

Suspension and Permanent Exclusion from schools, academies and pupil referral units

CHECKLIST for Head teachers and Governors

Suspensions and Exclusions should only be necessary as a last resort when strategies, practices and interventions set out within the Behaviour in Schools guidance have not been successful in improving a pupil's behaviour or the use of more significant interventions or sanctions are required.

This checklist is intended to ensure support is provided in a timely way to meet the needs of learners and reduce vulnerability to exclusion and ensure all actions have been taken to ensure exclusion is a last resort. **Please use the checklist alongside: Behaviour in Schools and Suspension and Permanent Exclusion Guidance (2022)**

(the LA can advise if needed)

Section A - Head Teachers checklist	<input checked="" type="checkbox"/>
Has the decision to suspend or permanently exclude been taken by the Head Teacher/Principal (Acting Head or Acting Principal)?	
Has there been a serious breach or breaches of the school behaviour policy? Is there evidence of a full investigation? Has the pupil committed the offence? (standard of proof - on the balance of probabilities did the pupil do it?) Have any discrepancies in the accounts of those involved been explored and a conclusion on the balance of probabilities been reached?	
<p>In relation to a permanent exclusion have both parts of the two-part legal test been met with supporting evidence?</p> <ul style="list-style-type: none"> • Part one: Has there been a serious breach OR persistent breaches established on a balance of probabilities? AND • Part two: Would allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school? 	
<p>Would reinstatement of the pupil seriously harm the education/welfare of pupils/others?</p> <ul style="list-style-type: none"> • 'Would' requires a higher level of certainty than 'might', 'could', 'is likely to'. • 'Serious harm' requires a higher level of impact than 'detriment'. 	
Has a risk assessment been completed and implemented where there is a need to manage risk?	
<p>Is the decision fair?</p> <p>An example of unfair decision might be when one pupil is permanently excluded for the same offence as a pupil who was not, where there are no other differences between the pupils or mitigating circumstances to explain this.</p>	
<p>Is the decision rational and reasonable?</p> <ul style="list-style-type: none"> • An irrational decision is one that no ordinary and objective person would reasonably make –ensure you have based your decision on relevant evidence not irrelevant considerations 	
<ul style="list-style-type: none"> • Was the decision a last resort? ie did the Head teacher consider and implement alternative strategies to address the behaviour or avoid the incident (e.g. off-site 	

direction, managed move, pupil support units) and advice within page 29 Behaviour in Schools Guidance ? If rejected, has this been explained? Did the school do all it could to mitigate against exclusion or has it satisfactorily argued that the behaviour could not have been foreseen ?	
Is the suspension/exclusion an appropriate proportionate response to the incident/s and in the best interest of the learner considering the European Convention on Human Rights and Equality Act 2010 and associated guidance? Is it the minimum sanction available in the circumstances of the case considering any special circumstances?	
Has the school considered and applied its own relevant policies and procedures in relation to behaviour/suspensions/permanent exclusion/SEN /Safeguarding? How/did the incident relate to the policies ?	
Where relevant, has the pupil been explicitly taught what good behaviour looks like? Some pupils will need additional support to reach the expected standard of behaviour.	
Were the pupil's views taken into account before deciding to exclude? Was the pupil informed about how their views were factored into any decision made? Where relevant, was the pupil given support to express their view (including through advocates such as parents or where pupil has one, a social worker).	
Were the interests and circumstances of the excluded/suspended pupil considered and consideration given to other acceptable sanctions within paragraph 45 of the Behaviour in Schools guidance prior to suspension/exclusion? If rejected, has this been explained?	
In the case of the issuing of a further suspension or permanent exclusion after the first period ends, is there evidence of an 'exceptional case where further evidence has come to light'?	
Where there were serious concerns around the pupil's behaviour was a multi-agency assessment such as an early help assessment or statutory assessment that goes beyond the pupil's educational needs considered? If not considered why not ?	
Have any circumstances that may have acutely increased the pupil's risk of suspension or permanent exclusion for example, if the pupil has suffered bereavement, experienced abuse or neglect, has mental health needs (Head teachers should have regard to the Mental health and behaviour in schools guidance (2018) , has been subject to bullying, has needs including SEND (including any not previously identified), has been subject to criminal exploitation, or is experiencing significant challenges at home been taken into account? Have you engaged with all relevant parties involved with the pupil eg social worker , VSH, SENCO before reaching a decision to exclude?	
Can the graduated response and any school partnerships or outside referrals be utilised to add further support to the learner?	
Pupils with disabilities and special educational needs (SEN) including those with Education, Health and Care plans (EHC plans)	<input checked="" type="checkbox"/>
Does this student have a special educational need/EHCP and/or disability? <ul style="list-style-type: none"> A child is disabled if they have a long-term (Long term is defined as lasting, or likely to last, for at least 12 months) physical or mental impairment which has an adverse effect on their ability to carry out day-to-day activities (this is the definition in the Equality Act 2010). 	
Did School use their 'best endeavours' to ensure the appropriate special educational needs provision was made to include any support in relation to behaviour management	

required because of their SEN? (Using best endeavours means doing everything they can to meet the child or young person's SEN, with or without an EHCP).	
Were reasonable adjustments made to policy and practice and accordance with the Equalities Act (2010) to include anticipatory duties, in the case of a disabled pupil?(see chapter 6 SEN COP (2015)	
Were any concerns around behaviour, or risk of suspension and permanent exclusion, of a pupil with SEN, a disability or an EHC plan considered in partnership with others (including where relevant the LA) to consider what additional support or alternative placement may be required, to include assessment of suitability of provision for a pupil's SEN or disability ?	
In the case of a pupil with an EHC plan, did school contact the LA about any behavioural concerns at an early stage and consider requesting an early annual review prior to making the decision to suspend or permanently exclude?	
In the case of pupil with SEN but without an EHC plan, did school review, with external specialists as appropriate, whether the support arrangements in place were appropriate and if any changes required. Did School consider if an appropriate point to request an EHC assessment or a review of the pupil's current package of support? Has the parent requested a review?	
Pupils who have a social worker, including looked-after children and previously looked-after children	<input checked="" type="checkbox"/>
Evidence of balancing the protective factor of school environment for pupils with social worker/LAC/previously looked after with the need to ensure a calm and safe environment for pupils in school? <ul style="list-style-type: none"> • Is it safe for the pupil to be suspended or permanently excluded and sent home? • Are there concerns about the pupil being at risk of exploitation in the community? • Is there a safer alternative? 	
Where a pupil has a social worker and at risk of suspensions or permanent exclusions did the Head Teacher engage with the Social Worker/Designated Safeguarding Lead and pupils parents to involve as early as possible in relevant conversations ?	
Where a LAC is at risk of suspension or permanent exclusion did the Head Teacher contact the VSH as early as possible to consider additional assessment and support needed to be put in place to support school address factors affecting behaviour and reduce the need for suspension or permanent exclusion ?	
In the case of previously looked-after children at risk of beings suspended or permanently excluded, did school engage with the child's parents and the schools Designated Teacher and seek advice from the VSH on strategies to support the pupil?	
The Head Teachers' duty to inform parties about an exclusion (model letters provided on BSO/notification documentation) Model letters BSO	<input checked="" type="checkbox"/>
Notification without delay of the period of the suspension or permanent exclusion and the reason(s) for it to: <ul style="list-style-type: none"> • parents/carers • Governing Board • LA (regardless of length of exclusion) – using EX3 form in case of permanent exclusion EX1 in case of pupil missing examination 	

<ul style="list-style-type: none"> • If the pupil does not live in Bradford –the pupils ‘home authority’ and Exclusions Team Bradford. • Social worker, if a pupil has one • Virtual School Head teacher if the pupil is a LA 	
<p>Arrange setting and marking of suitable full time work for the first five days of the suspension/exclusion where the pupil will not be attending alternative provision.</p>	
<p>Arrange education from day 6 of a fixed term suspension over 5 days (LA arranged when permanent)/inform parents of this/social worker VSH where applicable.</p>	
<p>If the pupil has an EHCP consult the LA and parents as the Plan may need to be reviewed</p>	
<p>Do governors have a process in place for considering reinstatement following an exclusion. Refer to and ensure you can answer all the bullet points in para 86 of the Exclusions Guidance (2022).</p>	
<p>Section B - Governing board’s duty to consider an excluded pupil’s reinstatement</p>	<input checked="" type="checkbox"/>
<p>Arrange PDC meeting (at least 3 Governors who are not aware of the case*), – mutually convenient time (within 15 school days for permanent exclusions and those over 15 days in a term) - (see summary page 38 of Exclusions Guidance below) and invite:</p> <ul style="list-style-type: none"> • pupil (if they are 18 years or over) parents/carers and where requested a representative or friend • Head Teacher • LA Representative ** • Where relevant Social Worker and/or Virtual School Head <p><i>*In the case of an academy, the governing board may delegate to a smaller sub-committee if the articles of association allow them to do so</i> <i>** Academies do not have to invite LA but can do so – parents can request LA attend the meeting as an observer and can make representation at the meeting if PDC Chair allows</i></p>	
<p>Ask for any written evidence in advance of the meeting, include regard to pre exclusion considerations (head teacher’s checklist), including (not exhaustive);</p> <ul style="list-style-type: none"> • Head Teachers report to include reasoning for decision detailing why the disciplinary breach meets the criteria for a reasonable, rational and fair, last resort decision whereby allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school • Statement from the excluded pupil and witnesses, signed and dated • other relevant information held by the school such as those relating to a pupil’s SEN and the pupil’s school record • Policies (or sections of policies) – as relevant to specific excluding incident eg Behaviour/Exclusion Policy/SEND/Anti-bullying/Drugs/Restrictive Physical Intervention/Equalities Act 2010 • History of challenging behaviour if exclusion in relation to persistent challenging behaviour (In the case of a serious one off event, only detail information to that event is relevant). • Evidence of consideration/implementation/impact of strategies within Behaviour in Schools guidance (2022) • Risk Assessment 	

Has the head teacher demonstrated that the exclusion has been carefully considered and is being used as a last resort (The checklist in Section A above is designed to assist in these deliberations)?	
Circulate written evidence and information (all parties must receive the same information) , including a list of those who will be present, to all parties at least five school days in advance of the meeting	
Allow parents and the pupil to be accompanied by a friend or representative (where a pupil under 18 is to be invited as a witness, the governing board should first seek parental consent)	
Make reasonable adjustments to support attendance and contribution of parties at the meeting eg where a parent or pupil has a disability with mobility or communication that has an impact on ability to attend or make representations	
Identify the steps to enable and encourage the pupil to attend the meeting and speak on their behalf (such as providing accessible information or allowing them to bring a friend), taking account of pupils age and understanding; or how can feed in views by other means if not attending.	
Governors must consider both the interests and circumstances of the suspended or excluded pupil, and that of other pupils, staff and school community	
Governors must take into account the pupil's age and understanding, the pupil or parents should be made aware of their right to attend and participate in the governing board meeting and pupil should be enabled to make own representation if they wish to do so	
Governing Board must consider representations made by or on behalf of: <ul style="list-style-type: none"> • Parents or the pupil if they are 18 years or older • The head teacher • The pupil's social worker if the pupil has one; • If the pupil is looked after, the Virtual School Head • the Local Authority in the case of a maintained school or if representation invited by an Academy 	
When establishing the facts must apply the civil standard of proof ie 'on the balance of probabilities' (it is more likely than not that a fact is true) rather than the criminal standard of 'beyond reasonable doubt'	
Governing board should ensure clear minutes are taken of the meeting and should be made available to all parties on request and the record of discussion should state clearly how the decisions have been reached and provide reasons	
The governing board should ask all parties to withdraw from the meeting before making a decision. The Clerk may stay to help the governing board by reference to their notes of the meeting and the wording of the decision letter.	
In reaching a decision on whether a pupil should be reinstated, the governing board should consider if the decision to permanently exclude or suspend the pupil was lawful, reasonable and procedurally fair. Should consider welfare and safeguarding of the pupil and peers, the head's legal duties, and any evidence presented to the governing board in relation to decision to exclude.	
Governing board should note the outcome of its consideration on the pupil's educational record and copies of the relevant papers should be kept with the educational record. In cases where governors consider parents representation but does not reinstate the pupil, it should consider if appropriate to place a note on the pupils record.	

A summary of the governing board's duties to review the headteacher's exclusion decision

Conditions of exclusion

Governing board duties

Does the exclusion meet any of the following conditions?

- It is a permanent exclusion
- It is a suspension that alone, or in conjunction with previous suspensions, will take the pupil's total number of days out of school above 15 for a term
- It is a suspension or permanent exclusion that will result in the pupil missing a public exam or national curriculum test*

↓ Yes

↓ No

The governing board must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the suspension or permanent exclusion.⁴⁹

*If the pupil will miss a public exam or national curriculum test, the governing board must take reasonable steps to meet **before** the date of the examination. If this is not practical, the chair of governors may consider pupil's reinstatement alone.⁵⁰

Will the suspension(s) take the pupil's total number of school days out of school above five but less than 16 for the term?

↓ No

Yes

The governing board must consider any representations made by parents but does not have the power to decide whether to reinstate the pupil.

Have the pupil's parents requested a governing board meeting?

↓ Yes

↓ No

The governing board must convene a meeting to consider reinstatement within 50 school days of receiving notice of the suspension.

The governing board is not required to consider the suspension and does not have the power to decide to reinstate the pupil.

⁴⁹ The governing board may delegate its functions to consider a suspension or permanent exclusion to a designated committee.

⁵⁰ The ability for a chair to review in the case of public exams refers only to maintained schools.

A summary of the governing board's duties to review the headteacher's exclusion decision

1. Is it a permanent exclusion?

If the answer is yes, the governing board must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the permanent exclusion.⁵¹

If the answer is no, go to step 2.

2. Is it a suspension that alone, or in conjunction with previous suspensions, will take the pupil's total number of days out of school above 15 for a term

If the answer is yes, the governing board must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the suspension.⁵²

If the answer is no, go to step 3.

3. Is it a suspension or permanent exclusion that will result in the pupil missing a public exam or national curriculum test?

If the answer is yes, the governing board must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the suspension or permanent exclusion.⁵³ The governing board must also take reasonable steps to meet **before** the date of the examination. If this is not practical, the chair of governors may consider pupil's reinstatement alone.⁵⁴

If the answer is no, go to step 4.

4. Will the suspension(s) take the pupil's total number of school days out of school above five but less than 16 for the term?

If the answer is yes, go to step 5.

If the answer is no, the governing board must consider any representations made by parents but does not have the power to decide whether to reinstate the pupil.

5. Have the pupil's parents requested a governing board meeting?

If the answer is yes, the governing board must convene a meeting to consider reinstatement within 50 school days of receiving notice of the suspension.

The governing board is not required to consider the suspension and does not have the power to decide to reinstate the pupil.

⁵¹ The governing board may delegate its functions to consider an exclusion to a designated committee.

⁵² The governing board may delegate its functions to consider an exclusion to a designated committee.

⁵³ The governing board may delegate its functions to consider an exclusion to a designated committee.

⁵⁴ The ability for a chair to review in the case of public exams refers only to maintained schools.