Exclusion from school - a guide for parents

Types of exclusion

An exclusion is when a headteacher decides that a child is not allowed to attend school. It may result from a series of incidents or from one very serious incident.

There are three types of exclusion:

- **lunchtime exclusion** - used when a child’s playground behaviour is considered unacceptable. Parents / carers have to take responsibility for their child during lunchtimes and return them to school at the start of the afternoon session.
- **fixed term exclusion** for a specified number of days. Fixed term exclusions can be used for a maximum of 45 days in any school year.
- **permanent exclusion** - used only in the most serious cases in response to a serious breach or persistent breaches of the school’s behaviour policy; and where allowing the child to remain in school would seriously harm the education or welfare of the child or others in the school (DfE guidance September 2012 - paragraph 16).

If a child is excluded from school they may not:

- go onto the school premises at any time during the period of exclusion, including breaks and lunchtimes and after school.
- use school transport.

Governors must consider the re-instatement of an excluded pupil if:

- The exclusion is permanent.
- It is a fixed period exclusion which would bring the total number of days to more than 15 days in a term (three term year).
- It would result in a pupil missing an exam.

Internal Exclusion

Sometimes schools will use internal exclusion as a sanction for a breach of the school Behaviour Policy. This will usually involve a pupil being isolated from their peers in a space within the school. The advantage is that a pupil is kept within school and the school can work with the pupil to address the issues leading to the behaviour, and in some cases support the pupil in learning that their behaviour will not result in being sent home. Parents should be informed and given the reasons for it. Schools do not have to report internal exclusions to the local authority.

Internal exclusions work best when:

- The pupil is doing the same work as their peers are doing in lessons and there is some support for their learning.
The pupil understands the reason for the internal exclusion and time is spent with a staff member discussing how to avoid a repetition of the sanction.

Staff take the opportunity to listen to the pupil and act on any concerns raised.

There is a plan for how the pupil will be reintegrated into the classroom(s) and consideration is taken on any adjustments that should be made to provide proactive support.

The provision is linked with any learning support arrangements at the school.

The rationale and process is set out in the school’s Behaviour Policy.

NB: this is also good practice for external exclusions.

Internal exclusion should not involve:

- A pupil being left in an unsuitable or public area without proper supervision or meaningful work.
- Repeated internal exclusion because their learning needs are not being met in class or some staff are not able to manage their behaviour.

What schools should take account of when considering permanent exclusion:

- Their statutory duties in relation to special educational needs and disabilities (SEND) when administering the exclusion process, including having regard to the SEND Code of Practice (2015).
- Any contributing factors that are identified after an incident of poor behaviour has occurred e.g. bereavement, mental health issues or bullying.
- The school’s assessments to identify and address underlying causes of disruptive behaviour.
- Whether exclusion is providing an effective sanction where a pupil has received multiple exclusions.
- Consideration of what extra support might be needed to identify and address the needs of pupils with SEN; eligible for Free School Meals; looked after children and pupils from minority ethnic groups.

What schools cannot do:

- The law does not allow for extending a fixed term exclusion or ‘converting’ a fixed period exclusion to a permanent exclusion other than in exceptional circumstances and usually where further evidence comes to light; schools must inform parents without delay.
- A school cannot exclude a child for non-disciplinary reasons: the child has additional needs or disability that the school feels unable to meet; pupils or parents fails to meet specific conditions before they are re-instated such as to attend a re-integration meeting.
- Schools cannot send a pupil home unless medically unfit or excluded. ‘Informal’ or ‘unofficial’ exclusions are illegal regardless of whether parents agree. A headteacher may, however, send a child home to remedy a breach in the school’s rules on uniform or appearance.
- Head teachers should as far as possible, avoid permanently excluding any pupils with an Education, Health and Care Plan (EHCP) or a looked after child (CLA).
• There is no basis in law for pupils attending on a reduced timetable as it contravenes the right to full time education; however, reduced timetables can be effective for a short period of time as long as there is a clear plan for increasing to full time as soon as possible and it is kept under review. All reduced timetables should be reported to the local authority - Virtual Head: Children Missing out on Education and SEND team as appropriate.

**Informing you**

• You will be informed as soon as possible, usually by phone, if your child is excluded.
• The head teacher must follow their legal duty in sending home a pupil following an exclusion (with parental permission or parent collects)
• The headteacher must confirm by letter what sort of exclusion it is, how long it is for (including the return date) and the reasons for it. The letter should tell you that you have the right to make representations to the Discipline Committee of the school’s Governing Body about the decision to exclude your child.
• The headteacher can exclude a child on the day an incident occurred.
• For the first 5 days of any exclusion, the child’s school should take reasonable steps to set and mark work for your child.
• If the exclusion is for more than 5 days, the school must provide full time, off-site education from the sixth day of the exclusion.

• If the exclusion is permanent, the local authority will provide suitable full time provision from the sixth day. In Reading this is provided by Cranbury College on behalf of the LA.

**Your responsibilities**

• During the first 5 days of any exclusion, you are responsible for ensuring that your child is not found in a public place during school hours.
• If your child is excluded for 6 days or more, you are responsible for ensuring your child attends the alternative education provided.

**Your rights**

• You may wish to contact the school and ask to discuss the situation. The school may hold a reintegration meeting with you at the end of any fixed-term exclusion, but you are not legally required to attend this meeting if you do not wish to do so.
• If the exclusion is for 5 days or less in a term you have the right to make written representations.
• If the exclusion is for more than 5 days in a term, you have the right to ask to meet with the Discipline Committee.
• If the exclusion is for more than 15 days in a term, or permanent, then you should be invited to a meeting of the Discipline Committee.
• Any written evidence and information included in the Discipline Committee should be sent to all parties at least 5 days in advance of the meeting. You are also entitled to send to the Discipline Committee a written statement or any other evidence you wish to present.
The Discipline Committee

- The Discipline Committee is made up of at least 3 governors who consider cases of exclusion. The headteacher, together with other school staff will attend the meeting of the Committee to present the case for exclusion. A representative of the local authority may attend to offer procedural advice and will always attend in the case of a permanent exclusion from a maintained school and by invitation only at an academy. As a parent, you can ask a friend or advocate to accompany you.
- If the Discipline Committee does not uphold the headteacher’s decision to exclude, it will direct the headteacher to reinstate the child. The Committee has no power to direct reinstatement if the exclusion is for 5 days or less, or the exclusion has already been served. It can, however, place a copy of its findings on the child’s school record. If the Discipline Committee does uphold the headteacher’s decision you will be advised of this in writing.
- An excluded child can usually attend the Discipline Committee, subject to his / her age and understanding, to give their own explanation of what happened.
- If you are the parent of a child who has been / may be excluded, you can obtain help and advice from Gill Dunlop [contact details: gill.dunlop@reading.gov.uk or 0118 937 4148 / 07713 322778],
- Other sources of advice:-
  - Information, Advice and Support Service (Reading IASS) - 0118 937 3421
  - or ACE Education http://www.ace-ed.org.uk and their advice line service on 03000 115 142 on Monday to Wednesday from 10 am to 1 pm during term time);
  - National Autistic Society (NAS) School Exclusion Service (England) can be contacted on 0808 800 4002 or via schoolexclusions@nas.org.uk
  - Independent Parental Special Education Advice http://www.ipsea.org.uk

Permanent Exclusion - Independent Review

- When a child is permanently excluded, and the Discipline Committee has upheld the exclusion, the parents may refer the exclusion to an Independent Review Panel within 15 days from receiving the letter from the Discipline Committee.
- The letter from the Discipline Committee will explain how you can do this.

Referring to an Independent Review Panel

- If you refer to an Independent Review Panel, you must set out the grounds on which the referral is being made. This may include details of any special educational needs, and how they may be relevant to the exclusion.
- You can obtain help and advice from Democratic and Legal Services, Civic Offices, Reading, RG1 2LU (0118 937 3777).
- You can, at your own expense, appoint someone to make written or oral representations to the Panel. You can also bring a friend.
• If relevant, you may wish to support the case with a report from a paediatrician or a mental health professional. This should be sent to the clerk to the Panel by no later than a week before the Panel is due to meet. If you submit new evidence under a week before the Panel is due to meet, the Review may be delayed to give all parties time to read and consider any new information.
• The clerk to the Panel will also request written evidence from the school / academy and circulate this in advance.

The Independent Review Panel

The Independent Review Panel will review a Discipline Committee’s decision not to reinstate a permanently excluded pupil.

It can:

• uphold the original decision of the governing body
• recommend that the governing body reconsiders its original decision
• quash the governing body’s original decision and direct it to reconsider this decision. The governing body should then meet to reconsider its decision within 10 school days

It cannot order a Discipline Committee to reinstate an excluded pupil.

An Independent Review Panel is a panel made up of usually 3 members:
• a lay member who will chair the panel. They will not have worked in a school in any paid capacity
• a school governor who has served as a school governor for at least 12 consecutive months in the last 5 years, provided that they have not been a teacher or headteacher during this time
• a headteacher, or someone who has been a headteacher within the last 5 years

An Independent Review Panel will be clerked by a solicitor who will ensure that it avoids bias or any appearance of bias.

The panel may only quash the governing body’s decision if it considers that this decision was flawed. The governing body’s decision would be considered to be flawed if it was judged in the light of the principles applicable on an application for judicial review to be:

• illegal
• irrational
• subject to procedural impropriety

Procedural impropriety means not simply a breach of minor points of procedure but something that has a significant impact on the decision-making process.

SEN Adviser

• You have a right to request the attendance of a Special Educational Needs (SEN) expert regardless of whether the school / academy believes that the child has SEN.
• The role of the SEN expert is to offer advice and information, and act as an expert witness, providing impartial advice to the Independent Review Panel about how SEN
could be relevant to the exclusion, for example, whether the school / academy acted reasonably in relation to its legal duties when excluding the pupil.

- Whether or not the school / academy recognises that the pupil has SEN, the expert’s advice will focus on whether the school’s / academy’s policies on SEN, or the application of these policies, were reasonable and procedurally fair.
- If the SEN expert believes that this was not the case, they may advise the panel on the contribution which this could have made to the pupil’s exclusion.
- The SEN expert’s role does not include making an assessment of the pupil’s SEN.

The meeting of the Independent Review Panel

- The clerk will ask everyone present to introduce themselves and will explain the procedure. They will record the proceedings and will advise all parties on the law and regulations.
- All parties attending the Panel have the right to be represented.
- The Panel will generally ask to hear from those involved in the incidents leading to the permanent exclusion. In advance of the Review, the clerk will ask the parent whether the excluded pupil will be attending.
- The headteacher of the school / academy will explain to the Panel why they decided to permanently exclude the pupil.
- A governor from the school / academy will explain why the Discipline Committee decided to uphold the exclusion.
- As the parent of the excluded child, you will then be given the opportunity to ask questions of the headteacher and the governor
- The Panel will also question the headteacher and governor.
- You can then explain why you believe the Discipline Committee should review its decision.
- The headteacher will be given the opportunity to ask questions of the parent.
- The Panel will also question the parent.
- All parties will be invited to present evidence to support their case. Witnesses may be called.
- The Panel may rely on written statements from witnesses who are pupils at the school. Pupils may appear as witnesses provided that they do so voluntarily and with parental consent.
- All written witness statements will be attributed, signed and dated unless the school has good reason to protect the anonymity of the witness.
- If the parent has asked the local authority / academy trust to provide a SEN expert all parties will be given the opportunity to ask questions of the expert.
- The Panel will also, if the child has been excluded from a maintained school, ask the local authority to make a statement on the case. If the child has been excluded from an academy the local authority may only attend the Panel if the parent requests it.
- When all parties have summed up, the clerk will ask everyone to leave the room while the Panel makes its decision. The Panel will apply the civil standard of proof, ‘on the balance of probabilities’ it is more likely than not that a fact is true, rather than ‘beyond reasonable doubt’.

What happens after the panel meets?

- The clerk will notify all parties of the Panel’s decision in writing within 2 working days.
• Parents do not have the right of appeal against the decision of an Independent Review Panel.
• If you believe that the Panel was not conducted properly, you may complain to the Local Government Ombudsman.
• If you believe that the Panel’s decision was perverse, that is, one that no reasonable authority could have made, you can apply for a judicial review within 3 months of the review hearing.

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