



Exclusion Policy

Important coronavirus (COVID-19) update

This policy has been updated in line with the current guidance from the UK government. We have included an amendment to this policy in [Appendix B](#), which provides information about the changes to the exclusion process during the pandemic. Please have due regard for the stipulations within this amendment.

The DfE coronavirus helpline is 0800 046 8687, open Monday to Friday from 8:00am to 6:00pm and weekends 10:00am to 4:00pm. You can also email the helpline on DfE.coronavirushelpline@education.gov.uk.

Contents

Statement of intent

1. Legal framework
2. Roles and responsibilities
3. Our approach to exclusions
4. Preventing exclusions
5. Serious incidents
6. Grounds for a young person needing to spend time away from school
7. Factors we consider when deciding if a young person needs to spend time away from school
8. What happens during time away from school?
9. Permanent exclusions
10. Arranging education for permanently excluded young people
11. Reintegration after time away
12. The principal's legal power to exclude
13. Duty to inform parents
14. Duty to inform governing board and LA
15. Considering exclusions
16. Reaching a decision
17. Notification of considered exclusions
18. Removing permanently excluded young persons from the school register
19. Independent review panel
20. Appointing a SEND expert
21. The role of a SEND expert
22. Appointing a clerk
23. The role of the clerk
24. The duties of the independent review panel members in the conduct of an independent review panel
25. Reconsidering reinstatement following a review
26. Criminal investigations
27. Training requirements
28. Monitoring and review

Appendices

- a) Reviewing the Principal's Exclusion Decision
- b) Changes to the exclusion process during the coronavirus (COVID-19) pandemic

1. Statement of intent

Whilst The Wildings recognises its right for the Principal to exclude a young person on disciplinary grounds, due to the vulnerabilities of the young people we work with The Wildings aims to be a non-excluding school.

We recognise exclusions are sometimes necessary to ensure the safety of our young people and/or colleagues and our approach to how we handle such exclusions and support our young people through the process, is vitally important if we are to succeed in what we set out to achieve with them.

This policy has been written to outline our approach to exclusions and the processes we use and to clearly define the legal responsibilities of the principal, governing board and LA with regard to exclusions, to ensure that they are dealt with both fairly and lawfully, and in line with DfE statutory guidance.

This policy also aims to secure a young person's right to an education despite having been excluded, by ensuring that appropriate arrangements are in place.

1. Legal framework

- 1.1. This policy has due regard to the related statutory legislation including, but not limited to, the following:

The Education Act 2002

The School Discipline (Young person Exclusions and Reviews) (England) Regulations 2012

The Education and Inspections Act 2006

The Education Act 1996

The Education (Provision of Full-Time Education for Excluded Young persons) (England) Regulations 2007

The European Convention on Human Rights (ECHR)

The Equality Act 2010

- 1.2. This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:

DfE (2017) 'Exclusion from maintained schools, academies and young person referral units in England'

DfE (2016) 'Behaviour and discipline in schools'

DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'

DfE (2018) 'Mental health and behaviour in schools'

- 1.3. This policy will be implemented in conjunction with the following school policies and procedures:

Communication Policy

Anti-Bullying Policy

Young person Code of Conduct

Special Educational Needs and Disabilities (SEND) Policy

Child Protection and Safeguarding Policy

2. Roles and responsibilities

- 2.1. The LA is responsible for:

2.1.1. Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of LAC.

2.1.2. Arranging suitable full-time education for any young person of compulsory school age excluded permanently, in coordination with the school.

2.1.3. Reviewing and reassessing young persons' needs in consultation with their parents where they are excluded permanently, with a view to identifying a new placement.

2.1.4. Arranging for an independent review panel hearing to review the decision of the governing board not to reinstate a permanently excluded young person where required.

- 2.1.5. Arranging the hearing without delay at a time, date and venue convenient for all parties.
- 2.1.6. Ensuring the independent review panel consists of three or five members as appropriate, which represent the required categories.
- 2.1.7. Either appointing a clerk to provide advice to the panel and parties to the review on procedure, law and statutory guidance on exclusions, or provide this advice themselves.
- 2.1.8. Ensuring all panel members and the clerk have received training within the two years prior to the date of the review.
- 2.1.9. If requested by parents, appointing a SEND expert to attend the panel and covering the associated costs of this appointment.
- 2.2. The governing board is responsible for:
 - 2.2.1. Providing information to the Secretary of State and LA about any exclusions within the last 12 months.
 - 2.2.2. Arranging suitable full-time education for any young person of compulsory school age excluded on a fixed-term basis.
 - 2.2.3. Considering parents' representations about exclusions within 15 school days of receiving notice if the appropriate requirements are met.
 - 2.2.4. Where an exclusion would result in a young person missing a public examination or test, considering the exclusion before this date.
 - 2.2.5. Considering whether it would be appropriate for a young person to be permitted onto the school premises to sit the public examination or test.
 - 2.2.6. Arranging the representation meeting at a time and date convenient to all parties, but in compliance with the statutory time limits.
 - 2.2.7. Adhering to its responsibilities to consider the reinstatement of young persons.
 - 2.2.8. Considering the interests and circumstances of the excluded young person, including the circumstances in which they were excluded, and have due regard to the interests of others at the school.
 - 2.2.9. Using the civil standard of proof (based on the 'balance of probabilities', it is more than likely that the fact is true) when establishing the facts relating to an exclusion.
 - 2.2.10. Ensuring clear minutes are taken of the representation meeting.
 - 2.2.11. Noting the outcome of the representation meeting on the young person's education record, along with copies of relevant papers for future reference.
 - 2.2.12. Notifying the young person's parents, the principal and LA of its decision and the reasons for it, without delay.

- 2.2.13. Where appropriate, informing parents of where to apply for an independent review panel.
- 2.2.14. Informing parents of relevant sources of information.
- 2.2.15. Ensuring a young person's name is removed from the school admissions register, where appropriate.
- 2.2.16. Reconvening within 10 school days to reconsider reinstatement of a young person where directed to do so by the exclusions review panel.
- 2.3. The clerk to the exclusions review panel, or the Local Authority in cases where a clerk has not been appointed, is responsible for:
 - 2.3.1. Making reasonable efforts to inform the appropriate individuals that they are entitled to:
 - 2.3.2. Make written representations to the panel.
 - 2.3.3. Attend the hearing and make oral representations to the panel.
 - 2.3.4. Be represented.
 - 2.3.5. Making reasonable efforts to circulate copies of relevant papers at least five school days before the review to all parties.
 - 2.3.6. Giving all parties details of those attending and their role, once the position is clear.
 - 2.3.7. Attending the review and ensuring that minutes are produced in accordance with instructions from the panel.
- 2.4. The principal, along with support from and collaboration with colleagues, is responsible for:
 - 2.4.1. Providing a stable and safe environment where disruptions are well-managed so that all young people can benefit from the opportunities provided by education.
 - 2.4.2. Working proactively with young people to manage any difficulties they have with communication to minimise incidents which may lead to potential exclusions.
 - 2.4.3. Applying the civil standard of proof when establishing the facts in relation to an exclusion.
 - 2.4.4. Complying with statutory duties in relation to young persons with SEND when administering the exclusion process, as outlined in the Special Educational Needs and Disabilities (SEND) Policy.
 - 2.4.5. Considering any contributing factors that are identified after an incident of poor communication has occurred, e.g. if a young person has suffered bereavement, bullying or has a mental health issue.
 - 2.4.6. Considering the use of a multi-agency assessment for a young person who demonstrates persistent undesirable communication.

- 2.4.7. Reviewing the effectiveness of exclusions as a sanction, e.g. if a young person has received multiple exclusions or is approaching the legal limit for exclusions in an academic year.
- 2.4.8. Considering what extra support may be needed to identify and address the needs of each individual young person.
- 2.4.9. Engaging effectively with parents in supporting the communication of young persons with additional needs.
- 2.4.10. Complying with the requirements of the Equality Act 2010 when deciding whether to exclude a young person.
- 2.4.11. Making the decision to exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.
- 2.5. The principal is responsible for:
 - 2.5.1. Withdrawing any exclusions that have not been reviewed by the governing board, where appropriate.
 - 2.5.2. Ensuring any decision to exclude is lawful, rational, reasonable, fair and proportionate.
 - 2.5.3. Ensuring they have considered their legal duty of care when sending a young person home following an exclusion.
 - 2.5.4. Notifying a young person's parents without delay where the decision is taken to exclude the young person, including the days on which the parents must ensure the young person is not present in a public place at any time during school hours, as well as any other necessary information statutorily required.
 - 2.5.5. Ensuring that all information provided to parents is clear and easily understood.
 - 2.5.6. Notifying the governing board and LA of their decision to exclude a young person where appropriate, as well as the young person's home authority if required.
 - 2.5.7. Notifying the governing board once per term of any exclusions not already notified.
 - 2.5.8. Organising suitable work for an excluded young person where alternative provision cannot be arranged.

3. Our approach to Exclusions

- 3.1. Every young person that we work with will have had at least one permanent exclusion from a previous school. Often this will have happened following several fixed term exclusions. For some, this will have happened over and over in multiple school settings.
- 3.2. For the young people we work with, all of which have additional learning or social, emotional or mental health needs, sometimes both, exclusions have such

a negative impact that their difficulties at school and personally can be exacerbated by them.

- 3.3. This often leads to a lack of trust in adults; damage to sense of self; belief in ability and makes it difficult for the affected young person to feel safe and secure.
- 3.4. This in turn will impact a young person's ability to communicate needs, socialise positively and to truly access and absorb learning in school settings.
- 3.5. We feel using exclusions as a punishment to be ineffective with the young people we work with and that doing so will have a detrimental effect on their wellbeing and ability to thrive.
- 3.6. Additionally, The Wildings believes the use of rewards and punishments with our young people to encourage reliance on external factors for motivation; our aim in fact, is to support our young people to discover internal factors which stimulate their drive to engage positively at school and in life.
- 3.7. Furthermore, we view challenging incidents that typically warrant exclusion as valuable experiences, often with strong SMSC elements, that all young people can be supported to understand better and learn from.
- 3.8. Simply excluding a young person as a punishment for how they've communicated removes our ability to maintain connection and offer equal opportunities and an equal say to that young person and means many social and emotional learning and growth opportunities are missed.
- 3.9. As outlined in the Communications Policy preventative approaches to the communications of our young people are vital if we are to achieve our ideal of being a non-excluding school.

4. Preventing exclusions

- 4.1. We aim to meet the social and emotional needs of our young people so that there is less need for them to communicate in ways that may lead to exclusion.
- 4.2. In addition to the preventative approaches to communications overall, as outlined in the Communications Policy, our work for preventing serious incidents that may warrant exclusion, includes:
 - 4.2.1. Providing a safe, secure and stable school environment.
 - 4.2.2. Maintaining a therapeutic approach even when communications from our young people are challenging.
 - 4.2.3. Working closely with parents and carers to understand the needs of our young people so we are better able to support them appropriately. For LAC we will also work with the Virtual school.
 - 4.2.4. Using or externally accessing assessment and diagnostic tools to screen for additional learning or SEMH needs which we are not already aware of.
 - 4.2.5. Using the findings from the above to inform how best we can support young people in learning and play.

- 4.2.6. Supporting with and modelling self-regulation to young people.
 - 4.2.7. Modelling and teaching nonviolent communication skills to all the community.
 - 4.2.8. Using SMSC education and PHSE as core foci to build the curriculum around.
 - 4.2.9. Using democratic processes as platforms that encourage and support young people to communicate opinions and then problem solve over issues at school which affect them and the school community.
 - 4.2.10. Increasing autonomy, sense of belonging and personal power in school by giving young people equal say over matters which affect them using democracy throughout the school.
- 4.3. If during our preventative work we are concerned about a young person's communication and feel they are at risk of exclusion, we will consider what additional support or alternative placement may be required to prevent the occurrence of incidents which may result in the need for exclusion. This will involve colleagues assessing the suitability of provision for a young person's SEN and SEMH needs. Requesting an early EHC plan annual or interim/emergency review may also become necessary.

5. Serious incidents

- 5.1. Our belief that all behaviour is communication underpins our ethos and working practices and in instances where the communication of a young person becomes difficult, dangerous or results in a serious incident, once safety has been ensured, our foci are always to:
 - 5.1.1. Support the emotional wellbeing of ALL young people present.
 - 5.1.2. Maintain connection with ALL young people present.
 - 5.1.3. Maintain equality amongst all in the community.
- 5.2. If there is a serious incident, we follow the protocols which apply as outlined in the Health and Safety Policy, the Anti Bullying Policy and the Communication Policy.
- 5.3. If the incident which has occurred is unlawful the police will be contacted.

6. Grounds for a young person needing to spend time away from school

- 6.1. When our efforts to prevent serious incidents from occurring have failed to be successful a young person spending time away from the school site may become necessary. At The Wildings this will only ever be because:
 - 6.1.1. We cannot keep the individual safe.
 - 6.1.2. We cannot keep other community members safe whilst the individual is present.
 - 6.1.3. An individual has broken the law whilst on the school site.

7. Factors we consider when deciding if a young person needs to spend time away from school

- 7.1. When considering whether a young person should spend time out of school, the principal will:
 - 7.1.1. Allow the young person the opportunity to present their case.
 - 7.1.2. Take into account any contributing factors that are identified after an incident has occurred, e.g. if the young person's wellbeing has been compromised, or they have been subjected to bullying.
 - 7.1.3. Take into consideration whether the young person has received multiple exclusions or is approaching the legal limit of 45 excluded days per school year, and whether exclusion is serving as an effective sanction.
 - 7.1.4. Consider early intervention to address underlying causes of communications which may warrant exclusion, including liaising with external agencies, to assess young persons who demonstrate those communications consistently.
- 7.2. The principal and colleagues, along with others who are involved in the care and education of the young person, will consider what additional support or alternative placement may be required to prevent the occurrence of incidents which may result in the need for exclusion.
- 7.3. This will involve colleagues assessing the suitability of provision for a young person's SEND and SEMH needs. Requesting an early EHC plan annual or interim/emergency review may become necessary.
- 7.4. In addition, The Wildings may instigate a multi-agency assessment to determine whether the communication issues might be a result of educational, mental health or other needs and vulnerabilities which have not yet been identified.
- 7.5. In accordance with the Equality Act 2010, under no circumstances will a young person with identified SEND or SEMH issues be excluded before a graduated response process has been completed.
- 7.6. Where a young person is permanently excluded from the school because of a SEND- or SEMH-related need that could not be met at the school, detailed records will be kept highlighting that these young persons are closely tracked and showing that the school has a close relationship with the young person's next destination.
- 7.7. The principal will work in conjunction with the parents of any young person with additional needs to establish the most effective support mechanisms.
- 7.8. In all cases where a young person must spend time away from school due to safety or unlawful action, the principal, with input from colleagues and others involved in the care and education of the young person such as the virtual head, parents, carers, social workers or other external health or support staff, will decide what period of time a young person must spend away from school depending on what the circumstances warrant.

8. What happens during time away from school?

Education

- 8.1. When a young person must spend time away from school The Wildings governing board has a statutory duty to arrange suitable full-time education to any young person of compulsory school age, starting from no later than the sixth school day of a young person's period of time away.
- 8.2. The Wildings however, aims to arrange alternative educational provision for the whole time a young person will be away from school so as to limit disruptions to their education.
- 8.3. If it is not possible or appropriate for the school to arrange alternative provision for the whole of a young person's time away from school it will instead provide the young person with suitable schoolwork to complete throughout their time away from school so that they can continue their education.
- 8.4. This schoolwork and any alternative provisions will be offered with consideration for the individuals SEND, learning needs and wellbeing and will be arranged in consultation with the young person and their parents, who are able to request preferences.
- 8.5. Where a young person receives consecutive fixed-period exclusions, these will be regarded as cumulative, and full-time education will still have to be provided from the sixth day of exclusion but The Wildings will again aim to provide this for the whole time a young person is away.
- 8.6. The governing board does not need to arrange full-time education for any young person who is currently in their final year of compulsory education, and who does not have any further public examinations to sit. However, The Wildings will aim to this if it is desired by the young person and is deemed as appropriate by the school.

Wellbeing

- 8.7. In addition to the above provisions for education being made The Wildings aims to limit disruptions to contact and connections with educational staff by continuing contact with the young person or the young person's parents/carers whilst they are unable to attend the school site and where staffing resources allow, and may do so via:
 - Telephone
 - Text or Email
 - Video calling (two staff members will be present on call)
 - In person
- 8.8. The Wildings aims to include any young person who is spending time away from school in matters occurring on the school site which may affect them once they return to school. The young person will be invited to take part in any democratic discussions or processes such as voting, remotely via contact their Champion.

9. Permanent Exclusion

- 9.1. The Wildings will only ever permanently exclude a young person if its staff feel the school are unable to meet the young person's needs.
- 9.2. The school is likely to be unable to meet the needs of the young person if there is:
 - Persistent and severe bullying
 - Persistent verbal and physical abuse
 - Criminal activity within school
 - Our preventative efforts, interventions and attempts at restorative justice have failed
- 9.3. A young person can be permanently excluded following a fixed period of time being spent away from school.
- 9.4. When it is deemed that The Wildings cannot meet the needs of the young person, a review of the young person's EHCP will be organised and the school will aim to work with the LA to support a transition into a more suitable provision.
- 9.5. Where a young person is permanently excluded because of a SEND- or SEMH-related need that could not be met at the school, detailed records will be kept highlighting that these young persons are closely tracked and showing that the school has a close relationship with the young person's next destination.

10. Arranging education for permanently excluded young people

- 10.1. For permanent exclusions, full-time education must be provided for the young person from the sixth day of exclusion.
- 10.2. The Wildings aims to provide full time education or schoolwork as well as contact with the young person or their parents/carers for the whole time they are out of school until a new educational provision is found for them by the Local Authority.

11. Reintegration after time away

- 11.1. The Wildings recognises that after a young person has had to spend time away from the school and its community their sense of belonging, trust, autonomy and self-esteem may reduce whilst feelings of anger, shame, guilt and isolation may increase. Additionally, we find that after a serious incident which has affected other young people, they can find it difficult to welcome back somebody who has caused upset.
- 11.2. This can often make positive reintegration into the community difficult for a young person that has been away.
- 11.3. For a young person's reintegration into school to be successful, The Wildings aims to support all that have been affected by negative incidents using a restorative approach. We do this by encouraging open dialogue, with sensitivity and support, about the emotional, social, moral, spiritual and cultural impacts an incident may have had on a young person who is away from school following an incident AND any affected young person at school.

- 11.4. We believe this to not only support all with successful re-integrations but also to be a valuable process to help:
- Prevent or reduce feelings of guilt and/or shame in the absent young person from developing
 - Increase self-awareness amongst young people
 - Increase understanding and empathy amongst the community
 - Develop communication skills
 - Help young people to take responsibility for their actions
 - Encourage teamwork and increase sense of community
 - Help young people to navigate tricky situations
- 11.5. As part of re-integration after a young person has spent time away from school, The Wildings may suggest a slow re-introduction to the school with a reduced number of hours each day at first. The purpose of this would be to give the young person the best chance of having a successful re-integration into school and the decision to do so would only ever be made with the young person's wellbeing and the likelihood of successful re-integration in mind.
- 11.6. Following success with a reduced timetable for the young person, their time in school would then be increased once colleagues and where appropriate the young person themselves feel full re-integration-a return to whole days at school-are likely to be successful.

12. The principal's legal power to exclude

- 12.1. Only the principal has the power to exclude a young person from the school and decide whether this is on a fixed-period or permanent basis.
- 12.2. The principal is able to exclude young persons from the premises where their communications are disruptive during any point in the school day. If an incident warranting exclusion occurs over lunchtime, exclusions will be counted as half of a school day.
- 12.3. The principal is able to consider a young person's disruptive communication outside of the school premises as grounds for exclusion.
- 12.4. Any decision made to exclude a young person will be lawful, proportionate and fair, with respect to legislation relating directly to exclusions and the school's wider legal duties, including the ECHR.
- 12.5. All exclusions will be formally recorded on the Attendance Register and CPOMS.
- 12.6. When sending a young person home following any exclusion, the principal will ensure that they exercise their duty of care at all times and will always inform the parents.
- 12.7. The principal will apply the civil standard of proof when responding to the facts relating to an incident that may warrant exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true.
- 12.8. The principal may withdraw any exclusion that has not already been reviewed by the governing board.

- 12.9. At all times, the principal will take into account their legal duties under the Equality Act 2010 and the 'Special educational needs and disability code of practice: 0 to 25 years', ensuring that they do not discriminate on any grounds, e.g. race, sex, disability, and will not increase the severity of a young person's exclusion on these grounds.
- 12.10. The principal will not issue any 'informal' or 'unofficial' exclusions, e.g. sending a young person home to 'cool-off', regardless of whether the parents have agreed to this.
- 12.11. The principal will not use the threat of exclusion as a means of instructing parents to remove their child from the premises.

13. Duty to inform parents

- 13.1. Following the principal's decision to exclude a young person, they will immediately inform the parents/carers, in person or by telephone, of the period of the exclusion and the reasons behind this.
- 13.2. The principal will inform the parents in writing (electronically if written permission has been received from the parents/carers for notices to be sent this way) of the following:
 - 13.2.1. The reason(s) for the exclusion
 - 13.2.2. The length of the fixed-period exclusion or, for a permanent exclusion, the fact that it is permanent
 - 13.2.3. Their right to raise any representations about the exclusion to the governing board, including how the young person will be involved in this and how the representations will be made
 - 13.2.4. Their right to attend a meeting where there is a legal requirement for the governing board to consider the exclusion, and the fact that they are able to bring an accompanying individual
 - 13.2.5. The arrangements that have been made for the young person to continue their education prior to the organisation of any alternative provision, or the young person's return to school
 - 13.2.6. Relevant sources of free, impartial information
- 13.3. Where the young person is of compulsory school age, the principal will inform the parents by the end of the afternoon session that:
 - 13.3.1. For the first five days of the exclusion (or until the start date of any alternative provision or the end of the exclusion where this is earlier), parents are legally required to ensure that their child is not present in a public place during school hours without justification, and that parents may receive a penalty fine if they fail to do so.
- 13.4. Where the principal has arranged alternative provision, they will also inform the parents of the following:

- 13.4.1. The start and end date for any provision of full-time education
- 13.4.2. The address at which the provision will take place
- 13.4.3. Any information necessary for the young person to identify the person they should report to on the starting date
- 13.5. Where the principal is unable to provide information on alternative provision by the end of the afternoon session, they will provide the information as soon as possible, and aims to do so within 48 hours of the young person beginning the provision.
- 13.6. If the alternative provision is due to begin before the sixth day of the exclusion, the principal is able to give less than 48 hours of notice, with parental consent.
- 13.7. If the principal has decided to exclude the young person for a further fixed period following their original exclusion, or to permanently exclude them, they will notify the parents without delay and issue a new exclusion notice to parents.

14. Duty to inform the governing board and LA

- 14.1. The principal will inform the governing board and LA, without delay, of the following:
 - 14.1.1. Any permanent exclusions (including where a fixed-period exclusion is followed by a decision to permanently exclude the young person)
 - 14.1.2. Any exclusions which would result in the young person being excluded for more than five school days in a term (or more than 10 lunchtimes)
 - 14.1.3. Any exclusions which would result in the young person being absent from an examination or national curriculum test
- 14.2. For any exclusions, other than those above, the principal will notify the governing board and LA once per term.
- 14.3. All notifications to the governing board and LA will include the reasons for exclusion and the duration of any fixed-period exclusion.
- 14.4. If the young person who is excluded lives outside the LA in which the school is located, the principal will notify the young person's 'home authority'.

15. Considering exclusions

- 15.1. The governing board will consider any representations made by parents in regard to exclusions.
- 15.2. Parents and, where requested, a friend or representative, the principal, and a member of the LA will be invited to attend any consideration of exclusions and will be able to make representations.
- 15.3. Any meeting to consider reinstatement of a young person will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits.

- 15.4. The governing board will consider the reinstatement of an excluded young person, where:
- 15.4.1. The exclusion is permanent.
 - 15.4.2. The exclusion is fixed-period, and would bring the young person's total number of excluded school days to more than 15 in any given term.
 - 15.4.3. The exclusion would result in the young person missing a public examination.
- 15.5. In the case of a fixed-period exclusion where the young person's total number of excluded days is more than 5 but less than 15 school days within a term, if requested by the parents, the governing board will consider exclusions within 50 school days of receiving notification.
- 15.6. In the case of a fixed period exclusion, where the young person's total number of excluded school days does not amount to more than five, in the absence of any such representations, the governing board is not required to meet and cannot direct the reinstatement of the young person.
- 15.7. Where exclusion would result in a young person missing a public examination, the governing board will consider the exclusion before the test to decide whether the young person should be reinstated in time to take the examination.
- 15.8. In light of the above, the governing board will also consider whether it would be appropriate to allow the excluded young person to enter the premises to take the examination.
- 15.9. When considering the reinstatement of an excluded young person, the governing board will:
- 15.9.1. Only discuss the exclusion with the parties present at the meeting.
 - 15.9.2. Ask for any written evidence prior to the meeting.
 - 15.9.3. Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
 - 15.9.4. Allow young persons and parents to be accompanied by a person of their choice to the meeting.
 - 15.9.5. Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
 - 15.9.6. Identify the steps needed to enable and encourage the excluded young person to attend the meeting and speak on their behalf, or how they may contribute personal views by other means if attendance is not possible.
 - 15.9.7. Consider the interests and circumstances of the excluded young person, including the grounds for exclusion.

16. Reaching a decision

- 16.1. After considering exclusions, the governing board will either:

- 16.1.1. Decline to reinstate the young person.
- 16.1.2. Direct the reinstatement of the young person immediately, or on a specified date.
- 16.2. If reinstatement would make no practical difference, e.g. if the young person has already returned to school following a fixed-period exclusion or the parents make clear they do not want their child reinstated, the governing board will still consider whether the young person should be officially reinstated, and whether the principal's decision to exclude the young person was fair, lawful and proportionate, based on the evidence presented.
- 16.3. The governing board will apply the civil standard of proof when responding to the facts relating to an exclusion, i.e. that on the 'balance of probabilities' it is more likely than not that the facts are true.
- 16.4. To reach a decision, the governing board will:
 - 16.4.1. Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
 - 16.4.2. Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
 - 16.4.3. Ask all parties to withdraw from the meeting before concluding their decision.
 - 16.4.4. Consider whether the exclusion of the young person was lawful, proportionate and fair, taking into account the principal's legal duties and any evidence that was presented to the governing board in relation to the decision to exclude.
 - 16.4.5. Record the outcome of the decision on the young person's educational records, along with copies, which will be kept for at least six months.
 - 16.4.6. Make a note of their findings, where they have considered an exclusion but cannot reinstate the young person.

17. Notification of considered exclusions

- 17.1. The governing board will notify the parents of the excluded young person, the principal and the LA of their decision following the consideration of an exclusion, in writing and without delay.
- 17.2. In the case of a permanent exclusion, where the governing board decides not to reinstate the young person, they will notify the parents:
 - 17.2.1. That it is permanent, and their right for it to be reviewed by an independent review panel.
 - 17.2.2. Of the date by which an application for review must be made.
 - 17.2.3. Of the name and address of whom the review application should be submitted to.
 - 17.2.4. That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a young person's SEND is considered relevant to the exclusion.

- 17.2.5. That, regardless of whether a young person has been identified as having SEND, the parents have a right to require the governing board to ensure a SEND expert attends the review.
- 17.2.6. Of the role of the SEND expert that will attend the review, and that the parents will not be charged for this.
- 17.2.7. That they are required to make it clear if they wish for a SEND expert to attend the review.
- 17.2.8. That they may appoint someone at their own expense to make representations to the panel.
- 17.3. The governing board will also notify parents that, if they believe an exclusion has been issued as a result of discrimination, then they are required to make a claim under the Equality Act 2010 to the First-tier Tribunal (SEND), and that this should be within six months of when the discrimination allegedly took place.
- 17.4. After any conclusion, the governing board will notify the parents, and all other parties involved, of the decision that was made and the reasoning for this, in sufficient detail.

18. Removing permanently excluded young persons from the school register

- 18.1. The principal will remove young persons from the school register if:
- 15 school days have passed since the parents were notified of the governing board's decision not to reinstate the young person and no application for an independent panel review has been received.
 - The parents have stated in writing that they will not be applying for an independent panel review following a permanent exclusion.
- 18.2. If an application for an independent panel review has been made within 15 school days, the principal will wait until the review has been determined, or abandoned, and until the governing board has completed any reconsideration that the panel recommended or directed it to carry out, before removing the young person from the school register.
- 18.3. If a young person's name is to be removed from the register, the principal will make a return to the LA, which will include:
- 18.3.1. All the particulars which were entered in the register.
- 18.3.2. The address of any parent with whom the young person normally resides.
- 18.3.3. The grounds upon which the young person's name is to be removed from the register.
- 18.4. Any return to the LA will be made as soon as the grounds for removal are met and no later than the date in which the young person's name was removed.
- 18.5. If a young person's name has been removed from the register and a discrimination claim is made, the young person may be reinstated following a decision made by the First-tier Tribunal (SEND) or County Court.

18.6. Whilst a young person's name remains on the admissions register, the appropriate code will be used to mark the young person's attendance:

18.6.1. Code B: Education off-site

18.6.2. Code D: Dual registration

18.6.3. Code E: Absent and not attending alternative provision

19. Independent review panel

19.1. The LA will review the governing board's decision not to reinstate a permanently excluded young person if the parents submit their application for this within the required time frame.

19.2. The LA will constitute an independent review panel of three or five members that represent the following categories:

19.2.1. A lay member to chair the panel. This individual will not have worked in any school in a paid capacity.

19.2.2. A current or former school governor who has served for at least 12 consecutive months in the last 5 years.

19.2.3. A principal or individual who has been a principal within the last 5 years.

19.3. Parents are required to submit their applications within:

19.3.1. 15 school days of the governing board's notification of their decision.

19.3.2. 15 school days of the final determination of a discriminatory claim made under the Equality Act 2010.

19.4. Any application made outside of this timeframe will not be reviewed.

19.5. Parents are able to request an independent panel review even if they did not make a case to, or attend, the governing board's initial consideration of the exclusion.

19.6. The LA will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Exclusion from maintained schools, academies and young person referral units in England' 2017.

20. Appointing a SEND expert

20.1. If requested by parents in their application for an independent review panel, the LA will appoint a SEND expert to attend the panel and covers the associated costs of this appointment.

20.2. The LA will make arrangements to indemnify the SEND expert against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review and which are taken in good faith.

- 20.3. Parents have a right to request the attendance of a SEND expert at a review, regardless of whether the school recognises that their child has SEND.
- 20.4. The SEND expert's role is set out in section 15 of this policy.
- 20.5. An individual will not serve as a SEND expert if they have, or at any time have had, any connection with the LA, school, parents or young person, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their ability to act impartially; however, an individual is not taken to have such a connection solely because they are an employee of the LA.
- 20.6. The SEND expert will be a professional with first-hand experience of the assessment and support of SEND, as well as an understanding of the legal requirements on schools in relation to SEND. Examples of suitable individuals might include educational psychologists, specialist SEND teachers, SENCOs and behaviour support teachers.
- 20.7. Recently retired individuals are not precluded from fulfilling this role; however, during interview, the LA will assess the knowledge of such individuals in order to ensure that they have a good understanding of current practice and the legal requirements on schools in relation to SEND.
- 20.8. Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, the LA, they will not have had any previous involvement in the assessment or support of SEND for the excluded young person, or siblings of the excluded young person. The LA will request that prospective SEND experts declare any conflict of interest at the earliest opportunity.
- 20.9. The final decision on the appointment of a SEND expert is for the LA to make, but it will take reasonable steps to ensure that parents have confidence in the impartiality and capability of the SEND expert. Where possible, this will include offering parents a choice of SEND expert. In order to meet its duties within the statutory time frame, the LA will consider maintaining a list of individuals capable of performing the role of SEND expert in advance of a request.
- 20.10. The LA will determine the amount of any payment in relation to the appointment of the SEND expert, such as financial loss, travel and subsistence allowances.

21. The role of a SEND expert

- 21.1. The SEND expert's role is analogous to an expert witness, providing (orally and/or written) impartial advice to the panel on how SEND might be relevant to the exclusion. The SEND expert will base their advice on the evidence provided to the panel. The SEND expert's role does not include making an assessment of the young person's SEND.
- 21.2. The focus of the SEND expert's advice will be on whether the school's policies which relate to SEND, or the application of these policies in relation to the excluded young person, were legal, reasonable and procedurally fair. If the SEND expert believes that this was not the case, they will, where possible,

advise the panel on the possible contribution this could have made to the circumstances of the young person's exclusion.

- 21.3. Where the school does not recognise that a young person has SEND, the SEND expert will advise the panel on whether they believe the school acted in a legal, reasonable and procedurally fair way with respect to the identification of any SEND that the young person may potentially have, and any contribution that this could have made to the circumstances of the young person's exclusion.
- 21.4. The SEND expert will not criticise a school's policies or actions simply because they believe a different approach should have been followed or because another school might have taken a different approach.

22. Appointing a clerk

- 22.1. The LA will decide whether to appoint a clerk to the independent review panel, or to make alternative arrangements to administer the panel.
- 22.2. Where a clerk is appointed the LA will ensure that the clerk did not serve as clerk to the governing board when the decision was made not to reinstate the young person.

23. The role of a clerk

- 23.1. The clerk's role is to provide advice to the panel and parties to the review on procedure, law and statutory guidance on exclusions.
- 23.2. The clerk will:
 - 23.2.1. Identify, in advance of the meeting, whether the excluded young person wishes to attend the panel hearing, taking reasonable steps to enable the young person to feedback their views, irrespective of their attendance.
 - 23.2.2. Identify, in advance of the meeting, whether any alleged victims of the incident(s) leading up to the exclusion wish to attend the panel hearing, taking reasonable steps to enable them to feedback their views, irrespective of their attendance.
 - 23.2.3. Ensure that the panel is able to hear from any witnesses to the incident(s) leading to the exclusion, taking into account the fact that some of these people may be young persons at the school. Young persons under 18 will not be allowed to appear in person without parental consent.
 - 23.2.4. Inform the parents, principal, governing board and the LA, that they are entitled to make oral and written representations to the panel, attend the hearing, and be represented.
 - 23.2.5. Ensure that all parties are:
 - Provided with copies of relevant papers at least five school days before the review, notifying the panel if any requested documents have not been provided in case the panel wishes to adjourn until a later date.
 - Informed about who is attending the meeting, and what their roles are.

23.2.6. Attend the review and ensure that minutes are produced in accordance with instructions from the independent review panel.

23.3. Where a clerk is not appointed, the LA will undertake the functions outlined in paragraphs 16.1 and 16.2 of this policy.

24. The duties of independent review panel members in the conduct of a review panel

24.1. The role of the panel is to review the governing board's decision not to reinstate a permanently excluded young person. In reviewing the decision, the panel will consider the interests and circumstances of the excluded young person, including the circumstances in which the young person was excluded, and have regard to the interests of other young persons and people working at the school.

24.2. The panel will apply the civil standard of proof, rather than the criminal standard of 'beyond reasonable doubt'.

24.3. Following the review, the panel will do one of the following:

24.3.1. Uphold the decision.

24.3.2. Recommend that the governing board reconsiders reinstatement.

24.3.3. Quash the decision and direct that the governing board reconsiders reinstatement.

24.4. The panel's decision does not have to be unanimous and can be decided by a majority vote. It is binding on the young person, parents, the governing board, principal and the LA.

25. Reconsidering reinstatement following a review

25.1. Where the independent review panel instructs the governing board to reconsider their decision not to reinstate a young person, they will do so within 10 school days of being given notice of the review panel's decision.

25.2. Where the independent review panel recommends that the governing board should reconsider their decision not to reinstate a young person, they will do so within 10 school days of being given notice of the review panel's decision.

25.3. The school is aware that if, following a recommendation to reconsider, the governing board does not offer to reinstate the young person, it will not be subject to a financial adjustment.

25.4. If, following reconsideration, the governing board offers to reinstate the young person but the parents decline, no adjustment will be made to the school's budget.

25.5. Following reconsideration, the governing board will notify the parents, the principal and the LA of their reconsidered decision and the reasons for this.

26. Criminal investigations

- 26.1. The principal will not postpone taking a decision to exclude a young person due to a police investigation being underway, or any criminal proceedings that are in place.
- 26.2. The principal will give particular consideration when deciding to exclude a young person where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.
- 26.3. If the governing board is required to consider the principal's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

27. Training requirements

- 27.1. The LA will ensure that all independent review panel members and clerks have received training within the two years prior to the date of the review.
- 27.2. Training will cover:
 - 27.2.1. The requirements of the legislation, regulations and statutory guidance governing exclusions.
 - 27.2.2. The need for the panel to observe procedural fairness and the rules of natural justice.
 - 27.2.3. The role of the chair of a review panel.
 - 27.2.4. The role of the clerk to a review panel.
 - 27.2.5. The duties of principals, governing boards and the panel under the Equality Act 2010.
 - 27.2.6. The effect of section 6 of the Human Rights Act 1998 and the need to act in a manner compatible with human rights protected by that Act.
- 27.3. Clerks will also have an up-to-date understanding on developments in case law which are relevant to exclusion.

28. Monitoring and review

- 28.1. This policy will be reviewed annually by the principal in conjunction with the governing board. The next scheduled review date for this policy is September 2024.
- 28.2. All colleagues will be required to familiarise themselves with this policy as part of their induction programme.

2. Reviewing the Principal's Exclusion Decision

