

Exclusions Policy



EXCLUSION POLICY

Reviewed and updated: November 2017 No Change

Next review: November 2018

Guidance

Legal background

The legislative background to the exclusion of pupils from maintained schools, academy schools, free schools, alternative provision academies and pupil referral units in England is as follows:

- The Education Act 2002 as amended by the Education Act 2011.
- The Education and Inspections Act 2006.
- The Education (Provision of Full-time Education for Excluded Pupils) (England) Regulations 2007.
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulation 2012 as amended 2013.

Statutory guidance

Full statutory guidance was published in September 2012 by the DFE and this document is still the one that schools should use. It was updated in March 2015 to take account of minor changes. Headteachers, governing boards, local authorities (LAs), academy trusts, independent review panel members, independent review panel clerks and special educational needs experts must have regard to this guidance. The guidance does not apply to non-state independent schools, city technology colleges, city colleges for technology or the arts, sixth form colleges or 16–19 academies.

Except in relation to pupils in PRUs, or where specifically stated, the requirements of the guidance apply in relation to all pupils, including those who may be below or above the statutory school age such as those attending nursery classes or in sixth forms.

Key points within the guidance, which summarise government views on the use of exclusion and which are reflected in the model policy below, are:

- Good discipline in schools is essential. However, the government supports headteachers in using exclusion where it is warranted. Permanent exclusion, however, should only be used as a last resort.
- The decision to exclude a pupil must be lawful, reasonable and fair. Schools have a statutory duty not to discriminate against pupils on the basis of protected characteristics and to give particular consideration to pupils from groups who are vulnerable to exclusion.
- There should always be early intervention when a pupil displays disruptive behaviour. The causes of that behaviour, which may be the result of un-met needs, should be sought and followed up as appropriate by possible recourse to external multi-agency assessment.
- There should be an agreed strategy for the re-integration of pupils after fixed term exclusion.
- Work must be set and marked by the school for an excluded pupil during the first five days of that exclusion and alternative provision must be arranged from the sixth day.

- LAs are required to arrange educational provision after the fifth day of exclusion for excluded pupils of compulsory school age from all institutions, including those to whom the guidance does not otherwise apply.
- Parents (and any excluded pupil over 18) may challenge exclusion by asking for a review from an independent review panel. If discrimination is alleged, then they have the right of recourse to a first-tier tribunal or county court.
- Parents (and any excluded pupil over 18) can request the presence of a special needs expert on the review panel, whether or not the excluded pupil is deemed by the school to have SEN.
- The excluded pupil should be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and level of understanding.
- The independent review panel does not have the power to direct a governing board to re-instate an excluded pupil. It can uphold the exclusion decision, recommend that the governing board reconsiders their decision or quash the decision and direct the governing board to consider the exclusion again. A decision to redirect can only be made if the panel decides that the school has acted illegally, irrationally or where there are significant flaws in procedure.
- If the governing board still decides not to re-instate the pupil, then the school will be ordered to make an additional payment of £4,000. This is a contribution towards the cost of providing alternative provision.
- If they have been recommended or directed to reconsider, the governing board must inform the parent, the headteacher and the LA or home LA of the outcome of their reconsidered decision and the reasons for it in writing and without delay.
- If the governing board decides to offer to reinstate the pupil following a recommendation or direction to reconsider received from the independent review panel, but the parents refuse the offer, no readjustment need to be made to the school's budget.
- The governing board must comply with any direction by the panel to place a note on the pupil's record. The note must include the fact that if a child is not reinstated after a panel's direction to reconsider, this does not count towards the rule that an admission authority may refuse to admit a child who has been excluded twice already.

EXCLUSION POLICY

This policy should be read in conjunction with the procedures adopted by the governing board for the management of pupil exclusion. It should also be read in conjunction with the following policies:

- Teaching and Learning Policy
- SEND Policy
- Health and Safety Policy
- Behaviour Policy
- Child Protection Policy

- Sex and Relationships Policy.
- Admissions Policy

The school vision

Our school is committed to the philosophy and practice of inclusion. Therefore we believe our policies should be true to the school's vision and aims. Consequently, all policies set out to make clear the importance of:

- *Leadership.*
- *The culture within the school.*
- *Policy and practice.*

The leadership and management team has agreed that the shared vision will be given high priority and all stakeholders will be aware of our whole school commitment.

We aim to provide a stimulating learning environment that varies according to the age of the learner across the whole curriculum. We recognise that the curriculum is subject to imposed and developing change. We also aim to be in a position to maximise individual potential and ensure that pupils of all ability levels and staff at differing stages in their career are well equipped to meet the challenges of education, work and life.

This will be achieved by:

- *Designing a curriculum to promote a full range of learning, thinking and life skills.*
- *Providing a broad, balanced and relevant curriculum.*
- *Using flexible and responsive teaching and learning styles.*
- *Equipping pupils with the skills, knowledge and attitudes necessary to succeed as responsible and valued members of society.*
- *Developing a close partnership within and with the whole community, including all stakeholders.*

We aim to be an inclusive school and offer equality of opportunity and diversity when needed to all groups of pupils within school. These groups include:

- *Boys and girls.*
- *Pupils from minority faiths, ethnicities, travellers, asylum seekers, refugees.*
- *Pupils who have English as an additional language.*
- *Pupils who have special educational needs.*
- *Pupils who are academically more able.*
- *Pupils who are looked-after children.*

- *Pupils who are at risk of disaffection or exclusion, young carers, sick children, children from families under permanent or temporary stress.*

We aim to provide a differentiated curriculum that meets the needs of all pupils, individuals and groups by:

- *Setting suitable learning challenges.*
- *Responding to pupils' diverse learning needs.*
- *Overcoming potential barriers to learning and assessment.*

We aim to provide a happy, healthy and safe school by:

- *Recognising, reflecting and celebrating the skills, talents, contributions and diversity of all our pupils and staff members.*
- *Providing high quality pastoral care, support and guidance, driven by the leadership team.*
- *Safeguarding the health, safety and welfare of pupils and staff.*
- *Listening and responding to the concerns of learners and parents.*
- *Taking care to balance the needs of all members of the school community.*

We will secure inclusive education for our pupils by constant review and evaluating what is done through the following questions:

- *Does each pupil achieve as much as they can?*
- *Are there differences in the achievements of different groups of pupils?*
- *What is in place for pupils who are not achieving their potential?*
- *Are our actions effective?*
- *Are all our pupils happy to be in school?*
- *Are all our staff members happy to be in school?*
- *Are all members of our community valued, do they feel secure and are they offered opportunities to learn? Are structures in place to support inclusion if they cannot?*

We are mindful that the government does not regard exclusion to be justified for:

- *A breach of uniform or appearance, except for persistent defiance.*
- *Minor incidents, such as failure to complete homework or to bring in money owed.*
- *Poor academic work.*
- *Lateness or truancy.*
- *Pregnancy.*
- *Misdeeds by a child who has special educational needs, except for very serious offences.*

We will do everything possible to avoid the need for exclusion by:

- Carrying out early intervention strategies, especially in the case of a pupil with SEN to ascertain that the pupil is receiving appropriate provision and support.
- We will consider the use of multi-agency assessment of pupils who demonstrate persistent disruptive behaviour.
- We will check whether there are mental health or family problems.
- We may request an early review of a pupil's SEN statement or Education, Health and Care (EHC) plan – or we may ask for an interim/emergency review.

If nevertheless it becomes necessary to exclude a pupil, the current DFE statutory guidelines and regulations will be stringently followed.

Exclusion will be used in the following cases

- For a major first offence, such as serious actual or threatened violence, sexual abuse or assault, supplying banned substances or carrying an offensive weapon. We need not postpone taking a decision on exclusion solely because a police investigation is underway. Our decision will be taken on the evidence available to the school at the time. The headteacher will give particular consideration to the fairness of exclusion if he/she is aware that some evidence is being withheld by the police.
- Where allowing a pupil to remain in school would be seriously detrimental to the education of other pupils, to the welfare of other pupils, staff or of the pupil him/herself.
- More usually it follows a series of breaches of the school's disciplinary code and after an exhaustive range of strategies to resolve the pupil's disciplinary problems have been tried and have failed.
- When the behaviour of pupils outside school is such that it can be considered as grounds for exclusion.

The principles of our exclusion policy:

- Only the headteacher or acting headteacher can exclude a pupil, and this will only ever be on disciplinary grounds.
- This power may not be delegated to anyone else.
- The headteacher may withdraw an exclusion that has not been reviewed by the governing board.
- In line with the principles of administrative law,(including the European convention on Human Rights) any decision the headteacher makes to exclude a pupil must be:
 - Lawful.
 - Rational.
 - Reasonable.
 - Fair.

- Proportionate.
- When establishing the facts in relation to a possible exclusion, the headteacher will always apply the civil standard of proof, that is, on the balance of probabilities.
- We will take care to ensure that a decision to exclude does not involve any kind of discrimination as defined by the Equality Act 2010.
- The school will always have due regard to its public sector equality duty.
- The school will be mindful of the prevent duty
- We will not exclude any pupil for non-disciplinary reasons.
- Exclusion will never be used informally or unofficially. This is against the law.
- The headteacher does, however, have the right to direct a pupil for education off-site to improve behaviour, or to arrange a 'managed move' for the same reason. This will only be considered when there has been full consultation and agreement with parents and the receiving institution. The threat of exclusion will never be used to influence parents to remove their child from the school.
- Where practical, the headteacher will give the pupil an opportunity to present his/her case before taking the decision to exclude.
- When considering exclusion, the headteacher will take into account:
 - Possible short term mitigating circumstances, such bereavement, mental health issues etc.
 - Where it comes to light that the pupil has been subject to bullying.
 - Whether the pupil comes into a category that is known to be a particularly vulnerable group (for example, pupils with SEN, FSM pupils; looked-after children; certain groups or a group with disproportionately high levels of exclusion; traveller children) and whether all preventative strategies have been fully used.
 - Whether a pupil has already had a number of fixed-term exclusions which appear to have been ineffective.

Duration of exclusions

The headteacher may exclude a pupil for one or more fixed periods not exceeding a total of 45 days in any one school year.

If a pupil is excluded for lunchtimes only, each lunchtime counts as a half day.

The headteacher may exclude a pupil permanently if he/she judges that the circumstances warrant it.

Action following any exclusion

Informing parents

Following any exclusion of whatever type or duration, the headteacher will:

- Inform parents of the period and nature of the exclusion.
- Give the reasons for the exclusion.

- Advise parents about rights of representation about the exclusion to the governing board and how these representations may be made.
- Take account of his/her legal duty of care when sending a pupil home following exclusion. 'Holding' arrangements until the pupil can be collected may be necessary. (The school cannot force parents to collect an excluded child straightaway.)
- We will inform parents what arrangements we have made to provide education for the pupil during the first five days of the exclusion. Work will be provided that is accessible and achievable by pupils outside of school.
- Make arrangements to provide suitable full time education from the sixth day onwards for pupils who have been given a fixed period exclusion lasting longer than five days. Once alternative provision has been arranged from the sixth day of the exclusion, the headteacher must by law inform the parents without delay of the start date, times and venue of the provision. This must be done no later than 48 hours before the alternative provision is to start. It is then the responsibility of the parents to make sure the pupil attends the alternative provision.

This information will be put in writing and will be sent either by email, by text, by delivering a letter directly to the parents, leaving it at their last known address or by posting it to this address. The information can also legally be sent home with the excluded pupil, but in this case we will always send a duplicate copy by a reliable alternative method. The information provided to parents will be clear and free of unnecessary jargon. Consideration will be given to translating the letter if the parent's first language is not English.

The school will explain to parents in writing that they have the right of appeal to the governing board concerning:

- Fixed term exclusions of more than five school days in a term or if any exclusion will mean that the pupil misses a public examination or national curriculum test.
- Permanent exclusions.

If the governors agree with the exclusion then parents can then appeal to the LA or the academy trust.

Parents may make a claim to a court or tribunal if they believe the pupil has been discriminated against. The Equality Advisory Service will supply help and advice.

Where the excluded pupil is of compulsory school age, the school will also notify parents without delay and by the end of the afternoon session that for the first five days of an exclusion they are legally required to ensure that their child is not in a public place during school hours without reasonable justification and that they may be given a fixed penalty notice if they fail to do so.

Parents will be informed where fixed term exclusion has been extended or converted to a permanent exclusion. In such cases, the headteacher will write again to the parents explaining the reasons for the change and providing any additional information required.

Informing other bodies

For any exclusion of more than five days, be it in a single block of days, an accumulation of short exclusions of more than five days in any one term, or a permanent exclusion, the headteacher will also:

- Notify the local authority (LA) giving the details of the exclusion and reasons for it.

- Notify the governing board giving the same details.
- For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the headteacher must also inform the 'home authority' of the exclusion without delay.
- If any exclusion of even one day would cause a pupil to miss a public examination or national curriculum test, the headteacher will inform the LA and the governing board.

The headteacher will make a termly report to the governing board on all exclusions, covering:

- The number and type of exclusions.
- The reasons, gender, ethnicity and age of pupils and whether they were already on individual education programmes or pastoral support programmes.
- Repeated exclusions and the school's response to them.
- Links with parents.
- Truancy, punctuality and attendance figures.
- Follow-up action, including what has subsequently happened to permanently excluded pupils.

In addition, within 14 days of a request, maintained schools must report to the LA information about any exclusion within the last 12 months. In the case of academies, if a request is made, the same information should go to the Education Secretary.

The powers of the governing board

The governing board may review all the various categories of exclusions and will consider any representations made by the parents of the excluded pupil.

The governing board has no power to increase the severity of exclusion. It can, however, uphold exclusion or direct the pupil's reinstatement, either immediately or by a particular date.

However, in the case of fixed term exclusion that does not bring the pupil's total number of days of exclusion to more than five days in a term, the governing board cannot direct reinstatement and is not required to arrange a meeting with parents.

Discipline/appeals committee

The governing board has established a discipline committee to which it delegates its functions in respect of exclusions (hereafter referred to as 'the committee').

- The committee consists of at least three governors.
- All governors who serve on a discipline committee receive training to help them discharge their duties. A clerk to the discipline committee is also appointed.
- The committee can hear more than one appeal at a single sitting, so long as it complies with the statutory time limits related to each one.
- If one of the committee has knowledge of the pupil(s) involved in the exclusion, or of the incident that led to that exclusion that could affect his/her impartiality, he/she should step down.

- The chair has a casting vote in all cases where an even number of governors are considering the case
- If the exclusion could result in a pupil missing a public examination, the committee will make every effort to meet before the date of the examination. Should this not be possible, then the chair of governors will consider the exclusion and decide whether to re-instate the pupil (these are the only circumstances in which the chair alone will review exclusion). When this occurs, the parents also have the right to make oral representations. If possible, the chair of governors will have the advice of the clerk (or an LA officer in the case of a maintained school). The committee or chair of governors may agree to allow the pupil back on to the school premises for the sole purpose of sitting an examination, or make arrangements for the examination to be taken and invigilated off the school site, but they are not obliged to do so.

Convening an appeal meeting

Fixed term exclusions of 5–15 days

- If the parents of an excluded pupil make written representations, the committee will consider them.
- No statutory time limits apply to the consideration of such exclusions.
- The committee has the discretion to agree to a meeting to discuss the exclusion, if this is requested by the parents.
- In the case of a fixed term exclusion of more than five but not more than 15 school days, the committee, once having agreed to hold a meeting, will hold that meeting between the 6th and the 50th school day after receiving notice of the exclusion from the headteacher.

Longer fixed term exclusions and permanent exclusions

- Should the exclusion be for more than 15 days, or the total of fixed term exclusions is more than 15 days that term, or if the exclusion is a permanent one, the committee has a duty to convene a meeting to be held between the 5th and the 16th school day after the date of receipt of a notice to consider the exclusion. The governing board need not postpone a meeting if a police investigation of a potential crime associated with the reason for the exclusion is underway.
- The parents, the headteacher (and an LA officer in the case of maintained schools or a PRU, although an academy may opt to do so if they wish) will be invited to the meeting at a time and a place convenient to all the participants, within the statutory time limit. The parent and the school may each be accompanied by a friend/advisor.
- The committee will ask for any written statements, including witness statements in advance of the meeting.
- The clerk will circulate in advance of the meeting any written statements and a list of those who will be present at the meeting to all parties, including the pupil if it is known that he/she will be present.

Note: if a pupil has a number of lunchtime exclusions in any one term which add up to more than five school days, the rules above also apply.

Before the meeting

The governing board should:

- Not discuss the exclusion with any party outside the meeting.
- Identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on his/her own behalf.

Conduct of the meeting

The meeting will be conducted as follows:

- No party to the review will be alone with the committee before, during or after the meeting.
- The clerk makes all introductions and explains the reason for the meeting and the powers held by the committee either to uphold an exclusion or re-instate the pupil.
- The school representative, usually the headteacher, will present the school's case.
- He/she can be questioned by all the other parties.
- The parents will be asked to give their reasons for appealing.
- Very often it is the friend/advisor (who may well be a lawyer) who presents the parents' case.
- The parents and the pupil, if present, will still be asked if they have anything to add.
- The other parties may question the parent and/or comment on what the family has said.
- In maintained schools, an LA representative will provide information on support for pupils in the LA and how similar incidents have been dealt with by other schools, and can be questioned on these, but may not comment on the specific case being discussed. An academy is not obliged to have an LA representative present but may wish to do so.
- The school sums up its case.
- The parents or their representative sum up their case.
- All the parties except the committee and the clerk leave.

The committee will apply the 'balance of probabilities' standard of proof to the allegation of misconduct by the pupil. The more serious the allegation, the more convincing the substantiating evidence needs to be. This is not the same as requiring the criminal standard of 'beyond all reasonable doubt' to be applied.

The decision – fixed term exclusion

The clerk may help the committee in making its decision by reference to notes taken, by reminding them of statutory procedures where relevant and by wording the decision letters afterwards.

In the case of fixed term exclusion, it is possible that the exclusion may already have expired and the pupil is back in school. In that case:

- The committee will decide whether the headteacher's decision to exclude the pupil was justified, based on the evidence.
- The outcome should be added to the pupil's record for future reference.

In rare cases, the parents may have already decided that they do not want their child reinstated whatever the committee's decision. Under those circumstances, the committee should simply record whether or not they believed that the headteacher's decision was justified. This view should be recorded and sent to the parents.

If the fixed term exclusion is still operative:

- The committee will decide whether or not the headteacher's decision to exclude was justified.
- They can either uphold the exclusion, which will have to run its course, or
- Direct the pupil's reinstatement either immediately or on a named date.

The committee through the clerk must inform the parents, the headteacher (and the LA in the case of a maintained school) of their decision in writing within one school day of the hearing, giving the reasons. They may not attach any conditions to any direction they have given the headteacher to reinstate the pupil.

The school has in place established procedures both for the return to school of a pupil whose fixed term exclusion has been upheld, and for the reinstatement of a pupil whose exclusion has been overturned. On their return, a pupil first has a meeting with the headteacher or another senior member of staff, responsible for the pupil's welfare, along with his/her parents.

The decision – permanent exclusion

We follow government guidance which sets out reasons why it would normally be inappropriate to reinstate a pupil. These are:

- Serious actual or threatened violence against another pupil or a member of staff.
- Sexual abuse or assault.
- Supplying illegal drugs.
- Persistent and malicious disruptive behaviour, including open defiance or refusal to conform to school rules.

When the committee decides to uphold a permanent exclusion, a letter to the parents will state:

- Their reason for the decision.
- The right of the family to refer the case to an independent review panel, together with the name and address of the person to whom any request for a review should be sent.
- The date by which any request for a review should be lodged.
- That any request for a review must set out the grounds on which the request is made.
- That any claims on grounds of disability discrimination can also be set out. If a case for discrimination is made, this will be referred to a first-tier tribunal or a county court.

If the committee decides to overturn the exclusion, as with fixed term exclusions, the decision as to whether there is to be an immediate reinstatement or a later date for this to occur will be conveyed to all parties. A note of the governing board's views on the exclusion will be placed on the pupil's school record with copies of relevant papers.

Independent review panels

We advise parents that they have the right to request a review of the decision by the governor's committee to uphold a permanent exclusion through an independent review panel and how this can be done. The request will normally be made to the clerk of the review panel. Parents will also be given:

- A link to the statutory guidance on exclusions.
- A link to guidance on making a claim of discrimination to the first-tier tribunal.
- A link to the Coram Children's Legal Centre.
- If needed, links to local services such as the traveller education service or the local parent partnership.

The academy trust is responsible for managing and training independent panels concerning cases of permanent exclusion. An independent panel cannot overturn the decision of a governors' committee. They can uphold the decision or recommend that the governors reconsider. Further, if they have grounds for believing that the governors' decision was flawed in any way, they can quash the decision and direct the governing board to reconsider their decision.

The academy trust may appoint a clerk to provide advice to the panel and parties to the review on procedure, legislation and statutory guidance on exclusions. There is statutory guidance on who is eligible to be an independent review panel clerk. Their duties both before and during the hearing are clearly stated. The academy trust will ensure that all panel members and clerks have received training within the two years before the date of the review, and details are given in the guidance as to what that training must comprise.

If requested by parents in their application for an independent review panel, the academy trust must appoint a SEN expert to attend the panel and cover the associated cost of this appointment.

The statutory guidance is also very specific concerning the role of the panel in reviewing the governing board's decision not to reinstate an excluded pupil.

The panel may decide to adjourn a hearing if there is an on-going police investigation and/or criminal proceedings associated with the exclusion. The panel will reconvene at the earliest opportunity but may adjourn more than once if necessary.

Follow up

Where an application for an independent review has been made within 15 school days, the pupil will remain on the school roll until the review has been held and its outcome known.

The headteacher will, however, remove the name of a permanently excluded pupil from the school admissions register if:

- 15 school days have passed since the parents were notified of the governing board's decision to uphold the permanent exclusion.
- The parents have stated in writing that they will not be applying for an independent review.

If the parents go on to make a discrimination claim which is upheld by either a first-tier tribunal or the county court, the pupil must be re-instated.

Should the LA place an excluded pupil with us, we will not refuse to take such a pupil unless we are full. However, if the child has already been excluded from two or more schools, then our governing board may refuse to take him/her.

Parenting orders

Under the Anti-Social Behaviour Act 2003, LAs have powers to apply for a parenting order to help address children's behaviour. A parenting order is a court order which compels parents to attend parenting classes and to fulfil other requirements as determined necessary by the court for improving their child's behaviour.

We may consider asking the LA to do this following a permanent exclusion or a second fixed term exclusion within 12 months, particularly if parents have not responded to the opportunity to meet with us or the governors' committee.

Financial implications of exclusion

Should a pupil be permanently excluded, the appropriate sum allotted for that child's education will be deducted immediately from the school budget. The money will remain in the school budget for a little longer if the parent chooses to appeal to a governors' committee and then an independent review panel.

If an independent review panel requires the governing board to reconsider a permanent exclusion but the governing board upholds that exclusion, the school will be required to make a payment of £4000 to the LA in which the academy is sited. The money will not be deducted if the parents decline a reinstatement offered by the school.

This is to ensure that the money follows the child to whatever form of education he/she receives after the exclusion. Special arrangements can be made if the child moves to another LA or would be about to move anyway from one phase of education to another, for example, at age 11.