

School Exclusions

- Welcome



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Agenda

- Legislation and DfE statutory guidance
- Some core principles / key considerations
- The Governing Board's duties to review the headteacher's exclusion decision including the governing board meeting to consider reinstatement.

The Legislation

- The Education Act 2002, as amended by the Education Act 2011;
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- The Education and Inspections Act 2006; and
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007.

Statutory Guidance: Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement.

<https://www.gov.uk/government/publications/school-exclusion>

Exclusion statistics

<https://www.gov.uk/government/collections/statistics-exclusions>

The latest release provides data from the 2022-23 academic year.

<https://explore-education-statistics.service.gov.uk/find-statistics/suspensions-and-permanent-exclusions-in-england>

- The number and rate of both suspension and permanent exclusion have increased from the previous year [and] are the highest recorded annual number of both suspensions and permanent exclusions.
- Persistent disruptive behaviour accounted for 48% of all reasons given for suspension and for 39% of reasons for permanent exclusions. This is in line with previous years where this reason was the most commonly recorded (up to 3 reasons can be recorded, and reasons are recorded without weighting or prioritisation)

Headline facts and figures (spring term 2023)

- The suspension rate for FSM eligible pupils was 4 times that for non FSM eligible pupils. The permanent exclusion rate for FSM eligible pupils was 0.09, compared to 0.02 for non FSM eligible pupils.
- The suspension rate among those pupils who have an EHC plan was 6.98%, which was lower than for those with SEN without an EHC plan (SEN support) at 8.04%. This compares to 2.18% for pupils with no SEN.

The rate of permanent exclusions among those pupils who have an EHC plan was 0.07%, which, like suspensions, was lower than for those with SEN without an EHCP plan at 0.12%. This compares to 0.02% for pupils with no SEN.

The DfE statutory guidance



Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement

Guidance for maintained schools, academies, and pupil referral units in England

August 2024

Last updated in August 2024

<https://www.gov.uk/government/publications/school-exclusion>

New from September 2023

DfE's guide for parents on school behaviour and exclusion:

<https://www.gov.uk/government/publications/school-exclusions-guide-for-parents>

Some core principles

- Only the headteacher can suspend or permanently exclude a pupil
- Exclusions must be on disciplinary grounds and must be lawful, reasonable, fair and proportionate.
- **Part four** of the DfE statutory guidance contains factors for the headteacher to consider before making a decision to suspend or permanently exclude.
- The decision to exclude a pupil permanently should only be taken:
 - in response to a serious breach or persistent breaches of the school's 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.

Suspensions

- A pupil may be suspended for one or more fixed periods - up to a maximum of 45 school days in a single academic year.
- A suspension can also be for part of the school day. Lunchtime suspension is counted as half a day.
- The legal requirements apply in **all** cases of suspension.
- The law does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion.

Exclusion as a last resort

It is highlighted throughout the statutory guidance that the use of exclusion should be a last resort. The expectation being that headteachers explore all preventative measures and alternatives to exclusion before making the decision to exclude.

Part 4 of the DfE statutory guidance contains further information on preventative measures

The voice of the pupil

This is highlighted in the statutory guidance, e.g paragraph 4 says -

“Headteachers should also take the pupil’s views into account, considering these in light of their age and understanding, before deciding to exclude, unless it would not be appropriate to do so.

They should inform the pupil about how their views have been factored into any decision made.

Where relevant, the pupil should be given support to express their view, including through advocates such as parents or, if the pupil has one, a social worker.

Whilst an exclusion may still be an appropriate sanction, the headteacher should also take account of any contributing factors identified after an incident of misbehaviour has occurred and consider page 16 of the [Behaviour in Schools guidance](#).”

Considerations

The headteacher and governing board must comply with their statutory duties in relation to SEND when administering the exclusion process **(having regard to the SEND Code of Practice.)**

From paragraph 20:

“.... It would also be unlawful to exclude a pupil simply because they have SEN or a disability that the school feels it is unable to meet, or for a reason such as, academic attainment/ ability; or the failure of a pupil to meet specific conditions before they are reinstated, such as to attend a reintegration meeting.”

Paragraphs 18-22 in the statutory guidance contain more information relating to off-rolling and unlawful exclusions

Considerations

On page 10 in the guidance, it states that:

“Schools must also ensure that any provision, criterion, or practice does not discriminate against pupils by unfairly increasing their risk of exclusion. For example, if reasonable adjustments have not been made for a pupil with a disability that can manifest itself in breaches of school rules if needs are not met, a decision to exclude may be discriminatory. “

See also the sections in the guidance relating to

- *variation in exclusion rates (para 53)*
- *pupils with SEND including those with EHC plans (paras 54-57)*
- *pupils who have a social worker, including looked after children and previously looked after children (paras 58-62)*

The Governing Board's monitoring

“Governing boards should already be challenging and evaluating what their school's data is telling them about their school or academy trust. Boards should carefully consider the level of pupil moves and the characteristics of pupils who are moving on any permanent exclusions to ensure the sanction is only used when necessary as a last resort.”
(paragraph 108)

Paragraph 109 advises that GB monitoring should include data on:

- suspensions and permanent exclusions (*including cancelled exclusions – see paragraph 13*)
- those taken off-roll, and those on-roll but attending education off-site in alternative provision
- any patterns to the reasons or timing of moves

The Governing Board's monitoring

Paragraph 111: Governing boards should consider:

- effectiveness and consistency in implementing the school's behaviour policy
- the school register and absence codes
- instances where pupils receive repeat suspensions
- interventions in place to support pupils at risk of suspension or permanent exclusion
- any variations in the rolling average of permanent exclusions to understand why this is happening, and to ensure they are only used when necessary
- timing of moves and permanent exclusions, and whether there are any patterns, including any indications which may highlight where policies or support are not working
- understanding the characteristics of excluded pupils, and why this is taking place
- whether the placements of pupils directed off-site into alternative provision are reviewed at sufficient intervals to assure that the education is achieving its objectives and that pupils are benefiting from it

THE GOVERNING BOARD'S DUTY TO CONSIDER REINSTATEMENT



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The statutory guidance includes:

- *Part 3 - the headteacher's power to suspend or permanently exclude*
- *Part 4 - factors to consider before making a decision to exclude.*
- *Part 5 - the headteacher's duty to inform parties*
- *Part 7 – the governing board's duty to consider an exclusion*
- *Parts 9-10 – Independent Review*
- *Part 11 – requests for remote access meetings*
- *Part 12 – GB's duty to reconsider reinstatement following a review*
- *Part 14 – ... [parallel proceedings]*



Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement

Guidance for maintained schools, academies, and pupil referral units in England

August 2024

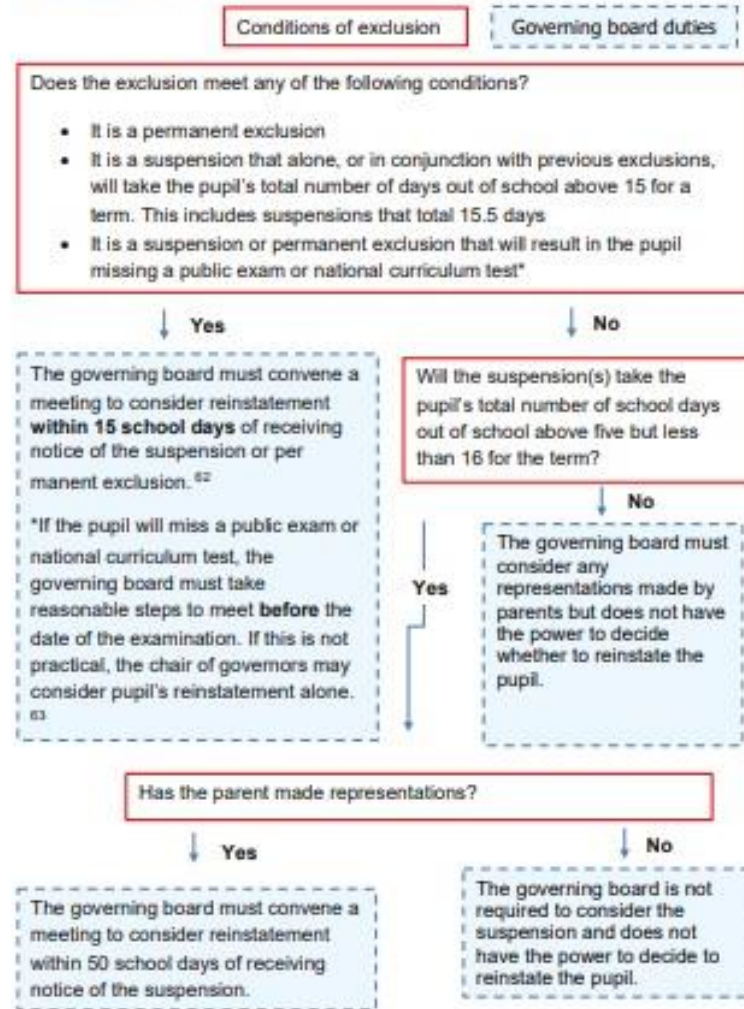
WHEN IS A GOVERNOR MEETING REQUIRED?

The GB has a duty to convene a meeting to consider the reinstatement of the pupil:

- for all permanent exclusions - and
- for some suspensions.

There is a useful flowchart in the DfE statutory guidance on page 39.

A summary of the governing board's duties to consider reinstatement⁴¹



⁴¹ Parents on diagram refer to parent if the pupil is under 18 or the excluded pupil, aged 18 or over.

⁴² The governing board may delegate its functions to consider a suspension or permanent exclusion to a designated committee.

⁴³ The ability for a chair to review in the case of public exams refers only to maintained schools.

For permanent exclusions and some suspensions

The governing board must meet to review the headteacher's decision to exclude - **and must consider whether to reinstate the pupil** - for:

- All permanent exclusions
- Following any suspension which brings the total number of school days of suspension **in that term to more than fifteen** (*including any days of suspension used as a sanction for that pupil at any previous school in that term.*)
- Any suspension or permanent exclusion which would result in the pupil missing a public examination or a national curriculum test

Timescale: within fifteen school days of the board being notified (which must be 'without delay') PLUS, the board should make every effort to meet before the date of any public examination or national curriculum test that the pupil could otherwise miss due to their suspension/exclusion.

Review of other suspensions:

*For suspensions which bring the total number of days that the pupil was suspended **in that term to more than five and up to and including fifteen:***

The governing board must meet to review the headteacher's decision to exclude - **and must consider whether to reinstate the pupil** - if the parents (or the pupil if age 18+) make representations.

Timescale: within 50 school days of the board being notified.

Review of other suspensions:

*For suspensions which bring the total number of days that the pupil was suspended **in that term to five or less:***

*“... the board must consider any representations made by the parents, but **it cannot direct reinstatement and is not required to arrange a meeting with the parents.**”*

“The board should consider whether it is appropriate to place a note of its findings on the pupil’s educational record.”

(See paras 106 and 126 of the statutory guidance)

Delegation to a committee/panel

- Maintained schools: the board may delegate its functions with respect to the consideration of a suspension or permanent exclusion to a designated sub-committee consisting of **at least three governors**.
- Academies: the board may delegate to a committee of the trust board if the trust's articles of association allows it to do so.

Terms of reference for this committee / panel should ensure this delegation, and the committee's remit, is clear.

Academy trusts – include in scheme of delegation

Committee / panel membership

Committee/panel membership will be dependent on

- Avoiding conflicts of interest and “reasonable doubt” relating to “ability to act impartially”
- Using governors without prior knowledge or involvement in the case
- Governor availability inside the statutory timescales

Key Considerations for the meeting

- The parents (the pupil if 18 years or older) **must** be advised they can bring a friend and/or representative to the meeting.
- The board should consider what reasonable adjustments should be made to support attendance and participation
- The submissions pack – ie compiled documentation submitted by the school and the other parties (the parents & pupil, the LA (maintained), social worker/s, VSH etc) should be received “where possible” (see para 112) **at least 5 school days** before the meeting.
- At the meeting, each party will be invited to make verbal representations and given the opportunity to ask questions of the other parties present.
- The parties and panel will have the same information; ie the verbal representations, the questions and answers and the information in the submissions pack. **The panel will use this information to reach its decision – and will give evidence-based reasons supporting its decision.**

Who must be invited to the meeting? (Para 104)

- The parents (*those with parental responsibility for the pupil*) and (*each*) may bring a friend and/or representative *and the pupil (the GB taking into account the pupil's age and understanding) – see the next slide*
- The pupil - if they are 18 years or over
- The headteacher
- For maintained schools - the Local Authority*
(*Academies – the parents may request that the Local Authority attends*)
- The pupil's social worker(s) and/or the Virtual School Head (*if applicable*)

The governing board must make reasonable endeavours to arrange the meeting within the statutory time limits [...] and must try to have it at a time that suits all relevant parties. Its decision will not be invalid simply on the grounds that it was not made within these time limits (Paragraph 105)

The pupil's voice

- Paragraph 107: “Taking into account the pupil's age and understanding, the pupil or their parents should also be made aware of [the pupil's] right to attend and participate [at the meeting] and the pupil should be enabled to make a representation on their own behalf if they wish to do so.”
- From paragraph 112: the board should comply with its duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or pupil has a disability with mobility or communication that has an effect upon their ability to attend the meeting or to make representations); and
- identify the steps it will take to enable & encourage the [...] pupil to attend the meeting and speak on their behalf (such as providing accessible information or allowing them to bring a friend); taking into account the pupil's age and understanding; or how the [...] pupil may feed in their views by other means if attending the meeting is not possible

Social Workers (paragraphs 128-129)

It is likely that pupils with a social worker have experienced or are experiencing adversity or difficulties. Social workers can provide important information that helps the governing board understand the experiences of a pupil and their welfare.

Social workers should, as far as possible, attend the governing board meeting to share information. This should include helping to identify how the pupil's circumstances may have influenced the circumstances of the pupil's suspension or permanent exclusion and ensuring that safeguarding needs and risks and the child's welfare are taken into account.

Social workers may join the meeting via remote access “as long as the governing board is satisfied that they will be able to participate effectively” (see paragraph 246)

If the social worker cannot attend the meeting, their witness statement should be gathered where possible (footnote 66 on page 41).

Virtual School Head (paragraph 130)

The Virtual School Head should, as far as possible, attend the governing board meeting to share information where the pupil is a looked-after child.

This should include helping the governing board to understand the pupil's background and circumstances. They should also be able to advise the board on the possible contribution that the pupil's circumstances could have made to the suspension or permanent exclusion.

The VSH may join the meeting via remote access “as long as the governing board is satisfied that they will be able to participate effectively” (see paragraph 246)

If the Virtual School Head cannot attend the meeting, their witness statement should be gathered where possible.

Request for remote access meetings

From Sept 23: Part 11 and Annex A to the Statutory Guidance

Parents (if the pupil is under 18) or excluded pupils (if they are aged 18 years or older) can request the meeting to be held via the use of remote access **but this should not be the default option.**

Holding meetings via remote access must only be done if [the] governing board [is] satisfied that the meeting is capable of being held fairly and transparently (described in paragraphs 249 and 250 of the DfE guidance).

The board to carry out advance checks (see Part 11 and Annex A for more detail) and - if satisfied it can go ahead using remote access – set meeting protocols.

The letter from the headteacher notifying the parents (or pupil if 18+) of the suspension or permanent exclusion **must** now advise the parents/pupil of their right to request a remote access meeting and how and to whom to make this request. **Annex A** of the DfE statutory guidance contains other information re what the headteacher's letter should include.

The clerk's / governance professional's role



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The clerk's / governance professional's role

- Checking all parties and panel availability (noting paragraph 105 as per slide 24)
- Inviting all the parties to the meeting- *see next slide*
- Acting as the liaison point for all the parties. **From Sept 2023 – if the parents request a remote access meeting, the board – with input from the clerk/governance professional - will need to assess / determine whether criteria-meeting remote access arrangements can be made.**
- Asking all parties for any submissions they may have for the documentation pack and (once received and collated) arranging the secure and confidential delivery of a copy of the submissions pack to each invited party and each panel member.
- Keeping all parties informed of who else is invited to the meeting (which may need updating and re-circulating before the meeting).

Inviting the parents (pupil if 18 or over) to the meeting

- To contain the date, time, venue and **remit** of the meeting
- *From Sept 2023 – see previous slide re right to request a remote access meeting.*
- Must advise that they can bring a friend and/or representative to the meeting.
- *Taking into account the pupil's age and understanding* – should advise that the pupil is invited and may make a representation on their own behalf at the meeting if they wish to do so;
- Advises parents and pupil may also feed in their views by other means and how to do so (eg via the submissions pack)
- Asks re any accessibility requirements, including whether they would like to have an interpreter present.
- Advises how to make submissions for the pack (usually deliver to the clerk)
- Advises that a copy of the pack will be supplied to all the invited parties and the panel members before the meeting. *Clerk will need to arrange how they will receive this – it must be a secure and confidential delivery system.*

The submissions pack

- Give a 'please send submissions by...' date of several days before the pack is due to be delivered to the invited parties and panel, to allow for seeking any advice and for collating, photocopying and arranging the packs' secure delivery.
- Pack delivery:- **only to the invited parties and to the panel members.**
- **What about any late submissions?**

The board will need to decide how to manage these, depending on context – ie in light of the timescale, size and nature of the submission. For example, the board (panel chair) might decide it's most appropriate to:

- securely deliver the submission to the invited parties and panel members before the meeting (if there is sufficient time before the meeting), or
- bring copies and delay the start of the meeting so that all parties and the panel can read the submission before the meeting starts or
- postpone the meeting (minimum possible delay whilst noting para 105) so that the invited parties and panel have time to read and absorb the submission before meeting.

The clerk/governance professional to seek advice as required.

The meeting arrangements

- It must be presumed that all the invited parties will attend and that each party might be accompanied, regardless of whether this has been advised in advance of the meeting or not.
- No party should have a more 'favoured position' in the room – e.g. the headteacher should not be placed closer to the panel than the parents
- Clerk/GP to check that any requested accessibility arrangements have been put in place.
- Clerk/GP to consider where the different parties will wait before being brought into the meeting - separate lobby areas for each party are ideal.
- Who will meet and greet?
- If a remote meeting – have the connection arrangements been pre-checked and have the meeting protocols been communicated to all parties?
- The meeting can be adjourned if there are exceptional circumstances, but all efforts must then be made to reconvene without delay.

Considerations for the meeting



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The meeting – key principles

- The committee/panel chooses (in advance) who will chair
- The governors should not discuss the exclusion with any party outside the meeting (see paragraph 112)
- All invited parties should enter the room at the same time, and if one party leaves the room during the meeting, the other parties must also be asked to withdraw. All parties will re-enter the room together *(via remote – have a protocol / use of virtual waiting room if available)*
- The governors must take all steps to ensure all parties are able to participate and have their views properly heard.

*“This is particularly important where pupils aged under 18 are speaking about their own exclusion or giving evidence”
(see additional requirements in the statutory guidance re pupils under 18 being called as witnesses)*

Suggested meeting format/agenda 1/3

- Welcome & introductions. The chair outlines the meeting remit (ie to consider the reinstatement of the pupil) the order of proceedings, and the meeting's protocols.
- The chair invites the headteacher to put forward their case.
- The chair invites the parents / + pupil to ask the headteacher any questions they may have.
- The chair invites the other parties (eg LA, social worker, VSH as applicable) in turn to ask the headteacher any questions they may have.
- The panel asks the headteacher any questions it has.
- The chair invites the parents / + pupil to make their representations.
- The chair invites the headteacher to ask the parents /+ pupil any questions they may have.
- The chair invites the other parties (as above) in turn to ask the parents / + pupil any questions. Then the panel asks any questions it has. *(continued...)*

Suggested meeting format/agenda 2/3

As applicable:

- Maintained schools: the chair invites the LA to make its representations (academies – the parents may have invited the LA to attend.)
- The chair invites the parties in turn to ask the LA any questions - ie headteacher, then parents / + pupil, then social worker & VSH as applicable
- The panel then asks the LA any questions it has.
- The chair invites the social worker and/or VSH (*if applicable*) to share information. Questions are then asked in turn (as above).

If there are any witnesses being called, the witnesses would be brought into the meeting at the relevant time and the chair would invite them to make their statement and then would invite each party to ask their questions in turn. Finally, the panel would ask questions of the witness.

(continued...)

Suggested meeting format/agenda 3/3

Once the panel is satisfied that every party has had the opportunity to make their representations without interruption and to ask questions of each other:

- The chair invites the headteacher for their closing statement.
- The chair invites the LA (maintained) for its closing statement.
- The chair invites the other parties (ie social worker, VSH as applicable) for any further comment
- Finally, the parents /+ pupil are invited to give their closing statement - **the chair should check that whether there is anything further they need in terms of clarification and the parents/pupil should have the last word.**
- The chair thanks all for their participation - and all the parties leave at the same time.

DISCUSSION - ANY CONSIDERATIONS???

The decision (closed meeting)

(para 123) The governing board should ask all parties to withdraw from the meeting before making a decision.

Where present, a clerk should stay to help the governing board by reference to their notes of the meeting and with the wording of the decision letter.

It is clear in the statutory guidance (paragraph 122) that the record of discussion should state clearly how the decisions have been reached

DISCUSSION - ANY CONSIDERATIONS ???

The committee's / panel's responsibility

“Governing boards have a key responsibility in considering whether excluded pupils should be reinstated. This forms part of their wider role to hold executive leaders to account for the lawful use of exclusion, in line with the duties set out in law, including equalities duties.”

Part seven: the governing board's duty to consider an exclusion

(Paragraph 114) Where the board is legally required to consider reinstating a pupil, it must consider both the interests and circumstances of the suspended or permanently excluded pupil, and that of other pupils, staff, and school community.

(Paragraph 124) In reaching a decision [...] the governing board should consider whether the decision to suspend or permanently exclude the pupil was lawful, reasonable, and procedurally fair. This should consider the welfare and safeguarding of the pupil and their peers, the headteacher's legal duties, and any evidence that was presented to the governing board in relation to the decision to exclude.

Committee / panel considerations:

Permanent exclusions - does the evidence robustly support, as per paragraph 11 in the statutory guidance, that the decision was taken

- in response to a serious breach or persistent breaches of the school's 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.

Permanent exclusions and suspensions – does the evidence robustly support a

- lawful
- reasonable and
- procedurally fair decision?

When establishing the facts in relation to an exclusion, the headteacher (paragraph 3) and the board (paragraph 117) apply the civil standard of proof ie 'on the balance of probabilities' (it is more likely than not that a fact is true)

Some more considerations:

- Has a thorough assessment of this pupil's specific needs been undertaken?
- *were reasonable adjustments made where applicable?*
- Have all preventative measures been explored? - *see Part 4 of the guidance*
- Has the pupil been made aware at all stages of the likely consequences of their behaviour? - *how has the school evidenced this?*
- Have the pupil's views been taken into account, and have any possibly contributing factors been identified and considered? – *see paragraph 4 of the guidance*
- Have we taken into account any information supplied by social worker/s and/or the VSH (where applicable) regarding the pupil's circumstances and likely impact? -*see paragraphs 128 – 130 of the guidance*
- Are there clear and well publicised school/trust policies in place that underpin the school's actions and the headteacher's decision-making?

The committee's / panel's decision:

Following its considerations, the panel can either:

- **Direct reinstatement of the pupil** - either immediately or on a particular date or
- **Decline to reinstate the pupil**

(Para 119) If a reinstatement meeting would make no practical difference because, for example, the pupil has already returned to school following the expiry of a suspension, or the parents make clear they do not want their child reinstated, the governing board must still meet to consider whether the pupil should or would have been officially allowed back into the school. Ideally, a reinstatement meeting should happen as soon as possible and should ideally be held before the pupil is back in school.

The decision letter

- Paragraph 137: The governors should set out the reasons for their decision in sufficient detail to enable all parties to understand why the decision was made.
- If the decision is to decline to reinstate a permanently excluded pupil, the letter must include many statutory elements including providing notice of the parents' (pupil's – if 18 or over) right to ask for the decision to be reviewed by an independent review panel (IRP).
- The panel must ensure all statutory information is included.

(see paragraphs 131-140, 232-235 and 76)

The decision letter

- The decision letter is addressed to the parents - or to the pupil, if the pupil is 18 years or older
- The decision letter must be delivered (via a secure and confidential delivery method) 'without delay'
- The other invited parties must also be notified in writing of the governing board's decision, including the reasons for it, without delay. ie
 - The headteacher
 - The Local Authority (and the pupil's Home Authority where this is different – see paragraph 131)
 - The pupil's social worker(s) and/or the VSH (if relevant)

Next steps

- The minutes (Part II confidential) are drafted by the clerk / governance professional. The panel must approve the minutes as a true record of the meeting. Once approved, the minutes should be made available to the invited parties on request (paragraph 122)
- The governing board should note the outcome of its consideration on the pupil's educational record, and copies of relevant papers should be kept with the educational record (paragraph 125)
- Confidentiality – the exclusion must not be discussed with any party outside the reinstatement consideration meeting (as per paragraph 112)
- A permanently excluded pupil is not removed from the school roll until the appeal deadline is passed, unless the parents (or pupil is 18+) state in writing that they will not be appealing - or until the independent review process (and any subsequent reconsideration, if any is required) concludes (paragraph 143)

Independent review

- IF a permanently excluded pupil is not reinstated by the governing board, the parents (or the pupil if 18+) may request an independent review.
- If there is an independent review, the governing board will be invited to make written representations to the independent review panel, to attend the hearing and make oral representations to the panel and be represented (paragraph 170)
- **See Parts 9 and 10 of the DfE statutory guidance for further details on Independent Review meetings.**
- The clerk to the independent review will ask for, collect and collate the submissions pack for the review which will likely include the submissions pack for the GB's reinstatement consideration, the approved minutes of that meeting and a copy of the governing board's decision letter.

Independent review

- New evidence may be presented to the independent review panel, though the school may not introduce new reasons for the permanent exclusion [nor for] the decision not to reinstate the pupil and the panel must disregard any new reasons that are introduced (paragraph 207).
- Following the independent review meeting, the governing board will receive written notification of the independent review panel's decision

... and the governing board may need to take next steps, depending on the outcome.

Independent review

Following its review, the independent review panel can decide to

- uphold the governing board's decision not to reinstate
- recommend that the governing board reconsiders reinstatement; or
- quash the governing board's decision and direct that the governing board reconsiders reinstatement.

If it is recommended or directed that the governing board reconsiders, the governing board must undertake this reconsideration **within ten school days of being given notice of the panel's decision.**

The Governing Board's reconsideration following Independent Review



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Governing board's reconsideration following IRP

THIS IS NOW PART 12 OF THE STATUTORY GUIDANCE

- The reconsideration provides an opportunity for the governing board to look afresh at the question of reinstating the pupil, in light of the findings of the independent review panel.
- There is no requirement to seek further representations from other parties or to invite them to the reconsideration meeting. However, if they are invited, they should be asked to withdraw before the decision process (as per usual). Clear minutes must be taken as a record of the evidence that was considered – and should be made available to all parties on request.
- The governing board's decision should demonstrate **how they have addressed the concerns raised by the independent review panel.**

Governing board's reconsideration following IRP

Para 259 (page 70) of the statutory guidance says:

It is important that the governing board conscientiously reconsiders whether the pupil should be reinstated, whether the panel has directed or merely recommended it to do so.

Whilst the governing board may still reach the same conclusion as it first did, it may face challenge in the courts if it refuses to reinstate the pupil, without strong justification.

Following its reconsideration

The governing board must notify the following people of its reconsidered decision, and the reasons for it, in writing and without delay:

- the parent or a pupil if they are 18 years or over;
- the headteacher;
- the local authority; and, where relevant, the 'home authority'

School roll and school records

SEE PART 8 OF THE DFE STATUTORY GUIDANCE

- It is the governing board's duty to remove a permanently excluded pupil's name from the school admissions register.
- If an application for an Independent Review is made, this must not happen until the outcome of the review is clear (and any subsequent reconsideration – if one is directed or recommended - has taken place and outcome reached.)
- In the event of a subsequent discrimination claim, the First-tier tribunal or County Court has the power to direct that the pupil be reinstated.

Regarding record retention, see also Part 7 – the second half of paragraph 127: “ Schools should retain records and evidence relating to an exclusion for at least six months in case such a [discrimination] claim is made.”

Any questions?

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