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# Information Advice and Support Kent

A service for Special Educational Needs and Disabilities  
Helping you to make informed choices



## A Guide to Exclusions

## **A Guide to Exclusions**

The Government's guidance on exclusions (September 2017), applies to all maintained schools, academies, free schools and pupil referral units, including pupils who may be below or above compulsory school age. It also applies to maintained nursery schools, alternative provision academies and alternative provision free schools.

This guidance does **not** apply to independent schools, city technology colleges, city colleges for the technology of the arts, sixth form colleges or 16-19 academies as they have separate exclusion procedures. Local authorities are, however, required to arrange educational provision for pupils of compulsory school age who are excluded from these institutions, if they would not otherwise received such education.

Only the head teacher or the next most senior teacher who is acting as head teacher can exclude. This decision cannot be delegated.

All educational settings should refer to their relevant policies before deciding whether to exclude. A head teacher can exclude for behaviour outside of school, or for repeatedly disobeying academic instructions.

### **What happens when a pupil is excluded?**

Before asking a pupil to leave the school site, the head teacher should:

- investigate and ensure there is sufficient evidence on the balance of probabilities (more likely than not) that a pupil has committed a disciplinary offence;
- consider all the information available; including mitigating circumstances (information that makes the incident seem less serious or more excusable);
- check whether the pupil is a victim of bullying or harassment of any kind;
- allow and encourage the pupil to say what happened;
- keep a written record of actions taken, including any interview with the pupil or any witness statements.

When a head teacher excludes a pupil they must, without delay, (ideally in person or by telephone), let parents know the type of exclusion and the reasons for it. They must also, without delay provide parents with the following information in writing:

- the reason for the exclusion;
- length of a fixed term exclusion or whether the exclusion is permanent
- 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
- for children of compulsory school age, the school days on which your child must not be seen in a public place during school hours, without a reason (you could be fined if you breach this);
- arrangements that the school has made for your child to continue in suitable full time education from the sixth day of the exclusion;

- details of when your child should return to school (for a fixed period exclusion)
- details of sources of impartial advice for parents.

**Fixed Period Exclusion** (also refer to process flow chart on the next page)

A decision to exclude for a fixed period should only be taken if the pupil has probably breached the school's behaviour policy (and some lesser sanction is not considered appropriate) and the breach is not considered serious enough to warrant permanent exclusion. A fixed period exclusion doesn't have to be for a continuous period. It is unlawful to exclude for a non-disciplinary reason.

A fixed period exclusion can also be for parts of the 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. Lunchtime exclusions are counted as half a school day.

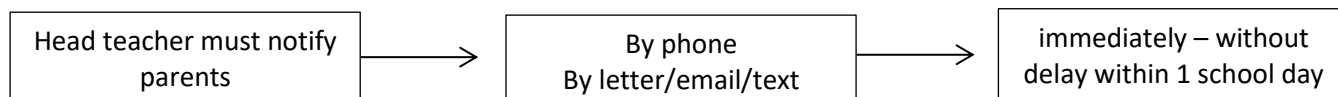
Regulations allow head teachers to exclude a pupil for one or more fixed periods, not exceeding 45 days in any one school year. The limit of 45 school days applies to the pupil and not the establishment, so if the pupil moves schools during the year, the amount of exclusions will follow them.

Schools must set and mark work for an excluded pupil for an exclusion of more than one day and up to and including the fifth day and must provide suitable full time education from and including the 6th school day.

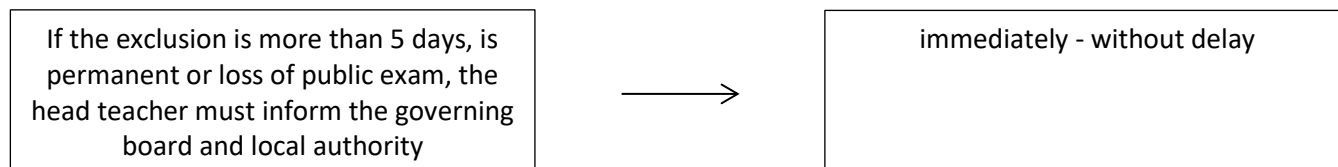
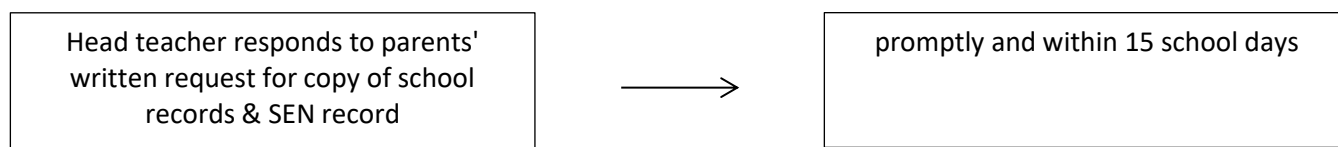
In exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion may be issued, to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period.

If you feel that the exclusion is unjustified, or for an unreasonable length of time, or that your child did not do whatever they have been accused of, you can appeal to the governing board. Please see information about Preparation for appealing to the governing board on page 7.

## Fixed Period Exclusion Process (for different periods of exclusion)

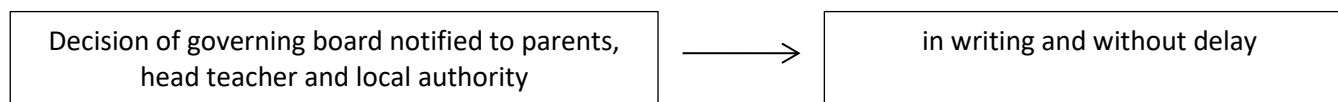
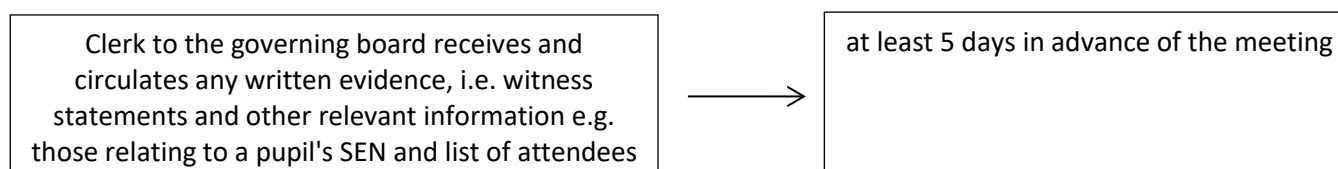


**Parents can request in writing to have a copy of their child's school records and SEN record**



**Written witness statements may be taken**

Period of exclusion	Governing board's review	Meeting the governing board
Exclusion: <b>5 school days</b> or less in one term. Parents can request a meeting	no automatic review by governing board but they must consider parent's representations (written points) about the exclusion	governing board can agree to meet with the parent if the parent requests this, but they do not have to and cannot make the school reinstate
Exclusion: more than <b>5 and less than 15 school days</b> in one term. Parents can request a meeting	no automatic review by governing board but they must meet if the parent requests this	governing board has 50 school days after receiving information about the exclusion from the head teacher to decide whether to reinstate. If there is no meeting request from parents there is no requirement for the governing board to meet or consider reinstatement
Exclusion: <b>15 school days or more</b> in one term OR pupil will miss a public examination or SATS. Governing board, have a statutory duty to meet	governing board must consider reinstatement - see page 5	meeting must be within 15 school days after receiving information about the exclusion from the head teacher. If missing a public exam or SATs they must try to meet before the date of the exam



\* Parents means anyone with parental responsibilities

## Permanent Exclusion

A decision to permanently exclude should only be taken:

- in response to serious 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 in the school.
- If a pupil is permanently excluded, it means they will no longer be allowed to attend school and their name will be removed from the school roll.

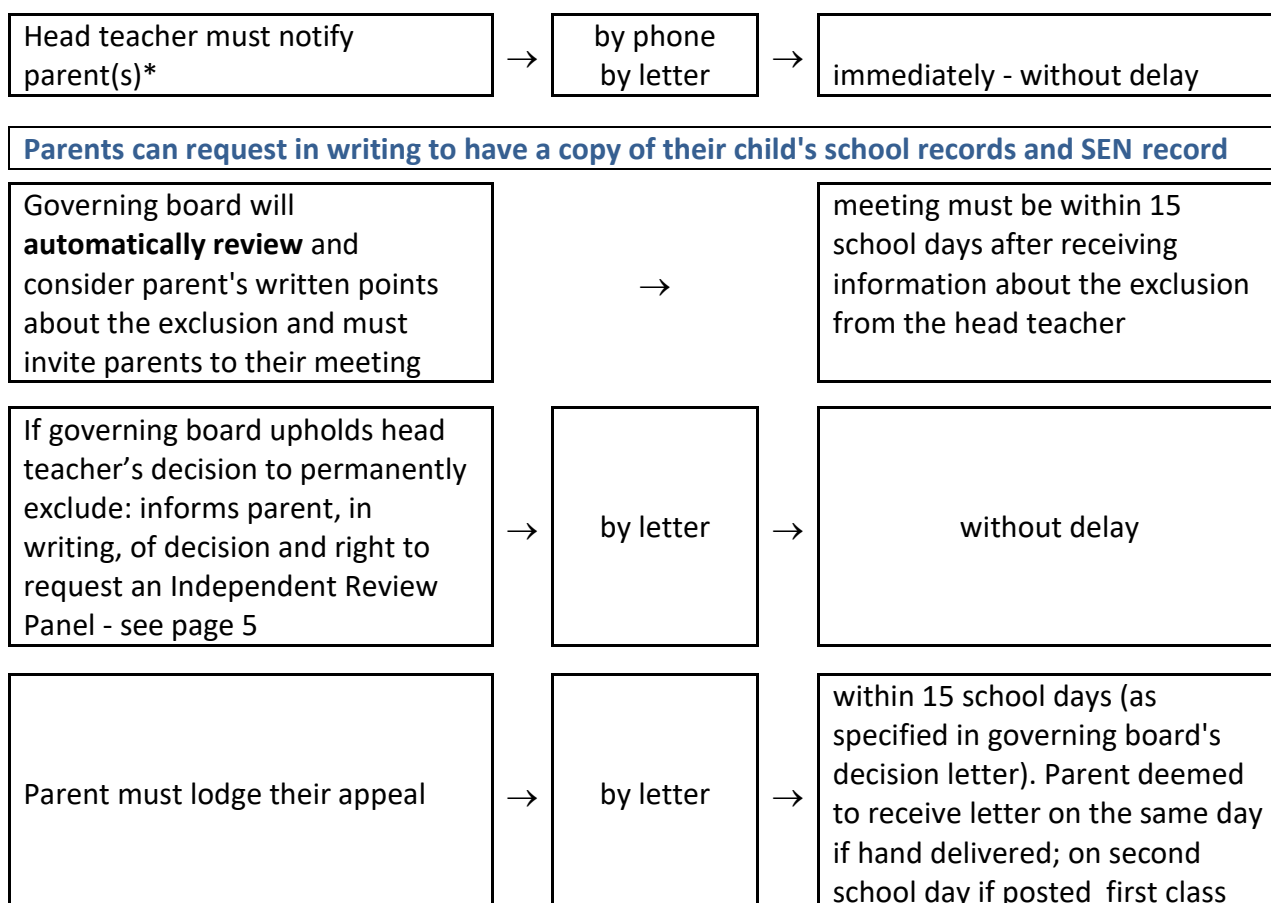
Permanent exclusion should normally be a last resort when a school has tried all other available strategies. Local authorities are required to arrange educational provision for excluded pupils of compulsory school age from all institutions from the sixth day of permanent exclusion.

In exceptional circumstances, a head teacher may permanently exclude for a first or one-off serious offence such as:

- serious actual or threatened violence against a pupil or a member of staff;
- sexual abuse or assault;
- supplying an illegal drug;
- carrying an offensive weapon.

(For a permanent exclusion, the governing board will automatically meet to review the decision).

## Permanent Exclusion Process



## **The governing board meeting**

Usually three governors attend but there can be five (none of them should have involvement in the case which might make them biased).

You should be given enough time to put your case forward and comment on information from the head teacher or local authority representative if attending. The head teacher and local authority should not be with the governors without the parent being there too.

The governing board must write to you to let you know their decision without delay. If the exclusion is for more than five days, or permanent, the governing board can decide to reinstate a pupil. This can be done immediately or on a specified date. The exclusion cannot be deleted from the school record, but if the governing board feels the exclusion was not justified they may put a note on the school record to reflect this.

There is no right of appeal if the governing board upholds the school's decision, where a fixed term exclusion is concerned.

If you believe the exclusion has occurred as a result of discrimination relating to your child's special educational need or disability, you can ask to see the school's Disability Equality Policy. In some cases there may be grounds to make a claim under the Equality Act 2010 to the First-tier Tribunal (see Special Educational Needs and Disability (SEND) Tribunal leaflet). This applies to fixed or permanent exclusions.

If the governing board uphold a **permanent** exclusion decision they **must** inform you of your right to an Independent Review Panel (IRP) and the name and address to whom an application for a review (and any written evidence) should be submitted. You will have 15 school days from the date of the decision letter to request a review.

## **The Independent Review Panel** (also refer to process chart page 6)

**For permanent exclusions**, if the governing board uphold the school's decision, you can ask for this decision to be reviewed by an Independent Review Panel.

Regardless of whether a pupil has been recognised as having special educational needs (SEN), parents have a right to request an SEN expert to attend the review meeting to advise the panel on how SEN might be relevant to the exclusion. There is no cost to you for this, but you must make it clear that you want an SEN expert to attend.

An Independent Review Panel does not have the power to direct a governing board to reinstate an excluded pupil. Where the panel decides that the governing board's decision is flawed, it can recommend the governing board reconsider its decision. They can also quash the decision and direct the governing board to reconsider the exclusion.

Excluded pupils should be encouraged to participate with the exclusion process if they can.

It is the local Authority's duty to find the pupil another school or place of education following a permanent exclusion.

## Independent Review Panel process

Parents* have the right to ask for the decision to be reviewed by an Independent Review Panel	→	within 15 school days of from the date on which notice in writing of the governing board's decision is given to parents
The Independent Review Panel (IRP) must meet	→	within 15 school days of the day on which the parent's application for review was made. (IRP have power to adjourn a hearing if required)
<b>Parents can request an SEN Expert (an independent body appointed by the local Authority) regardless of whether or not the special educational needs of the excluded pupil have been recognised.</b>		
Clerk circulates written evidence	→	at least 5 school days before the review
Documents/matters not covered by statement of decision or notice of appeal submitted to clerk	→	in good time before hearing
Parent should notify the clerk if wishing to bring more than one friend/representative	→	in advance of hearing
The clerk gives all parties details of who is attending and their role	→	before hearing
The clerk informs the local authority and parent of decision	→	The clerk should immediately report the decision to the local authority as well as the parents and governing board.

\* Parent means anyone with parental responsibilities

## **Preparation for appealing / writing a letter to/meeting with the governing board**

If your child has a Special Educational Need (SEN) or disability which might be affecting their learning or their behaviour, you may wish to obtain the following information to help you form your views:

- Every school must have a behaviour or discipline policy which sets out their expectations of pupils and how behaviour is managed in the school. You could ask for a copy of this to find out whether your child seriously breached their policy. (This document should be available on the school website).
- All schools must have an equality policy. You could ask to have a copy of this. If your child has a disability, has the school acted in accordance with their policy? (This document should be available on the school website).
- You can request a copy of your child's school records and special educational needs file to find out what strategies the school have used to support your child's needs. (The school may charge for photocopying).

You may wish to consider some of the following when preparing to express your views to the governing body:

- It is helpful to put things into a logical order. This could be chronological, including any relevant history.
- Is this the first exclusion? If not, were the others for similar reasons?
- If the meeting is for permanent exclusion, it is likely that past conduct and previous exclusions will be taken into account.
- What were the circumstances that led up to this incident, resulting in the exclusion?
- Did your child do what they are being accused of?
- Was there provocation for example was your child affected by bullying and/or harassment and is it out of character?
- Were there any misunderstandings?
- Did your child's actions seriously harm the education or welfare of themselves or others in the school?
- Has your child been asked to write an account of what happened?
- You could ask your child to write their version of events so that the Governors can see your child's perspective.
- How does your child feel now?
- Is this unusual or extreme behaviour for your child?
- Has the school followed procedures, regarding letters, sending work home and marking work, since the exclusion?
- Have you spoken with a Local Authority Inclusion and Attendance Adviser who deals with exclusions? (The telephone number for your adviser will be on the letter telling you about the exclusion.)
- What help is currently in place to support your child with their SEN/disability?
- How has the school managed your child's needs/behaviour?
- What kind of strategies are in place for your child? These could include pastoral support, a red card system, time out cards, peer mentor, a learning mentor, a counsellor or teaching assistant.
- Has an alternative to exclusion been discussed, such as internal exclusion, restorative justice or a managed move?
- Do you feel the exclusion was reasonable, fair and proportionate?



## Early Intervention

Early identification of those at risk of exclusion can be useful in developing support strategies that may help to prevent exclusion.

You could discuss with the school whether they feel your child would benefit from extra support in the classroom - see our leaflet [Special Educational Needs \(SEN\) support in mainstream schools.](#)

Schools have the opportunity to discuss pupils who require extra support within the classroom, at **Local Inclusion Forum Team (LIFT)** meetings, to find solutions to problems, drawing on the knowledge, experience and expertise of everyone in the group, including an Education Psychologist and representatives from district based specialist outreach providers and specialist teachers.

If your child is being assessed or receiving support for their special educational needs, the school should make every effort to avoid exclusions. If your child already has an Education, Health and Care Plan an early/interim or emergency review can be requested to discuss the exclusion circumstances.

Where a child and their family could benefit from intensive support to identify and address the risks and needs of vulnerable children, young people and their families, a referral, to access the services offered by Early Help through the Kent Family Support Framework, could be considered. The referral would usually be made by the school's Special Educational Needs Coordinator, but any professional working with a child can make a request.

## Alternatives to exclusion

**Internal seclusion** – (internal exclusion) - could be to a designated area within the school, or to another class, temporarily.

**Managed move** - A pupil can be transferred to another school as part of a 'managed move' with the consent of **all** of the parties involved, including the parents. This should be for an agreed period of time during which the child remains on their current school roll. With agreement the time might be extended or a transfer placement be considered. The threat of exclusion must not be used to influence parents to remove their child from the school.

**Education off-site** - Maintained schools also have the power to direct a pupil off-site for education, to improve their behaviour. This type of placement must be reviewed, at least every 30 days. This cannot extend past the end of the school year that the pupil started in that placement.

## Other points to note:

- a) The head teacher **may withdraw an exclusion** that has not been reviewed by the governing board.
- b) 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'.

- c) **Informal or unofficial exclusions** such as sending a pupil home to 'cool off' are unlawful, regardless of whether they occur with the agreement of parents or carers. If a head teacher is satisfied that a pupil has committed a disciplinary offence and needs to be removed from school for that reason then formal exclusion is the only legal method. If your child has been excluded unofficially (i.e. without going through formal procedures) you may wish to contact the local Authority Inclusion Officer who deals with exclusions. (contact 03000 41 21 21).
- d) Exclusions may not be given for **an unspecified period**.
- e) Under the Equality Act 2010, **schools must not discriminate** against, harass or victimise pupils because of their: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy / maternity; or because of a gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices.
- f) **It is unlawful** to exclude or to increase the severity of an exclusion for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment / ability; the action of a pupil's parents; or the failure of a pupil to meet specific conditions before they are reinstated, such as to attend a reintegration meeting. However, a pupil who repeatedly disobeys their teachers' academic instructions could, be subject to exclusion.
- g) **In exceptional cases** – usually where further evidence has come to light, a further fixed period exclusion may be issued to begin immediately after the first period ends, or a permanent exclusion may be issued. The head teacher must write again to the parents explaining the reasons for the change. The head teacher may withdraw an exclusion that has not yet been reviewed by the governing Body.
- h) **Reintegration.** Schools should have a strategy for pupils returning to school following a fixed period exclusion, and for managing their future behaviour. (A fixed period exclusion should not be extended if a reintegration meeting cannot be arranged in time or the parents do not attend. A meeting is not a statutory requirement).
- i) Schools should take reasonable steps to **set and mark work** for pupils during the first five days of an exclusion, and alternative provision must be arranged from the sixth day.

## Information and Support:

IASK can support you with preparing the points you wish to discuss at the meeting. If you do not feel confident attending the meeting alone, an IASK supporter may be able to attend with you. You can contact our helpline if you need further clarification about exclusions 03000 41 3000.

For a full explanation of the legal procedures around exclusions, see the Government's Guide: [Exclusion from maintained schools, Academies and pupil referral units in England](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/641418/20170831_Exclusion_Stat_guidance_Web_version.pdf) link: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/641418/20170831\\_Exclusion\\_Stat\\_guidance\\_Web\\_version.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/641418/20170831_Exclusion_Stat_guidance_Web_version.pdf)

On request, this information can be provided in alternative formats.

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