



Perry Beeches IV
The Free School

Exclusions

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Exclusions from School

A student's place should be in school and learning. Exclusion from school should be used in response to serious breaches of the school policy or because allowing the student to remain in school would seriously harm the education or welfare of the student or others in school.

Any decision of a school, including exclusion, must be made in line with the principles of administrative law, i.e. The decision must be lawful (with respect to the legislation relating directly to exclusions and a school's wider duties, including under the European Convention of Human Rights and the Equality Act 2010); rational; reasonable; fair and appropriate. (DFE Guidance 2015)

The school must:

- inform parents of their responsibility for supervising their child during the first five days of any period of fixed period exclusion and will face a penalty notice if their child is found in a public place in school hours without reasonable justification during this period.
- Governing Bodies have a duty to arrange education from the sixth day of a fixed period exclusion, which would be triggered by consecutive fixed term exclusions totalling more than five days.

The purpose of this arrangement is to prevent exclusions lasting longer than necessary. It would be unlawful to impose a fixed term exclusion for an indefinite period of time.

Permanent exclusion should be used as a last resort, when all other reasonable steps have been taken, when allowing the child to remain in school would be seriously detrimental to the education or welfare of others, or a serious breach, or persistent breaches, of the school's behaviour policy.

Reasonable prior steps to take before permanent exclusion would include alternative sanctions, following school procedures, and should include all or most of the following; interviewing student and parents, negotiating agreements with student and parents, being on daily report, reporting to a mentor on a daily or regular basis, identifying special educational needs, withdrawing from class, involving social services or outside agencies, managed moves and formal warnings. Only the Headteacher has the power to exclude.

Determining the appropriateness of Fixed Term Exclusion as a sanction

Preliminary factors to consider before exclusion are: age and health of the student; previous record and behaviour, domestic situation, parental, peer or other pressures, severity or frequency of the behaviour and the likelihood of recurrence, whether the behaviour occurred on school premises, the bringing of the school's name into disrepute, the extent of the violation of the school's policy on behaviour, and whether the behaviour was committed alone or as part of a group.

Discussion with the SENCO if the behaviour is linked to learning, emotional or behavioural difficulties which are already identified through the Code register.

Statutory guidance to head teachers on the exclusion of pupils with statements of SEN and looked after children

As well as having disproportionately high rates of exclusion, there are certain groups of pupils with additional needs who are particularly vulnerable to the impacts of exclusion. This includes pupils eligible for Free School Meals, pupils of particular ethnicities or those who are most vulnerable, pupils with statements of special educational needs (SEN) and looked after children. Head teachers should, as far as possible, avoid excluding permanently any pupil with a statement of SEN or a looked after child.

The school will engage proactively with parents in supporting the behaviour of pupils with additional needs. In relation to looked after children, school will co-operate proactively with foster carers or children's home workers and the local authority that looks after the child.

If school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with a statement of SEN or a looked after child it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEN. Where a pupil has a statement of SEN, schools should consider requesting an early annual review or interim / emergency review.

No exclusion will be initiated without first exhausting other strategies or, in the case of a serious single incident, a thorough investigation.

When establishing the facts in relation to an exclusion decision the head teacher must apply the civil standard of proof, i.e. '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'.

Reasons for exclusions:-

- Serious breach of the school's rules or policies (See Behaviour Policy)
- Risk of harm to the education or welfare of another student or others in the school (including staff members)
- Physical assault upon a member of staff or another student.
- Aggressive / threatening behaviour towards staff or another student, including verbal abuse.
- Racial or sexual harassment. (The latter may fall into the Child Protection Category.)
- Damage to school or staff property.
- Bringing the school into disrepute in the community; e.g. fighting in the street, unacceptable behaviour on the buses and in shops. Verbal abuse to members of the community.
- Disruptive behaviour in external examinations.
- Complete failure to respond to school discipline and staff authority.
- Bringing fireworks, dangerous chemicals, threatening or illegal weapons or dangerous items onto school premises.

- Being drunk on the school site, smoking, possessing or bring under the influence of drugs, either legal or illegal.

It is virtually impossible to put set time limits upon these offences because of the number of circumstances which could be influencing behaviour. The perceptions of different people viewing a situation may also differ widely due to emotional involvement or personal perceptions. It is therefore important for a number of staff to talk through the situation and arrive at a common consensus. Obviously there are extreme occasions where decisions have to be made very quickly in order to safeguard staff and students, but these are rare.

Excluded students are still the responsibility of the school and the student's learning should continue where this is possible. Programmes to monitor and support the student may be needed to ensure improved behaviour. Exclusion itself rarely cures the problem. It serves as a warning and gives time to reflect on what is happening and for support strategies to be developed.

Statutory guidance to head teachers on informing parents about an exclusion

When notifying parents about an exclusion, the head teacher should set out what arrangements have been made to enable the pupil to continue his / her education prior to the start of any alternative provision or the pupil's return to school

Effective methods for notifying parents/carers of an exclusion may include email or text message; giving the notice directly to the parents; or sending the information home with the excluded pupil. Where information is sent home with a pupil, the head teacher should consider sending a duplicate copy by an alternative method or obtain confirmation that the information has been received.

When notifying parents about an exclusion head teachers should draw attention to relevant sources of free and impartial information. This information should include:

- a link to this statutory guidance on exclusions: exclusions guidance
- a link to the Coram Children's Legal Centre: www.childrenslegalcentre.com 08088 020 008; and
- where considered relevant by the head teacher, links to local services, such as Traveller Education Services or the local parent partnership (www.parentpartnership.org.uk).

The head teacher should ensure that information provided to parents is clear and easily understood. Where the parents' first language is not English consideration should be given, where practical, to translating the letter or taking additional steps to ensure that the details of the exclusion and parents' right to make representations to the governing body have been understood.

The head teacher must, without delay, notify the governing body and the local authority of:

- a permanent exclusion (including where a fixed period exclusion is made permanent);
- exclusions which would result in the pupil being excluded for more than five school days (or more than ten lunchtimes) in a term; and
- exclusions which would result in the pupil missing a public examination or national curriculum test

For a permanent exclusion, if the pupil lives outside the local authority in which the school is located, the head teacher must also advise the pupil's 'home authority' of the exclusion without delay.

Statutory guidance on the role of the Governing Body on exclusions

The governing body has a duty to consider parents' representations about an exclusion. The requirements on a governing body to consider an exclusion depend upon a number of factors (these requirements are illustrated by the diagram in Annex A of this guidance, *A summary of the governing body's duties to review the head teacher's exclusion decision*).

The governing body may delegate their functions with respect to the consideration of an exclusion decision to a designated sub-committee consisting of at least three governors.

The governing body must consider the reinstatement of an excluded pupil within 15 school days of receiving notice of the exclusion if:

- the exclusion is permanent;
- it is a fixed period exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or
- it would result in a pupil missing a public examination or national curriculum test.

If requested to do so by the parents, the governing body must consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if a pupil would be excluded from school for more than five school days, but not more than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination or national curriculum test there is a further requirement for a governing body, so far as is reasonably practicable, to consider the exclusion before the date of the examination or test. If this is not practicable, the chair of governors may consider the exclusion independently and decide whether or not to reinstate the pupil. These are the only circumstances in which the chair can review an exclusion decision alone. In such cases parents still have the right to make representations to the governing body and must be made aware of this right.

The following parties must be invited to a meeting of the governing body and allowed to make representations:

- parents;
- the head teacher; and
- a representative of the local authority (in the case of a maintained school or PRU)¹⁷

The governing body must make reasonable endeavours to arrange the meeting for a date and time that is convenient to all parties, but in compliance with the relevant statutory time limits set out above. However, its decision will not be invalid simply on the grounds that it was not made within these time limits.

Whilst there is no automatic right for an excluded pupil to take a public examination or national curriculum test (should it arise during the period of exclusion) on the excluding school's premises, the governing body should consider whether it would be appropriate to exercise their discretion to allow an excluded pupil on the premises for the sole purpose of taking the examination or test.

Statutory guidance on the education of pupils prior to the sixth day of an exclusion

It is important for schools to help minimise the disruption that exclusion can cause to an excluded pupil's education. Whilst the statutory duty on governing bodies or local authorities is to provide full-time education from the sixth day of an exclusion, there is an obvious benefit in starting this

provision as soon as possible. In particular, in the case of a looked after child, schools and local authorities should work together to arrange alternative provision from the first day following the exclusion.

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

Statutory guidance to governing bodies in preparing for the consideration of an exclusion decision

Where the governing body is legally required to consider the decision of a head teacher to exclude a pupil they should:

- not discuss the exclusion with any party outside of the meeting;
- ask for any written evidence in advance of the meeting (including witness statements and other relevant information held by the school, such as those relating to a pupil's SEN).
- where possible, circulate any written evidence and 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 pupils to be accompanied by a friend or representative (where a pupil under 18 is to be invited as a witness, the governing body should first seek parental consent and invite the parents to accompany their child to the meeting);
- have regard to their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or pupil has a disability in relation to mobility or communication that impacts upon their ability to attend the meeting or to make representations); and
- identify the steps they will take to enable and encourage the excluded pupil to attend the meeting and speak on his / her own behalf (such as providing accessible information or allowing them to bring a friend), taking into account the pupil's age and understanding; or how the excluded pupil may feed in his / her views by other means if attending the exclusion meeting is not possible.

Statutory guidance to governing bodies on providing information to parents following their consideration of an exclusion

Where the governing body decides to uphold an exclusion they should draw the attention of parents to relevant sources of free and impartial information that will allow them to make an informed decision on whether and, if so, how to seek a review of the decision. This information should be included in the letter notifying parents of a decision to uphold an exclusion and should include:

- a link to this statutory guidance on exclusions: exclusion guidance;
- a link to guidance on making a claim of discrimination to the First-tier Tribunal <http://www.justice.gov.uk/tribunals/send/appeals>;
- a link to the Coram Children's Legal Centre: www.childrenslegalcentre.com 08088 020 008; and,
- where considered relevant by the governing body, links to local services, such as Traveller Education Services or the local parent partnership (www.parentpartnership.org.uk).

1. Permanent Exclusion

1.3 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; and
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

A decision to exclude a child **permanently** is a serious one. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies, including early intervention to address possible underlying causes of disruptive behaviour including an assessment of whether appropriate provision is in place to support any SEN or disability or indeed, multi-agency assessment. These strategies will have been tried without success. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the child and should normally be used as a last resort.

1.4 There will however be exceptional circumstances where, in the head teacher's judgment, it is appropriate to permanently exclude a child for a first or 'one off' offence. These might include:

- a) serious actual or threatened violence against another student or a member of staff
- b) sexual abuse or assault
- c) supplying an illegal drug
- d) carrying an offensive weapon

Schools should also consider whether or not to inform the police where such a criminal offence has taken place. They should also consider whether or not to inform other agencies, e.g. Youth Offending Team, Social Workers, etc.

The head teacher should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that a pupil has suffered bereavement, has mental health issues or has been subject to bullying.

1.5 These instances are not exhaustive, but indicate the severity of such offences and the fact that such behaviour can affect the discipline and well-being of the school community.

1.6 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; and
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

In cases where a Headteacher has permanently excluded a student for:

- a) one of the above offences, or
- b) persistent and defiant misbehaviour including bullying (which would include racist or homophobic bullying) or repeated possession and/or use of an illegal drug on school premises,

the Secretary of State would not normally expect the governors' Discipline Committee or an

Independent Appeal Panel to reinstate the student.

2. Drug-related exclusions

- 2.1 In making a decision on whether or not to exclude for a drug-related offence, the Headteacher should have regard to the school's published policy on drugs, but the decision will also depend on the precise circumstances of the case and the evidence available. In some cases, fixed period exclusion will be more appropriate than permanent exclusion. In more serious cases, an assessment of the incident should be made against criteria set out in the school's policy. This should be a key factor in determining whether permanent exclusion is an appropriate course of action.

3. Length of fixed period exclusions

- 3.1 The regulations allow Headteachers to exclude a student for one or more fixed periods not exceeding 45 school days in any one school year. However, individual exclusions should be for the shortest time necessary, bearing in mind that exclusions of more than a day or two make it more difficult for the student to reintegrate into the school. Ofsted inspection evidence suggests that 1-3 days is often long enough to secure the benefits of exclusion without adverse educational consequences. Exclusions may not be given for an unspecified period, for example until a meeting can be arranged. Such a practice amounts to an indefinite exclusion, for which no legal arrangements exist.
- 3.2 The school's obligation to provide education continues while the student is on the roll, and must be met during a fixed term exclusion. In all cases of more than a day's exclusion, work should be set and marked.

Exclusions procedures will be followed in accordance with the current DFE guidance on exclusions and advice sought from the LA if necessary

Current Guidance quoted within this policy:

DfE (2015) Exclusion from maintained schools, Academies and pupil referral units in England - A guide for those with legal responsibilities in relation to exclusion

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