

## Exclusion Factsheet

Being excluded from school can be very upsetting for you, your child or young person

This information factsheet will help you to understand your child's exclusion, your rights and will tell you where you can get further information and help.

The exclusion guidance outlining contains an overriding principle that the decision to exclude must be lawful, reasonable or fair.

### Government Guidance:

The information in this factsheet is taken from the \*government guidance which only applies to children and young people attending the following education settings:

- Maintained schools (state school)
- Academy (including Free schools but not 16-19 Academies)
- Pupil Referral Unit (PRU)
- School Sixth Forms

\*The guidance referred to in this factsheet is from the Department of Education Exclusion from maintained schools, academies and pupil referral units in England Statutory guidance for those with legal responsibilities in relation to exclusion <https://www.gov.uk/government/publications/school-exclusion>

Other types of education settings:

Other types of education settings include: sixth form Colleges, FE colleges, Independent schools or colleges. These types of education settings will have their own behaviour and exclusion policies.

### Duty to inform Parents of Exclusion

Only the head teacher has the power to exclude your child or young person (or teacher in charge of a pupil referral unit or the principle of an academy).

**Family Action Ealing ISAID! Service (Impartial Support Advice and Information on Disability and Special Educational Needs).**

Sycamore Lodge/1 Edgecote Close/ Ealing/ London/ W3 8PH

Advice line: 02039788989

email: [isaidealing@family-action.org.uk](mailto:isaidealing@family-action.org.uk)

web: [www.ealing-isaid.org.uk](http://www.ealing-isaid.org.uk)

Registered charity no: 264713 Registered company limited by guarantee in England and Wales no: 01068186

### Written information without delay must include:

- Parent's rights on making written representation.
- What type of exclusion? Permanent or fixed.
- Where governors consider the exclusion, informing you of your right to attend.
- If exclusion has taken place, written notice issued must include days that your child is NOT in a public place during school hours.
- Head Teacher must notify governing body and Local Authority (LA) of exclusion.
- If alternative provision is being arranged, to give details of the provision.

### Types of Exclusions:

There are only two types of exclusions from an education setting which are lawful:

- 1 - Fixed-period for a specific number of school days, for example, one day or more days (up to a maximum of 45 school days in a single academic year Academies)

A lunch time exclusion is recorded as a half day fixed period exclusion

- 2 - Permanent (Being removed from the school roll)

A decision to exclude a pupil permanently should only be taken:

- In response to a serious or persistent breach of the school's behaviour policy;
- Where allowing the pupil to remain in school would seriously harm education or welfare of the pupil or others in the school

Governing Body Must Meet to Consider Your Child's exclusion for the following reasons and statutory requirement to invite parents and careers.

1. If it is a permanent exclusion
2. It is a fixed-permanent exclusion, which would bring your child or YP total number of exclusions to more than 15 days in one term.

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3. Exclusion, which results in your child or YP missing public exams. Requirement for governing body to consider exclusion before date of exam.

### Duty To Arrange Education For Excluded Pupils.

Fixed Period Exclusion, of more than 5 school days, the governing body or LA must arrange suitable full time education for any pupil of compulsory school age. Provision must begin no later than 6<sup>th</sup> day of exclusion.

Where a pupil receives a fixed period exclusion for less than 5 days guidance states ' whilst the statutory duty on governing boards and LA is to provide full time education from 6<sup>th</sup> day of exclusion there is an obvious benefit in starting this process, as soon as possible"

Schools should take reasonable steps to set and mark work for the excluded pupil.

### Permanent Exclusion

LA must arrange suitable full time education for pupils to begin No Later than the 6<sup>th</sup> school day of exclusion. Law does not allow for extending an on going fixed period exclusion into a permanent exclusion.

### Exceptional cases:

Exclusion may be issued and where further evidence has come to light, a further fixed period can be issued. Head Teacher must write again, explaining reasons.

### Un-Lawful exclusion

Informal or un-official exclusion such as sending a pupil home to cool off are un-lawful, whether parents /careers have agreed. This must still be recorded. Pupils whose behaviour at lunch -time is disruptive may be excluded from school premises for the duration of lunchtime. Lunch-time

exclusion is considered half day fixed period exclusion and MUST be recorded.

### Pupil's With EHCP

A permanent exclusion means that the EHC plan must be amended because the child or YP can no longer attend at the named school. LA must ensure that an appropriate full time placement is identified in collaboration with parents.

- Parents have a right to express a preference for any school listed in sec 38(3) of children and Family Act 2014
- Where concerns have been raised or risk of exclusion of a child or YP with additional needs, pupils with EHCP, in partnership with others, must consider what additional support or other placement may be required. Schools should consider an early A/R or emergency A/R.

### Challenging The Decision Made:

The Head Teacher should have provided a letter informing you of exclusion and should include:

- Your right to make representation and how to do this.
- Where you can obtain impartial information advice and support.

### Governing body has the power to in relation to:

- Fixed Period- less than 5 days will not be able to Over-turn the exclusion.
- 5 days and more- decide whether the decision to exclude was lawful, reasonable and fair.
- Re-instate- if your child or YP has been excluded more than 15days in one term. You will be invited to a meeting. This should happen within 15 days of receiving information about exclusion and decide whether the decision to exclude was lawful reasonable or fair.

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## Governing body, Duty To Notify:

Governing body must inform parents, head teachers and LA of their decision, in writing without delay.

In the case of a permanent exclusion parents will have information on their rights and the right for the decision to be reviewed by the Independent Review Panel. Details must be provided on how to do this.

Independent Review Panel:

When parents appeal LA or Academy must arrange IRP hearing to review decision of governing body not to re-instate a permanently excluded pupil in reviewing the decision made and circumstances in which pupil was excluded. There must be regard to the interest of other pupils and staff.

### **PARENT MUST APPEAL WITHIN 15 DAYS OF NOTICE TO PERMANENTLY EXCLUDE**

Following review panel can decide to uphold governing board decision

- Recommend the governing board reconsiders re instatement OR
- Reject the decision and direct that the governing board reconsiders re instatement

If requested by parent, the LA must appoint an SEN Expert to provide impartial advice to panel about how SEN could be relevant to exclusion and whether the over-riding principle, the school acted on was lawful reasonable or fair.

## IRP Decision

If the IRP (Independent Review Panel) recommended that the governing board reconsider's decision, governing board **MUST** meet within 10 school days of being giving notice of IRP.

### Checklist for parents and guidance to obtain information:

Statutory guidance available on DFE website Exclusion from maintained schools, Academies and Pupil referral unit.

DFE behaviour and discipline in schools: Guidance for governing bodies.

SEND Code of practice 2014. Equality Act 2010. SEND project free legal advice and representation at all stages.

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