

Annex B – A non-statutory guide for head teachers

Exclusion process for head teachers, academy principals and teachers in charge of pupil referral units

This non-statutory document should be read alongside the statutory guidance. This document is meant to help schools through the process and ensure that they have sufficient procedures in place.

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, management committee of a PRU and the academy trust of an academy.

Early Intervention

You³⁹ **must** establish a behaviour policy and **should** have processes for identifying and supporting pupils' additional needs.

Things to consider

- Does the school behaviour policy clearly set out behaviour expectations and sanctions and reflect the requirements of the Equality Act 2010?
- Are governors/staff (including sixth form staff in school sixth forms) clear about their roles and when to escalate issues/involve parents?
- Is the behaviour policy understood by pupils and parents?
- Are sanctions monitored to identify any inconsistency or potential discrimination (e.g. Special Educational Needs and Disability (SEND) or ethnicity)?
- Are systems in place to identify pupils showing persistent poor behaviour and if there are any underlying causes?

Further sources of information

Departmental advice on setting the behaviour policy

<https://www.gov.uk/government/publications/behaviour-and-discipline-in-schools>

³⁹ At a maintained school or PRU, the head teacher must determine the behaviour policy in accordance with principles set out by the governing board. An academy trust must have a behaviour policy but it is up to the academy trust to decide who is responsible for drawing up the policy.

What maintained schools must publish online <https://www.gov.uk/guidance/what-maintained-schools-must-publish-online>

What academies, free schools and colleges must publish online
<https://www.gov.uk/guidance/what-academies-free-schools-and-colleges-should-publish-online>

You should have a system in place to ensure you are aware of a pupil showing persistent poor behaviour or not responding to low level sanctions.

Things to consider

- Are underlying factors (for example SEND, family issues or bullying) or specific triggers (for example the time of day or specific lessons) affecting behaviour? Are staff working with the pupil aware of any behavioural trigger points, relevant issues and the ways in which they should be managed?
- Are staff aware of mechanisms for escalation and referral routes to access external support?
- Have I ensured that this pupil's parents are aware of their behaviour issues?
- Should I request an special educational needs (SEN) assessment, a multi-agency assessment or external support (e.g. counsellors or alternative provision)?
- Did I consider if the pupil was a looked after child? (E.g. did I engage with foster carers or children's home workers, the local authority that looks after the child and the local authority's virtual school head?)
- Is the use and effectiveness of any support and sanctions properly recorded and regularly reviewed?

Further sources of information

Guidance on the use of alternative provision
<https://www.gov.uk/government/publications/alternative-provision>

You should have a clear process in place for exclusion.

Things to consider

Are there clear processes and templates in place to:

- monitor the 45 day exclusion rule, including exclusions received from other schools?
- manage serious behavioural incidents when I am not available?
- avoid wherever possible the permanent exclusion of those with Education, Health and Care plans or Statements of Special Educational Need and looked after children.
- inform the parents, governing board and local authority (depending on length of exclusion), clearly setting out all reasons for the exclusion?

- give up-to-date links to sources of impartial advice for parents?
- reintegrate excluded pupils after a fixed period exclusion and support pupils' future behaviour?
- arrange, at short notice, suitable full-time alternative education for pupils receiving exclusions over five days?

Further sources of information

Information on school discipline and exclusions issued by the Department for Education
<https://www.gov.uk/school-discipline-exclusions/exclusions>

Coram Children's Legal Centre

http://www.childrenslegalcentre.com/index.php?page=school_exclusions

ACE Education also run a limited advice line service on 03000 115 142 on Monday to Wednesday from 10 am to 1 pm during term time. Information can be found on their website: <http://www.ace-ed.org.uk/>

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/>

You should ask the governing board whether it has a clear process in place for considering reinstatement following an exclusion.

Things to consider

- Do governors have an understanding of the exclusion process to enable a review within deadlines?
- Would governors benefit from additional training, including on the Equality Act 2010?
- Is there a clear and timely system in place to enable parents to make representations?
- Are there up-to-date templates for notifying parents of the decision and explaining next steps?

Taking the decision

You must take the decision whether to exclude (you cannot delegate this).

Things to consider

- Have I investigated specific incidents with all parties in a sensitive and fair way?
- Did I consider factors that could have contributed to the pupil's behaviour (e.g. SEND or bereavement) and have I taken these factors sufficiently into account?
- Is exclusion the most appropriate and reasonable sanction, and consistent with the school's behaviour policy?
- Are all the exclusion reasons clearly recorded, including the impact on others? Are they robust?
- Is relevant evidence properly recorded/retained/documentated? (E.g. summaries of interviews, past behaviour, sanctions and support given.)

You must inform parents of the exclusion.

Things to consider

- Has the school spoken to the parents to ensure they fully understand the type/scale of the incident?
- Have I provided sufficient details in the exclusion notice letter on the reasons for the exclusion?
- Does the notice contain all the required information as set out in section 4 of the statutory exclusion guidance?
- Have I informed parents whether the pupil will be able to sit any national curriculum test(s) or public examination(s) occurring during the exclusion?
- When several fixed-period exclusions have been issued in a term, have I informed parents of their right of representation to the governing board?

Further sources of information

Letter templates might be available from the local authority.

If the exclusion is permanent or takes the pupil's total school days of exclusion over five in a term or prevents them from taking a public examination or national curriculum test, you must inform the governing board and local authority of the duration of the exclusion, or that it is permanent, and the reasons for it.

Things to consider

- Have I informed the governing board about whether they must consider reinstatement and, if so, to what timescale?

- Have I made clear to the governing board whether the need to consider reinstatement is dependent on receiving parental representations?
- If a permanently excluded pupil lives in a different local authority area, has that authority been informed?

You should ask the chair of the governing board whether there are clear processes in place to comply with its legal duty to arrange suitable full-time educational provision for pupils of compulsory school age from the sixth consecutive school day of fixed-period exclusion.

Things to consider

- Is there a process in place for the governing board to assure itself that the education provided is suitable and full-time?
- Has the provision been quality assured and have previous placements been evaluated?
- Is the education supervised? (Pupils doing unsupervised school work at home is not acceptable.)
- Is there a process in place to monitor the pupil's attendance and behaviour at the provision?
- Is the correct attendance code being used?

Further sources of information

Alternative provision guidance <https://www.gov.uk/government/publications/alternative-provision>

School attendance guidance <https://www.gov.uk/government/publications/school-attendance>

Governing board consideration of an exclusion decision

You should ask the chair of the governing board whether there are clear processes in place for considering exclusions.

Things to consider

- Am I confident that the parents are aware of their right to a consideration by the governing board?
- Has the governing board been appropriately involved?
- Has the governing board taken steps to find a convenient date that the parent, the local authority representative (if relevant) and I can attend, within the legal time limits?
- Where practicable, has the governing board given thought as to how to involve the pupil in the consideration process?
- Have all the relevant documents been collected, anonymised if required, and provided to all parties?

Where applicable, the governing board must consider whether the pupil should be reinstated and inform parents of the outcome of its consideration.

Things to consider

- Have I presented all of the details of the case and the full rationale for the exclusion?
- Does the governing board have all of the relevant information that I have?

Independent review panel

The local authority or academy trust must arrange an independent review panel if requested by the parents within the time limit.

Things to consider

- Do I need to make written representations and/or attend the meeting to make oral representations?

When applicable, the governing board must reconsider the exclusion within ten school days of being given notice of the independent review panel decision.

Things to consider

- Is the governing board aware of any order made by the independent review panel following a direction (not a recommendation) to reconsider, and if this has been made, that unless within 10 school days of receiving notice of the panel's decision, the governing board decides to reinstate the pupil, the school will pay £4,000 to the local authority within 28 days?

The governing board must inform the head teacher, parents and local authority of its reconsideration decision.

Things to consider

- If the pupil is reinstated, how should I ensure the pupil's effective reintegration?
- If relevant, is the governing board aware that it must place a note on the pupil's record?

Post-exclusion action

When removing a pupil from the school roll, you should remind the governing board that they must ensure this is done under the circumstances prescribed by the Education (Pupil Registration) (England) Regulations 2006, as amended.

If applicable, you should check that the pupil's name has been removed from the school roll at the appropriate time.

Things to consider

- Have I ensured that the common transfer file is transferred within 15 school days of the pupil ceasing to be registered at the school?

Further sources of information

Attendance Guidance and Education (Pupil Registration) (England) Regulations 2006 as amended <https://www.gov.uk/government/publications/school-attendance>

School to School service: how to transfer information

<https://www.gov.uk/guidance/school-to-school-service-how-to-transfer-information>

Special educational needs and disability code of practice: 0-25 years

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND Code of Practice January 2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf)