

SENDiass



information advice
& support service

Fixed Period and Permanent Exclusions

This information is about what happens when your child is excluded from school for a fixed period or receives a permanent exclusion.

For what reasons can a school exclude my child?

Head teachers can only exclude a pupil for disciplinary reasons (e.g. because their behaviour violates the school's behaviour policy). They cannot, for example, exclude a pupil for academic performance/ability, or simply because they have additional needs or a disability that the school feels it is unable to meet. A head teacher can exclude for behaviour outside of school, or for repeatedly disobeying academic instructions.

Can the school send my child to be educated elsewhere?

A school can also transfer a pupil to another school – a process called a 'managed move' - if they have the agreement of everyone involved, including the parents and the admission authority for the new school.

Schools cannot force a parent to remove their child permanently from the school or to keep their child out of school for any period of time without formally excluding.

The Department for Education issued guidance on exclusion in the '**Exclusion from maintained schools, Academies and pupil referral units in England**' (the **Exclusions Guidance**) which states:

Disruptive behaviour can be an indication of unmet needs. Where a school has concerns about a pupil's behaviour, it should try to identify whether there are any causal factors and intervene early in order to reduce the need for a subsequent exclusion. In this situation, schools should consider whether a multi-agency assessment that goes beyond the pupil's educational needs is required.' (Section 2)

Can a school ask me to collect my child/send my child home early without following the formal exclusions process?

'Informal' or 'unofficial' exclusions, such as sending pupils home 'to cool off', are not allowed, even if they are with the agreement of parents. Any exclusion of a pupil, even for short periods of time, must follow the formal process including being formally recorded. Any fixed-period exclusion must have a stated end date.

What happens when my child is excluded?

Your child's school will let you know about an exclusion as soon as possible. They'll follow up with a letter telling you how long your child is excluded for and why. You should also be told how to challenge the exclusion, if you want to.

How do I challenge an exclusion?

You'll get a letter from the school telling you what to do if you disagree with the exclusion. You can ask the school's governing body to overturn the exclusion if either:

- your child has been excluded for more than 5 days
- the exclusion means they'll miss a public exam or national curriculum test

If the exclusion is for 5 days or fewer, you can still ask the governors to hear your views, but they can't overturn the headteacher's decision.

How do I challenge a permanent exclusion?

You'll be invited to a review meeting with the school's governors if your child has been permanently excluded. This will happen within 15 school days.

If the governors don't overturn the exclusion, you can ask for an independent review by your local council (or the academy trust if the school's an academy). The governors must tell you how to do this.

If your child is still excluded, you can ask the Local Government Ombudsman (or the Education Funding Agency if the school's an academy or free school) to look at whether your case was handled properly. They can't overturn the exclusion.

You can make a claim to a court or a tribunal if you think your child's been discriminated against. You need to do this within 6 months of the exclusion.

For more general complaints (e.g. if you don't want to challenge the exclusion but you're not happy with the way the school handled it), follow the normal school complaints process.

What are the legal obligations on a school when excluding a pupil?

Exclusions can start on the same day, but the school shouldn't make you collect your child straight away. When a head teacher excludes a pupil, they must without delay let parents know the type of exclusion and the reason(s) for it. They must also, without delay, provide parents with the following information in writing:

- the reason(s) for the exclusion
- the length of the exclusion
- the parents' right to put forward their case about the exclusion to the governing board, how they should go about doing this and how the pupil can be involved; and
- when relevant, what alternative provision will be provided from the sixth day of a fixed-period exclusion.

Is there a limit to the number of times my child can be excluded?

A pupil cannot be excluded for more than 45 school days in one school year. This means they cannot have one fixed-period exclusion of 46 school days or more; also, they cannot have lots of shorter fixed-period exclusions that add up to more than 45 school days. This is true even if these exclusions have been given in different schools. Where pupils are excluded from school over the lunch period because this is when their behaviour is a problem - are counted as half a day.

Can I question the decision to exclude my child?

Parents have the right to make their case about the exclusion of their child to the governing board. For fixed-period exclusions, unless the exclusion takes a pupil's total number of school days of exclusion past five in that term, the governing board must consider any case made by parents, but it cannot make the school reinstate the pupil and is not required to meet the parents.

For all permanent exclusions, the governing board must consider, within 15 school days of being told about the exclusion, whether the excluded pupil should be reinstated. This is the same for fixed-period exclusions where the pupil will miss more than 15 days in one term or, will miss a public examination (e.g. a GCSE) or a national curriculum test (e.g. a key stage 2 test taken at the end of primary school). For a fixed-period exclusion that brings a pupil's total excluded days to more than five but under 15 the governing board must consider reinstatement within 50 school days if the parent asks it to do this.

If the governing board decides not to reinstate the pupil who has been permanently excluded, parents can request an independent review panel to review the governing board's decision.

What can I do if I feel my child is being discriminated against in the exclusion process, for example because he/she has a disability?

Schools have a duty under the Equality Act 2010 not to discriminate against pupils on the basis of protected characteristics, such as disability or race, including in all stages of the exclusion process.

Parents can raise this issue during the exclusion consideration meeting with the governing board.

If the governing board decides not to reinstate the pupil who has been permanently excluded, parents can request an independent review panel to review the governing board's decision. When making their request parents can ask for a Special Educational Needs (SEN) expert to attend the hearing to advise the panel on how SEN might be relevant to the exclusion. Parents can request this even if their child has not been officially recognised as having SEN.

If a parent believes that their child has been discriminated against in the exclusion process because of a disability, then they may also make a claim to the First-tier Tribunal (Special Educational Needs and Disability) within six months of the exclusion.

The Tribunal can consider claims about permanent and fixed-period exclusions. For permanent exclusions, this can be done instead of, or in addition to, an independent review panel.

If the parent believes that a permanent or fixed period exclusion occurred as a result of discrimination other than in relation to disability (e.g. in relation to race) they can make a claim to the County Court.

Arrangements for my child after exclusion: Will my child still receive an education?

Schools should take reasonable steps to set work for pupils during the first five days of a fixed-period exclusion.

From the sixth day of an exclusion, suitable full-time education must be arranged for pupils of compulsory school age (primary and secondary school age), except for Year 11 pupils (final year of secondary school) whose final exams have passed. In the case of a fixed-period exclusion of more than five school days, it is the duty of the school to arrange this education, unless the school is a Pupil Referral Unit (PRU) (in which case the local authority should make arrangements). If a parent wishes to raise a concern about lack of, or the quality of, education arranged during a fixed period exclusion (and their child is still of compulsory school age), they may follow the school's official complaints procedure.

In the case of a permanent exclusion, arranging suitable full-time education is the duty of the local authority for the area where the pupil lives. If a parent wishes to raise a concern about lack of, or the quality of, education following a permanent exclusion (and their child is still of compulsory school age), parents should complain to the local authority where they live.

Does my child still have a right to attend their exams or national curriculum tests when excluded?

This is a decision for the school. Neither the school nor the local authority is legally required to arrange for an excluded pupil to take a public examination or national curriculum test that occurs during the exclusion, although some may choose to arrange for this, either on school premises or

elsewhere. Where a parent has concerns about their child missing a public examination or national curriculum test, they should raise these with the school.

What are my duties as a parent when my child has been excluded?

For the first five school days of any exclusion, parents must ensure that their child of compulsory school age is not in a public place during school hours without very good reason. Parents must also ensure that their child attends any new full-time education provided from the sixth day of exclusion (unless they have arranged suitable alternative education themselves).

Where can I get more information, advice or support?

You can read about exclusions in the **Exclusion from maintained schools, Academies and pupil referral units in England' (the Exclusions Guidance)**

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/641418/20170831_Exclusion_Stat_guidance_Web_version.pdf

SENDiass4BCP can give you:

- advice and support on the exclusion process
- details of the statutory guidance around exclusions
- details of other organisations, support groups and services that may be of help
- information, advice and support about your rights to make a complaint.