

Who can exclude?

Only the headteacher has the power to exclude your child. Other members of staff such as heads of year cannot exclude, though they may provide information to inform the headteacher's decision.

Reasons for exclusion

All exclusions must be for disciplinary reasons only. All schools must have a behaviour policy setting out what the school rules are and this must be published on the school website.

Standard of proof

The head's decision to exclude must be taken on the 'balance of probabilities'. That means that it is more likely than not that the pupil did what they are accused of. This is not the same as the 'beyond reasonable doubt' standard required in a criminal case.

Behaviour outside school

Pupils can be excluded for behaviour outside school, this may include behaviour on school trips, on the way to and from school and behaviour which may bring the school into disrepute. Cyber-bullying which takes place out of school may also lead to an exclusion.

Is a lunchtime exclusion the same as a fixed period exclusion?

Yes it is and it should be taken as one half of a school day. Lunchtime exclusions like any other fixed period exclusion should not be indefinite as this would be illegal.

Are head teachers allowed to send pupils home to cool off after an incident without a letter or any verbal notification of the parents/carers?

In every instance when a pupil is sent home for disciplinary reasons, head teachers should formally record and specify the length of the exclusion.

- They should also ensure that they are meeting their legal duty of care towards pupils and that parents are formally notified of the exclusion.
- Child protection issues have to be taken into account especially to do with age and vulnerability and ensuring that the parent /carer is at home.

Having a say

Where practical, a head teacher should allow a pupil to present their case before deciding whether to exclude. If this hasn't happened, find out your child's version of what happened and send this into school yourself.

Children with SEN or disabilities

Sometimes children with special educational needs can show poor behaviour because they are feeling frustrated in their learning. They may also have emotional difficulties or a disability which affects the way they behave. Before excluding a child with SEN, the school should look first at what additional support is needed or whether a different school would be more suitable. If your child has an Education Health Care (EHC) Plan then the school should consider bringing forward the annual review or holding an interim review.

Other factors affecting the exclusion

Before deciding to exclude head teachers should take account of factors that may have affected the child's behaviour such as bullying, mental health issues, bereavement or unidentified SEN.

Alternatives to exclusion and early intervention

Where children are at risk of exclusion, schools should look at early intervention to address the underlying causes of the poor behaviour. If a child shows persistent disruptive behaviour, heads should consider a multi-agency assessment. This may pick up unidentified special educational needs but also wider family issues affecting the child.

What happens during an exclusion

This section explains what the school must tell you if your child is excluded and what your responsibilities are during the exclusion

Keeping your child at home - The first five days

Even though your child is not allowed in school, they still should still be receiving education. Schools should take reasonable steps to set and mark work for the first five days of any exclusion. The work should be accessible and achievable. If no work has been sent home, contact the school and ask for some.

During these five days you are responsible for your child's whereabouts. You must make sure they are not in a public place without reasonable justification during school hours. You could be fined if you breach this duty.

Alternative education - Day six and beyond

If your child has been given a fixed period exclusion of more than 5 days or consecutive fixed period exclusions that total more than 5 days, the school has a duty to provide suitable full-time alternative education no later than day 6. That is most likely to take place at an alternative provisions.

Going back to school

In this section you can find advice on helping your child reintegrate back into school once the exclusion is finished.

Having a meeting

It can be difficult going back to school after an exclusion. Your child may have missed work and you may be worried about the possibility of further exclusions.

Schools should have a strategy for reintegrating pupils after exclusion. In many cases there will be a reintegration meeting when your child goes back. At this meeting it's important to look at how you, your child and the school can all work together to avoid problems in the future. You may wish to ask for extra support for your child. If you haven't been offered a meeting, it may be sensible to ask for one.

Support for your child

Following a fixed period exclusion you may wish to ask for extra help for your child to address any difficulties in school.

Special Educational Needs

Sometimes poor behaviour can be an indication of special educational needs. For instance, if your child has difficulty learning and cannot follow what is going on in the classroom, this may lead to inattention or disruption. Emotional and communication difficulties can also be a special educational need in their own right if they are preventing a child from accessing the curriculum.

If you feel that the exclusion was a result of unmet SEN you may wish to ask for:

- more or different support
- assessment by an educational psychologist
- an early or interim review if your child has an EHC plan
- 'reasonable adjustments' if your child is disabled

Make sure that the school's Special Needs Co-ordinator (SENCO) is involved in any meetings.

Pastoral support

Many schools will put into place a Pastoral Support Programme (PSP) for children and young people at risk of exclusion. This should set manageable short-term goals for improving the child's behaviour with support to help achieve them. You may wish to ask for the following interventions:

- mentoring – a trusted person such as a learning mentor to meet your child regularly
- counselling – many schools have a counsellor on site or links to outside organisations
- behaviour support – this might be something like anger management course or advice from a specialist behaviour support teacher

Challenging the exclusion

This section explains what to do if you are not happy about your child's exclusion

Asking the headteacher to withdraw the exclusion

If your child has not yet been formally excluded or if the exclusion is still ongoing, you may want to ask the headteacher to consider withdrawing or shortening the exclusion.

This may be particularly relevant if you feel that the headteacher was not in full possession of the facts or if the decision was made hastily. However it's important to be aware that the head does not have to change their decision even if you think it is wrong or unfair. You can then put your case to the governing body

Making representations to the governors

What rights do you have?

What you can do depends on the length of the exclusion or exclusions your child has had. It's important to remember that the relevant number of days is the total number of days' exclusion in any one term. Responsibility for reviewing exclusions lies with the Governors of the school. This may be delegated to a sub-committee which must have at least 3 members.

up to 5 days exclusion in a term

You have a right to make representations (put forward your views) to the governors. The governors must consider your representations, but there is no set time limit for this. They do

not have to arrange a meeting with you, though many will agree if you request it. They must however still consider your written representations.

The governors do not have the power to reinstate your child and it is likely that the child will be back in school anyway. As the exclusion will have happened, it cannot be deleted from the school record. However if the governors agree with you that it was not justified, they may put a note on the school record.

between 5 1/2 and 15 days in a term

The governors must meet to consider the exclusion if the parent requests it. The meeting must take place within 50 school days. The governors can reinstate a pupil either immediately or on a specified date

more than 15 days in a term

The governors will automatically meet to consider the exclusion. This must be within 15 school days. The governors can reinstate a pupil either immediately or on a specified date.

Useful Documents

There are a number of documents that may be useful if you are challenging your child's exclusion:

- the government [guidance on exclusions](#)
- the school behaviour policy
- the school SEN policy (if your child has SEN which may be relevant to the exclusion)
- your child's school record – you need request this in writing.
- incident reports and witness statements – the school should have compiled a report of the incident and may have taken witness statements from the pupils involved

If you are planning to challenge the exclusion, request these in writing from the school straight away.

Preparing your case

This section will help you put forward your views to the governors. It is sensible to do this in writing even if you will be meeting them in person. Keep copies of all letters and emails.

You will need to convince the governors that the decision to exclude your child was not lawful, reasonable or fair. In order to do this make sure you understand the rules around exclusions.

Procedures

Check that the school has followed the proper procedures in accordance with the guidance. Was it the head who excluded the child? Were you notified in writing without delay? Did the letter give reasons for the exclusion? Did your child have a say? Was alternative education provided?

Lawful?

What reasons are given for the exclusion? Are these genuine disciplinary reasons? Was the incident against the school's behaviour policy?

Evidence

If you think that your child did not do what they are accused of or you do not agree with the school's version then you will need to consider the evidence very carefully.

Talk to your child about what happened. It is sensible to do this as soon as possible. Try to get them to focus on the facts of the incident. You may wish to ask some direct questions such as

- tell me exactly where you were
- who else was there?
- did any other staff see what happened?
- did anything lead up to it?

Your child's school record, the incident report and any witness statements will be useful here. Do they reflect your child's view of events? Are there differences between the statements? Highlight any inaccuracies. Are there important people who were not asked for a statement? If so you could ask the school to get their views. Has your child been in trouble before? Is it likely that they would behave in this way?

Factors affecting your child

Was your child affected by anything going on at home or at school? Was this something you told the school about?

Support for your child

If your child has been having ongoing problems with behaviour, has the school put in support to try and address this? Have they considered a multidisciplinary assessment? Is there a PSP in place? Has any support in place been reviewed regularly?

Special educational needs

How do your child's special educational needs affect their behaviour? Has the school followed its SEN policy? Was your child receiving the support they should have been? Was the incident a result of lack of support?

Proportionate

You may think the punishment is too severe for what your child did. Have a look at the school's behaviour policy. Is there a scale of punishments related to the seriousness of the offence? What alternatives might have been available?

The governors' exclusion meeting

This section explains how the governors' exclusion meeting will be run. The procedures set out here only apply if the governors have a duty to meet. If your child has had a short exclusion (5 days or fewer in a term) and the governors decide to meet with you, that meeting can take whatever form the governors think appropriate.

Who will be there?

There must be at least three governors and none of them should have any involvement in the case that might lead them to favour one side above another. A clerk to take notes and advise on procedure is normal practice but is not a legal requirement.

The following people must be invited to the meeting:

- Head teacher - to explain the school's case for excluding your child
- Parents – to make the case for your child. You must be allowed to bring a friend or representative to support you at the meeting
- The local authority must be invited and may make representations. They may not always attend, particularly for shorter exclusions.

If the school is an Academy you may ask for a local authority representative to be invited to the meeting. They will not be invited if you do not ask for it and governors will need to agree if they can make representations or just observe the meeting.

Other people who may attend:

- Witnesses – are there any witnesses who could help your case? You could ask for a character witness to be there to present your child in a positive light
- Your child – should be supported to attend if they wish.

Exclusion Papers & Evidence

You should submit your written material before the meeting. You should also be sent copies of the school's exclusion papers such as witness statements and any other evidence relied on before the meeting. If any new papers are brought up at the meeting, ask for a short break in order to read them

Natural justice - a fair hearing

The governors should not discuss the exclusion outside the meeting. That means that they shouldn't have a private meeting with the head teacher about it without you there.

If you have a disability, the governors must take steps to make sure you are not put at a disadvantage because of this. All parties should be supported to participate and have their views heard. Make sure you ask if you need any other support such as an interpreter.

Think about the best way for your child to be involved. Particularly for younger children, it may be upsetting or confusing for them to attend the whole meeting. In this case it may be better for them to come to part of the meeting to give their views or an apology and then leave.

What will happen at the hearing?

The order of the hearing is not set out in guidance. A typical order of proceedings might be:

- the chair introduces everyone and explains what will happen
- the head gives the school's case for excluding the child
- the parent puts their case
- opportunities for all parties to ask questions
- summing up by the head and the parents

The parents and the head will then leave, as the governors must make the decision on their own. A clerk may stay with them to help by referring to notes of the meeting.

The governors' decision

When making their decision, the governors must:

- consider the interests and circumstances of the excluded pupil
- have regard to the interests of other pupils and people working at the school

They will look at the facts on balance of probabilities and consider whether the head's decision was lawful, reasonable and procedurally fair. The possible outcomes vary according to the length of the exclusion. For exclusions of less than 5 school days the Governors can uphold the exclusion or note their findings on the child's school record - they cannot reinstate. For exclusions over 5 school days they can uphold the exclusion or reinstate your child.

Minutes should be taken of the meeting as a record of the evidence that was taken into account.

After the meeting

The governors must let you know the outcome and the reasons for their decision in writing without delay.

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