**Suspension and Permanent Exclusion Guidance 2023 A Summary for Schools**

For the vast majority of pupils, suspensions and permanent exclusions may not be necessary, as other strategies can manage their behaviour. If these 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 can work in safety and are respected.

The guidance has been updated to be a companion piece to the Behaviour in Schools guidance, which provides advice to headteachers, trust leaders and school staff on implementing a behaviour policy which creates a school culture with high expectations of behaviour. This means that this guidance should only be necessary when strategies, practices and interventions set out within the Behaviour in Schools guidance have not been successful in improving a pupil’s behaviour and the use of more significant interventions or sanctions are required.

The document below, provides a guide to the legislation that governs the suspension and permanent exclusion of pupils from all maintained schools (including special schools), pupil referral units (PRUs), academy schools (including free schools, special schools, studio schools and university technology colleges) and alternative provision academies (including alternative provision free schools) in England. It also includes the use of behavioural strategies such as managed moves and directing pupils off-site to improve their behaviour to help prevent a suspension or permanent exclusion.

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1162401/Suspension_and_permanent_exclusion_guidance_May_2023.pdf>

**The guidance details the legal responsibilities for those who suspend (fixed period exclusion) and permanently exclude pupils from educational settings, including:**

* Headteachers
* local authorities
* governing bodies
* academy trusts
* independent review panel members
* independent review panel clerks
* special educational needs experts

It governs the exclusion of pupils from:

* local-authority-maintained schools
* academies and free schools
* pupil referral units

Statutory guidance sets out what schools and local authorities must do to comply with the law.

## The headteacher’s powers to use exclusion

**Only the headteacher of a school can suspend or permanently exclude a pupil on disciplinary grounds. 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 pupil’s behaviour outside school can be considered grounds for a suspension or permanent exclusion. Any decision of a headteacher, including suspension or permanent exclusion, must be made in line with the principles of administrative law, i.e. that it is: lawful (with respect to the legislation relating directly to suspensions and permanent exclusions and a school’s wider legal duties); reasonable; fair; and proportionate.

**Suspension**

**A suspension, where a pupil is temporarily removed from the school, is an essential behaviour management tool that should be set out within a school’s behaviour policy.**

A pupil may be suspended for one or more fixed periods(up to a maximum of 45 school days in a single academic year). A suspension does not have to be for a continuous period.

The law does not allow for extending a suspension or ‘converting’ a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension may be issued to begin immediately after the first suspension ends; or a permanent exclusion may be issued immediately after the end of the suspension.

**Permanent exclusion**

**The 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 such as staff or pupils in the school.**

### **Cancelling exclusions**

**The headteacher can cancel any exclusion that has already begun (or one that has not yet begun), but this can only happen when the governing board has not yet met to consider whether the pupil should be reinstated. Where an exclusion is cancelled:**

* The headteacher must notify the parents, the governing board, the LA and the pupil’s social worker and VSH as applicable, without delay. The notification must also provide the reason for the cancellation;
* The governing board’s duty to consider reinstatementceases, and there is no requirement to hold a meeting to consider reinstatement;
* Parents (or the excluded pupil if they are 18 years or older) should be offered the opportunity to meet the headteacher to discuss the circumstances that led to the exclusion being cancelled which should be arranged without delay;
* The pupil must be allowed back into the school from which they were excluded without delay.
* Any days spent out of school as a result of any exclusion, prior to the cancellation will count towards the maximum of 45 school days permitted in any school year (see paragraph 6).

### **Setting a clear process for exclusions**

**Headteachers should consider the following, when setting a clear process for exclusions:**

* adopting a reliable method for monitoring the maximum 45 days permitted in a school year out of school due to exclusion, including suspensions received from other schools;
* ensuring there is a formal process for informing parents, social worker and VSH (where relevant), governing board and local authority, clearly setting out all reasons for the exclusion;
* providing up to date links to sources of impartial advice for parents;
* reintegrating pupils whose suspensions have ended or been cancelled and pupils whose permanent exclusions have been cancelled and supporting pupils’ future behaviour;
* ensuring a formal process for arranging, at short notice, suitable full-time alternative education for pupils receiving suspensions over five school days.

## Reasons and recording exclusions

**The government trusts headteachers to use their professional judgement based on the individual circumstances of the case when considering whether to exclude a pupil. 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

## Off-rolling and unlawful exclusions

Telling or forcing a pupil to leave school, or not allowing them to attend school, is a suspension (if temporary) or permanent exclusion (if permanent). Whenever a pupil is made to leave school, or forbidden from attending school, on disciplinary grounds, this must be done in accordance with the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 and with regard to relevant parts of this guidance.

**Preventative measures to school exclusion**

In addition to the strategies set out regarding initial intervention (this can be found on page 29 of the Behaviour in Schools guidance), headteachers should also consider the following: a) an off-site direction (temporary measure that maintained schools and academies for similar purposes can use) or b) managed moves (permanent measure) as preventative measures to exclusion.

Any use of alternative provision should be based on an understanding of the support a child or young person needs in order to improve their behaviour, as well as any SEND or health needs. Off-site direction may only be used as a way to improve future behaviour and not as a sanction or punishment for past misconduct. Off-site direction should only be used where in school interventions and/or outreach have been unsuccessful or are deemed inappropriate and should only be used to arrange a temporary stay in AP.

**Pupils with disabilities and Special Educational Needs (SEN) including those with Education, Health and Care plans (EHC plans)**

**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 settings must use their ‘best endeavors’ 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.

**Pupils who have a social worker, including looked-after children, and previously looked-after children**

**Where a pupil has a social worker**, e.g. because they are the subject of a Child in Need Plan or a Child Protection Plan, and they are at risk of suspension or permanent exclusion, the headteacher should inform their social worker, the Designated Safeguarding Lead (DSL) and the pupil’s parents to involve them all as early as possible in relevant conversations.

**Where a looked-after child (LAC)** is likely to be subject to a suspension or permanent exclusion, the Designated Teacher (DT) should contact the local authority’s VSH as soon as possible. The VSH, working with the DT and others, should consider what additional assessment and support need 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.

**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.

**Informing parents about an exclusion**

**Whenever a headteacher suspends or permanently excludes a pupil they must, without delay, notify parents or the excluded pupil (if they are 18 years or older) of the period of the suspension or permanent exclusion and the reason(s) for it.**

**Informing social workers and VSHs about an exclusion**

Information sharing is vital in safeguarding children and promoting their welfare, including their educational outcomes. Schools should be proactive in sharing information as early as possible to help identify, assess, and respond to risks or concerns about the safety and welfare of children. Keeping children safe in education and Working Together to Safeguard Children (2018) set out the requirements for schools and colleges about information sharing in more detail.

**Informing the governing board about an exclusion**

**The headteacher must, without delay, notify the governing board of:**

• any permanent exclusion (including where a suspension is followed by a decision to permanently exclude the pupil);

• any suspension or permanent exclusion which would result in the pupil being suspended or permanently excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and

• any suspension or permanent exclusion which would result in the pupil missing a public examination or national curriculum test

**Informing the local authority about an exclusion**

**The local authority must be informed without delay of all school exclusions regardless of the length of the exclusion.**

For a permanent exclusion, if the pupil lives outside the local authority area in which the school is located, the headteacher must also notify the pupil’s ‘home authority’ of the permanent exclusion and the reason(s) for it without delay. The headteacher must also inform the governing board once per term of any other suspensions of which they have not previously been notified.

**The governing board and local authority’s duties to arrange education for excluded pupils**

Governing boards and local authorities play an important role in ensuring that children who have been excluded from school receive a suitable education that facilitates their successful reintegration into education or meets their long term needs.

**The education of pupils prior to the sixth day of an exclusion**

It is important for schools to help minimise the disruption that suspension or permanent exclusion can cause to a pupil’s education. 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.

**The education of pupils from the sixth day of an exclusion**

**For a suspension of more than five school days**, the governing board (or local authority about a pupil suspended from a PRU) must arrange suitable full-time education for any pupil of compulsory school age. This provision is commonly called alternative provision and must begin no later than the sixth school day of the suspension. Where a child receives consecutive suspensions, these are regarded as a cumulative period of suspension for the purposes of this duty. This means that if a child has more than five consecutive school days of suspension, then education must be arranged for the sixth school day of suspension, regardless of whether this is because of one decision to suspend the pupil for the full period or multiple decisions to suspend the pupil for several periods in a row.

**For permanent exclusions**, the local authority must arrange suitable full-time education for the pupil to begin from the sixth school day after the first day the permanent exclusion took place. This will be the pupil's ‘home authority’ in cases where the school is in a different local authority area. The school should collaborate with the local authority when the pupil might be eligible for free home to school travel, arranged by the local authority, to the place where they will be receiving education.

**Guidance for governing boards on considering an excluded pupil’s reinstatement**

The governing board has a duty to consider parents’ representations about a suspension or permanent exclusion. The requirements on a governing board to consider the reinstatement of a suspended or permanently excluded pupil depend upon a number of factors.

See below a summary of the governing board’s duties to review the headteacher’s exclusion decision;

1.Is it a permanent exclusion?

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

If the answer is no, go to step 2.

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

If the answer is yes, the governing board must convene a meeting to consider reinstatement within 15 school days of receiving notice of the suspension. This includes suspensions that exceed 15 school days by less than a whole day, e.g. one that totals

15.5 days.

If the answer is no, go to step 3.

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

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

If the answer is no, go to step 4.

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

If the answer is yes, go to step 5.

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

5.Has the parent made representations?

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

**The governing board’s duty to consider an exclusion**

Governing boards have a key responsibility in considering whether excluded pupils should be reinstated. This forms part of their wider role to hold executive leaders to account for the lawful use of exclusion, in line with the duties set out in law, including equalities duties. Part 11 of this guidance (<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1162401/Suspension_and_permanent_exclusion_guidance_May_2023.pdf>) provides information about how governing board meetings can be held via the use of remote access (for example, live video link) if requested by a parent or due to extraordinary events or unforeseen circumstances.

**The following parties must be invited to a meeting of the governing board and allowed to make representations or share information:**

• parents (and, where requested, a representative or friend);

• the pupil if they are 18 years or older;

• the headteacher;

• a representative of the local authority (in the case of a maintained school or PRU)

• the child’s social worker if the pupil has one; and

• the VSH if the child is LAC.

**The governing board must make reasonable endeavours to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. Its decision will not be invalid simply on the grounds that it was not made within these time limits.**

**In the case of a suspension which does not bring the pupil's total number of days of suspension to more than five in a term, the governing board must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.**

**Guidance on considering the reinstatement of a suspended or permanently excluded pupil**

* The governing board should agree the steps they will take to ensure all parties will be supported to participate in its consideration and have their views heard. This is particularly important where pupils aged under 18 years old are speaking about their own suspension or permanent exclusion or giving evidence to the governing board.
* The governing board 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, which a clerk should be present for.
* The governing board should ask all parties to withdraw from the meeting before making a decision. Where present, a clerk should stay to help the governing board by reference to their notes of the meeting and with the wording of the decision letter.
* In reaching a decision on whether a pupil should be reinstated, the governing board should consider whether the decision to suspend or permanently exclude the pupil was lawful, reasonable, and procedurally fair. This should consider the welfare and safeguarding of the pupil and their peers, the headteacher’s legal duties, and any evidence that was presented to the governing board in relation to the decision to exclude.
* The governing board should note the outcome of its consideration on the pupil's educational record, and copies of relevant papers should be kept with the educational record.
* In cases where the governing board considers parents’ representations but does not reinstate the pupil, it should consider whether it would be appropriate to place a note of its findings on the pupil’s educational record.
* Claims of discrimination to the First-tier Tribunal (Special Educational Needs and Disability), in relation to disability, or County Court, for all other forms of discrimination, can be made up to six months after the discrimination is alleged to have occurred. Schools should retain records and evidence relating to an exclusion for at least six months in case such a claim is made.

**The governing board’s duty to notify people after its consideration of reinstatement**

* Where legally required to consider reinstating a suspended or permanently excluded pupil, the governing board must notify parents73, the headteacher, and where relevant, the local authority, the pupil’s social worker and/or the VSH of its decision, and the reasons for it, in writing and without delay. Where the pupil resides in a different local authority area from the one in which the school is located, the governing board must also inform the pupil's ‘home authority’.
* In the case of a permanent exclusion where the governing board decides not to reinstate the pupil, the governing board’s notification must state that the exclusion is permanent and provide notice of parents’ right to ask for the decision to be reviewed by an IRP.

**The local authority/academy trust’s duty to arrange an IRP**

IRPs contribute to a robust process of scrutiny to ensure that exclusions are lawful, reasonable, and procedurally fair. This section sets out how and when local authorities and academy trusts should organise such reviews when requested. Part 11 of this guidance provides information about how IRPs can be held via the use of remote access (for example, live video link) if requested by parents due to extraordinary events or unforeseen circumstances.

For further information for the IRP process see Part 11 of the guidance below;

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1162401/Suspension_and_permanent_exclusion_guidance_May_2023.pdf>