

School Exclusions

Schools (including academies, free schools and pupil referral units) may exclude a pupil for breaches of their behaviour policy. You should be able to find their behaviour policy on the school's website.

Types of Exclusion

Fixed-Term

Exclusions can be for one or more fixed periods of time (up to a maximum of 45 school days in a school year). **A lunchtime exclusion would count as a half day fixed-term exclusion.**

The threat of exclusion should not be used to influence parents to remove their child from the school.

Permanent

Permanent exclusion should be a **last resort** particularly for children with Special Educational Needs or in other vulnerable groups.

Only in exceptional cases, where additional evidence has come to light, can a fixed-term exclusion be extended or converted to a Permanent exclusion.

The Department for Education exclusions guidance says:

'Informal' or 'unofficial' exclusions, such as sending a pupil home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for short periods of time, must be formally recorded (14).

Where a pupil has received multiple exclusions or is approaching the legal limit of 45 school days of fixed-period exclusion in an academic year, the head teacher should consider whether exclusion is providing an effective sanction (20).

The Department for Education exclusions guidance says:

A decision to exclude a pupil permanently should only be taken:

- In response to a serious breach or persistent breaches of the school's behaviour policy.
- Where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.
- The head teacher should, as far as possible, avoid permanently excluding any pupil with an EHC plan or a 'looked after child.' (23)

Who can exclude my child from school?

The decision to exclude must only be taken by the head teacher.

An exclusion can only be on disciplinary grounds, for example it would be unlawful to exclude a child simply because they have additional needs or a disability that the school feels it is unable to meet.

When considering exclusion, a head teacher must have regard to the **SEND Code of Practice and the Equality Act 2010** (part 6 of the Act relates to schools).

What happens after my child has been excluded?

The head teacher must write to you giving the reason for the exclusion, how long it will last and explaining your right to make representations (raise questions and concerns about the exclusion) to the governing body. The letter should also include links to sources of impartial advice and information.

You will be advised that your child cannot be seen in a public place for the first five days of an exclusion. From day six suitable full-time education must be provided.

The head teacher must immediately inform the governing body and the local authority of a permanent exclusion; more than 15 days fixed-term exclusions in a term or where the exclusion results in your child missing an examination or national curriculum test.

- Where the governing body has a legal duty to consider the exclusion, you must be offered the opportunity to meet with them.
- Following a fixed-term exclusion usually a school will offer a re-integration meeting on the first day of your child's return. It is a good idea to attend this, even if you disagree with the exclusion.
- Following a permanent exclusion for a child with an EHC plan, the local authority must review the plan.

What about my child's education?

The Department for Education Exclusions Statutory guidance says:

For a fixed-period exclusion of more than five school days, the governing board (or local authority in relation to a pupil excluded from a PRU) must arrange suitable full-time education for any pupil of compulsory school age. This provision must begin no later than the sixth school day of the exclusion. (45)

For permanent exclusions, the local authority must arrange suitable full-time education for the pupil to begin no later than the sixth school day of the exclusion (46)

Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days of an exclusion, the school should take reasonable steps to set and mark work for the pupil. Work that is provided should be accessible and achievable by the pupil outside school. (51)

What if I disagree with an exclusion?

Fixed-Term

The local authority has a duty to arrange suitable full-time education for children of compulsory school age from the sixth day of a permanent exclusion. The SEND case work officer at the local authority will be in contact with you.

If your child has a fixed term exclusion, ask the school to explain what arrangements will be made for your child to have access to schoolwork and have that work marked during the period of the exclusion.

Permanent

Speak to the head teacher as soon as you are told about the exclusion, as this is not formally agreed until the governing body has considered.

When the governing body meets to consider the exclusion, this is your opportunity to ask any questions about how or why the decision was made.

If the governing body decide to 'uphold' the permanent exclusion and you disagree with them, following the meeting, you have a further opportunity to challenge this by requesting an Independent Review Panel (IRP). You should receive a letter from the governing body, which explains their decision and tells you about your right to request an IRP. You can read more about this on page 10 of this leaflet.

Disability Discrimination

If you believe your child has been discriminated against because of their disability, you can make a formal complaint to the school or setting. The school's own website will have information about their complaints process.

You can also make a claim to the SEND Tribunal, within six months of the discrimination taking place. You can find out more about the process by looking at the government information: www.gov.uk/complain-about-school/disability-discrimination

The SEND Code of Practice 2015 says:

A disability under the Equality Act 2010 is defined as a 'physical or mental impairment which has a long-term and substantial adverse effect on their ability to carry out normal day-to-day activities'.

This definition provides a relatively low threshold and includes more children than many realise: 'long-term' is defined as 'a year or more' and 'substantial' is defined as 'more than minor or trivial'.

The SEND Code of Practice 2015 summarises the Equality Act duty and says Nurseries, Schools and Colleges:

- must not directly or indirectly discriminate against, harass or victimise disabled children and young people
- must not discriminate for a reason arising in consequence of a child or young person's disability

The Role of the Governing Body

The governing body will be informed following:

- Permanent exclusion
- Fixed-term exclusion which results in a child being excluded for more than five School days (or more than ten lunchtimes) in a term;
- Any exclusion which means a child misses a public examination or national curriculum test.

These duties vary depending on the length and the type of exclusion:

Exclusion Type	Governing Body Duties
Permanent	Must consider reinstatement within 15 school days of notice of exclusion
Fixed Term, where the total number of days excluded in a term is...	
15 or over	Must consider reinstatement within 15 school days of notice exclusion.
More than 5 but less than 15	Parents can request the governing body considers reinstatement within 50 school days.
Less than 5	Must consider parents representations but no requirement to meet with parents or power to reinstate.
Any exclusion which would result in a child missing public examination (e.g. GCSE) or national curriculum (e.g. Key Stage 2) test	Must consider within 15 school days of exclusion and in addition take reasonable steps to consider the exclusion before the date of the exam or test. If this is not practical, the chair of governors may consider pupil's reinstatement alone.



The Governing Body Arranges a Meeting

The governing body must invite and make reasonable endeavors to arrange the meeting for a date and time which suits:

- Parents;
- The head teacher; and
- A representative of the local authority (in the case of a local authority-maintained school or PRU).

For other school types you may request a representative from the local authority attend, but the governing body would have to consent to them making any representations (i.e. they may only be allowed to observe).

The governing body should identify the steps they will take to enable and encourage your child to attend the meeting to share their views, including letting them know they can take a friend along.

They must also make reasonable adjustments to support any disability you or your child has.

The Meeting

You can ask to take a friend or representative along to the governor meeting with you, and you will get a list of who is attending with copies of written evidence and information at least 5 days in advance of the meeting.

You do not have to attend but the meeting is an opportunity to raise any concerns and ask any questions about both the events leading up to, and the decision to exclude. You can also discuss related information such as your child's SEN and the support they receive.

It is important to prepare your representations (questions & concerns) in advance of the meeting.

The Governing Body Decision

Following the meeting the governing body will decide to:

- Uphold an exclusion; or
- Direct reinstatement immediately or on a particular date.

Where reinstatement is not practical, or you make clear you do not want your child reinstated, the governing body must still consider whether the Head teacher's decision to exclude your child was justified based on the evidence.

The governing body must notify you, the head teacher and the Local Authority of its decision and the reasons for its decision, in writing and without delay.

In the case of a permanent exclusion, the governing body's notification must also include the following information:

- The fact that it is permanent;
- Your right to ask for the decision to be reviewed by an Independent Review Panel

Independent Review Panel or IRP

(Permanent Exclusion only)

Where the governing body decides to 'uphold' a permanent exclusion and you disagree with the decision, you have a further opportunity to make your representations by requesting an Independent Review Panel (IRP).

Whether you decide to request an IRP will rest on the outcome you seek and how strongly you feel about the decision to uphold the permanent exclusion. It's important to do what's right for you and your child, you should not feel pressured by anyone.

The IRP can decide to:

- Uphold the exclusion decision;
- Recommend that the governing body reconsiders their decision; or
- Quash the decision and direct that the governing body considers the exclusion again.



You can request a SEN Expert to be present at the IRP. They should be a professional with first-hand experience of SEN in addition to an understanding of the legal requirements on schools in relation to SEN and disability. They must be impartial but can be employed by the local authority involved provided that they have had no previous involvement with assessment or support of your child.

The SEN expert's role does not include making an assessment of your child's special educational needs, their focus will be on whether the school's policies which relate to SEN, and how they were applied in relation to the exclusion, were lawful, reasonable and procedurally fair.

Where the school does not recognise your child as having SEN, the SEN expert should advise the panel on whether they believe the school acted in a legal, reasonable and procedurally fair way regarding the identification of any SEN that your child may potentially have, and any impact this may have had to the circumstances of the exclusion.

The IRP has no power to direct the governing body to reinstate your child or remove the exclusion from your child's school record.

The governing body may still reach the same decision when they reconsider.

The review panel may order that the school have £4,000 deducted from their budget (or for an academy order that they pay this to the local authority). This might happen where the governing body, if after a direction to 'quash' the exclusion, does not reinstate the pupil.

Supporting Challenging Behaviour

Head teachers should consider what extra support might be needed to identify and address the needs of a child in order to reduce their risk of exclusion. Possible support options might include:

- **An Inclusion Service referral** - a universal referral for alternative provision and tuition; specialist placements; outreach services; and for the **multi-agency assessment programme**
- Referral to a **health service**.
- Where a child is at risk of permanent exclusion, a **managed move** to another school.

- Where support options in school have been exhausted, **a request to the local authority to carry out an Education Health and Care Plan Needs Assessment (EHC)** (parents also have the right to make a request).
- Bringing forward the Annual Review, where an EHC plan is in place.

If your child's behaviour is becoming an issue at school, ask to meet with school staff as soon as possible to discuss options which will support your child and reduce the risk of exclusion.

What can I do?

The most important thing is to listen to your child's views and worries and continue to work with school by sharing ideas and deciding next support steps. Some things to consider...

- **Ask your child** how they feel. What's working well?
What are they finding difficult about lessons or school in general?
Have they got any ideas about what could help them with their behaviour at school? Share this information with school, this is a good starting point.
- **Share any background information** with school, i.e. issues that might be affecting behaviour or underlying diagnoses.
- Discuss with school if you believe **your child needs help** in lessons, to manage their feelings or with friendships and relationships.
- **Look for patterns or triggers** for example, is there a particular lesson or time of the day where behaviour is problem?
- Strategies such as a **time-out card**, planned **lesson breaks** or short-term working in smaller break-out spaces can have a positive impact to behaviour.
- **Identifying key members of staff** and reassuring your child about who they can speak to with any worries can be helpful to reduce anxieties.
- **Create opportunities for praise** which are achievable – finding a way to praise even the smallest of things can have a positive effect.
- Think about and discuss with school the behaviour targets set, breaking these down to **bite-sized achievable targets** (such as getting through a lesson without incident) can be a good way to manage. This could help to break the cycle of challenging behaviour.

- If there have been several fixed term exclusions and nothing is really changing, ask school about what else they can do, such as making referrals to other services.
- A reduced/part-time timetable for a short-term period can be effective where other options have been exhausted. It should only be put in place with parental consent. It should be reviewed regularly and be part of a plan which will ensure your child returns to a full-time education as soon as possible.
- If your child has an EHC plan request an early review. This is an opportunity to discuss whether your child's needs have altered and/or whether the support they are receiving needs to change. You can also request re-assessment of your child's needs if you believe they have changed significantly since the EHC plan was written.

Other Circumstances

Section 35 of the Children and Families Act 2014 says that schools and nurseries can only exclude a child from activities if:

- It is not reasonably practicable for them to be included;
- Being included would prevent them from receiving the support they need; or
- Being included would prevent the efficient education of other children or the efficient use of resources.

What can I do if my child is being excluded from or disadvantaged by an activity?

If you feel your child has been excluded or disadvantaged talk to their teacher or the SENCO, it can be helpful to request a meeting.

Ahead of this conversation, have a look at the school's 'SEN Information Report' which will include information about how children in the school are enabled to take part in activities alongside children without SEN.

Explain how you feel your child is missing out or will not be having the same experience as their classmates, for example if you have been asked to accompany them on a trip.

Find out why or how the school reached their decision. It might be that you have some suggestions for how your child could be supported.

The SEND Code of Practice 2015 summarises the Equality Act duty and says Nurseries, Schools and Colleges:

- Must not directly or indirectly discriminate against, harass or victimise disabled children and young people.
- Must not discriminate for a reason arising in consequence of a child or young person's disability.
- They must make reasonable adjustments, including the provision of auxiliary aids and services, to ensure that disabled children and young people are not at a substantial disadvantage compared with their peers.
- This duty is anticipatory – it requires thought to be given in advance to what disabled children and young people might require and what adjustments might need to be made to prevent that disadvantage (xix, introduction)

If you are concerned your child has been substantially disadvantaged because of their disability, you could consider making a 'disability discrimination' claim to the SEND Tribunal. You would need to do this within six months of the discrimination taking place. You can find out more about the process by looking at the government information: www.gov.uk/complain-about-school/disability-discrimination

Reduced or Part-Time Timetable

Children of compulsory school age have the right to a full-time education, and reduced timetables are unlawful (unless following medical opinion that this would be in the child's best interests).

However, a reduced timetable can be an effective temporary measure to support some children with complex needs. This should only happen with parental agreement and involvement of appropriate services. A plan, which is regularly reviewed, should be in place to support a return to full-time education.

If you disagree with a proposed reduced timetable talk to school about whether there are other possible support options such as a referral to a specialist service for example.

Where can I get more Information, Advice and Support?

You can read about exclusions in the SEND Code of Practice Chapter 11

SENDIASS can give you:

- Information about **Exclusions**
- Advice and support during the process of exclusions
- Details of other organisations, support groups and services that may be of help
- Information, advice and support about your rights to make a complaint, seek independent disagreement resolution or mediation

Further Information



Information: You may find it helpful to look at our other leaflets and information on our website, social media channels and through our workshops and courses. We have some downloadable resources. If you can't find the answers.



Advice: We provide unbiased information and advice about what the law says, the local authority's policies and procedures, and about the policy and practice in local schools or other settings. We do not take sides or tell you what to do, we will help you get the information you need to make your **own choices**.



Support: We can help you by **listening** to your views and concerns, whilst working with you to explore your options. We can help you with preparation for meetings, with letters, forms and reports and support you to have the confidence to **express your views**.

Useful Links

Ace Education (independent advice and information on state education in England.)

Child Law Advice (education law advice for families)
www.childlawadvice.org.uk

Contact (for families with disabled children) www.contact.org.uk

Council for Disabled Children (umbrella body for the disabled children's sector)
www.councilfordisabledchildren.org.uk

IASS (information, advice and support services network)
www.cyp.iassnetwork.org.uk

IPSEA (national charity providing legally based information advice and support)
www.ipsea.org.uk

Our Website www.cornwallsendiass.org.uk

SEND Code of Practice (explains the statutory duties of schools and local authorities) www.gov.uk/government/publications/send-code-of-practice-0-to-25

SEND Tribunals Service (organisation responsible for handling claims)
www.justice.gov.uk/tribunals/send

