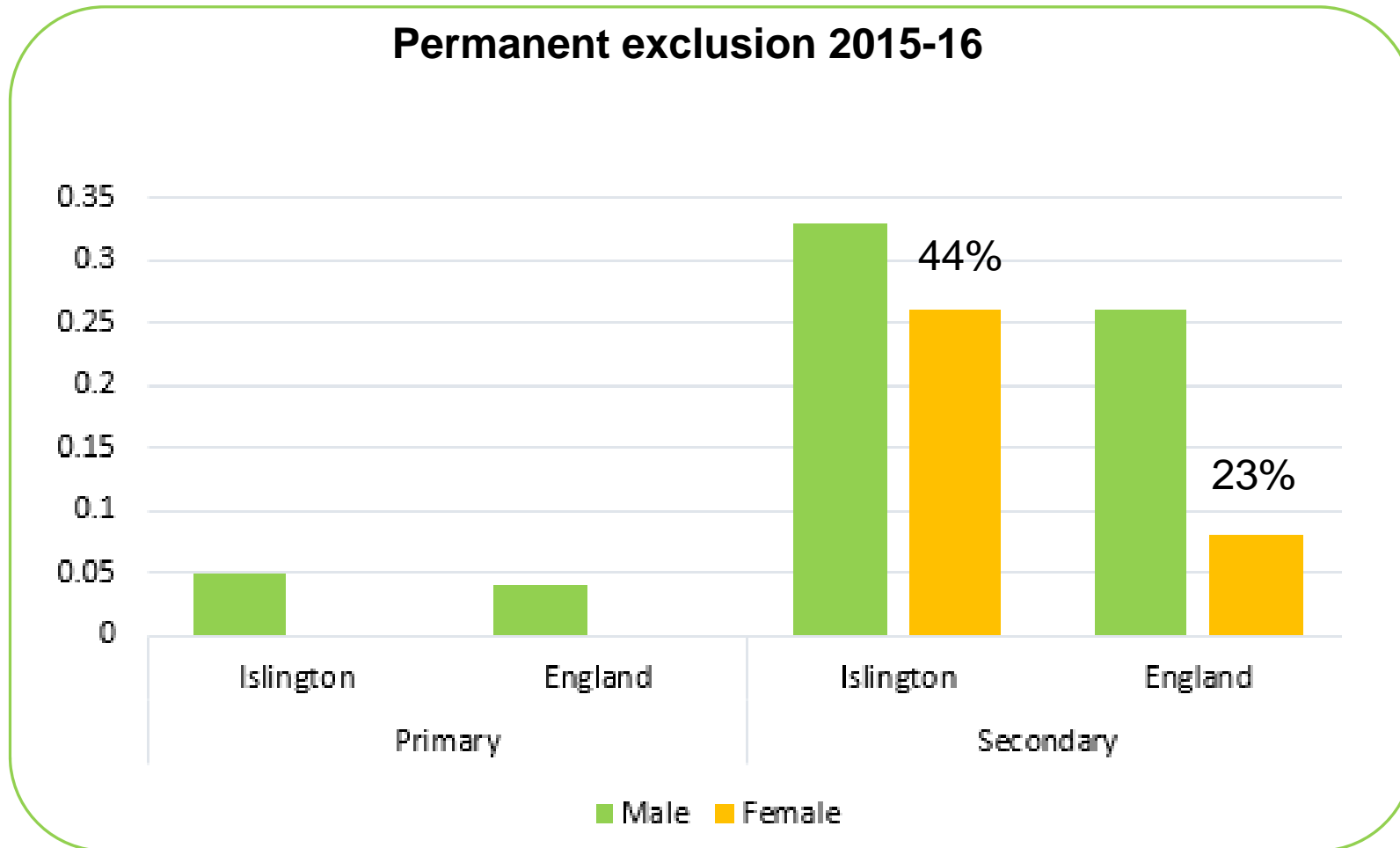
Characteristics: Age



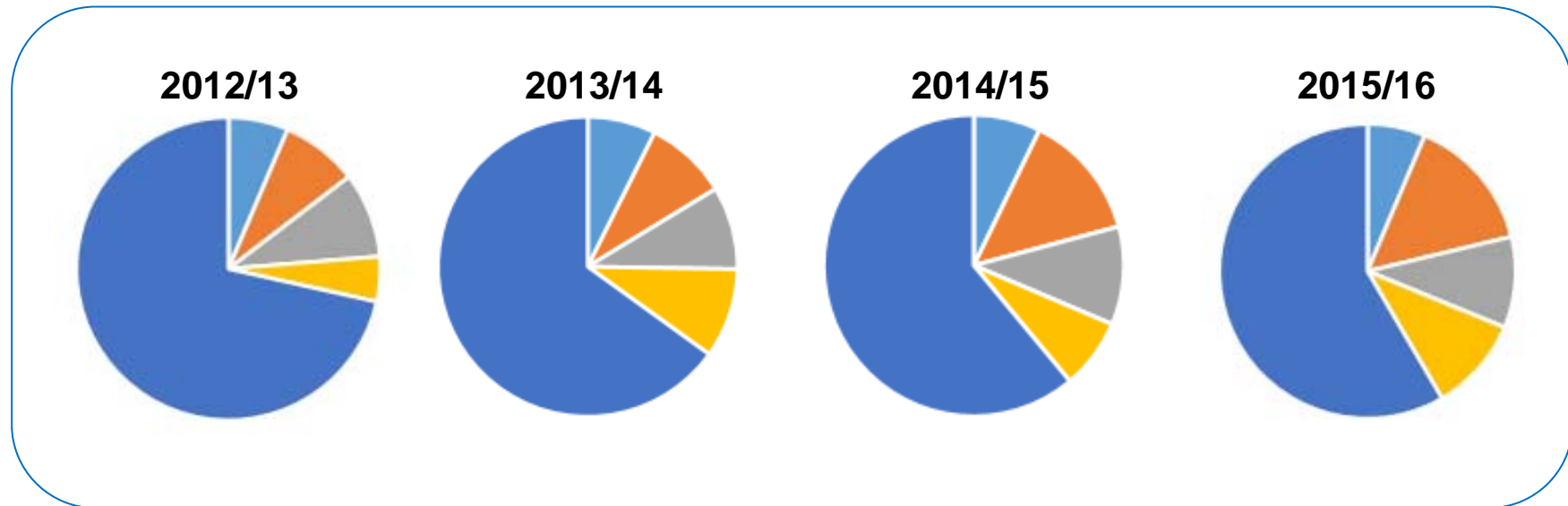
Characteristics: Gender



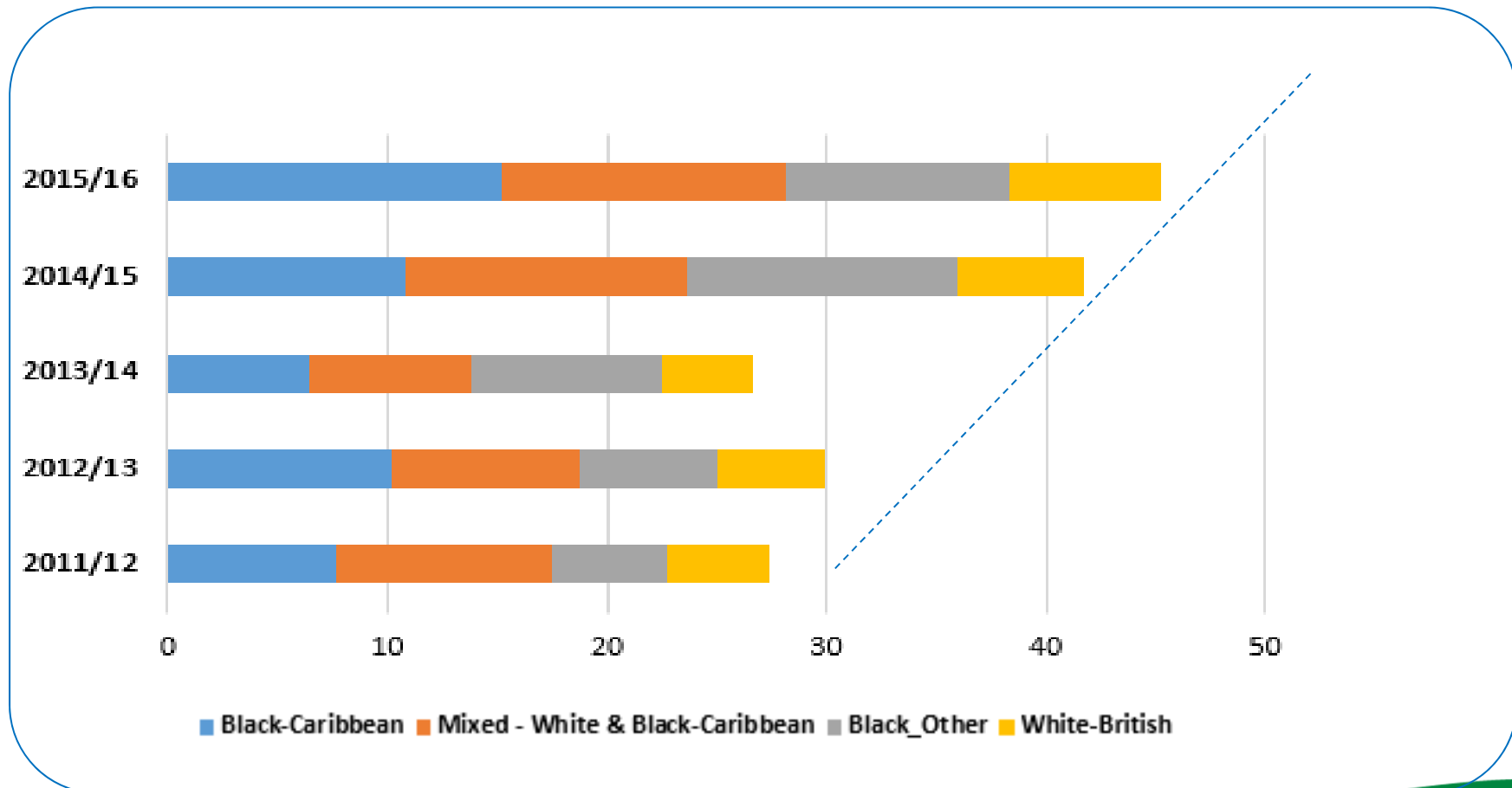
Characteristics: Gender



Characteristics: Ethnicity – fixed period

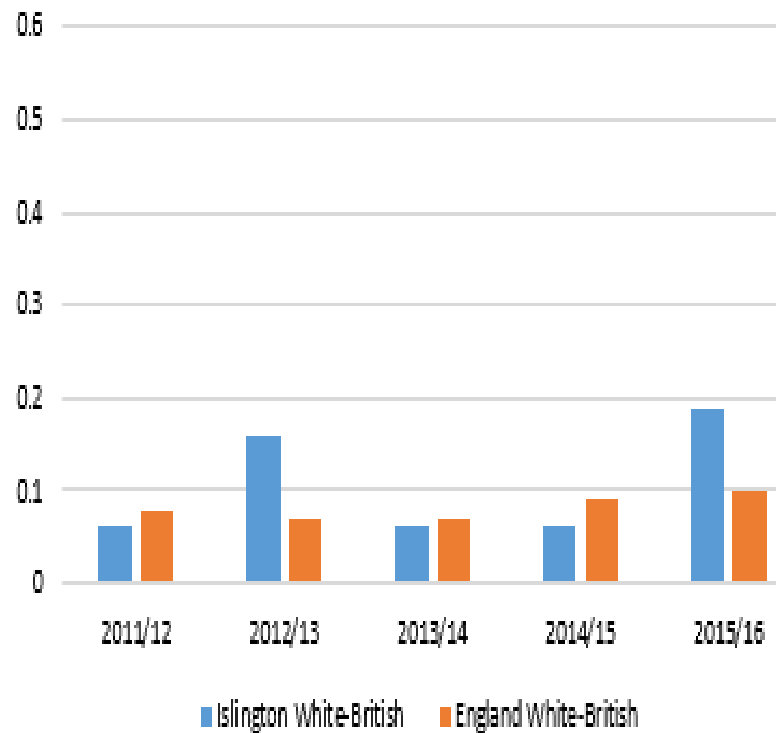


Characteristics: Ethnicity – fixed period exclusion trend



Characteristics: Ethnicity – permanent exclusion

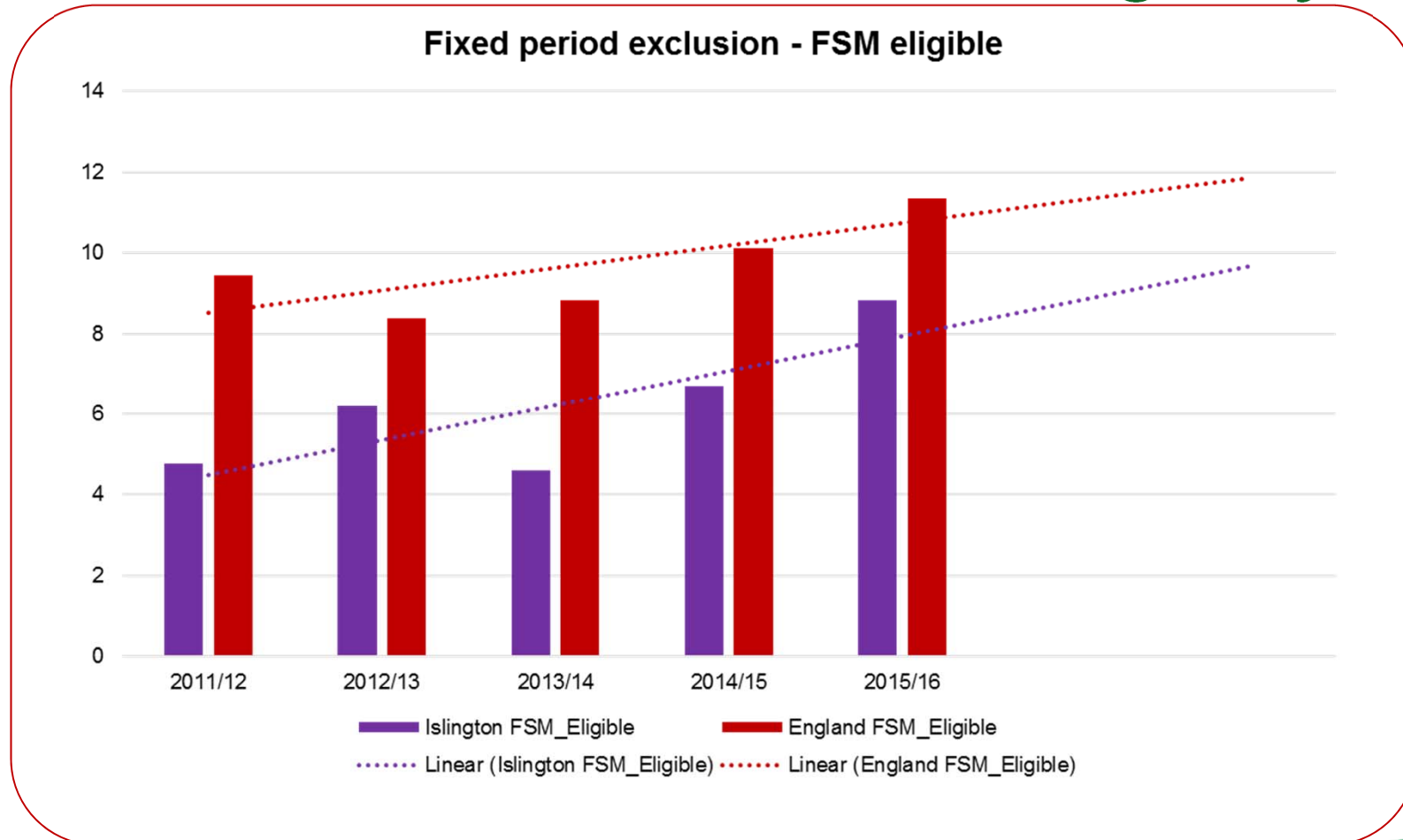
Permanent Exclusion - White British



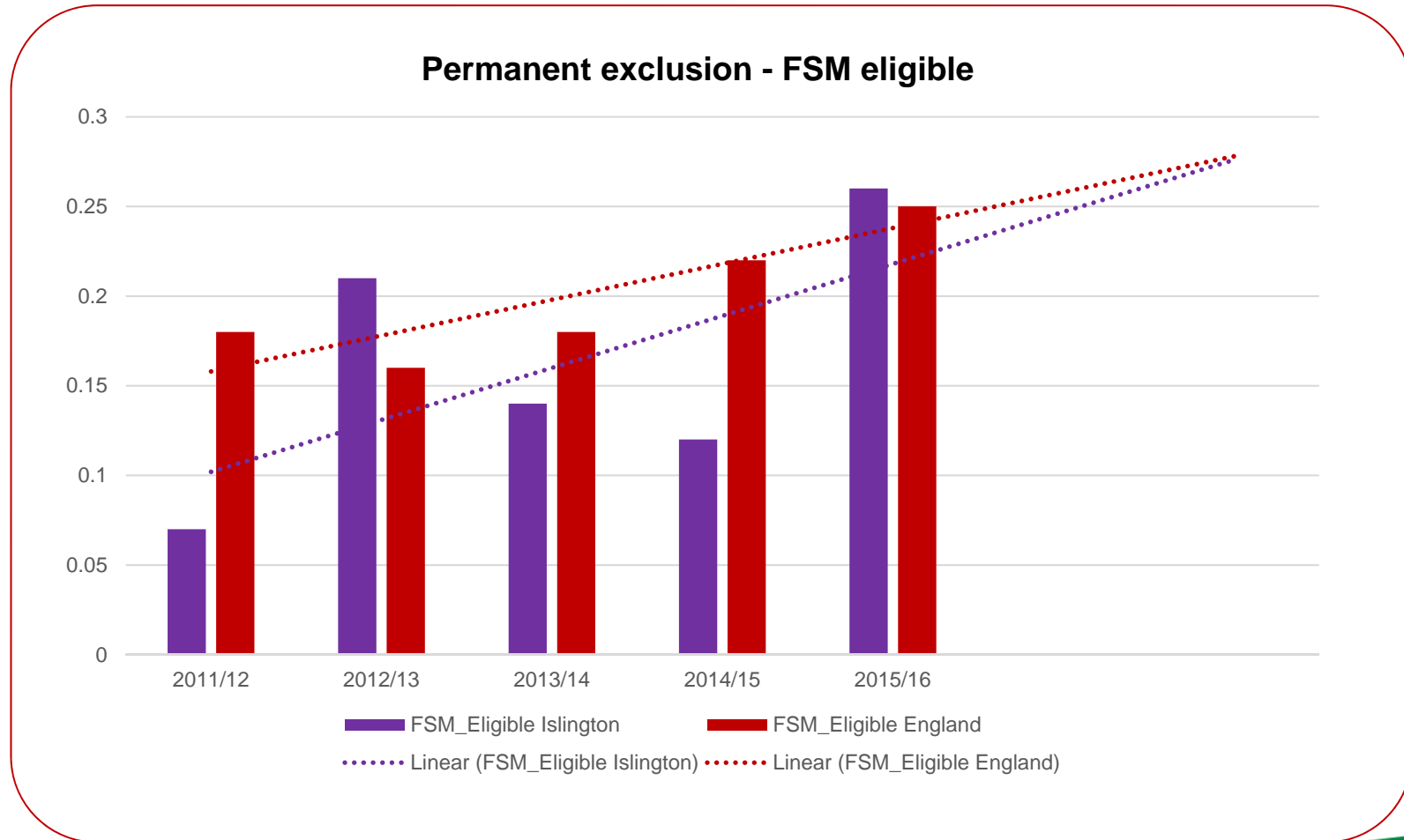
Permanent Exclusion - Black Caribbean



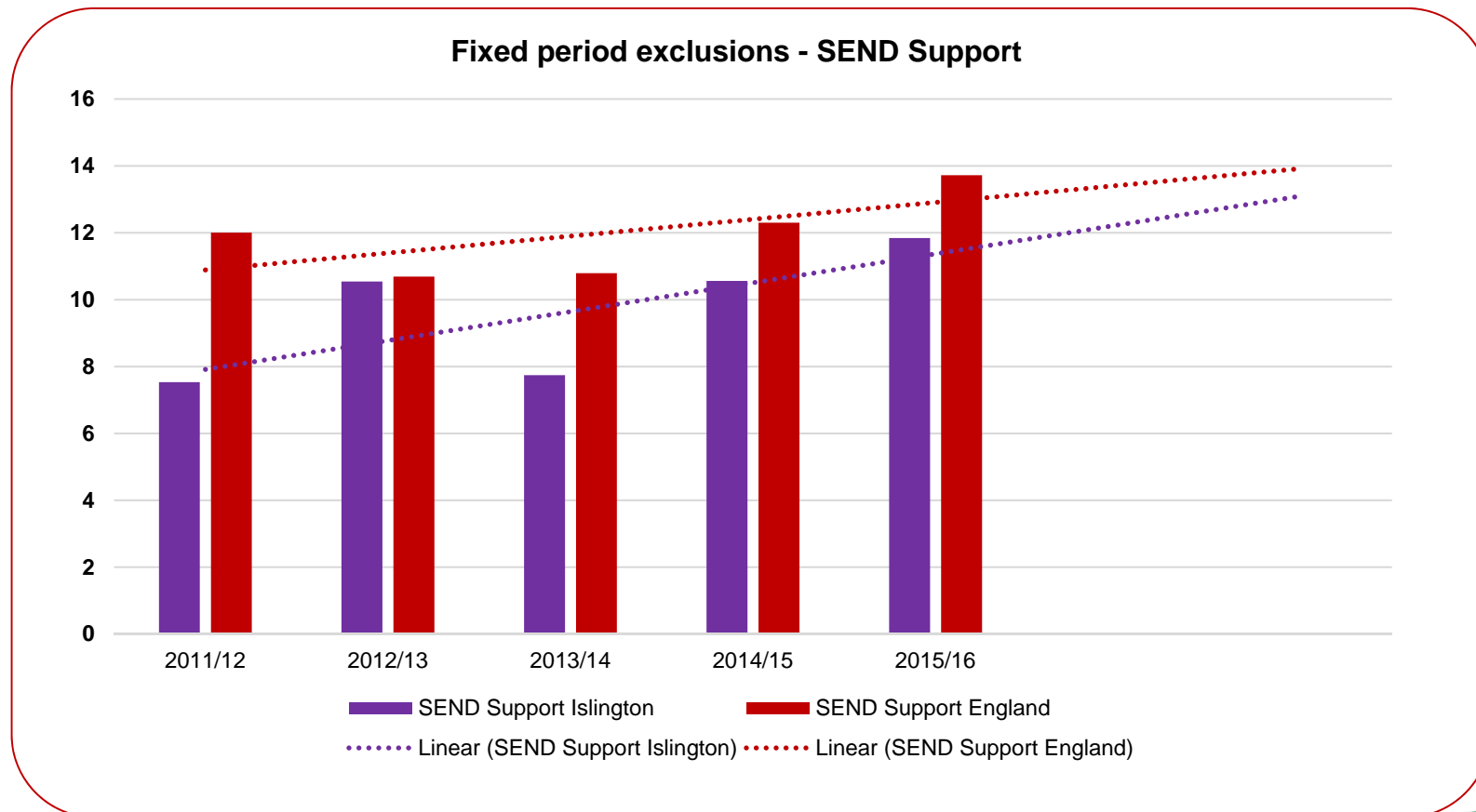
Characteristics: Free School Meal eligibility



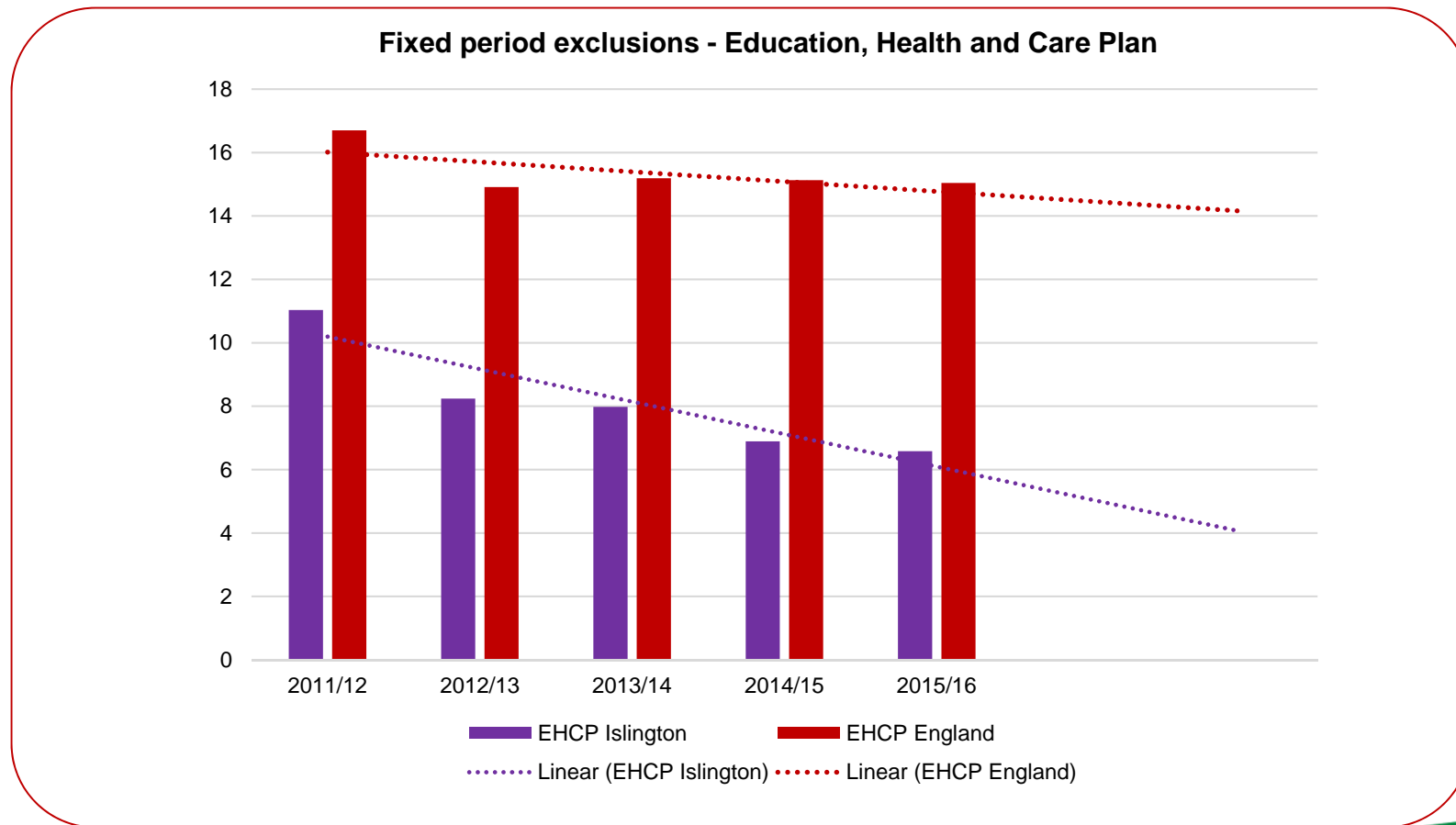
Characteristics: Free School Meal eligibility



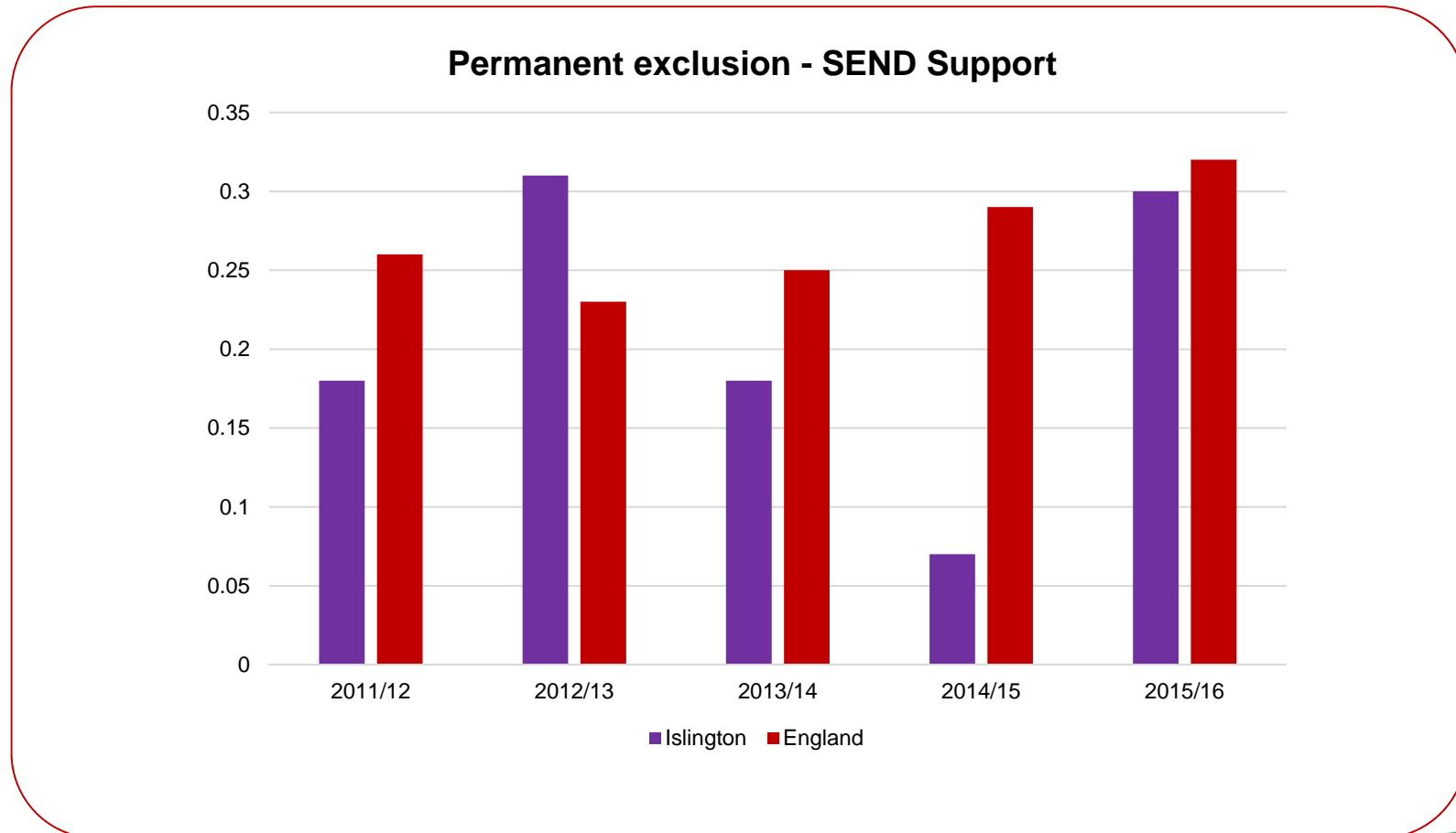
Characteristics: Special Educational Needs



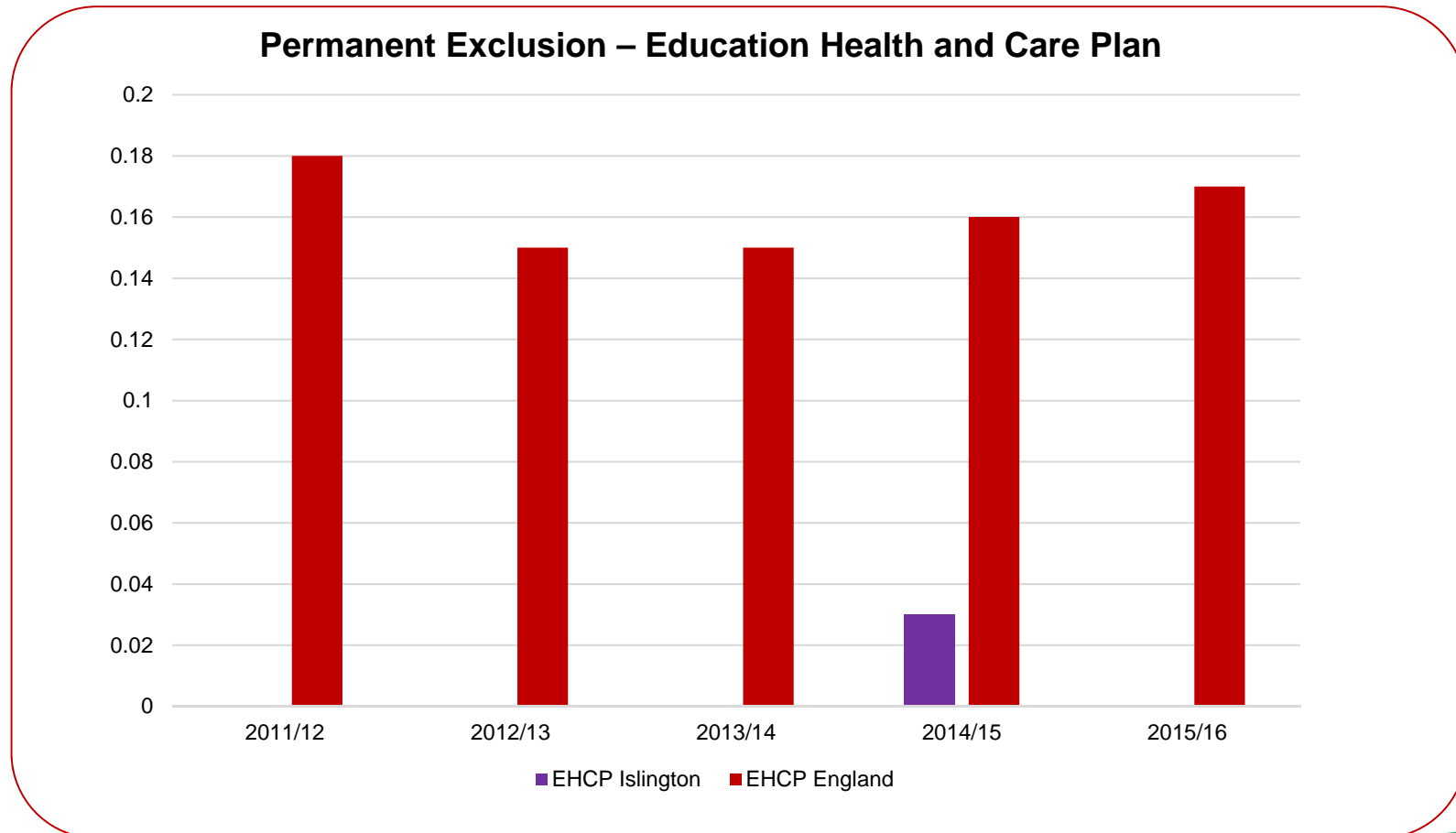
Characteristics: Special Educational Needs



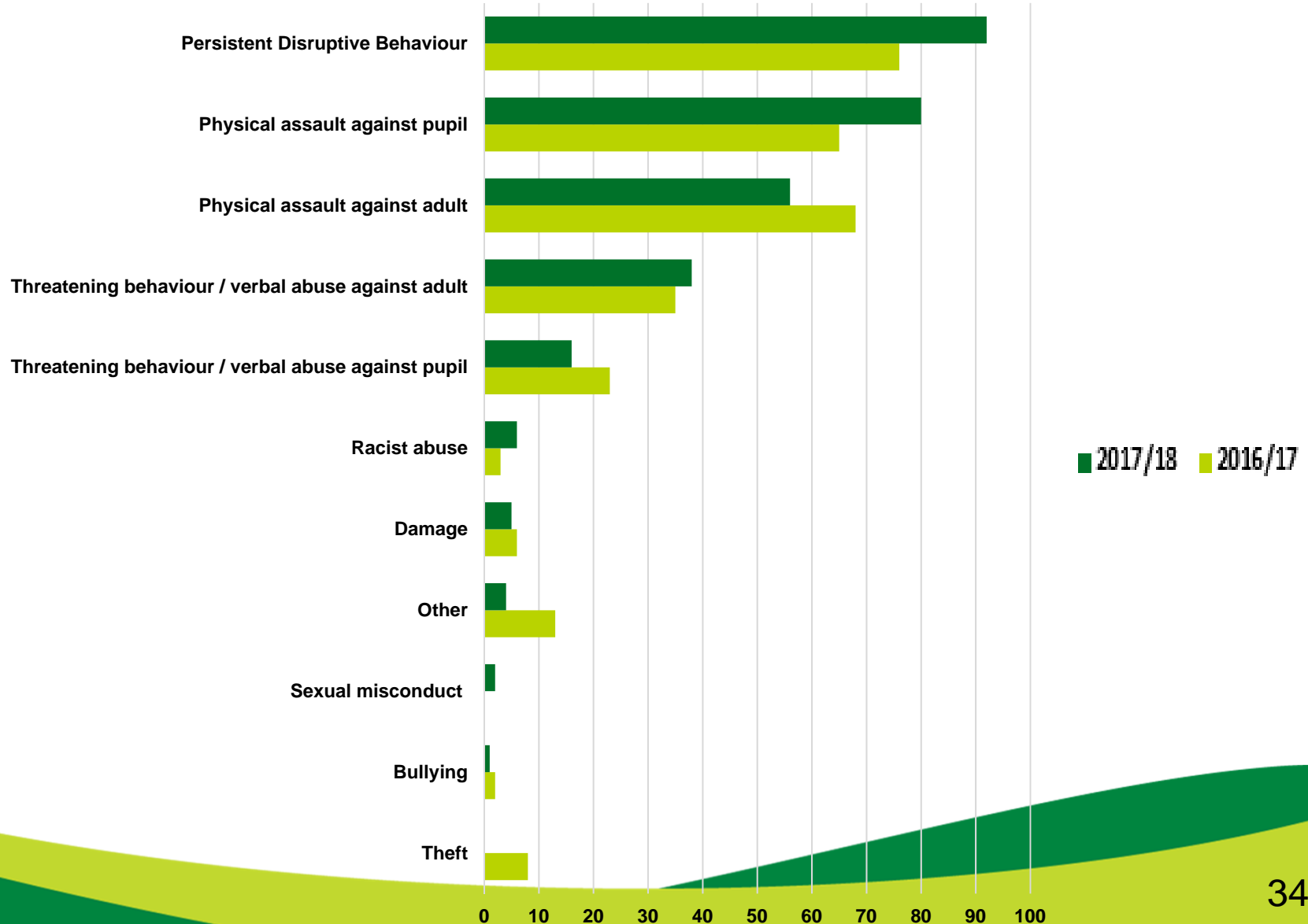
Characteristics: Special Educational Needs



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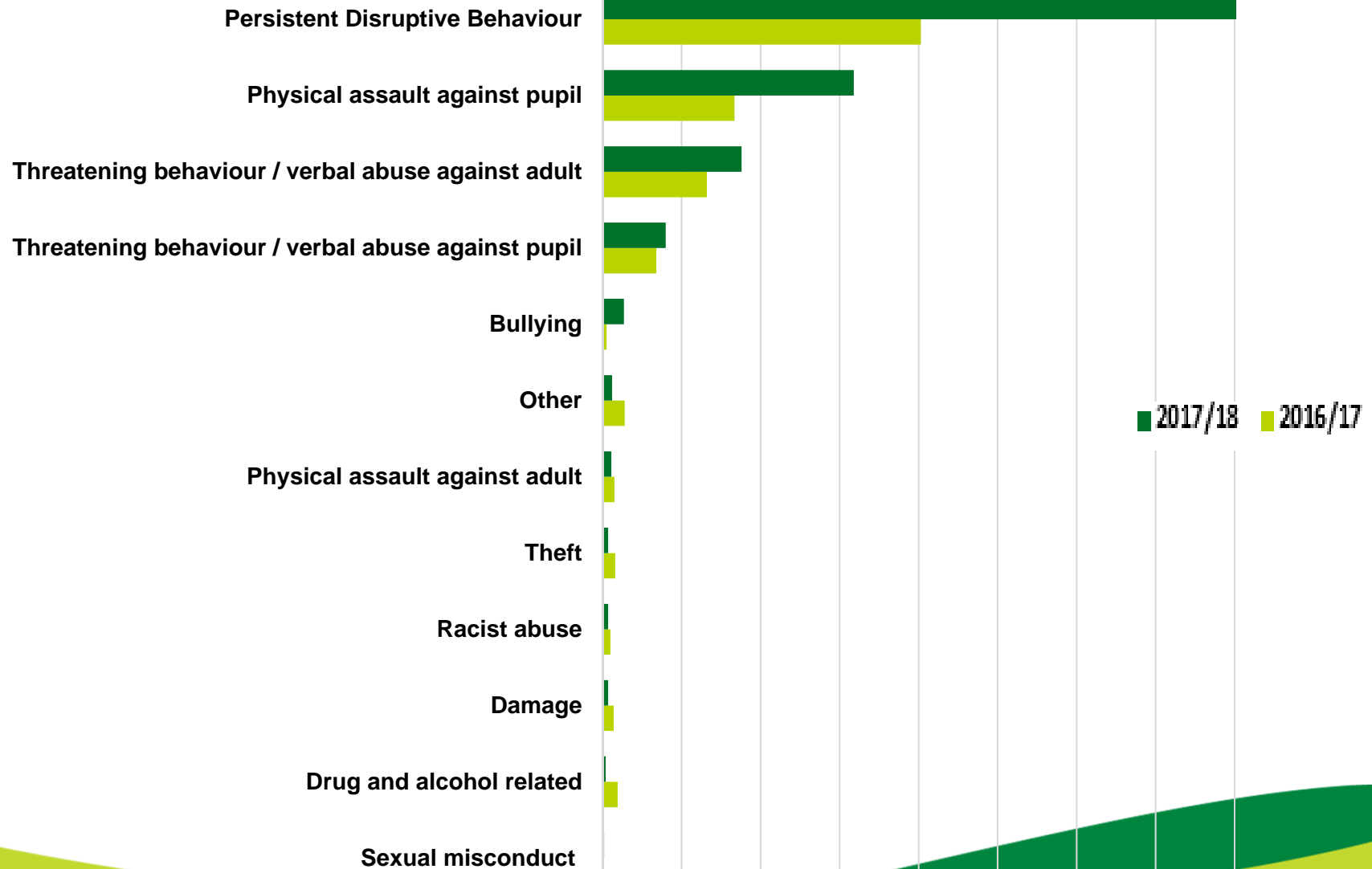


Characteristics: Reasons for exclusion (Primary)



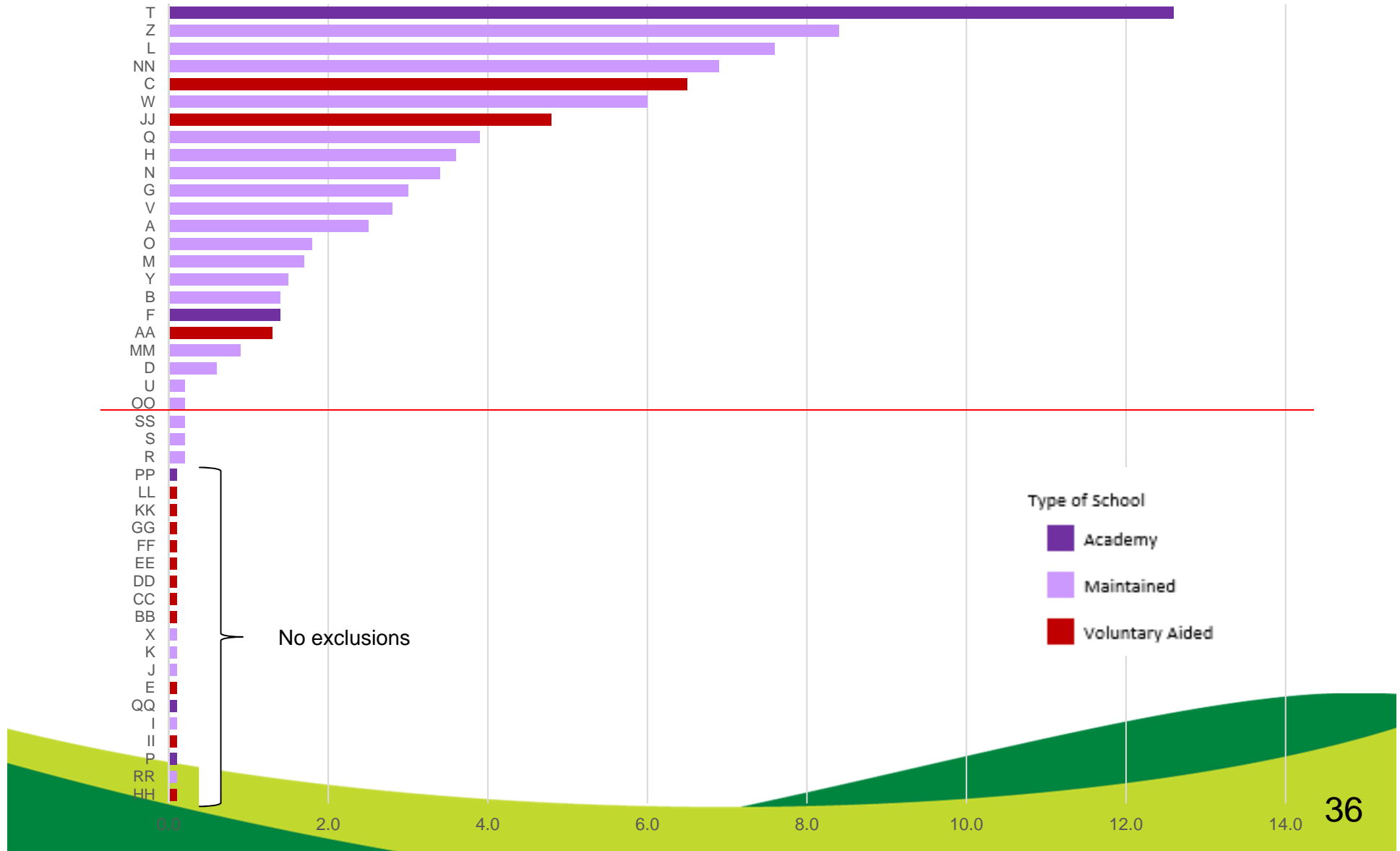


Characteristics: Reasons for exclusion (Secondary)



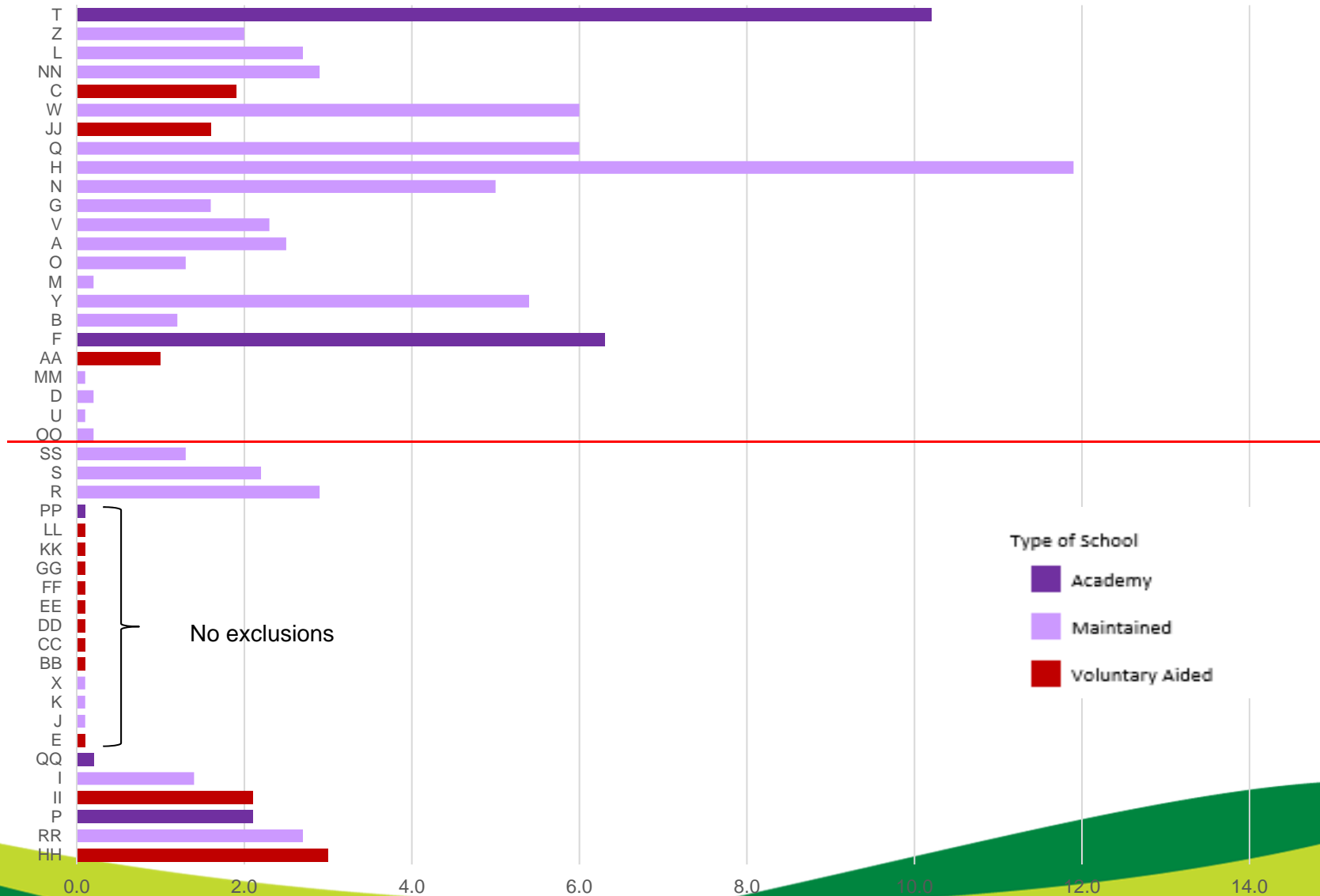
School level: Fixed period exclusion by primary school 2016-17

As a % of school roll



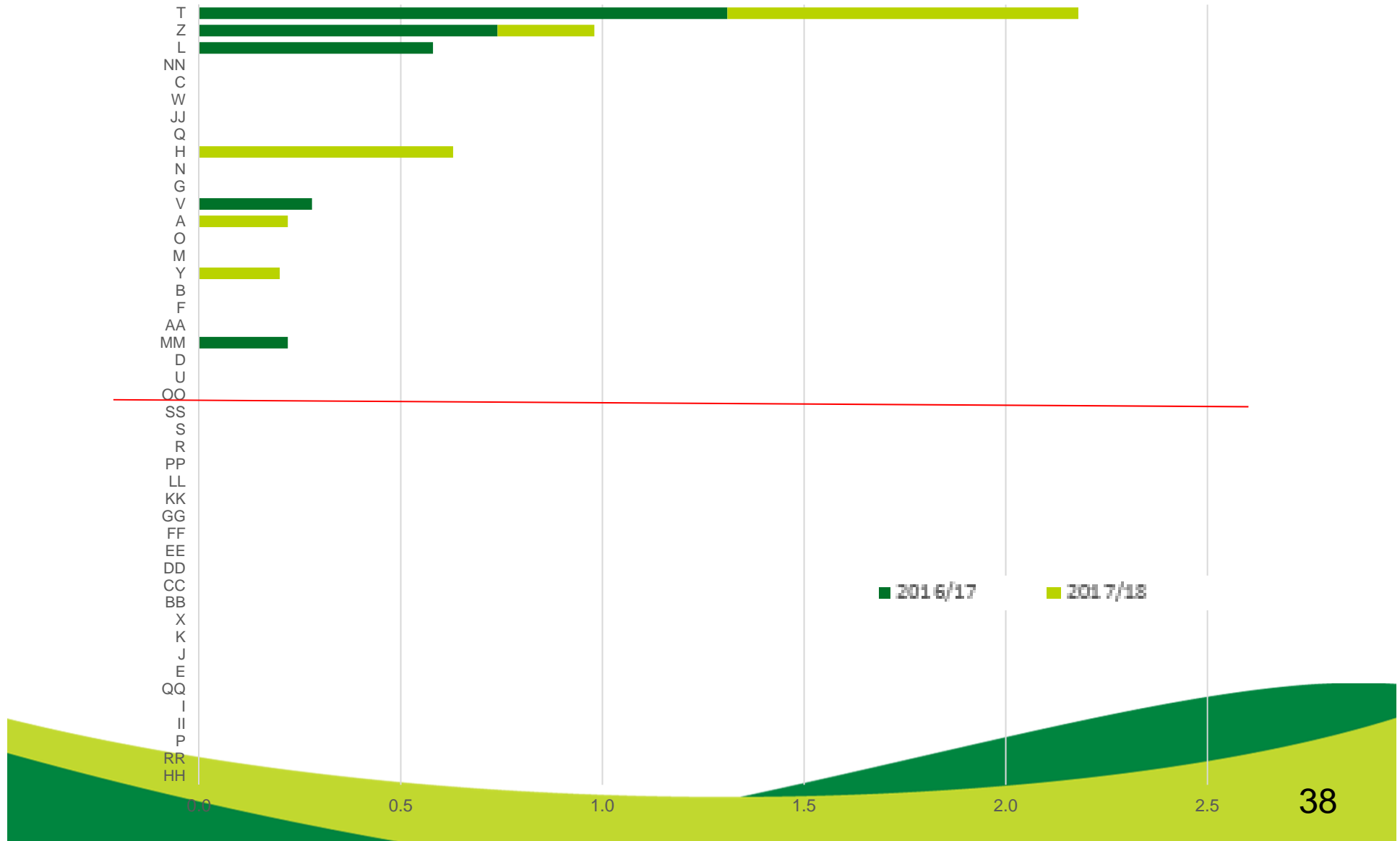
School level: Fixed Period Exclusion by primary school 2017-18

As a % of school roll

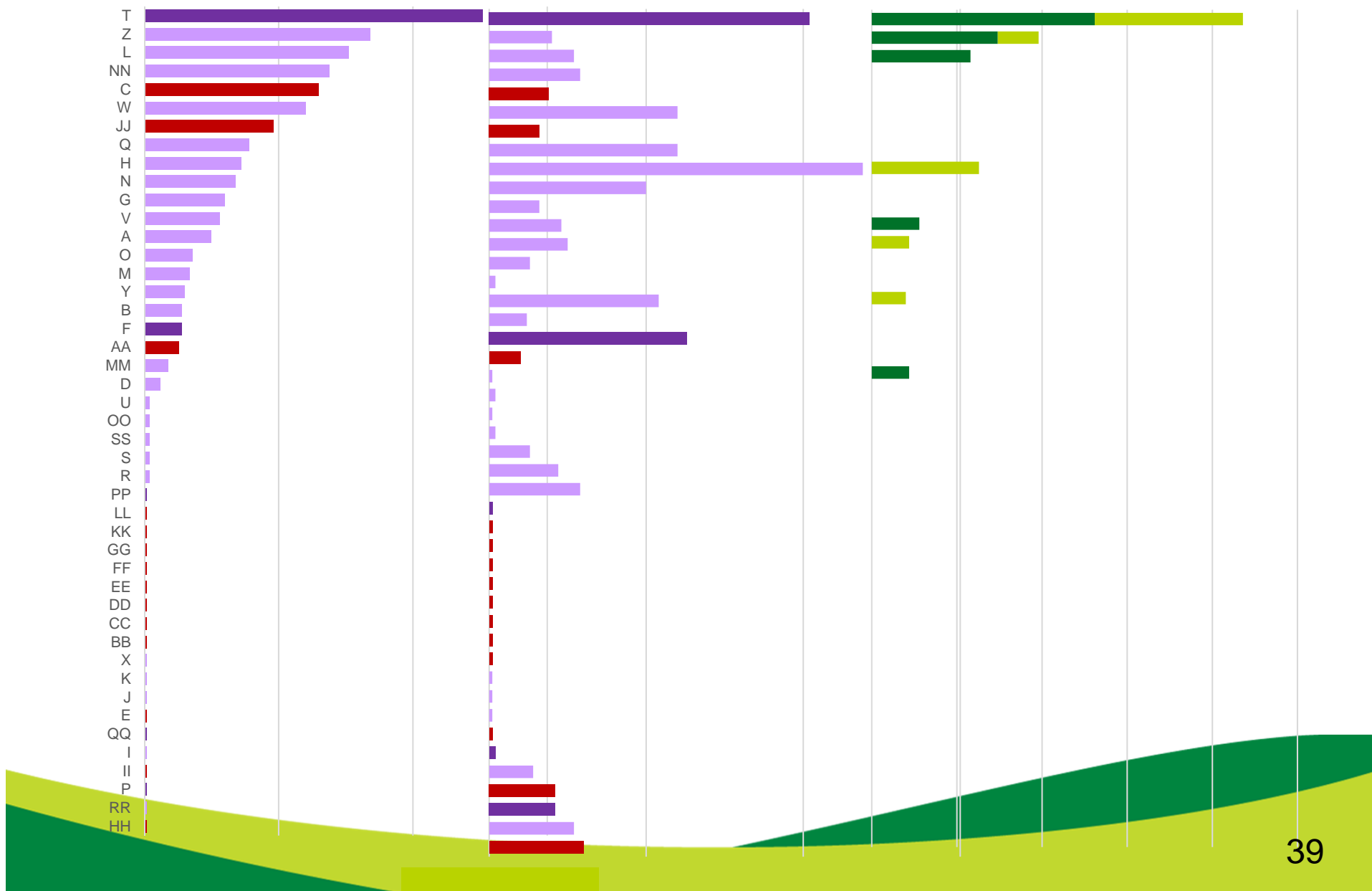


Permanent exclusion primary 2016/17 & 2017/18

As a % of school roll

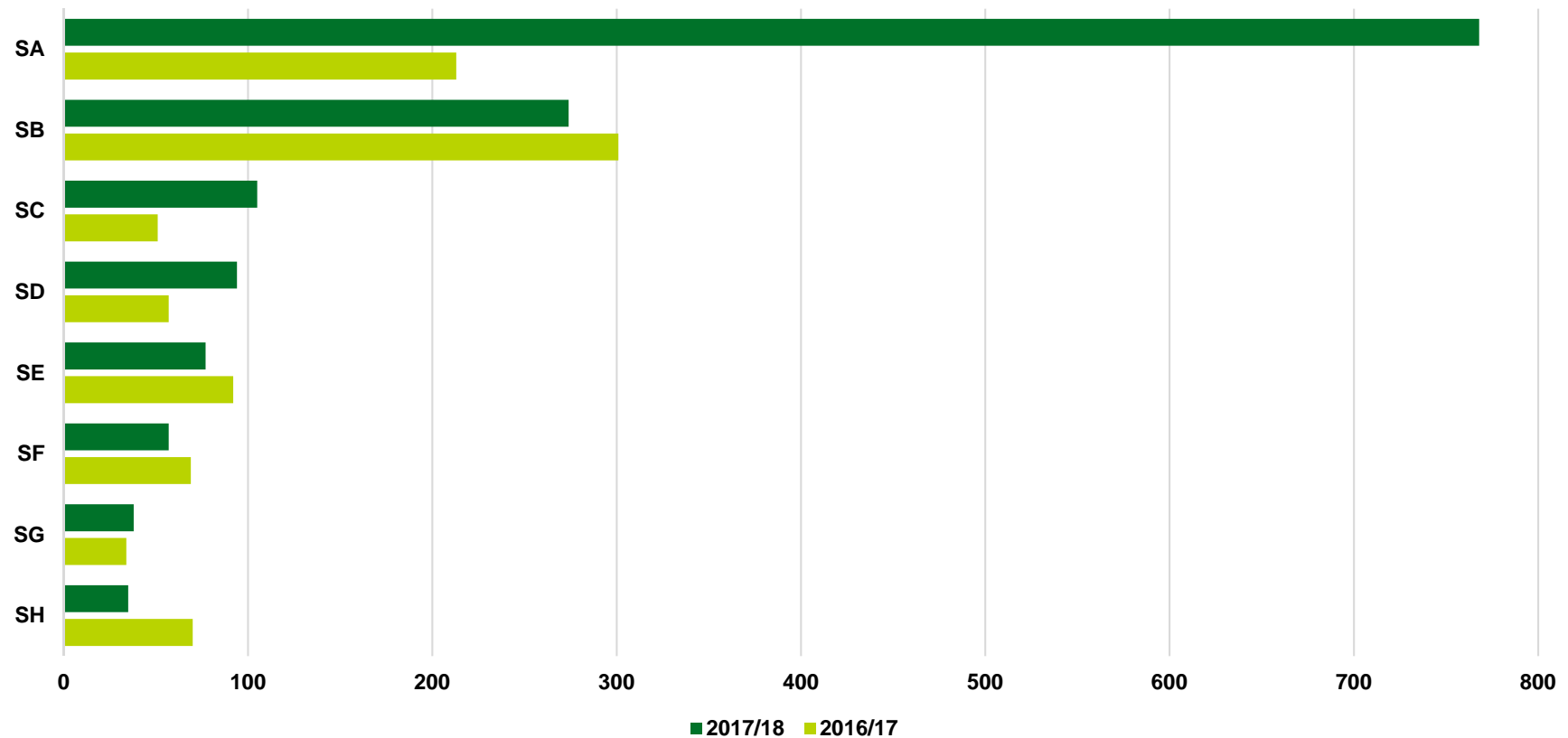


All primary exclusions 2016-18 as % of school roll ISLINGTON



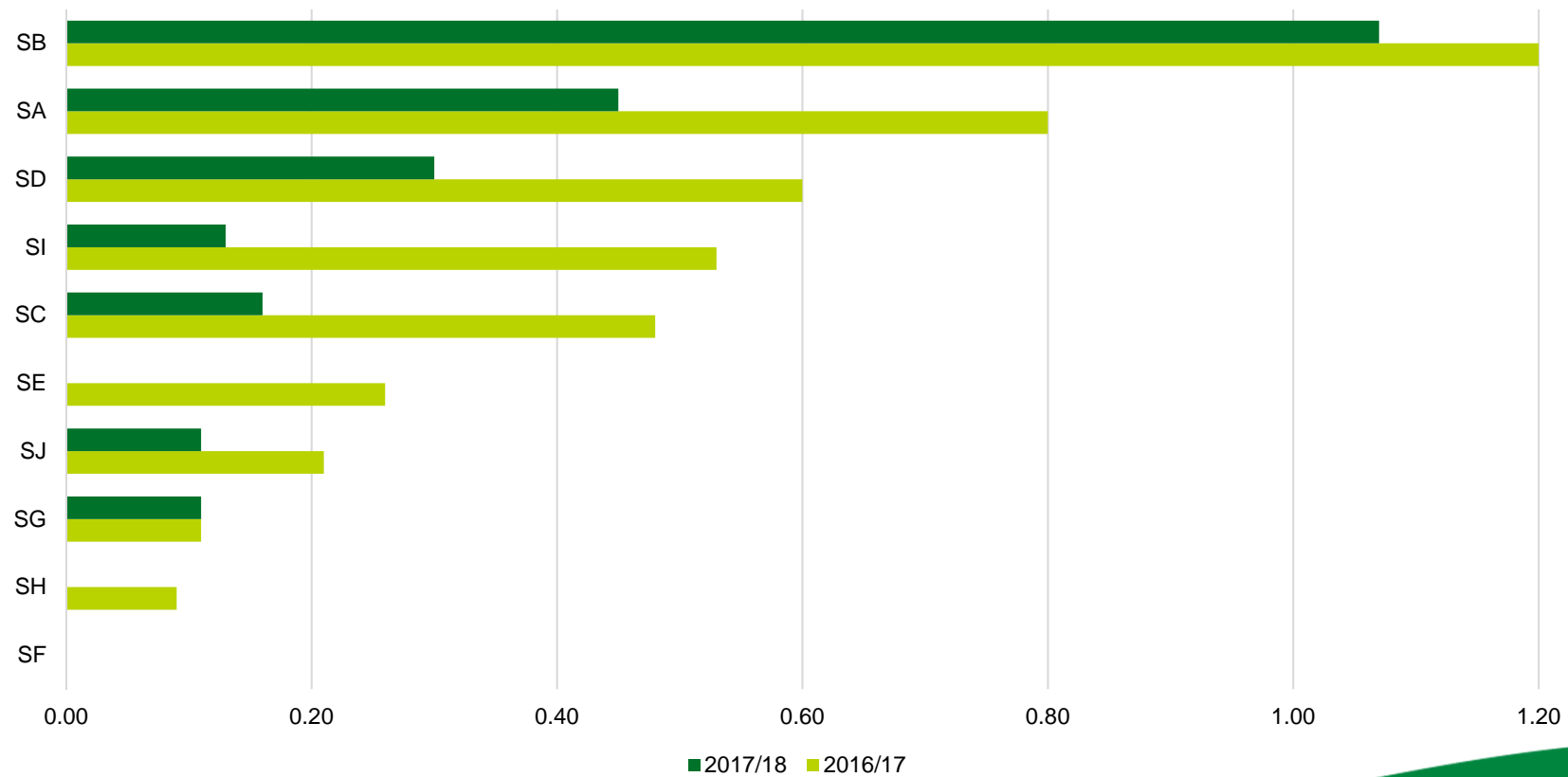
School level: Fixed Period Exclusion by secondary school

Number of fixed period exclusions



School level: Permanent Exclusion by secondary school

As a % of school roll



Trauma Informed Practice in Schools

Fixed period exclusion – TIPs pilot primary schools 2016/17 vs 2017/18

