

Exclusion Factsheet

Being excluded from school can be very upsetting for you and 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.

There are two sets of statutory guidance:

- **Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement** – May 2023. This is the guidance that applies for all exclusions that took place on or after 1 September 2023.
- **Suspension and Permanent exclusion from maintained schools, academies and pupil referral units in England including pupil movement**– September 2022. This is the guidance that applies for all exclusions that took place on or after 1 September 2022 but before 1 September 2023.

Please be aware that the information on this fact sheet relates only to pupils at maintained schools, Academy schools (not 16-19 Academies or 16-19 free schools), alternative provision Academies, and pupil referral units. If your child attends a different setting, please see IPSEA advice on exclusion from those different settings or contact Islington SENDIAS on 020 3031 6651 or islingtonsend@family-action.org.uk

Children with **special educational needs** (SEN) and/or **disabilities** are much more likely to be excluded from school than their classmates.

Only the head teacher of a school (or the teacher in charge of a pupil referral unit or the principal of an academy) can exclude a pupil.

There are only two types of exclusion from a school which are lawful: **permanent** and **fixed-period** (which is called a "suspension"). Pupils could be excluded or suspended for a fixed term (for a specific number of school days) or permanently excluded.

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An exclusion or suspension for a fixed period cannot lawfully be rolled into or 'converted' 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 period ends, or a permanent exclusion may be issued to begin immediately after the end of the suspension.
- However, the new suspension or permanent exclusion must be separate from the suspension before and may be issued only in exceptional circumstances.

Any exclusion of a pupil, even for a short period of time, must be formally and accurately recorded.

Pupils can only be excluded for **disciplinary reasons**. They cannot be excluded because a school, pupil referral unit (PRU) or academy cannot meet their needs or for something which their parents did or did not do.

In addition, maintained schools have certain powers to direct pupils off-site for education to improve their behaviour. Academies have similar powers if their Articles of Association (the terms that say how they are to run) are written to include this. There are regulatory requirements about directing pupils off-site which apply to maintained schools and which represent good practice for Academies.

'Informal' or 'unofficial' exclusions/suspensions, such as sending a pupil home to cool off, are unlawful even if a parent or carer agrees to it. There are certain steps a school has to take for the exclusion or suspension to be lawful.

What Steps Does a School Have to Take?

There are rules around when and how a pupil can be excluded, and the steps a school has to take depends on the length of the exclusion.

No child should be excluded or suspended from school:

- for an unlimited period
- for a non-disciplinary reason, or
- without formal notice in writing from the head.

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This includes pupils who are below or above compulsory school age (those in sixth form).

The steps schools, Academies and pupil referral units need to take are found in law and in the Government's statutory guidance. This means they must consider what the guidance says, unless there is a good reason not to (such as it saying something different to what the law says). They cannot just ignore it.

It is always worth remembering that a **head teacher can cancel any exclusion or suspension** in certain situations and the guidance explains this in more detail (paragraph 13 of the 2022 guidance, and paragraphs 13–14 of the 2023 guidance).

What the school must do depends on how long the exclusion is for. Please see the relevant advice for each type of exclusion.

Fixed term/suspension for up to 5 days:

There are a number of things the school must do when a pupil is excluded for up to 5 days, and there are certain rights you have to object to the exclusion.

1. Notification by the Head

The Head must tell:

- you as the parent (initially by phone or in person) why your child has been excluded or suspended and for how long. This must be done without delay
- the LA about the exclusion or suspension, again without delay,
- the Governors if an external exam or National Curriculum test would be missed **or** if the total days excluded in that term are more than 5 (the maximum number of days in a school year for which a child can be given fixed-term exclusions is 45), and
- if the pupil is a looked after child, the Head must tell the Virtual School Head and if the pupil has a social worker, the Head must tell the social worker about the exclusion/suspension – in both cases, without delay.

2. Written confirmation

Then the Head must write to you to confirm that your child has been excluded or suspended and why, and also explain that you have the right to say what you think about **Family Action Islington SEND Service (Impartial Support Advice and Information on Disability and Special Educational Needs)**. Lough Road Centre, 61-71 Lough Road, London. N7 8FF

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the exclusion (this is called making representations) and how to do this. This information may be sent to you by email, but only if you agree to it.

3. Representations

You should put your views and comments on the exclusion in writing. These representations **must** be considered by governors even where there is no requirement for a meeting (see IPSEA advice on [preparing written representations](#)).

4. Governor meeting

The Governors must meet if:

- an external exam or National Curriculum test would be missed, **or**
- the total days excluded in that term is over 5 **and** you ask for a meeting.

If there is a meeting, you have the right to attend. You can also have someone to represent you at the meeting (such as an advisor from Islington SENDIAS or a solicitor) and can bring a friend.

For exclusions taking place from 1 September 2023, you can ask for this meeting to be held remotely and you should be told how to ask for this

5. Education

School must take reasonable steps to set and mark work for the first five days of a period of exclusion.

It may be that your child has been excluded once, for example, for 3 days. In this situation, the school should take the reasonable steps we refer to above to set and mark work.

However the governing body or your LA (if your child goes to a pupil referral unit) will have additional duties if the **total** number of school days excluded is more than 5. This could be the case for example if your child was previously excluded for 3 days, and has received another fixed-term exclusion, this time for 4 days. In this example, the total number of school days the child has been excluded for is 7. Here these additional duties arise because the child would have been excluded, in total, for more than 5 school days.

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When children are excluded for more than 5 school days (whether due to an one-off exclusion or due to a number of shorter exclusions together totalling more than 5 days) part 6 of the [2023 guidance](#), and part 6 of the [2022 guidance](#), says that governing bodies or LAs **must provide full-time education from the sixth day** of an exclusion/suspension. However, the guidance also makes clear they should try to start this provision as soon as possible.

If the pupil is a looked after child, schools and local authorities should work together to arrange alternative provision from the first day following the exclusion.

If it's not possible to arrange alternative provision during the first five school days of an exclusion, schools should take reasonable steps to set and mark work for pupils. All work provided should be something that can be done by pupils outside of school. If remote education is being provided by school, you can check to see if [government guidance](#) is being followed.

Fixed term/suspension for between 5 and 15 days:

There are a number of things the school must do when a pupil is excluded or suspended for between 5 and 15 days.

1. Notification by the Head

The Head must tell:

- you as the parent (initially by phone or in person) why your child has been excluded/suspended and for how long. This must be done without delay
- the LA about the exclusion/suspension, again without delay,
- the Governors if the exclusion/suspension would result in your child being excluded for a total of more than five school days in a term, or if the exclusion would mean your child misses a public exam or national curriculum test (the maximum number of days in a school year for which a child can be given fixed-term exclusions is 45), and
- if the pupil is a looked after child, the Head must tell the Virtual School Head and if the pupil has a social worker, the Head must tell the social worker about the exclusion/suspension – in both cases, without delay.

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2. Written confirmation

Then the Head must write to you to confirm that your child has been excluded/suspended and why and also explain that you have right to say what you think about the exclusion (this is called making representations) and how to do this. This information may be sent to you by email, but only if you agree to it.

3. Representations

You should put your views and comments on the exclusion in writing. These representations **must** be considered by governors even where there is no requirement for a meeting (see IPSEA's advice on [preparing written representations](#)).

4. Governor meeting

The Governors must meet if:

- an external exam or National Curriculum test would be missed
- the total days excluded in that term is over 15, **or**
- the total is between 5 and 15 **and** you request a meeting.

If there is a meeting, you have the right to attend. You can also have someone to represent you at the meeting (You can contact Islington SENDIAS for further support or a solicitor) and can bring a friend.

For exclusions taking place from 1 September 2023, you can ask for this meeting to be held remotely and you should be told how to ask for this.

5. Education

School must take reasonable steps to set and mark work for the first five days of a period of exclusion/suspension.

For an exclusion/suspension of **more than five school days**, the governing body (or, if a pupil is excluded/suspended from a pupil referral unit, the LA) must arrange **suitable, full-time education** if your child is of compulsory school age.

This provision must begin no later than the sixth day of the exclusion but they should **try to start this provision as soon as possible**. If the pupil is a looked after child, schools and

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local authorities should work together to arrange alternative provision from the first day following the exclusion.

All work provided should be something that can be done by your child outside of school. If remote education is being provided by school, you can check to see if [government guidance](#) is being followed.

Fixed term/suspension over 15 days:

There are a number of things the school is legally required to do if your child is excluded for over 15 days. (The maximum number of days in a school year for which a child can be given fixed-term exclusions is 45.)

1. Notification by the Head

The Head must tell:

- you as the parent (initially by phone or in person) why your child has been excluded/suspended and for how long. This must be done without delay
- the LA about the exclusion/suspension, again without delay
- the Governors, and
- if the pupil is a looked after child, the Head must tell the Virtual School Head and if the pupil has a social worker, the Head must tell the social worker about the exclusion/suspension – in both cases, without delay.

2. Written confirmation

Then the Head must write to you to confirm that your child has been excluded/suspended and why and also explain that you have right to say what you think about the exclusion (this is called making representations) and how to do this. This information may be sent to you by email, but only if you agree to it.

3. Representations

You should put your views and comments on the exclusion in writing. These representations **must** be considered by governors (see IPSEA advice on [preparing written representations](#)).

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4. Governor meeting

The Governors must meet within 15 days of receiving the notice of the exclusion. However, if the exclusion will mean your child will miss an external or National Curriculum exam they must take reasonable steps to meet before the exam.

You have the right to attend this meeting. You can also have someone to represent you at the meeting (such as an advisor from Islington SENDIAS or a solicitor) and can bring a friend.

For exclusions taking place from 1 September 2023, you can ask for this meeting to be held remotely and you should be told how to ask for this.

5. Education

School must take reasonable steps to set and mark work for the first five days of a period of exclusion/suspension.

The governing body (or, if a pupil is excluded/suspended from a pupil referral unit, the LA) must arrange **suitable, full-time education** if your child is of compulsory school age.

This provision must begin no later than the sixth day of the exclusion but they should **try to start this provision as soon as possible**. If the pupil is a looked after child, schools and local authorities should work together to arrange alternative provision from the first day following the exclusion.

All work provided should be something that can be done by your child outside of school. If remote education is being provided by school, you can check to see if [government guidance](#) is being followed.

Permanent Exclusions

A permanent exclusion (sometimes the word "expulsion" or "expelled" is used) is where a pupil is told they cannot come back to the school. Remember, a school should only take this decision in response to a **serious breach or persistent breaches** of the school's

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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.

There are a number of things the school must do when a pupil is permanently excluded.

1. Notification by the Head

The Head must tell:

- you as the parent (initially by phone or in person) why your child has been excluded and for how long. This must be done without delay
- the LA about the exclusion or suspension, again without delay
- the Governors, and
- if the pupil is a looked after child, the Head must tell the Virtual School Head and if the pupil has a social worker, the Head must tell the social worker about the exclusion/suspension – in both cases, without delay.

2. Written confirmation

Then the Head must write to you to confirm that your child has been excluded and why, and also explain that you have right to say what you think about the exclusion (this is called making representations) and how to do this. This information may be sent to you by email, but only if you agree to it.

3. Representations

You should put your views and comments on the exclusion in writing. These representations **must** be considered by governors (see IPSEA advice on [preparing written representations](#)).

4. Education

School must take reasonable steps to set and mark work for the first five days of a period of exclusion/suspension.

If your child is of compulsory school age, then your LA (the area where your child lives) must arrange suitable, full-time education for them from the sixth day of a permanent exclusion. 'Full-time' means supervised education equivalent to that provided by mainstream schools.

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This provision must begin no later than the sixth day of the exclusion but it should **try to start this provision as soon as possible**. If the pupil is a looked after child, schools and local authorities should work together to arrange alternative provision from the first day following the exclusion.

All work provided should be something that can be done by your child outside of school.

5. Governor meeting

The Governors must **meet within 15 days** of receiving the notice of the exclusion to consider it. However, if the exclusion will mean your child will miss an external or National Curriculum exam they must take reasonable steps to meet before the exam.

You have the right to attend this meeting. You can also have someone to represent you at the meeting (such as an advisor from the local Information Advice and Support Service or a solicitor) and can bring a friend.

For exclusions taking place from 1 September 2023, you can ask for this meeting to be held remotely and you should be told how to ask for this.

Following the Governor meeting, the governing body must tell you its decision (and the reasons for it) in writing and without delay.

The governing body will decide whether your child should be reinstated. This means it will look at the decision the Head made and decide whether the Head should have made it. It may decide not to reinstate your child – this means it considers the decision to permanently exclude your child was lawful, reasonable, and procedurally fair.

6. Independent Review Panel

If the governing body makes a decision not to reinstate a pupil and you as the parent or as the excluded pupil if aged 18 or over disagree, you can ask for this decision to be reviewed by an independent review panel (IRP).

An IRP cannot make a governing body reinstate an excluded pupil. However, where an IRP decides that a governing body's decision is flawed (faulty), it can tell the governing body to reconsider its decision.

SEN expert

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Whether or not the school recognises your child as having SEN, you can ask for an SEN expert to attend the review meeting.

The SEN expert's role is to tell the review panel how SEN may be relevant in the context and circumstances of the review. They will act independently, so they will not be on either your or school's side – they are there to help the panel understand if and how SEN may be relevant. For example, they can say whether the school followed its legal duties when excluding the pupil.

Unlawful exclusion or suspension of a pupil with a disability could be **disability discrimination** under the Equality Act 2010.

Most of the information linked below only applies to pupils at:

- maintained schools
- academies, or
- pupil referral units.

If your child attends a **different type of setting**, see please see IPSEA advice on **exclusion from those different settings** or contact Islington SENDIAS on 020 3031 6651 or islingtonsend@family-action.org.uk

Further information:

Government's **parent guide on school behaviour and exclusion**

School exclusion - childlawadvice.org.uk

If exclusion has affected your child's free school meals, or you are not sure whether your child is eligible for free school meals, you may find **these resources produced by Contact** helpful.

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