

Pupil suspensions and exclusions – what, why, when and how?

EPHA training for governors and staff

The objectives for this session are to ensure that staff and governors know

- When it is appropriate to exclude a pupil
- What procedures to follow in advance of a pupil disciplinary committee meeting
- What takes place and the governors' role during the meeting
- What follow up action to take after the meeting
- The role of the Independent Review Panel

Key points

- Good behaviour in schools is essential to ensure that all pupils can benefit from the opportunities provided by education. The Government supports headteachers in using exclusion as a sanction where it is warranted.
- For the vast majority of pupils, suspensions and permanent exclusions may not be necessary, as other strategies can manage behaviour. However, if approaches towards behaviour management have been exhausted, then suspensions and permanent exclusions will sometimes be necessary as a last resort. This is to ensure that other pupils and teaching staff are protected from disruption and can learn in safe, calm and supportive environments.

Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England *September 2023*

Key points

- The decision to suspend or permanently exclude a pupil must be lawful, reasonable and fair.
- Schools have a statutory duty not to discriminate against pupils on the basis of protected characteristics, such as disability or race.
- Schools should give particular consideration to the fair treatment of pupils from groups who are vulnerable to exclusion.

Exclusion statistics

- Boys or girls?
- Secondary or primary?
- Permanent exclusions – on the increase?
- Suspensions – on the increase?
- Average length of a suspension?
- Most common reason for exclusion?
- Most common age for exclusion?

Headline facts and figures - 2021/22

Permanent exclusions

6,495

Up from 3,928 in 2020/21

▶ [What is this?](#)

Permanent exclusions (rate)

0.08

Up from 0.05 in 2020/21

▶ [What is the permanent exclusion rate?](#)

Suspensions

578,280

Up from 352,454 in 2020/21

▶ [What is this?](#)

Suspension (rate)

6.91

Up from 4.25 in 2020/21

▶ [What is the suspension rate?](#)

Exclusions guidance

- Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement – statutory guidance for those with legal responsibilities in relation to exclusion *September 2023*
- Behaviour in Schools – advice for headteachers and school staff *July 2022*
- Behaviour and Discipline in schools – guidance for governing bodies *September 2015* (maintained schools)
- Preventing and tackling bullying – advice for headteachers, staff and governing bodies *July 2017*
- Screening, searching and confiscation *July 2022*
- “Must” and “should”

What changed in the 2022 guidance?

- Headteachers may cancel an exclusion that has not been reviewed by the governing body;
- Heads must notify the local authority, social worker and virtual school head of all suspensions and permanent exclusions;
- Clarified guidance on managed moves and the use of off-site direction;
- The involvement of pupils;
- Guidance for governors to ensure they review relevant data;
- The need to consider equality and human rights;
- A key focus on behaviour management and exclusion as a last resort.

Key additions in the 2023 guidance

- New guidance and amended regulations about a headteacher's ability to cancel an exclusion before the governing board has met to consider whether the pupil should be reinstated.
- Governing board reinstatement meetings and IRPs can now be held via the use of remote access (for example, live video link) for suspension and permanent exclusions if requested by the parents, provided certain criteria are satisfied. Meetings held via the use of remote access should not be a default option and face to face meetings should always be encouraged.

The school's behaviour policy

- You must establish a behaviour policy and should have processes for identifying and supporting pupils' additional needs.
- You should have a system in place to ensure you are aware of any pupil showing persistent poor behaviour or not responding to low level sanctions.
- You should have a clear process in place for suspension and exclusion.
- You should ask the governing board whether it has a clear process in place for considering reinstatement following a suspension and/or exclusion.

The headteacher's power to exclude

Only the headteacher of a school can exclude a pupil and this must be on disciplinary grounds.

A decision to exclude a pupil 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.

Reasons that suspension or permanent exclusion might be considered

The reasons below are examples of the types of circumstances that may warrant a suspension or permanent exclusion.

- Physical assault against a pupil
- Physical assault against an adult
- Verbal abuse or threatening behaviour against a pupil
- Verbal abuse or threatening behaviour against an adult
- Use, or threat of use, of an offensive weapon or prohibited item that has been prohibited by a school's behaviour policy
- Bullying
- Racist abuse
- Abuse against sexual orientation or gender reassignment
- Abuse relating to disability

Suspension or permanent?

- A pupil may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently excluded.
- A suspension can also be for parts of the school day. For example, if a pupil's behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period.
- The (*new*) legal requirement to notify parents of all suspensions as well as permanent exclusions applies in all cases.

Off-site direction and managed moves

- Off-site direction is when a governing board of a maintained school requires a pupil to attend another education setting to improve their behaviour. The length of time a pupil spends in another mainstream school or AP and the reintegration plan must be kept under review by the governing body.
- A managed move is used to initiate a process which leads to the transfer of a pupil to another mainstream school permanently. Managed moves should be voluntary and agreed with all parties involved, including the parents and the admission authority of the new school. Managed moves should only occur when it is in the pupil's best interests.

The headteacher's duty to inform parties about an exclusion

- To ensure that a child receives the correct support and protection during a suspension or permanent exclusion, it is important that those responsible for their care are promptly informed when exclusions occur or there is a risk of them occurring.
- As well as communicating with the child where relevant throughout the exclusion process, the guidance sets out how and when schools should and must share information with parents, social workers, the Virtual School Head, the Local Authority, and governing boards.

The governing body's duty to consider an exclusion

- The governing body has a duty to consider parent's representations about a suspension or exclusion.
- The consideration of a suspension or permanent exclusion decision may be delegated to a designated sub-committee consisting of at least 3 governors.
- You may have collaborative arrangements with other governing bodies.

Discuss the current arrangements in your school

Guidance for governing boards on using data on suspensions and permanent exclusions

Governing boards should already be challenging and evaluating what their school's data is telling them about their school or academy trust. They should carefully consider the level of pupil moves and the characteristics of pupils who are moving on any permanent exclusions to ensure the sanction is only used when necessary, as a last resort. Governors should consider:

- the effectiveness and consistency in implementing the school's behaviour policy
- the school register and absence codes
- instances where pupils receive repeat suspensions
- interventions in place to support pupils at risk of suspension or permanent exclusion

The governing body - or sub-committee - must consider

The re-instatement of an excluded pupil within 15 school days of receiving notice of the exclusion if:

- The exclusion is permanent
- It is a suspension which would bring the total number of excluded days to more than 15 in a term; or
- The pupil will miss a public exam or national curriculum test.

Who attends the meeting? maintained schools and academies

In addition to the Clerk and the panel of Governors the following parties must be invited to the meeting and are allowed to make representations:

- Parents;
- The pupil if they are 18 years or over;
- The headteacher;
- A representative of the local authority – maintained schools and PRUs;
- The child's social worker (if they have one);
- The Virtual School Head if the child is Looked After

Holding meetings remotely

Governing board reinstatement meetings and IRPs can now be held via the use of remote access (for example, live video link) for suspension and permanent exclusions **if requested by the parents**, provided certain criteria are satisfied.

Where a parent does not request a remote meeting or does not state a wish either way, governing boards and arranging authorities must hold the meeting in person.

Social workers and VSHs must be allowed to join a meeting via the use of remote access , as long as the governing board (for a governing board meeting) or arranging authority (for an IRP) are satisfied that they will be able to participate effectively.

The agenda and paperwork for the Pupil Disciplinary Committee meeting

- The meeting must give all parties the chance to put forward their case and have their views properly heard.
- (Where possible) any written evidence should be circulated to all parties at least five school days in advance of the meeting.

What supporting papers might be attached to the agenda?

Tricky situation

- The parent has indicated that they will attend the meeting.
- On the day, they simply don't turn up.
- What should the Committee do?

Procedures

- The lay out of the meeting room
- Ensure that at the beginning of the meeting the Committee elects a Chair
- Ensure that Governors and school are seen to be separate before the meeting takes place
- Invite the parents, the excluded pupil, the Headteacher, and the LA Officer (and Virtual School head and social worker, if applicable) to join the meeting at the same time.
- Confirm that all parties have the same papers (sent out in advance), writing materials for notes and an agenda
- Ensure the meeting remains quorate throughout

Tricky situation

- During the meeting one of the parties tables an additional report.
- What should the Committee do?

Tricky situation

- At the beginning of the meeting, one of the Parent Governors says that she could have a conflict of interest as her child had serious issues with the excluded child.
- What should the Committee do?

Tricky situation

- One of the panel members' mobile phone rings during the hearing and he asks the panel not to wait for him while he takes the call outside. The chair continues with the hearing but the parent advisor objects.
- What should the Committee do?

Taking effective notes of the meeting

- The governing board (PDC) should ensure that clear minutes are taken of the meeting as a record of the evidence that was considered by the governing board.
- These minutes should be made available to all parties on request and the record of discussion should state clearly how the decisions have been reached.

The deliberation

In considering the exclusion, the Pupil Disciplinary Committee (PDC) should answer the following questions:

- Did the pupil do what is he / she has been accused of (in the balance of probabilities – i.e. to a high degree of probability)?
- Did the headteacher follow the correct procedure?
- Is that particular exclusion (in the circumstances outlined) an appropriate response?

In order to uphold a headteacher's decision, the PDC must be able to answer 'yes' to ALL of the above questions.

If the answer for any of them is 'no', the committee should consider overturning the exclusion.

Tricky situation

- Some of governors don't seem willing to consider all the evidence they have heard and, in your opinion, seem to be accepting the school's case rather too readily, saying that they trust the headteacher and don't want to upset the staff.
- What should you do?

The possible outcomes

In the light of their consideration, the governors can either:

- Decline to reinstate the pupil; or
- Direct reinstatement of the pupil immediately or on a particular date.

Following the meeting

- Following the meeting the governing body (usually via the clerk) must notify parents, the headteacher and the local authority of their decision, and the reasons for their decision, in writing and without delay.
- The parents must be notified of their right to appeal to an Independent Review Panel.
- The full Governing Body should be informed (at its next meeting) that the Pupil Discipline Committee has met and the outcome of the meeting recorded.

Following the meeting

- The minutes should be agreed by the Chair of the Committee.
- The minutes should be made available to all parties on request.
- The governing body should note the outcome of their consideration on the pupil's record, along with copies of relevant paperwork for future reference.
- The governing board must ensure that a pupil's name is removed from the school admission register if the parents do not plan to appeal to an IRP
- The Clerk should retain the notes of the meeting, in the event of an appeal by the parents.

The role of the Independent Review Panel

- The role of the panel is to review the governing body's decision not to reinstate a permanently excluded pupil. In reviewing the decision the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school.

Tricky situation

- The parent has decided to take the decision to uphold the exclusion to appeal.
- Following the meeting of the Independent Review Panel, the governing body has been directed to reconsider their decision.
- What must the governors do?

Next steps

As a result of this training, discuss what action(s) you need to take:

- As an individual governor
- The governing body as a whole

Additional guidance and further reading

- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement – statutory guidance for those with legal responsibilities in relation to exclusion *September 2023*
- Behaviour in Schools – advice for headteachers and school staff *July 2022*
- Behaviour and Discipline in schools – guidance for governing bodies *September 2015* (maintained schools)
- Preventing and tackling bullying – advice for headteachers, staff and governing bodies *July 2017*
- Screening, searching and confiscation *July 2022*
- Use of reasonable force *July 2013*
- Understanding and supporting behaviour *Autumn 2022*
ESCB/ECC guidance on the management of behaviour in Essex schools, including the use of physical contact and restrictive/non-restrictive physical intervention to address difficult and harmful behaviour.
- The School's own behaviour policy, and related policies, e.g. SEND