

Suspension/ Exclusion procedures

Children's & Adults' Services

Guidance for schools and governors

Based on "Improving behaviour and attendance: guidance on exclusion from schools and Pupil Referral Units" (September 2007),

Education Act 2002 (as amended by the Education Act 2011) and Statutory Instruments and reviewed to incorporate changes publicised in the (September 2008) version of the guidance and in "Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement - guidance 2022" (applies from 1 September 2022)

01/09/2022

Table of Contents

Suspension/ Exclusion procedures.....	1
This guidance and the DfE Exclusion/suspension guidance are companion pieces to:	
Behaviour in schools - GOV.UK (www.gov.uk)	4
Types of suspension/exclusion	4
Permanent exclusion	4
Suspension (fixed-term exclusion)	6
Reintegration meeting	7
Lunchtime suspension.....	7
Who can decide to suspend/exclude a pupil?	8
When is permanent exclusion appropriate?.....	8
When is permanent exclusion/suspension not appropriate?	8
Permanent exclusion/suspension procedures.....	8
Decision	8
Cancelling a permanent exclusion	9
Head teacher's suspension/permanent exclusion checklist.....	10
Notification of parents	11
Marking attendance registers following suspension/permanent exclusion	11
Groups with above average rates of exclusion.....	11
Pupils with disabilities and special educational needs, including those with an EHC Plan.	12
Update for September. 2022:	12
Headteacher's checklist for pupils with SEN / disability	13
Pupils with a Social Worker.....	14
Where a pupil with a social worker is at risk of permanent exclusion or suspension, the head teacher should inform the social worker, the Designated Safeguarding Lead and the parents, to involve them all as early as possible in relevant conversations.	14
Children in public care/Looked after Children (CLA)	14
Suspension/permanent exclusion procedure table	16
Providing secondary school pupil full-time education from day six of a permanent exclusion	17
Providing primary school pupil full-time education from day six of a permanent exclusion.	17
Governors reviewing data on exclusions and suspensions.....	18
Understanding your data: a guide for school governors and academy trustees - GOV.UK (www.gov.uk)	18
The governors review meeting	18
Purpose.....	18
The governing body	18
Clerk to the governors review meeting.....	18
Format	19
LA checklist for the governors' review meeting	20
(For permanent exclusions and long fixed-term suspensions)	20
GRM decision letter checklist	23
The Independent Review Panel	24
Clerk to the Independent Review Panel.....	25
SEN expert.....	25
Review panel procedure	25
The decision	26
Governors being asked / directed to reconsider.....	27

This document is a summary of that in the DfE guide “Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement - guidance 2022” and of “Improving behaviour and attendance: Guidance on Exclusion from Schools and Pupil Referral Units” (2008).

It is intended to outline exclusion procedures for school staff and any governors who may serve as members of the meeting to consider exclusions. The LA has also indicated details of its role and recommendations for good practice. The full text of the DfE’s guidance can be obtained via the DfE website.

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Draft: 10/1999, produced: 5/2000. Revised: 2/2001, 12/2001, 8/2002, 8/2003, 8/2004, 10/2006, 8/2007, 11/2011, 09/2012, 03/2013, 08/2013, 08/2014, 08/2015, 01/2016, 07/2017, 09/2021 and 09/2022

This guidance and the DfE Exclusion/suspension guidance are companion pieces to: [Behaviour in schools - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Types of suspension/exclusion

There are three types of suspension/exclusion that a school may use:

- Permanent exclusion – The pupil will not return to the school.
- Suspension – This is for a fixed-term of between 1 and 45 school days in length. No pupil may be suspended for more than a total of 45 school days in any one academic year.
- Lunchtime suspension – This is a form of suspension where the pupil is excluded from the school premises for one or more lunchtimes.

INFORMAL or UNOFFICIAL suspensions/permanent exclusions, such as sending pupils home ‘to cool off’, are unlawful, regardless of whether they occur with the agreement of parents or carers.

Any suspension/exclusion of a pupil, even for short periods of time, must be formally recorded.

Schools need to have policies, procedures and staff training in place that will promote good behaviour and prevent bad behaviour. Such behaviour policies need to be applied consistently and be widely publicised so that all pupils, school staff and parents are aware of the standards of behaviour expected of pupils, and the range of sanctions. The behaviour policy must indicate the types of behaviour/incidents that may lead to a suspension or permanent exclusion (or link to the school’s suspension/exclusion policy where there is a separate document).

A school’s behaviour policy may regulate pupils’ behaviour where the pupils are neither on school premises nor in the care of school staff, where it is reasonable to do so. The school’s behaviour policy should provide for the circumstances where the school may discipline pupils for inappropriate behaviour outside school.

Permanent exclusion

Permanent exclusion should usually only be used as a final step when a wide range of other strategies has been tried and failed. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the child.

There may be exceptional circumstances where, in the head teacher’s judgement, it is appropriate to permanently exclude a child for a first or ‘one off’ offence. These might include:

- Serious actual or threatened violence against another pupil or a member of staff.
- Sexual abuse or assault.
- Supplying an illegal drug.
- Carrying an offensive weapon.

Schools should consider whether to inform the police where such a criminal offence has taken place. They should also consider whether to inform other agencies, e.g., the Youth Offending Service, social workers etc.

These instances are not exhaustive but indicate the severity of such offences and the fact that behaviour can affect the discipline and wellbeing of the school community.

The LA must be informed of the exclusion within one school day (*Form EXP*), see also 6th school day provision flowchart on page 12/13. If the pupil lives outside the LA in which the school is located, the head teacher must also advise the 'home' LA of the exclusion so that they can decide for the pupil's full-time education from the 6th school day of the exclusion.

Days 1 to 5

The school must ensure that the parent is fully informed of their duties in the first five days of an exclusion and of the school day from which the pupil will be provided with suitable alternative education by the LA. During the first five school days, the school should send work home for the pupil to complete.

During the first 5 school days of a permanent exclusion, parents must ensure that the pupil is not present in a public place during school hours without reasonable justification. Parents can be prosecuted, or given a fixed penalty notice of £50 if they fail to do this. The pupil may also be removed from the public place by the police and taken to designated premises. *If the LA is advised that a parent has failed to comply with supervision requirements during the first 5 school days of a permanent exclusion, our School Attendance Service will take further action if, after enquiries / evidence gathering, the relevant officer decides that there are sufficient grounds on which to proceed.*

Day 6

The LA is statutorily responsible for ensuring that full-time provision is made for all permanently excluded Ealing resident pupils from the 6th school day of the exclusion. [Provision does not however have to be made for pupils in the final year of compulsory education who have already taken (or missed) their public examinations]. Schools must follow the procedure set out in the 6th school day provision flowchart on page 11/12 to enable the LA to perform its statutory duty.

Suspension (fixed-term exclusion)

Although the law allows for a head teacher to suspend a pupil for up to 45 days in a school year, suspensions should be for the shortest time necessary. Ofsted inspection evidence suggests that 1-3 days is often long enough to secure the benefits of suspension without adverse educational consequences. Where suspensions are not being effective in deterring poor behaviour, for example if they are being repeatedly imposed on a pupil in response to the same behaviour, head teachers should consider alternative strategies for addressing that behaviour.

The limit of 45 school days applies to the pupil not the institution therefore any days of suspension served by the pupil in any school or PRU in the same school year will count towards the total. If a pupil transfers to a new school during the academic year, records of any suspensions should therefore be transferred promptly to the new school.

A suspension does not have to be for a continuous period: e.g., a pupil may be attending school three days a week and a local further education college/ Primary Centre for the other two; so, a five-day suspension from the school could be for three days in one week and two days in the next week.

Days 1 to 5

The school must ensure that the parent is fully informed of their duties in the first five days of a suspension (and for suspensions of more than 5 school days, given details of the alternative provision to be provided by the school from day 6, along with details of any sanctions that may be imposed for non-attendance).

During the initial period of up to five school days, the parents of the suspended pupil must ensure that he or she is not present in a public place during normal school hours without reasonable justification. Parents are committing an offence and can be prosecuted, or given a fixed penalty notice of if they fail to do this. The pupil may also be removed from the public place by the police and taken to designated premises. *If the LA is advised that a parent has failed to comply with supervision*

requirements during the first 5 school days of a suspension, our School Attendance Service will take further action if, after enquiries / evidence gathering, the relevant officer decides that there are sufficient grounds on which to proceed.

The school must ensure that work is set for the pupil to complete during the first five school days of suspension and that it is marked, unless during that time the pupil will be attending alternative provision (arranged on a voluntary basis by the school).

Day 6

Where a pupil is given a suspension of six school days or longer, the school has a duty to arrange suitable full-time educational provision from and including the sixth school day of the suspension.

High schools are responsible for monitoring the pupil's attendance from the 6th school day of a suspension. Primary schools will be responsible for monitoring the pupil's attendance at the alternative provision from the 6th school day of a suspension, in conjunction with the LA's School Attendance Service. It is possible to prosecute for non-attendance from the 6th school day of a suspension, but we would advise schools to liaise with the LA's School Attendance Service in assessing the appropriateness of such a course of action.

The LA must be informed of the suspension without delay (*Form SUSP*). The notification form includes a space to inform us of the venue for and nature of provision arranged from day 6 of a suspension.

Reintegration meeting

Schools should support pupils to reintegrate successfully into school life and full-time education following a suspension. There should be a reintegration strategy that offers the pupil a fresh start; helps them understand the impact of their behaviour on themselves and others; teaches them to how meet the high expectations of behaviour in line with the school culture; fosters a renewed sense of belonging within the school community; and builds engagement with learning. The reintegration strategy should be clearly communicated at a reintegration meeting before or at the beginning of the pupil's return to school. During a reintegration meeting, the school should communicate to the pupil that they are valued, and their previous behaviour should not be seen as an obstacle to future success

It is important to note that a pupil should not be prevented from returning to a mainstream classroom if parents are unable or unwilling to attend a reintegration meeting. A suspension must not be extended if such a meeting cannot be arranged in time, or the parents do not attend.

Lunchtime suspension

Pupils whose behaviour at lunchtime is disruptive may be suspended from the school premises for the duration of the lunchtime period, this is a suspension counted as one half of a school day (1 session). The Secretary of State does not expect to see lunchtime suspension used for longer than a week, in the long run another strategy for dealing with the problem should be worked out. A lunchtime suspension for an indefinite period, like any other indefinite suspension, would not be lawful.

Considering the child's age and vulnerability, the head teacher should ensure that a parent/carer has been contacted and is available, if appropriate, to arrange collection and supervision of the pupil during the lunchtime suspension. Arrangements should be made for pupils who are entitled to free school meals, which may mean providing a packed lunch. The LA must be informed of the suspension without delay.

6th day provision

Schools are not required to provide full-time education from day six of a lunchtime suspension.

Who can decide to suspend/exclude a pupil?

Only a head teacher can suspend or permanently exclude a pupil (this includes an acting head teacher who has been appointed to carry out the functions of the head teacher in the head teacher's absence or pending the appointment of a head teacher).

When is permanent exclusion appropriate?

A decision to permanently exclude a pupil should only be taken in response to a situation that meets both parts of what is known as the 'two-fold test':

- in response to a serious breach or serious breaches of the behaviour policy; **and**
- where allowing the pupil to remain in the school would seriously harm the education or welfare of the pupil or others such as staff and pupils in the school.

When is permanent exclusion/suspension not appropriate?

It would not be appropriate to permanently exclude/suspend a pupil for minor incidents, poor academic performance, lateness/truancy, or pregnancy or to protect victims of bullying by sending them home. Permanent exclusion/suspension should also not be used for breaches of school rules on uniform/appearance unless these are persistent and in open defiance of such rules. Neither would it be appropriate to punish a pupil for the behaviour of their parents, for example, where parents refuse or are unable to attend a meeting.

Permanent exclusion/suspension should not be used if there are possible alternative solutions available. These could include:

- **Restorative justice**, enabling the offender to redress the harm that has been done to a 'victim'.
- **Mediation**, which may lead to a satisfactory outcome, particularly where there has been conflict between two parties.
- **Internal exclusion**, where the pupil is removed from class but not from the school premises. [Used for the shortest time possible and subject to review. Learning Support Units should not be used to provide internal seclusion].
- A **managed move**, whereby the school could ask another school to admit the pupil, if there is full knowledge and co-operation of all the parties involved (*see Ealing's Managed Move Protocol*).

Parents should never be pressured into removing their child from a school under threat of a permanent exclusion, nor should the pupil be removed from the school roll to encourage them to find another school place.

Permanent exclusion/suspension procedures

Head teachers should carefully follow the procedures set out in law and statutory guidance, which are designed to ensure fairness and openness in the handling of suspensions/ permanent exclusions.

Decision

A decision to suspend or permanently exclude should not be taken in the heat of the moment unless there is an immediate threat to the safety of others in the school or the pupil themselves. Before reaching a decision as to whether to suspend/permanently exclude the head teacher should:

- Ensure that a thorough investigation has been carried out.
- Consider all the evidence available to support the allegations, considering the school's behaviour and equal opportunities policies, and where applicable the Equality Act 2010 as amended.
- Be satisfied that, *on the balance of probabilities, the pupil did what he/she is alleged to have done.
- Allow and encourage the pupil to give their version of events.
- Check whether an incident may have been provoked, for example by bullying (including homophobic bullying) or by racial/sexual harassment.
- Consider whether the proposed sanction is proportionate and considering the treatment of any others involved in the incident.
- Consult others if necessary (being careful not to involve anyone who may later take part in the statutory review of their decision e.g., a member of the Governors Review Meeting).
- Keep a written record of the actions taken (and copies of written records made by other members of staff), including any interview with the pupil concerned. Witness statements must be dated and should be signed, wherever possible.
- Be satisfied that the decision to suspend/permanently exclude the pupil was lawful, reasonable, and procedurally fair, taking account of their legal duties.

*The civil standard of proof i.e. is it more likely than not that a fact is true.

Cancelling a permanent exclusion

A head teacher may choose to cancel a permanent exclusion at any time prior to it being reviewed by the governors.

Cancelling exclusions

A head teacher may cancel an exclusion that has already begun, but this can only be done where it has not yet been reviewed by the governing board.

Where an exclusion is cancelled, then:

- Parents, the governing board, and the LA should be notified without delay and, if relevant, the social worker and VSH.
- Parents should be offered the opportunity to meet with the headteacher to discuss the circumstances that led to the exclusion being cancelled.
- Schools should report to the governing board once per term on the number of exclusions which have been cancelled. This should include the circumstances and reasons for the cancellation enabling governing boards to have appropriate oversight and.
- The pupil should be allowed back into school.

Head teacher's suspension/permanent exclusion checklist

	Yes	No
On the balance of probabilities, did the pupil do it?		
Does the incident represent a serious breach of the school behaviour policy / the final straw incident in a series of breaches of the behaviour policy?		
Does the pupil's presence seriously harm the education/welfare of the pupil or other pupils and staff in the school?		
Is suspension/permanent exclusion the appropriate response? Factors to Consider <ul style="list-style-type: none"> • Decision to suspend/exclude not taken in the heat of the moment • A thorough investigation has been carried out • Evidence has been considered in light of policies • The pupil's views have been encouraged, heard, and recorded • Mitigating circumstances and provocation (bullying etc.) have been considered • Appropriate wider consultation has been considered 		
Has there been involvement from specialist teachers (SEND) or (primary schools only) Primary Behaviour Service or an Educational Psychologist?		
Has a pastoral support programme been tried?		
Have alternatives to suspension/permanent exclusion been considered (e.g., restorative justice, mediation, internal exclusion, school to school managed move)?		
Special Considerations		
Does this pupil have an Education Health Care Plan [EHCP]? If so: <ul style="list-style-type: none"> • Have you contacted the special needs officer? • Has an emergency annual review been called? 		
Is this pupil currently a child in the care of the Local Authority? If so, have you contacted the Head of the Virtual School and Social Worker?		
Is this pupil subject to Child Protection procedures or a Child in Need? If so, have you spoken to the Social Worker?		
Have issues of SEN, disability, race, and care been fully considered? <i>See separate check list for considerations around the suspension/exclusion of children with SEN/disability</i>		
Has the appropriate length of suspension been considered?		

Notification of parents

Whenever a head teacher suspends/permanently excludes a pupil, they must notify the parent without delay, ideally by telephone/face to face followed by written notification.

All suspension/permanent exclusion cases should be treated in the strictest confidence, only those who need to know the details should be informed of them.

Where a parent does not speak or have a good understanding of English, the school should arrange for all correspondence and documentation to be translated. *If required, the school should arrange for an interpreter to be present at any meetings with the parent about the suspension/ permanent exclusion, including the Governors Review Meeting.*

In exceptional cases, usually where further evidence has come to light, a suspension [given 'pending further investigation'] may be extended, or a permanent exclusion issued immediately following the end of the suspension 'pending investigation', a second letter should be sent to the parents explaining the reasons for the extension/change.

Please refer to the suspension/permanent exclusion procedure table on page 10 and the model letters in appendix 1 for further details. The model letters have been changed in line with the revised guidance. It is vital that the school can prove the parent has been notified of their responsibilities for days 1-5 and 6+. The information on Section 103 [2] of the Education and Inspections Act 2006 which has been incorporated into the model letters must therefore be included in your notification letter in full.

Day 6

In the case of a suspension of >5 days, the parent must be informed of arrangements for 6th day provision, in writing at least 48 hours before the provision is to commence.

Marking attendance registers following suspension/permanent exclusion

Where pupils are suspended and no alternative provision is made before the sixth day of the suspension for them to continue their education, they should be marked absent in the attendance register using Code E. Where alternative provision is made, and it meets the requirements of the pupil registration regulations and pupils attend it, they should be marked using the appropriate attendance code, such as Code B (Education Off-site) or Code D (Dual Registration).

Pupils who are permanently excluded and for whom no alternative provision is made before the sixth day, should be marked by the school as absent using Code E, the pupil may not be taken off-roll until the Independent Review process has been completed (or the parent has written to confirm no Independent Review will be requested, whichever date is the sooner).

Groups with above average rates of exclusion

There are longstanding national trends which show that particular groups of children are more likely to be excluded from school, both for a suspension or permanent exclusion. The factors will differ for each child, and the influence of out-of-school factors will vary according to local context, so it is important that schools, local authorities and local partners work together to understand what lies behind local trends. Local leaders will be best placed to effectively plan and put in place additional and targeted action based on their own context. If they

identify any gaps, they are also in the position to act to ensure those who work with children have the training, services and support they need to address these. In addition to approaches on early intervention, head teachers should consider what extra support might be needed to identify and address the needs of pupils to reduce their risk of permanent exclusion.

Pupils with disabilities and special educational needs, including those with an EHC Plan.

The Equality Act 2010 requires schools to make reasonable adjustments for disabled pupils. This duty can, in principle, apply both to the suspensions and permanent exclusions process and to the disciplinary sanctions imposed. Under the Children and Families Act 2014, governing boards of relevant settings³⁰ must use their 'best endeavours' to ensure the appropriate special educational provision is made for pupils with SEN, which will include any support in relation to behaviour management that they need because of their SEN.

Where a school has concerns about the behaviour, or risk of suspension and permanent exclusion, of a pupil with SEN, a disability or an EHC plan it should, in partnership with others (including where relevant, the local authority), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEN or disability.

Where a pupil has an EHC plan, schools should contact the local authority 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. For those with SEN but without an EHC plan, the school should review, with external specialists as appropriate, whether the current support arrangements are appropriate and what changes may be required. This may provide a point for schools to request an EHC assessment or a review of the pupil's current package of support.

Update for September. 2022:

The option of withdrawing / rescinding a permanent exclusion before the governors meeting (based on SEND-arranged interim alternative provision) is no longer available to head teachers. A permanent exclusion can be "cancelled" prior to the governors meeting; however, guidance requires that the pupil returns to school. (See section on 'Cancelling a Permanent Exclusion' (pg. 9)

Headteacher's checklist for pupils with SEN / disability

	Yes	No
<p>Does the pupil have an EHC Plan?</p> <ul style="list-style-type: none"> • Has the Special Needs Officer been contacted? • Has an emergency annual review been called? <p>Not all pupils with EHC Plans will have a disability but there is a significant overlap.</p>		
<p>Is this pupil on the register as SEN K (school support)?</p> <p>Has extra assistance from the LA been explored?</p>		
<p>Does the pupil have a disability?</p> <p>For example, do they have a mental or physical impairment which has a substantial, adverse effect on their ability to carry out normal day to day activities?</p> <p>In law "substantial" means more than minor or trivial</p> <p>In law "long term" means at least a year</p> <p>"Disability" includes physical disabilities, speech and language needs, memory, and ability to concentrate, perception of the risk of danger when these are adverse, long term and substantial.</p>		
<p>Has the pupil been treated less favourably?</p> <p>Would a pupil without a disability have been dealt with in the same way?</p> <p>You will need to consider:</p> <ul style="list-style-type: none"> • What is less favourable treatment? • What is the reason for less favourable treatment? • Is the reason directly related to their disability? • Can less favourable treatment be justified? • Is the justification material and substantial? 		
<p>Have reasonable adjustments been made for this pupil?</p> <p>You will need to consider:</p> <ul style="list-style-type: none"> • Would failure to make reasonable adjustments place the pupil at a substantial disadvantage? • Could the need to make reasonable adjustments have been anticipated? • Has the school reviewed policies, practices, and procedures (continuing responsibility)? • Does reasonable adjustment involve removal/alteration of physical features? • Does reasonable adjustment involve provision of auxiliary aids/services (SEN framework)? • Have relevant factors been explored and balanced? <ul style="list-style-type: none"> ▪ Need to maintain standards? ▪ Financial resources available? ▪ Cost of taking step. ▪ Extent to which it is practical to take step. ▪ Extent to which auxiliary aid/services will be provided under SEN framework? ▪ Health and safety requirements? ▪ Interests of other pupils/prospective pupils? ▪ Could the school have been reasonably expected to know about the disability (confidentiality; lack of knowledge)? ▪ Can actions or omissions be materially and substantially justified? 		

Pupils with a Social Worker

Where a pupil with a social worker is at risk of permanent exclusion or suspension, the head teacher should inform the social worker, the Designated Safeguarding Lead and the parents, to involve them all as early as possible in relevant conversations.

Children in public care/Looked after Children (CLA)

Schools should be especially sensitive to suspension/exclusion issues where children in public care are concerned.

Where a looked after child (CLA) is at risk of suspension or permanent exclusion, the DT (Designated Teacher) should inform the local authority's VSH as soon as possible to work together to consider what additional assessment/support needs to be put in place to help the school address the factors affecting the child's behaviour and reduce the need for suspension or permanent exclusion. Where relevant, the school should also engage with a child's social worker, foster carers, or children's home workers.

Previously Looked after Children

Where previously looked-after children face the risk of being suspended or permanently excluded, the school should engage with the child's parents and the school's DT. The school may also seek the advice of the VSH on strategies to support the pupil.

Day 6

Whilst the statutory duty on governing boards or local authorities is to arrange full-time education from the sixth day of a suspension or permanent exclusion, there is an obvious benefit to the pupil in starting this provision as soon as possible. In the case of a looked-after child or child with a social worker, the school and the local authority should work together to arrange alternative provision from the first day following the suspension or permanent exclusion.

Suspension/permanent exclusion procedure table

Type	Notify parent/carers	Notify LA and governors	Governors to meet	Decisions open to the governors	Notification of outcome of GRM
Permanent	Immediately by phone, & letter within one school day. Model Letter 4	Immediately copy of letter and SUSP form	Between 6 th & 15 th school day after receiving notice of the exclusion.	Direct reinstatement immediately or by a particular date or decline to reinstate.	In writing within 5 school day of the hearing. Relevant paperwork should be recorded in the pupil's file for future reference. Model Letter 8
Suspension resulting in a pupil missing a public examination	Immediately by phone, followed by a letter within one school day. Model Letter 2	As above	**Governors should try to meet before the date of the exam and by the 15 th school day after receiving notice of the suspension.	Direct reinstatement immediately or by a particular date (where practical) or decline to reinstate.	In writing within 5 school day of the hearing. Relevant paperwork should be recorded in the pupil's file for future reference.
Suspension: > 15 days in a term	Immediately by phone, followed by a letter within one school day. Model Letter 3	As above	Between 6 th and 15 th school day after receiving notice of the suspension.	Direct reinstatement immediately or by a particular date (where practical) or decline to reinstate.	In writing within 5 school day of the hearing. Relevant paperwork should be recorded in the pupil's file for future reference.
Suspension: > 5 but not more than 15 days in a term	Immediately by phone, followed by a letter within one school day. Model Letter 2	As above	Only if the parent/carers requests a meeting must the governors then meet to consider representations within 50 school days of receiving notice of the suspension.	Direct reinstatement immediately or by a particular date (where practical) or decline to reinstate.	In writing within 5 school day of the hearing. Relevant paperwork should be recorded in the pupil's file for future reference.
Suspension: 5 days or fewer in a term	Immediately by phone, followed by a letter within one school day. Model Letter 1	As above	If the parent submits representations, the governors must consider them. Governors can agree to a meeting if the parent/carers wants to meet but no meeting is required.	Governors cannot direct reinstatement.	Although no time limit applies, governors should respond promptly to any representations from the parent. Relevant paperwork and response should be recorded in the pupil's file for future reference.
Suspension: Pending investigation	Model letter 6	As above	As above	As above	As above
Lunchtime	Model letter 7	As above	Refer to relevant section depending on session number	Refer to relevant section depending on session number	Refer to relevant section depending on session number

*Where the pupil resides out borough, the 'home' LA must also be informed (see model letter 5)

****If the Chair decides it is impractical for the governors to meet before the pupil is due to sit the examination, the Chair can consider the suspension/exclusion alone (or in the case of an academy, a smaller sub-committee if the trust's articles of association allow them to do so. This is the only circumstance in which a Chair can sit alone to review a suspension/permanent exclusion.**

Providing secondary school pupil full-time education from day six of a permanent exclusion

Day 1

- School completes the EXP form and emails it to the Exclusions Team.
- The Exclusions team forwards the EXP form to the Head Teacher of EAP.
- EAP makes contact by telephone and arranges an interview with the family between Day 2 – 5
- EAP sends an Assessment Information Pack to the family

Days 1-5

- The school completes the Pupil Information Form (PIF) and emails to EAP
- EAP checks the family has been contacted and has received an information pack

Day 5

- EAP Assessment Centre staff make preparation to receive the pupil on Day 6
- School (with SIMS) completes a Common Transfer File (CTF) to EAP

Day 6

The pupil arrives at the EAP Assessment Centre to start a full-time programme

Providing primary school pupil full-time education from day six of a permanent exclusion

Day 1

- School completes the EXP form and emails it to the Exclusions Team.
- The Exclusions Team forwards the EXP form to the Primary Centre Manager
- The Primary Centre makes contact by telephone and arranges an intake meeting with the family between Day 2 – 5
- The Primary Centre writes to the family to confirm the appointment

Day 2

The school begins to complete the referral form in consultation with the Primary Behaviour Service [PBS] Outreach Team worker (to be completed by Day 5)

Day 3

The school gathers data and continues to complete the referral form

Day 4

- The school gathers data and continues to complete the referral form
- The Primary Centre Manager checks that family is aware of the intake meeting and checks arrangements for both arrival and collection, including transport

Day 5

- The school emails the completed referral form to the Primary Centre Manager
- The Primary Centre prepares to receive the pupil on Day 6

Day 6

- The pupil arrives at the Primary Centre to start statutory provision
- The Primary Centre administrator emails the Principal Exclusions Officer to confirm the start date.

Governors reviewing data on exclusions and suspensions

Governing boards should be challenging and evaluating what their school's data is telling them, looking at the level of pupil moves and the characteristics of pupils who are permanently excluded, to ensure the sanction is used only when necessary, as a last resort. For example, instances of pupils receiving repeat suspensions or if high numbers of children with SEND are moving, the school, academy or trust may wish to consider reviewing its SEN support.

[Understanding your data: a guide for school governors and academy trustees - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

The governors review meeting

Purpose

The governing body is responsible for reviewing the head teacher's decision to exclude a pupil permanently or for a long suspension and deciding whether to direct re-instatement, where that is a practical option. The governing body is also responsible for considering any representations made by the parents of suspended pupils following shorter suspensions.

The governing body

The governing body can delegate some or all its functions in respect of suspensions/exclusions to a subgroup of governors who would be available to participate in Governors Review Meetings. A minimum of three governors are required for a Governors Review Meeting to take place.

The governing body may wish to nominate a larger pool of governors to draw from in view of the strict deadlines within which Governors Review Meetings must be held.

Any governor with a connection to the pupil, or knowledge of the incident that led to the suspension/permanent exclusion that could affect their ability to act impartially, should not serve at the hearing.

It is very important that governors called upon to review suspensions/permanent exclusions receive training reflecting the most recent guidance, to equip them to discharge their duties properly.

Clerk to the governors review meeting

The governing body should appoint a Clerk to provide advice on the suspension/permanent exclusions process and cover the administrative arrangements of the meeting. This could be the Clerk to the whole governing body or a member of the school's administration team.

It is the duty of the Clerk to set up the Governors Review Meeting when notification of a permanent exclusion or any suspension totalling over 15 days in a term is received from the head teacher or when representations are received from the parent. The Clerk is required to set up the meeting within the prescribed timescales. Governors must invite the parents, head teacher and an LA Officer to the meeting at a time and place convenient to all parties

The LA asks that the Exclusions team is contacted within one school day of a decision to permanently exclude a pupil, so that possible times for the meeting can be identified and kept free.

The LA advises that all papers relating to the case are circulated at least five working days before the meeting to allow all parties the opportunity to acquaint themselves with the particulars of the case and give it their full consideration.

Papers circulated should include any written statements and a list of those who will be present at the meeting. *If there are serious concerns that there may be any repercussions for any of the witnesses, statements may be anonymised before being copied.*

Attendees:

- At least 3 governors nominated to conduct Governors Review Meetings, one of whom must act as Chair.
- The pupil (if he/she wishes and their parent agrees).
- The parent (and where requested a friend or representative).
- The pupil's social worker if they have one.
- The Virtual School Head if the pupil is CLA.
- The head teacher.
- The LA representative (*the LA representative will endeavour to attend Review meetings for all permanent exclusions*).
- The Clerk to the Governors Review Meeting.

The meeting should be as informal as possible, and the Chair should ensure that all parties are given sufficient time to fully state their case.

The LA representative:

The Local Authority representative advises the governors on the LA's view of the appropriateness of the permanent exclusion, *in particular relating to the guidance as set out by the DfE and to the local practices and support available* and reminds governors of areas to consider during their deliberations. The governors can ask the LA representative for advice and guidance, but they must make their decision alone.

Format

Chair introduces all parties, explaining the purpose and format of the meeting and possible outcomes. Detailed minutes must be taken by the Clerk, including during the decision-making phase.

School's case

- *Head teacher and other school staff explain why the decision to exclude was taken, the reasons, the investigation of the incident and any pupil support strategies, if relevant.*
- *Parent/Carer can ask questions of the school.*
- *The governors can ask questions of the school.*

Parent/Carer's case

- *Parent/Carer states their views on the exclusion and outlines any issues they feel the governors need to be aware of.*
- *The school can ask questions of the parent.*
- *The governors can ask questions of the parent.*
- *(The LA representative can ask questions to clarify facts at any stage).*

LA advice

- *The LA representative will present their advice and information.*

Summing up

- *The school sums up their case.*

- *The parent/carer sums up their case.*
- *The Chair of the Review meeting should establish with the head teacher and the parent/carer that they have had the opportunity to say all that they wanted to say.*

Reaching a decision

Governors should not get drawn into commenting during the hearing on the appropriateness or otherwise of actions taken by the school, pupil, or parent/carer. They must be seen to view the case fully and impartially and consider their position in private once the other parties have withdrawn.

All except the governors and the Clerk withdraw whilst the governors make their decision. The Clerk minutes the decision-making process.

Thought needs to be given as to whether the parents are asked to wait for a decision or to return home for notification by telephone. In any event the parents, school and LA should be informed of the decision either in person or by telephone on the day of the meeting, followed by a detailed 'outcome' letter as soon as possible after the meeting, clearly stating the reasons for the decision.

Please refer to the checklist on page 20/21 for detailed information on areas to consider when reaching a decision.

Next steps:

Where reinstatement is not practical, i.e., where the pupil has already returned to school at the end of a fixed-term exclusion, the outcome of the Governors Review Meeting should be added to the pupil's school record for future reference.

If the governors direct re-instatement the school should consider what additional support could be made available to help to ensure that the pupil is successfully re-integrated.

The governors cannot attach conditions to the re-instatement of a pupil, *when considering the date of reintegration, the LA recommends governors allow time for a reintegration plan to be put in place to support the pupil's return to school.*

In the case of permanent exclusions, the pupil remains on the school's roll until any Independent Review procedures have been completed, the deadline for Independent Review has passed or the parent has waived their right to such a review and informed the LA accordingly (whichever date is the sooner).

When reviewing an exclusion, governors should not interpret a parent's acceptance of full-time education off-site as signalling agreement with the head teacher's decision to exclude their child. Parents still have the right to make representations to the governing body and this right is not affected in any way by the requirement for suitable full-time provision to be made from the 6th school day of the exclusion.

LA checklist for the governors' review meeting

(For permanent exclusions and long fixed-term suspensions)

The governors must decide whether to re-instate or decline to re-instate the pupil. The meeting should be conducted, and the decision made in line with the procedures set out in the July 2022 version of the DfE exclusions guidance ("Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement - guidance 2022").

Firstly, governors should consider whether the situation meets both parts of the 'two-fold test': did the pupil do as is alleged **and** would allowing the pupil to remain in the school harm his/her education/welfare or that of other pupils and staff in the school?

The governors are reminded that if they do not decide to re-instate the pupil and the parent later requests an Independent Review Panel, the Panel will require the governors to justify their decision. Governors must:

- be able to clarify the grounds for the decision,
- have considered whether the head teacher's decision to exclude was legal, reasonable, and procedurally fair,
- be clear as to having considered relevant evidence, disregarded irrelevant evidence, and properly applied the law.

The following is a checklist of areas for the governors to consider when reaching their decision. (Not all areas will be applicable to every case).

The incident/s leading to exclusion

Governors should be clear that:

1. The exclusion is in response to a serious breach, or persistent breaches, of the school's behaviour policy **and** allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others such as staff or pupils in the school (Paragraph 11, DfE Guidance 2022)
2. Any incident relating to the exclusion has been investigated thoroughly by the head teacher and witness statements circulated.
3. The allegations were established against the pupil "on the balance of probabilities", i.e., is it more likely than not that a fact is true).
4. The severity of the incident warrants a permanent exclusion / this length of fixed-term exclusion.
5. They considered whether the exclusion is a fair and proportional response and in relation to the treatment of any other pupils involved.

About the pupil

Governors should consider the pupil's background:

- Are there extenuating circumstances such as family situation, mental health concerns, bereavement, bullying etc?
- Does the pupil belong to a group with disproportionately high levels of exclusion either locally or nationally or
 - Special Educational Needs (SEN)
 - Looked After Child (LAC)

If so, governors should carefully consider what specific strategies and support the school has put in place.

About the school's previous strategies

- What other strategies and sanctions has the school tried before exclusion?
- Have they consulted other professionals and agencies in providing support (if appropriate)?
- Has the school kept the parent/carer fully informed of any concerns and involved them in any support strategies? Are the parents/carers aware of the school's expectation of pupil's behaviour?

In addition, for long fixed-term exclusions:

- Why did the head teacher decide on this number of days, and is it justified?
- How is the school using the time during the exclusion to address the pupil's problems?
- What educational arrangements have the school set up to support the pupil's re-integration?

GRM decision letter checklist

The Clerk must take detailed minutes of the governor's review meeting (GRM) and must remain with the governors and minute the decision-making process. The minutes must be made available to all parties on request and should form part of the school's paperwork if the parent requests a review of the decision.

The LA has provided a template (see appendix 1) the Clerk should work with the Chair to prepare the outcome letter. The letter must give detailed reasons for the decision so that the parent can make an informed choice whether to request a review. The letter must also include a summary of all the factors considered and of points submitted by each party.

If a review is requested, the panel will expect the governors, to explain how and why the decision was reached. It is important that the reasons for the decision are clear and comprehensively stated because the governors are not allowed to introduce new reasons for their decision at the Independent Review Panel.

The decision-making process must be clearly documented not least because the guidance allows the Independent Review Panel to direct / ask governors to reconsider the decision in certain circumstances.

The letter must clearly demonstrate what the governors considered, debated, and concluded when reviewing the exclusion and in each of the following areas:

The governor's decision

Ensure that the outcome of the meeting is clearly stated and that the letter makes clear and detailed reference to each item of evidence governors considered and the decision(s) reached in relation to each, covering submissions from all parties.

Paragraph 11 of the DfE guidance

Has the two-fold test been met?

Was the permanent exclusion in response to a serious breach, or persistent breaches, of the school's behaviour policy; **and** will allowing the pupil to remain in school seriously harm the education or welfare of the pupil or others such as staff or pupils in the school?

The incident

Have the governors established whether it is more likely than not that the incident took place as described by the school i.e., 'on the balance of probabilities' (rather than the criminal standard of 'beyond reasonable doubt')?

Does the severity of the incident or the nature of the pupil's behaviour, warrant a permanent exclusion?

Did the governors consider proportionality and fairness of the exclusion and in relation to the treatment of any other pupils involved in the same incident?

Pupil's background

Were there any extenuating circumstances such as family difficulties, mental health concerns, bereavement, bullying etc.?

Does the pupil belong to a group with disproportionately high levels of exclusion either locally or nationally or

- Special Educational Needs (SEN)
- Looked After Child (LAC)

If so, was appropriate and sufficient support in place? Were all relevant policies available for consideration and did the school apply those policies legally, appropriately, and fairly in relation to the pupil concerned?

We appreciate that the above may be seen to add considerably to the time taken to conduct the meeting and document the outcome but clarity at this stage is in the best interests of all parties.

The Independent Review Panel

Purpose

If the parents of a permanently excluded pupil wish to challenge the decision of the governors, they may request an independent hearing. Details of how to do this and relevant timescales will have been included in the governors' letter to parents following the Governors Review Meeting. Requests for review received after the deadline cannot be accepted.

The purpose of the Independent Review 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.

The panel should apply the following tests

- Whether the head teacher / governors acted outside their legal powers
- Whether the governing body's decision was not one a sensible person would make
- Was the exclusion process so unfair / flawed that justice was not done
- Where these tests have not been met the panel can quash the decision and direct governors to reconsider
- Where they have been met but where evidential / procedural flaws are identified, the panel can ask governors to reconsider
- In all other cases the panel should uphold the exclusion

Membership

The Council is responsible for maintaining a list of suitable Review Panel members and ensuring that they receive training. There will be 3 members on each Review Panel, made up of:

- The Chair, who must be a lay member (someone who has not worked in a school in a paid capacity).
- One member, who must be or have been, a governor of a maintained school for at least 12 consecutive months in the last 6 years (they must not be or have been in the last 5 years a teacher or head teacher).
- One member, who must be or have been within the last 5 years a head teacher at a maintained school.

Where possible, governor and head teacher panel members should have experience of the relevant phase of education e.g., secondary education for those considering secondary school exclusions.

Clerk to the Independent Review Panel

The Review Panel is set up by the Council but is independent from the Education Department and the school. The Democratic Services team makes all the arrangements for Review Panels.

Once notified of a request for a Review Panel by the parents the Clerk will arrange for the Panel to meet within 15 school days, taking reasonable steps to find out when the parents and other parties are available to ensure that all parties are able to attend. The Clerk serves as an independent source of advice on procedures for all parties. If necessary, the Panel may meet and then decide to adjourn the hearing, having regard to the circumstances of the case.

The Clerk will make all written evidence available to all parties five working days before the hearing. Taking account of the circumstances of each case, the Clerk will notify all parties of the deadline for submission of written representations.

SEN expert

The guidance allows the parents to request that an SEN expert be present at the Independent Review Panel meeting (such a request must be made at the same time as the parent requests the review), regardless of whether the pupil is recognised as having special educational needs. The SEN expert's roles are analogous to that of an 'expert witness' in a court setting, providing impartial advice to the panel on how special educational needs might be relevant to the exclusion. The SEN expert should base their advice on the evidence provided to the panel.

The SEN expert's role does not include assessing the pupil's special educational needs. The SEN expert's advice should focus on whether the school's policies about SEN, or the application of these policies in relation to the excluded pupil, were legal, reasonable, and procedurally fair. If the SEN expert believes that this was not the case, he / she should, where possible, advise the panel on the possible contribution that this could have made to the circumstances of the pupil's exclusion.

Where the school does not recognise that a pupil has SEN, the SEN expert should advise the panel on whether he / she believes the school acted in a legal, reasonable, and procedurally fair way with respect to the identification of any special educational needs that the pupil may potentially have, and any contribution that this could have made to the circumstances of the pupil's exclusion. The SEN expert should not criticise a school's policies or actions simply because he / she believes a different approach should have been followed or because another school might have taken a different approach.

Review panel procedure

The following people are entitled to attend the Review Panel:

- The parents, who may be represented or accompanied by a legal or other representative (if more than one friend or representative wishes to attend, the Clerk should seek the Panel's agreement in advance, having regard to reasonable limit on numbers attending the hearing).
- The pupil should normally be allowed to attend the hearing and speak on their own behalf (if he or she wishes to do so, and the parent agrees). If the pupil does attend, the Panel should be sensitive to their needs and ensure their view is properly heard. (If the pupil is under 18, they cannot present their own case).
- The head teacher.
- A governor, who may be represented by a legal or other representative.
- A representative of the LA.
- SEN expert.

Witnesses may be called if they have witnessed the incident or behaviour or investigated the incident and interviewed the pupil, but they cannot be compelled to attend. It is not usual for pupil witnesses to attend, and they should usually submit their written statements instead.

The Clerk must give all parties details of those attending and their role and notify them of the order of the hearing. *(Further details will be sent to the parties involved by the Clerk to the Review Panel when a hearing is arranged).*

The Review Panel will normally be held in Ealing Town Hall. The length of the meeting may vary considerably depending on the complexity of the case and the number of witnesses being called however the meeting would not usually be expected to last more than half a day.

All parties may put forward new evidence about the event that led to the exclusion, including evidence that was not available to the head teacher or the governors. However, the school cannot introduce new reasons for the exclusion, nor can the governors introduce new reasons for their decision not to reinstate the pupil.

Where the school's case rests largely or solely on physical evidence and the facts are in dispute, the school should make any physical evidence available. Where this is not possible, photographs or signed witness statements are acceptable.

In exceptional cases the Review Panel may decide to adjourn an appeal. The Clerk will ensure that no part of the proceedings takes place unless all Panel members and interested parties are present.

The decision

The Clerk may remain with the Panel members when the parties withdraw to offer advice on the procedure or law, helping by reference to notes of evidence and recording decisions and the reasons for them.

The Review Panel must decide on the balance of probabilities (i.e., the civil standard of proof rather than the criminal standard of 'beyond reasonable doubt'), whether the pupil did what he or she is alleged to have done. If more than one incident of misconduct is alleged, the panel should decide in relation to each one.

The IRP can only consider any evidence that was available to the governors at the time of their decision not to reinstate – the 2017 guidance clarifies that this would include any evidence that the panel considers would, or should, have been available to the governors and that they ought to have considered had they been acting reasonably.

The panel should consider the basis of the head teacher's decision and the procedures followed having regard to:

- Whether the head teacher and governors complied with the law and had regard to the Secretary of State's guidance and in particular the two-fold test in paragraph 11, which states that the exclusion must be in response to a serious breach, or persistent breaches, of the school's behaviour policy **and** that allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.
- The school's published policies on behaviour, equal opportunities, Special Educational Needs, race equality and, if appropriate, anti-bullying policy.
- The fairness of the exclusion in relation to the treatment of any other pupil involved in the same incident.

Following its review, the panel 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

The panel should apply the following tests

- Whether the head teacher / governors acted outside their legal powers
- Whether the governing body's decision was not one a sensible person would make
- Was the exclusion process so unfair / flawed that justice was not done
 - Where these tests have not been met the panel can quash the decision and direct governors to reconsider
 - Where they have been met but where evidence / procedural flaws are identified, the panel can ask governors to reconsider
 - In all other cases the panel should uphold the exclusion

An independent review panel does not have the power to direct a governing body to reinstate an excluded pupil. However, where a panel decides that a governing body's decision is flawed when considered in the light of the principles applicable on an application for judicial review, it can direct a governing body to reconsider its decision. If the governing body does not subsequently offer to reinstate a pupil, the panel will be expected to order that the school makes an additional payment of £4,000. This payment will go to the local authority towards the costs of providing alternative provision.

The decision of the Review Panel (and the grounds on which it is made) will be communicated in writing to all parties involved as soon as is practicable, *and usually by telephone within one day of the meeting.*

Governors being asked / directed to reconsider

If the Review Panel either asks or directs the governors to reconsider their decision, the 3 governors must meet to reconsider within 10 school days of such notification. It is important that the governing body conscientiously reconsiders whether the pupil should be reinstated, whether the panel has directed or merely recommended it to do so.

Whilst the governing body may still reach the same conclusion as it first did, it may face challenge in the courts if it refuses to reinstate the pupil without strong justification. The governors must notify all parties of their reconsidered decision and the reasons for it, in writing and without delay.

The reconsideration provides an opportunity for the governing body to look afresh at the question of reinstating the pupil, considering the findings of the independent review panel. There is no requirement to seek further representations from other parties or to invite them to the reconsideration meeting.

The governing board is not prevented from considering other matters that it considers relevant. It should, however, take care to ensure that any additional information does not make the decision unlawful. This could be the case, for example, where new evidence is presented, or information is considered that is irrelevant to the decision at hand.

The governing body should base its reconsideration on the presumption that a pupil will return to the school if reinstated, regardless of any stated intentions by the parents or pupil. Any decision of a governing body to offer reinstatement which is

subsequently turned down by the parents should be recorded on the pupil's educational record. The governing body's decision should demonstrate how they have addressed the concerns raised by the independent review panel; this should be communicated in plain English for all parties to understand.

Financial penalty

If, having been directed to reconsider their decision the governors do not reinstate the pupil, the Review Panel will order a readjustment to the school's budget in the amount of £4,000. (Academies will be required to pay the Local Authority), this amount is in addition to the usual pro-rata AWPU amount for 'money following' the excluded pupil and in Ealing will be used towards the cost of 6th day provision, in the first instance with any remaining to accompany the pupil if he/she is subsequently reintegrated to another Ealing school.