

Suspensions and Exclusions



BARNARD'S

Changing childhoods.
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Suspensions

aka fixed term exclusions

A suspension is where your child is temporarily removed from school i.e. for a specific amount of time (2 days, 3 days etc).

A suspension can also be for parts of the school day. For example, if a pupil's behaviour at lunchtime is disruptive, they may be suspended from the school premises for the duration of the lunchtime period.

If a child has been suspended for a fixed period, **schools should set and mark work for the first 5 school days**. If the suspension 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 (PRU).

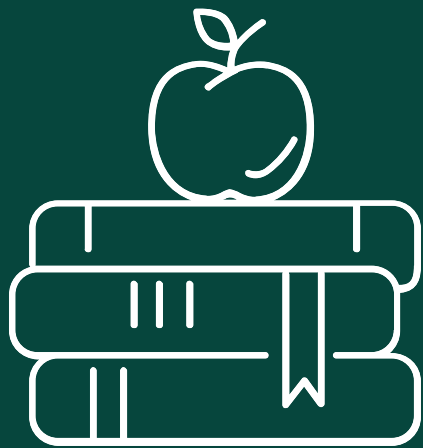
The law does not allow for extending suspensions or 'converting' one into a permanent exclusion. In exceptional cases, usually where further evidence has come to light - further suspensions may be issued to begin immediately after the first period ends; or a permanent exclusion may be issued to begin immediately after the end of the fixed period.

There are specific process which schools must follow when they issue a suspension. (See annex 1,2 and 3)

You have a right to appeal any exclusion (See annex 5 for how to do this)

Permanent Exclusions

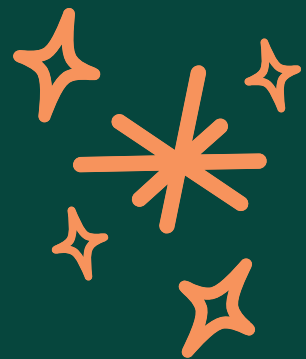
Permanent exclusion is the most serious sanction a school can give. It means that the child is **no longer allowed to attend** the school and their name will be removed from the school roll.



Permanent exclusion should only be used as a **last resort**. If your child has been permanently excluded, the local authority has a duty to provide suitable full-time alternative education from day 6. This is most likely to take place at a pupil referral unit or other alternative provision.

There are specific process which schools must follow when they issue a suspension. See Annex, 1, 2, 3 and 4.

You have a right to appeal any exclusion. See Annex 5 for how to do this.



Unlawful Exclusions

An exclusion is unlawful/unofficial when schools do not formally record the process or do not follow legislation and guidance.

It is also unlawful for schools to extend or lengthen any formal exclusion for a non-disciplinary reason such as:

- School saying it can't meet a child's needs. It should look at putting more/different support in place instead.
- Actions taken by a pupil's parent/carer.
- Not allowing a child back into school after a fixed period exclusion unless they meet conditions. Once the exclusion is ended your child must be allowed to go back. For example, the head teacher can't extend the exclusion because your child won't admit they are at fault/or accept responsibility.



Sending a child home to 'cool off' is unlawful, even if parents/carers agree.



Schools unlawfully excluding children are not fulfilling their obligation to provide a fulltime suitable education for your child. With this sort of education you lose your right to appeal, and are unable to use exclusions as evidence that your child needs more or different support in school.

For what reasons can a school suspend/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 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.

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

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

Can my child be excluded if they have Special Educational Needs (SEN)?

Yes. Any child can be suspended/excluded from school. However, Head teachers should, as far as possible, avoid excluding any pupil with SEN, particularly those with an Education Health and Care Plan. Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs. Where a school has concerns about behaviour, or risk of suspension/exclusion, of a child who has SEN they should assess the suitability of support. Where a pupil has a statement of SEN or EHCP, schools should consider requesting an early annual review or interim / emergency review.

What if I feel my child has been discriminated against by being excluded.

If parents believe that the suspension/exclusion has occurred as a result of discrimination then they may make a claim under the Equality Act 2010 to the Firsttier Tribunal (Special Educational Needs and Disability), in the case of disability discrimination. The Equality Act 2010 requires that educational establishments must take reasonable steps to ensure that disabled pupils are not substantially disadvantaged compared with pupils who are not disabled.

Useful Legislation and Statutory Guidance

Education Act 2002,
as amended by the
Education Act 2011

School Discipline (Pupil
Exclusions and Reviews)
(England) Regulations
2012

Education and
Inspections Act 2006

Education Act 1996

Education (Provision of
Full-Time Education for
Excluded Pupils)
(England) Regulations
2007, as amended by the
Education (Provision of
Full-Time Education for
Excluded Pupils)
(England) (Amendment)
Regulations 2014

Suspension and
Permanent Exclusion
from maintained
school's academies
and pupil referral
units in England
including pupil
movement

Annex 1- Process to be followed when a suspension is given for up to 5 days

1. The Head must tell parents (initially by phone or in person) why the pupil has been excluded/suspended and for how long. This must be done without delay.
2. Then the Head must write to parents with this information and also explaining that they have a right to make representations about the exclusion and how to do this.
3. The Head must tell 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.)**
4. 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 parents ask for a meeting.
5. If there is a meeting, parents have the right to attend. They can also have someone to represent them at the meeting (such as an advisor from the local Independent Advice and Support Service or a solicitor) and can bring a friend.
6. Parents always have the right to say why they object to the exclusion or give their views about it. These are called “representations” and should be made in writing. These representations must be considered by governors even where there is no requirement for a meeting.
7. The Head must tell the LA without delay about the exclusion/suspension.
8. 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.
9. School must take reasonable steps to set and mark work for the first five days of a period of exclusion.

Annex 2- Process to be followed when a suspension is given for 5-15 days

1. The Head must tell parents (initially by phone or in person) why the pupil has been excluded/suspended and for how long. This must be done without delay.
2. Then the Head must write to parents with this information, explaining that they have right to make representations about the exclusion and how to do this.
3. The Head must inform the Governors and LA.
4. The Governors must meet only if: • an external exam or National Curriculum test would be missed or • the total days excluded in that term is over 15 or • the total is between 5 and 15 and parents request a meeting. (Note that the maximum number of days in a school year for which a child can be given fixed-term exclusions is 45.)
5. If there is a meeting, parents have the right to attend. They can also have someone to represent them at the meeting (such as an advisor from the local Independent Advice and Support Service or a solicitor) and can bring a friend.
6. 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.
7. School must take reasonable steps to set and mark work for the first five days of a period of exclusion.

Entitlement to alternative education

For a fixed period suspension of more than five school days, the governing body (or, if a pupil is excluded/suspended from a pupil referral unit, the local authority) must arrange suitable, full-time education for any pupil of compulsory school age. This provision must begin no later than the sixth day, 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 suspension.

Annex 3- Process to be followed when a suspension is given for over 15 days

1. The Head must tell parents (initially by phone or in person) why the pupil has been excluded/suspended and for how long. This must be done without delay.
2. Then the Head must write to parents with this information and also explaining that they have right to make representations about the exclusion and how to do this.
3. The Head must inform the Governors and LA.
4. The Governors must meet within 15 days of receiving the notice of the exclusion (NB if the exclusion will result in the pupil missing an external or National Curriculum exam they must take reasonable steps to meet before the exam).
5. Parents always have the right to say why they object to the exclusion or give their views about it. These are called "representations" and should be made in writing. These representations must be considered by governors even where there is no requirement for a meeting.
6. If there is a meeting, parents have the right to attend. They can also have someone to represent them at the meeting (such as an advisor from the local Independent Advice and Support Service or a solicitor) and can bring a friend.
7. 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.
8. School must take reasonable steps to set and mark work for the first five days of a period of exclusion.

Entitlement to alternative education

For a fixed period exclusion/suspension of more than five school days, the governing body (or, if a pupil is excluded/suspended from a pupil referral unit, the local authority) must arrange suitable, full-time education for any pupil 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. 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


Annex 4- Process to be followed when a permanent exclusion is issued

1. The Head must tell parents (initially by phone or in person) why the pupil has been excluded/suspended and for how long. This must be done without delay.
2. Then the Head must write to parents with this information and also explaining that they have right to make representations about the exclusion and how to do this.
3. The Head must inform the Governors and LA.
4. The Governors must meet within 15 days of receiving the notice of the exclusion (NB if the exclusion will result in the pupil missing an external or National Curriculum exam they must take reasonable steps to meet before the exam).
5. Parents always have the right to say why they object to the exclusion or give their views about it. These are called "representations" and should be made in writing. These representations must be considered by governors even where there is no requirement for a meeting.
6. If there is a meeting, parents have the right to attend. They can also have someone to represent them at the meeting (such as an advisor from the local Independent Advice and Support Service or a solicitor) and can bring a friend.
7. 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.
8. LAs must arrange educational provision for excluded pupils of compulsory school age from the sixth day of a permanent exclusion.
9. Where parents (or the excluded pupil if aged 18 or over) dispute the decision of a governing body not to reinstate a permanently excluded pupil, they can ask for this decision to be reviewed by an independent review panel (see below for an explanation of how this works).



What is an independent review panel?

When a governing board decides not to reinstate a permanently excluded pupil, parents can ask for this decision to be reviewed by an independent review panel. An independent review panel does not have the power to make a governing board reinstate an excluded pupil. However, where a panel decides that a governing board's decision is flawed, it can tell the governing board to reconsider its decision. Whether or not a school recognises a pupil as having SEN, parents can ask for an SEN expert to attend the review meeting. The SEN expert's role is to advise the review panel, impartially, of the relevance of SEN in the context and circumstances of the review. For example, they can advise whether the school followed its legal duties when excluding the pupil. Entitlement to alternative education For permanent exclusions, the local authority (and not the school) must arrange suitable full-time education for the pupil to 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. It will be the pupil's 'home authority' that must do this (this is the local authority that the pupil lives in). 'Full-time' means supervised education equivalent to that provided by mainstream schools.



Annex 5- Appealing an exclusion

Was the decision Lawful?

What reasons are given for the exclusion? Are these genuine disciplinary reasons? Has your child committed a single serious breach of the school's behaviour policy? This could be something like seriously assaulting a teacher or another child or bringing a knife or drugs into school.

or

Has your child been repeatedly in trouble at school? Have they persistently done things that are against the school's behaviour policy? Check the school's behaviour policy. If you think that your child did not do what they are accused of or were not involved to the extent the school says, then you will need to consider the evidence very carefully. Remember that the standard of proof for an exclusion is that it is more probable than not, that your child did it. Talk to your child about what happened. It is sensible to do this as soon as possible. Try to get them to focus on the facts of the incident.

You may wish to ask some direct questions such as:

- show me exactly where you were
- who else was in the room?
- did any other staff see what happened?
- did anything lead up to it?

Your child's school record, the incident report and any witness statements will be useful here. Do they reflect your child's view of events? Are there differences between the statements? Highlight any inaccuracies. Are there important people who were not asked for a statement? If so you could ask the school to get their views.

Sometimes children with an otherwise good record do get caught up in misbehavior and do something silly. Teenagers in particular do not always think through the consequences of their actions.

The second condition for permanent exclusion is that allowing your child to remain in school would be harmful to the education or welfare of others in the school? Think about the effect your child has on other children. Are they seriously disrupting the class? Are they a risk to other children or staff? If it's a one off serious offence, how likely is it that it will happen again?

Was the decision fair?

Look at the school's behaviour policy. What do they say about behaviour of this type? Do they generally exclude for this offence? Does the policy say something different to what has happened to your child? Are they applying their behaviour policy consistently? If other children were involved in the incident, how were they treated? Were they given the same punishment? Was your child affected by anything going on at home or at school? This could be a family bereavement or divorce or bullying at school. Was this something you told the school about? If your child has been bullied, was the school's anti-bullying policy followed? Have you raised concerns with the school before? If your child has been having ongoing problems with behaviour, has the school put in support to try and address this? Have they considered a multidisciplinary assessment involving external agencies and services?

Special Educational Needs

Schools must not exclude children simply because they have SEN. If your child does not have identified SEN, has this ever been considered? It may be something that you have already raised with the school. How do your child's special educational needs affect their behaviour? Has the school followed its SEN policy? Was your child receiving the support they should have been? For example, if the EHC plan says your child must have one to one support at playtimes and this wasn't forthcoming, was the incident a result of the lack of support? Has an early interim review of the EHC plan been suggested by the school? An interim review could look at putting in additional support or identifying an alternative placement? Was the exclusion affected by something like race, gender, disability, sexual orientation? If your child has a disability, was the behaviour they are being punished for a direct consequence of their disability? Were there reasonable adjustments the school could have made to avoid the incident? Give examples of what they could have done differently.

Is the exclusion reasonable?

You may think the punishment is too severe for what your child did. Have a look at the school's behaviour policy. Is there a scale of punishments related to the seriousness of the offence? What alternatives might have been available?

Annex 6- Letter template to address an informal exclusion

[Parent's name and address]

[Headteacher's name]

[School address]

[Date]

Dear Mr / Mrs / Ms

Re: [name of child]

I am writing regarding my [son/daughter], [name of child]. I am concerned that my child has been unofficially excluded from [name of school]. On the following dates, my child has been asked to leave the school during school hours;

- [list of dates here]

Having taken advice, I understand that my child can only be sent home from school during school hours, if they are formally excluded. Unofficial exclusions are unlawful. I am concerned that my child is currently out of school due to an unofficial exclusion. I would ask that you allow my child to return to school immediately. Failing that, please provide me with lawful notice of the exclusion without any delay. I understand that exclusion is only lawful if the decision to exclude is taken by you as the head teacher. I also understand that when you make the decision to exclude, you must write to me to provide notice of the exclusion. This notice must contain the following:

- Confirmation of the period of the exclusion,
- Whether the exclusion is for a fixed period, or permanent,
- The reason for the exclusion,
- Parental rights to make representations to the Governing Body about the exclusion,
- The process for making representations,
- Parental rights to attend at an appeal hearing, and to bring representation, if the
- exclusion is permanent.

I do not appear to have received adequate notice of the exclusion(s) listed above. I am concerned that my child has been unlawfully excluded. If notice was provided, please do forward those letters to me at the above address as soon as possible. I should be very grateful if you could let me know why my child was sent home on the above dates. I would also be grateful if you could assure me that my child will not be sent home again without formal notice of an exclusion being provided. Please also confirm where I should send further representations regarding the exclusions. If my child requires additional support in school, please let me know. If this is the case, I am very happy to attend a meeting with you and my child's class teacher and/or SENCO to discuss what we need to do next. I would be very grateful if you could respond to this letter within ten working days.

I look forward to hearing from you.