

Exclusion from maintained schools, academies and pupil referral units in England

**Statutory guidance for those with legal
responsibilities in relation to exclusion
September 2017**

Annex C – A guide for parents / carers

Parent / Carer Guide on Exclusion

Disclaimer

This non-statutory document is not replacing the statutory guidance on exclusion and is intended only to support parents' understanding of the exclusion process.

The exclusion legislation applies to maintained schools; pupil referral units (PRUs); and academies/free schools - other than 16-19 academies. It applies to all pupils at these schools, including those who are above or below compulsory school age, for example where a school also has a nursery or a sixth form. It does not apply to fee-paying independent schools, stand-alone nurseries, stand-alone sixth form colleges and other post-16 provision, such as Further Education colleges. These have their own exclusion arrangements.

If you are unsure in which category your child's school fits, you can find this information in Edubase: <http://www.education.gov.uk/edubase/about.xhtml>

Glossary

The term '**must**' refers to what head teachers / governing boards / academy trusts / local authorities and parents are required to do by law. The term '**should**' refers to recommendations for good practice as mentioned in the exclusions guidance.

In this document and in the exclusion guidance, '**parents**' refers to parent(s) / legal guardian(s) / foster carer(s) of pupils under 18, as well as to pupils over 18, and the term '**governing board**' includes the governing body of a maintained school, the management committee of a PRU and the academy trust of an academy.

Fixed-period exclusion: when a pupil is barred from the school for a fixed amount of time (including exclusions during lunchtime).

Permanent exclusion: when a pupil is permanently barred from the school premises.

Alternative provision: This refers to the education arrangements made for excluded pupils to continue to have a suitable, full-time education whilst they are excluded from school or cannot attend school for another reason. In some circumstances, alternative provision can be used where a child has not been excluded, including alongside mainstream or special education, or for a placement to address poor behaviour.

Reasons for exclusion

For what reasons can a school exclude my child?

There is no list of set behaviours for which a pupil can and cannot be excluded, and the decision to exclude lies with the head teacher. Head teachers can only exclude a pupil for a disciplinary reason (e.g. because their behaviour violates the school's behaviour policy). They cannot, for example, exclude a pupil for academic performance / ability, or simply because they have additional needs or a disability that the school feels it is unable to meet. A head teacher can exclude for behaviour outside of school, or for repeatedly disobeying academic instructions.

Can the school send my child to be educated elsewhere?

Schools have the power to send a pupil to another education provider at a different location to improve their behaviour without the parents having to agree.

A school can also transfer a pupil to another school – a process called a 'managed move' - if they have the agreement of everyone involved, including the parents and the admission authority for the new school.

Schools cannot force a parent to remove their child permanently from the school or to keep their child out of school for any period of time without formally excluding. The threat of exclusion must never be used to influence parents to remove their child from the school.

Can a school ask me to collect my child / send my child home early without following the formal exclusions process?

'Informal' or 'unofficial' exclusions, such as sending pupils home 'to cool off', are not allowed, even if they are with the agreement of parents. Any exclusion of a pupil, even for short periods of time, must follow the formal process including being formally recorded (see below). Any fixed-period exclusion must have a stated end date.

Exclusion process

What happens when my child is excluded?

Please go to section 2 entitled 'What happens when your child is excluded' on the gov.uk website. <https://www.gov.uk/school-discipline-exclusions/exclusions>

What are the legal obligations on a school when excluding a pupil?

When a head teacher excludes a pupil, they must without delay let parents know the type of exclusion and the reason(s) for it. They must also, without delay, provide parents with the following information in writing:

- the reason(s) for the exclusion;
- the length of the exclusion;
- the parents' right to put forward their case about the exclusion to the governing board, how they should go about doing this and how the pupil can be involved; and
- when relevant, what alternative provision will be provided from the sixth day of a fixed-period exclusion.

Is there a limit to the number of times my child can be excluded?

Yes. A pupil cannot be excluded for more than 45 school days in one school year. This means they cannot have one fixed-period exclusion of 46 school days or more; and also they cannot have lots of shorter fixed-period exclusions that add up to more than 45 school days. This is true even if these exclusions have been given in different schools. Lunchtime exclusions - where pupils are excluded from school over the lunch period because this is when their behaviour is a problem - are counted as half a day.

Scrutiny of the exclusion

Can I question the decision to exclude my child?

Parents have the right to make their case about the exclusion of their child to the governing board. For fixed-period exclusions, unless the exclusion takes a pupil's total number of school days of exclusion past five in that term, the governing board must consider any case made by parents, but it cannot make the school reinstate the pupil and is not required to meet the parents.

For all permanent exclusions, the governing board must consider, within 15 school days of being told about the exclusion, whether the excluded pupil should be reinstated. This is the same for fixed-period exclusions where the pupil will miss more than 15 days in one term, or will miss a public examination (e.g. a GCSE) or a national curriculum test (e.g. a key stage 2 test taken at the end of primary school). For a fixed-period exclusion that brings a pupil's total excluded days to more than five but under 15 the governing board must consider reinstatement within 50 school days if the parent asks it to do this.

If the governing board decides not to reinstate the pupil who has been permanently excluded, parents can request an independent review panel to review the governing board's decision. Information on school discipline and exclusions issued by the Department for Education can be found here <https://www.gov.uk/school-discipline-exclusions/exclusions>.

What can I do if I feel my child is being discriminated against in the exclusion process, for example because he / she has a disability?

Schools have a duty under the Equality Act 2010 not to discriminate against pupils on the basis of protected characteristics, such as disability or race, including in all stages of the exclusion process.

Parents can raise this issue during the exclusion consideration meeting with the governing board.

If the governing board decides not to reinstate the pupil who has been permanently excluded, parents can request an independent review panel to review the governing board's decision. When making their request parents can ask for a Special Educational Needs (SEN) expert to attend the hearing to advise the panel on how SEN might be relevant to the exclusion. Parents can request this even if their child has not been officially recognised as having SEN.

If a parent believes that their child has been discriminated against in the exclusion process because of a disability, then they may also make a claim to the First-tier Tribunal (Special Educational Needs and Disability) within six months of the exclusion: www.tribunals.gov.uk/Tribunals/Firsttier/firsttier.htm. The Tribunal can consider claims about permanent and fixed-period exclusions. For permanent exclusions, this can be done instead of, or in addition to, an independent review panel.

If the parent believes that a permanent or fixed period exclusion occurred as a result of discrimination other than in relation to disability (e.g. in relation to race) they can make a claim to the County Court.

Where can I get independent advice on my options regarding the exclusion?

There are a number of organisations that provide free information, support and advice to parents on exclusion matters:

- Coram Children's Legal Centre can be contacted on 0345 345 4345 or through http://www.childrenslegalcentre.com/index.php?page=education_legal_practice.
- ACE education runs a limited advice line service on 0300 0115 142 on Monday to Wednesday from 10 am to 1 pm during term time. Information can be found on the website: <http://www.ace-ed.org.uk/>.
- The National Autistic Society (Schools Exclusion Service (England)) can be contacted on 0800 800 4002 or through: <http://www.autism.org.uk/services/helplines/school-exclusions.aspx>
- Independent Parental Special Education Advice <http://www.ipsea.org.uk/>

You may also wish to access the following sources of advice from the Department for Education:

- Departmental advice on setting the behaviour policy
<https://www.gov.uk/government/publications/behaviour-and-discipline-in-schools>
- The Department's guidance to schools on exclusion
<https://www.gov.uk/government/publications/school-exclusion>.
- 'School discipline and exclusions' and 'Complaint about a school or childminder':
<https://www.gov.uk/school-discipline-exclusions/exclusions> and
<https://www.gov.uk/complain-about-school>.

Arrangements for my child after exclusion

Will my child still receive an education?

Schools should take reasonable steps to set work for pupils during the first five days of a fixed-period exclusion.

From the sixth day of an exclusion, suitable full-time education must be arranged for pupils of compulsory school age (primary and secondary school age), except for Year 11 pupils (final year of secondary school) whose final exams have passed. In the case of a fixed-period exclusion of more than five school days, it is the duty of the school to arrange this education, unless the school is a PRU (in which case the local authority should make arrangements). If a parent wishes to raise a concern about lack of, or the quality of, education arranged during a fixed-period exclusion (and their child is still of compulsory school age), they may follow the school's official complaints procedure.

In the case of a permanent exclusion, arranging suitable full-time education is the duty of the local authority for the area where the pupil lives. If a parent wishes to raise a concern about lack of, or the quality of, education following a permanent exclusion (and their child is still of compulsory school age), parents should complain to the local authority where they live. If parents are unsure about which local authority they need to speak to, they should ask the school for advice.

Does my child still have a right to attend their exams or national curriculum tests when excluded?

This is a decision for the school. Neither the school nor the local authority is legally required to arrange for an excluded pupil to take a public examination or national curriculum test that occurs during the exclusion, although some may choose to arrange for this, either on school premises or elsewhere. Where a parent has concerns about their child missing a public examination or national curriculum test, they should raise these with the school.

What are my duties as a parent when my child has been excluded?

For the first five school days of any exclusion, parents must ensure that their child of compulsory school age is not in a public place during school hours without very good reason. Parents must also ensure that their child attends any new full-time education provided from the sixth day of exclusion (unless they have arranged suitable alternative education themselves).

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