



## Fixed-term Exclusion Guidance for Parents

**Fixed-term exclusion: when a pupil is barred from the school for a fixed amount of time (including exclusions during lunchtime).**

Good discipline in schools is essential to ensure that all pupils can benefit from the opportunities provided by education. The Government supports head teachers in using exclusion as a sanction where it is warranted.

The decision to exclude a pupil must be lawful, reasonable and fair. Schools have a statutory duty not to discriminate against pupils on the basis of protected characteristics, such as disability or race. Schools should give particular consideration to the fair treatment of pupils from groups who are vulnerable to exclusion.

### A guide to the law

1. Only the head teacher of a school can exclude a pupil and this must be on disciplinary grounds. A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed-period exclusion does not have to be for a continuous period.
2. A fixed-period exclusion can also be for parts of the school day. For example, if a pupil's behaviour at lunchtime is disruptive, they may be excluded from the school premises for the duration of the lunchtime period. The legal requirements relating to exclusion, such as the head teacher's duty to notify parents, apply in all cases. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a governing board meeting is triggered.

The behaviour of a pupil outside school can be considered grounds for an exclusion.

When establishing the facts in relation to an exclusion decision the head teacher must apply the civil standard of proof; i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt.' This means that the head teacher should accept that something happened if it is more likely that it happened than that it did not happen.

### Reasons for exclusion

*For what reasons can a school exclude my child?*

There is no list of set behaviours for which a pupil can and cannot be excluded, and the decision to exclude lies with the head teacher. Head teachers can only exclude a pupil for a disciplinary reason (e.g. because their behaviour violates the school's behaviour policy). They



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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?*

Schools have the power to send a pupil to another education provider at a different location to improve their behaviour without the parents having to agree.

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 threat of exclusion must never be used to influence parents to remove their child from the school.

*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.

## Exclusion process

*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.

*Risk of prosecution if child is found in public place*

For the first 5 school days of an exclusion, it’s your responsibility to make sure your child isn’t in a public place during normal school hours unless there is a good reason.

You might be prosecuted if your child is found in a public place when they’re not supposed to be.



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## Types of exclusion

There are 2 kinds of exclusion - fixed period (suspended) and permanent (expelled).

### *Fixed period exclusion*

A fixed period exclusion is where your child is temporarily removed from school. They can only be removed for up to 45 school days in one school year, even if they've changed school.

If a child has been excluded for a fixed period, schools should set and mark work for the first 5 school days.

If the exclusion is longer than 5 school days, the school must arrange suitable full-time education from the sixth school day, e.g. at a pupil referral unit.

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

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?*

Yes. 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; and 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. Lunchtime exclusions - 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.

## Scrutiny of the exclusion

### *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



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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.

*Where can I get independent advice on my options regarding the exclusion?*

There are a number of organisations that provide free information, support and advice to parents on exclusion matters:

- Coram Children's Legal Centre can be contacted on 0345 345 4345 or through [http://www.childrenslegalcentre.com/index.php?page=education\\_legal\\_practice](http://www.childrenslegalcentre.com/index.php?page=education_legal_practice).
- ACE education runs a limited advice line service on 0300 0115 142 on Monday to Wednesday from 10 am to 1 pm during term time. Information can be found on the website: <http://www.ace-ed.org.uk/>.



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- The National Autistic Society (Schools Exclusion Service (England)) can be contacted on 0808 800 4002 or through: <http://www.autism.org.uk/services/helplines/school-exclusions.aspx>
- Independent Parental Special Education Advice <http://www.ipsea.org.uk/> You may also wish to access the following sources of advice from the Department for Education:
  - Departmental advice on setting the behaviour policy  
<https://www.gov.uk/government/publications/behaviour-and-discipline-in-schools-60>
  - The Department's guidance to schools on exclusion  
<https://www.gov.uk/government/publications/school-exclusion>.
  - 'School discipline and exclusions' and 'Complaint about a school or childminder':  
<https://www.gov.uk/school-discipline-exclusions/exclusions> and  
<https://www.gov.uk/complain-about-school>.

## 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). 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. 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.

*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).