

Suspension and permanent exclusions policy

Susses Road School



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Aim

Good behaviour in schools is essential to ensure that all pupils benefit from the opportunities provided by education. The government recognises that school exclusions, managed moves and off-site direction are essential behaviour management tools for headteachers and can be used to establish high standards of behaviour in schools and maintain the safety of school communities.

For the vast majority of pupils, suspensions and permanent exclusions may not be necessary, as other strategies can manage their behaviour. If these approaches towards behaviour management have been exhausted, then suspensions and permanent exclusions will sometimes be necessary as a last resort. This is to ensure that other pupils and teaching staff can work in safety and are respected.

Schools and local authorities should not adopt a 'no exclusion' policy as an end in itself. This can lead to perverse incentives for schools not to exclude even when exclusion may be a way for a pupil to access alternative provision which will help ensure an excluded pupil remains engaged in education. In some cases, a 'no exclusion' policy can present safeguarding issues and expose staff and pupils to unreasonable risks. Instead, schools and local authorities should work to create environments where school exclusions are not necessary because pupil behaviour does not require it.

This guidance has been updated to be a companion piece to the Behaviour in Schools guidance, which provides advice to headteachers and school staff on implementing a behaviour policy which creates a school culture with high expectations of behaviour. This means that this guidance should only be necessary when strategies, practices and interventions set out within the Behaviour in Schools guidance have not been successful in improving a pupil's behaviour and the use of more significant interventions or sanctions are required.

This document provides a guide to the legislation that governs the suspension and permanent exclusion of pupils from all maintained schools. It also includes the use of behavioural strategies such as managed moves and directing pupils off-site to improve their behaviour to help prevent a suspension or permanent exclusion.

The document also provides statutory guidance to which headteachers, governing boards, local authorities, must have regard when carrying out their functions in relation to suspensions and permanent exclusions.

Where relevant, this document refers to other guidance in areas such as behaviour, safeguarding, SEN and equalities law, but is not intended to provide detailed guidance on these issues.

This guidance should not be taken as a complete or definitive statement of the law nor as a substitute for the relevant legislation. Legal advice should be sought as appropriate.

Terminology

- The term 'must' refers to what headteachers/governing boards/authorities/parents and others are required to do by law and must have regard to when carrying out their duties. The term 'should' refers to recommendations for good practice as mentioned in the suspension and permanent exclusion guidance and should be followed unless there is good reason not to.
- In this guidance the word 'suspension' is used to refer to what legislation calls an exclusion for a fixed period. Suspensions and permanent exclusions are both types of exclusion, and where this guidance uses the word 'exclusion' this includes both suspensions (fixed-period exclusions) and permanent exclusions.
- The definition of a 'parent' can be found in the Education Act 1996, and this applies to all the legislation to which this guidance relates. In addition to the child's birth parents, references to parents in this guidance include any person who has parental responsibility (which includes the local authority where it has a care order in respect of the child) and any person (for example, a foster carer) who has care of the child. To reflect this, this guidance uses 'parent' to refer to both parents and carers. Where practical, all those with parental responsibility should be involved in the suspension and permanent exclusion process.
- Obligations are to the 'relevant person' in this school the parent if the excluded pupil.

- The term ‘cancelled exclusion’ refers to an exclusion that has been cancelled before the governing board has met to consider whether the pupil should be reinstated.
- The term ‘remote access’ refers to a meeting arranged by the governing board that is carried out via electronic means such as a live video link.
- ‘Alternative Provision’ (AP) refers to suitable full-time education that is arranged for a pupil from the sixth school day (or earlier) of a suspension or the sixth school day (or earlier) after a permanent exclusion. In other circumstances, alternative provision may refer to education arranged for pupils who are unable to attend mainstream or special school and who are not educated at home, whether for behavioural, health, or other reasons. Alternative provision includes PRUs, alternative provision academies and free schools, and hospital schools, as well as a variety of independent, registered, unregistered and further education.
- ‘Academic year’ means a school’s academic year beginning with the first day of school after 31 July and ending with the first day of school after the following 31 July.
- Where a school’s academic year consists of three terms or fewer, a reference to a ‘term’ in this guidance means one of those terms. Where a school’s academic year consists of more than three terms, then a reference to ‘term’ means the periods from 31 December to Easter Monday, from Easter Monday to 31 July and from 31 July to 31 December.
- ‘School’ in this document is used to describe any school to which the guidance applies. Where the term academy is used it refers to any category of academy to which the guidance applies.

Who this guidance is for

This guide applies to all maintained schools, and the guidance is for:

- Headteachers,
- governing boards,
- local authorities,
- individuals appointed as SEN experts.

The guidance and the law described applies to all pupils, including those who may be below or above compulsory school age, and those attending nursery classes or school sixth forms, except where the age of the pupil is specifically referred to.

This guidance applies to exclusions that occur on or after 1 September 2024.

Further information

This advice should not be read in isolation. It is important for schools to consider Keeping Children Safe in Education as well as the school’s:-

Behaviour Policy;

Attendance Policy;

Links to relevant supplementary guidance can be found at Annex B:

What legislation this guidance relates to

The principal legislation to which this guidance relates is:

- 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;
- the Education Act 1996; and
- the 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.

The headteacher’s power to suspend or permanently exclude

This government supports headteachers in using suspension and permanent exclusion as a sanction when warranted as part of creating calm, safe, and supportive environments where both pupils and staff can work in safety and are respected. To achieve this, suspension and permanent exclusion are sometimes a necessary part of a functioning system, where it is accepted that not all pupil behaviour can be amended or remedied by pastoral processes, or consequences within the school.

The headteacher's powers to use exclusion

Only the headteacher of a school can suspend or permanently exclude a pupil on disciplinary grounds. A pupil may be suspended for one or more fixed periods (up to a maximum of 45 school days in a single academic year) or permanently excluded.

A pupil's behaviour outside school can be considered grounds for a suspension or permanent exclusion. Any decision of a headteacher, including suspension or permanent exclusion, must be made in line with the principles of administrative law, i.e. that it is:

- lawful (with respect to the legislation relating directly to suspensions and permanent exclusions and a school's wider legal duties)
- reasonable
- fair
- proportionate

When establishing the facts in relation to a suspension or permanent exclusion decision the headteacher 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 headteacher should accept that something happened if it is more likely that it happened than that it did not happen. The headteacher must take account of their legal duty of care when sending a pupil home following an exclusion.

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.

Suspension

A suspension, where a pupil is temporarily removed from the school, is an essential behaviour management tool that should be set out within a school's behaviour policy.

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 does not have to be for a continuous period.

A suspension may be used to provide a clear signal of what is unacceptable behaviour as part of the school's behaviour policy and show a pupil that their current behaviour is putting them at risk of permanent exclusion. Where suspensions are becoming a regular occurrence for a pupil, headteachers and schools should consider whether suspension alone is an effective sanction for the pupil and whether additional strategies need to be put in place to address behaviour.

It is important that during a suspension, pupils still receive their education. Headteachers should take steps to ensure that work is set and marked for pupils during the first five school days of a suspension. This can include utilising any online pathways such as Google Classroom or Oak National Academy. The school's legal duties to pupils with disabilities or SEN remain in force, for example, to make reasonable adjustments in how they support disabled pupils during this period. Any time a pupil is sent home due to disciplinary reasons and asked to log on or utilise online pathways should always be recorded as a suspension.

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. The legal requirements relating to the suspension, such as the headteacher's duty to notify parents, apply in all cases. Lunchtime suspensions are counted as half a school day in determining whether a governing board meeting is triggered.

The law does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension may be issued

to begin immediately after the first suspension ends; or a permanent exclusion may be issued to begin immediately after the end of the suspension.

Permanent exclusion

A permanent exclusion is when a pupil is no longer allowed to attend a school (unless the pupil is reinstated). 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.

For any permanent exclusion, headteachers should take reasonable steps to ensure that work is set and marked for pupils during the first five school days where the pupil will not be attending alternative provision. Any appropriate referrals to support services or notifying key workers (such as a pupil's social worker) should also be considered.

Cancelling exclusions

The headteacher can cancel any exclusion that has already begun (or one that has not yet begun), but this can only happen when the governing board has not yet met to consider whether the pupil should be reinstated. Where an exclusion is cancelled:

- The headteacher must notify the parent, the governing board, the LA and the pupil's social worker and VSH as applicable, without delay. The notification must also provide the reason for the cancellation.
- The governing board's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement.
- Parents should be offered the opportunity to meet the headteacher to discuss the circumstances that led to the exclusion being cancelled which should be arranged without delay.
- The pupil must be allowed back into the school from which they were excluded without delay.
- Any days spent out of school as a result of any exclusion, prior to the cancellation will count towards the maximum of 45 school days permitted in any school year

A permanent exclusion cannot be cancelled if the pupil has already been excluded for more than 45 school days in a school year or if they will have been so by the time the cancellation takes effect.

Setting a clear process for exclusions

Headteachers should consider the following, when setting a clear process for exclusions:

- adopting a reliable method for monitoring the maximum 45 days permitted in a school year out of school due to exclusion, including suspensions received from other schools.
- ensuring there is a formal process for informing parents, social worker and VSH (where relevant), governing board and local authority, clearly setting out all reasons for the exclusion.
- providing up to date links to sources of impartial advice for parents.
- reintegrating pupils whose suspensions have ended or been cancelled and pupils whose permanent exclusions have been cancelled and supporting pupils' future behaviour.
- ensuring a formal process for arranging, at short notice, suitable full-time alternative education for pupils receiving suspensions over five school days.

Reasons and recording exclusions

The government trusts headteachers to use their professional judgement based on the individual circumstances of the case when considering whether to exclude a pupil. The reasons below are examples of the types of circumstances that may warrant a suspension or permanent exclusion.

- Physical assault against a pupil
- Physical assault against an adult
- Verbal abuse or threatening behaviour against a pupil
- Verbal abuse or threatening behaviour against an adult

- Use, or threat of use, of an offensive weapon or prohibited item that has been prohibited by a school's behaviour policy
- Bullying
- Racist abuse
- Abuse against sexual orientation or gender reassignment
- Abuse relating to disability

This list is not exhaustive and is intended to offer examples rather than be complete or definitive. The Department collects data on suspensions and permanent exclusions from all state-funded schools via the termly school census. Schools must provide information via the school census on pupils subject to any type of suspension or permanent exclusion in the previous two terms. Up to three reasons can be recorded for each suspension or permanent exclusion (where applicable).

Off-rolling and unlawful exclusions

Telling or forcing a pupil to leave school, or not allowing them to attend school, is a suspension (if temporary) or permanent exclusion (if permanent). Whenever a pupil is made to leave school, or forbidden from attending school, on disciplinary grounds, this must be done in accordance with the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 and with regard to relevant parts of this guidance.

Suspending a pupil for a short period of time, such as half a day, is permissible but the formal suspension process must still be followed. Each disciplinary suspension and permanent exclusion must be confirmed to the parents in writing with notice of the reasons for the suspension or permanent exclusion.

Any exclusion of a pupil, even for short periods, must be formally recorded. 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. If any of these unlawful exclusions are carried out and lead to the deletion of a pupil's name from the register, this is known as 'off-rolling'. An informal or unofficial exclusion, such as sending a pupil home 'to cool off', is unlawful when it does not follow the formal school exclusion process and regardless of whether it occurs with the agreement of parents.

A further example of off-rolling would be exercising undue influence over a parent to remove their child from the school under the threat of a permanent exclusion and encouraging them to choose Elective Home Education or to find another school place.

If a parent feels pressured into electively home educating their child or that the suspension or permanent exclusion procedures have not been followed, they can follow the school's complaints procedure with the governing board and in the case of a maintained school, the local authority. Ofsted considers any evidence of off-rolling and is likely to judge a school as inadequate if there is evidence that pupils' names have been removed from the school admission register without a formal permanent exclusion or by the school encouraging a parent to remove their child from the school, and leaders have taken insufficient action to address this.

Safeguarding, including guidance concerning pupils who have abused another pupil (commonly known as child-on-child abuse)

If there is an ongoing safeguarding investigation (whether that includes a criminal investigation or not) that may result in the permanent exclusion of a pupil or if a pupil has been reinstated following a governing board review, it is likely that there will be complex and difficult decisions that need to be made. It is important that these decisions are made alongside a school's duty to safeguard and support children and their duty to provide an education.

Schools have a statutory duty to make arrangements for safeguarding and to promote the welfare of their pupils. As part of this duty, schools are required to have regard to guidance issued by the Secretary of State for Education and must have regard to Keeping Children Safe in Education

Furthermore, schools have a statutory duty to cooperate with safeguarding partners. Equally, safeguarding partners are expected to name schools as relevant agencies and engage with them in a meaningful way.

Ultimately, any decisions are for the school to make on a case by case basis, with the designated safeguarding lead (or a deputy) taking a leading role and using their professional judgement, supported by other agencies, such as children's social care and the police as required.

Section 5 of Keeping Children Safe in Education sets out the safeguarding process for cases of reports that relate to rape or assault by penetration and those that lead to a conviction or caution: "When there has been a report of sexual violence, the designated safeguarding lead (or a deputy) should make an immediate risk and needs assessment. Where there has been a report of sexual harassment, the need for a risk assessment should be considered on a case by case basis." As always when concerned about the welfare of a child, the best interests of the child should come first. In all cases, schools should follow general safeguarding principles as found in Keeping Children Safe in Education.

Reintegration after a suspension or off-site direction

Schools should support pupils to reintegrate successfully into school life and full-time education following a suspension (this may also be after a cancelled exclusion) or period of off-site direction. They should design a reintegration strategy that offers the pupil a fresh start; helps them understand the effect of their behaviour on themselves and others; teaches them how to meet the high expectations of behaviour in line with the school culture; fosters a renewed sense of belonging within the school community; and builds engagement with learning.

The reintegration strategy should be clearly communicated at a reintegration meeting before or at the beginning of the pupil's return to school. During a reintegration meeting, the school should communicate to the pupil that they are valued, and their previous behaviour should not be seen as an obstacle to future success. Where possible this meeting should include the pupil's parents. It is important to note that a pupil should not be prevented from returning to a mainstream classroom if parents are unable or unwilling to attend a reintegration meeting. To ensure ongoing progress, the strategy should be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the pupil, parents, and other relevant parties.

Where necessary, schools should work with relevant staff and multi-agency organisations, such as teachers, pastoral staff, mentors, social workers, educational psychologists or the safer schools team, to identify if the pupil has any SEND and/or health needs.

A part-time timetable should not be used to manage a pupil's behaviour and must only be in place for the shortest time necessary. Any pastoral support programme or other agreement should have a time limit by which point the pupil is expected to attend full-time education, either at school or alternative provision. There should also be formal arrangements in place for regularly reviewing a part-time timetable with the pupil and their parents. In agreeing to a part-time timetable, a school has agreed to a pupil being absent from school for part of the week or day and must take the appropriate steps for a leave of absence.

Schools can consider a range of measures to enable the pupil's successful reintegration which can include, but are not limited to:

- Maintaining regular contact during the suspension or off-site direction and welcoming the pupil back to school.
- Daily contact with a designated pastoral professional in school.
- Use of a report card with personalised targets leading to personalised rewards.
- Ensuring the pupil follows an equivalent curriculum during their suspension or off-site direction or receives academic support upon return to catch up on any lost progress.
- Planned pastoral interventions.
- Mentoring by a trusted adult or a local mentoring charity.
- Regular reviews with the pupil and parents to praise progress being made and raise and address any concerns at an early stage.
- Informing the pupil, parents and staff of potential external support.

Factors to consider before making a decision to exclude

The very best alternative provision (AP) can be important in managing behaviour and providing alternatives to exclusion. This could include outreach support for pupils in mainstream schools and offering short term places to pupils who need a time-limited intervention away from their mainstream school. Schools should

work with high quality alternative provision providers to ensure a continuum of support is available for pupils for whom good behaviour cultures and policies are not working.

In addition to the strategies set out regarding initial intervention (this can be found on page 27 of the Behaviour in Schools guidance), headteachers should also consider the following:

- a) an off-site direction (temporary measure that maintained schools and academies for similar purposes can use)
or
- b) managed moves (permanent measure) as preventative measures to exclusion.

Any use of alternative provision should be based on an understanding of the support a child or young person needs in order to improve their behaviour, as well as any SEND or health needs. Off-site direction may only be used as a way to improve future behaviour and not as a sanction or punishment for past misconduct. Off-site direction should only be used where in school interventions and/or outreach have been unsuccessful or are deemed inappropriate and should only be used to arrange a temporary stay in AP.

The following must have regard to the Alternative Provision: Statutory guidance for local authorities, headteachers and governing bodies

- a local authority arranging suitable education under section 19 of the Education Act 1996.
- the governing body of a maintained school making or reviewing an off-site direction under section 29A of the Education Act 2002; and
- the governing body or academy trust of a maintained school, academy school or alternative provision academy arranging suitable education for a suspended pupil under section 100 of the Education and Inspections Act 2006.

The nature of the intervention, its objectives, and the timeline to achieve these objectives should be clearly defined and agreed with the alternative provision upfront. The plan should then be frequently monitored and reviewed. Pupils must continue to receive a broad and balanced education, and this will support reintegration into mainstream schooling.

Off-site direction

Off-site direction is when a governing board of a maintained school requires a pupil to attend another education setting to improve their behaviour. Whilst the legislation does not apply to academies, they can arrange off-site provision for such purposes under their general powers. Where interventions or targeted support have not been successful in improving a pupil's behaviour, off-site direction should be used to arrange time limited placements at an alternative provision or another mainstream school. During the off-site direction to another school, a pupil must be recorded in the attendance register using code D. This code is used to indicate that the pupil is absent with leave to attend the other school at which they are registered. Further information on how schools record pupils who are absent from the school site for certain educational activities or to attend other schools or settings can be found in the attendance guidance: Working together to improve school attendance.

When possible, in school interventions or targeted support from alternative provision schools should be used to meet a pupil's individual needs and circumstances – whether behavioural or special educational.

Depending on the individual needs and circumstances of the pupil, off-site direction into alternative provision can be full-time or a combination of part-time support in alternative provision and continued mainstream education. A proposed maximum period of time should be discussed and agreed upon as part of the planning phase for an off-site direction. As part of planning, alternative options should be considered once the time limit has been reached, including a managed move on a permanent basis (if a pupil is placed in a mainstream school) upon review of the time limited placement.

The governing board of a maintained school must comply with the Education (Educational Provision for Improving Behaviour) Regulations 201030 and must have regard to the Alternative Provision: Statutory guidance for local authorities, headteachers and governing bodies.

The statutory guidance covers objectives and timeframes with appropriate monitoring

of progress. For maintained schools, the governing board must ensure that parents (and the local authority if the pupil has an Education, Health and Care Plan (EHCP)) are notified in writing and provided with information about the placement as soon as practicable after the direction has been made and no later than two school days before the relevant day.

Parents and, where the pupil has an EHCP, the local authority can request, in writing, that the governing board hold a review meeting. When this happens, governing boards must comply with the request as soon as reasonably practicable, unless there has already been a review meeting in the previous 10 weeks. The length of time a pupil spends in another mainstream school or alternative provision and the reintegration plan must be kept under review by the governing body, who must hold review meetings at such intervals as they, having regard to the needs of the pupil, consider appropriate, for as long as the requirement remains in effect. Not later than six days before the date of any review meeting, a governing body must give a written invitation to parents (and the local authority if the pupil has an EHCP) to attend the review meeting, or to submit in writing before the date of the meeting their views as to whether off-site direction should continue to have effect. The governing body must ensure, insofar as is practicable, that any review meeting is convened on a date, and at a time, that is suitable for the parent.

The governing board must keep the placement under review for as long as the requirement remains in effect and must decide following each review meeting as to whether the requirement should continue to have effect and, if so, for what period of time. The meeting should include arrangements for reviews, including how often the placement will be reviewed, when the next review will be and who should be involved in the reviews.

For example, review meetings should take place between the school, parents, the pupil, and other agencies e.g. a pupil's social worker, Child and Adolescent Mental Health Services (CAMHS), Multi-Agency Safeguarding Hubs (MASH) and Youth Justice Teams, and the local authority (if a pupil has an EHCP) to establish agreed monitoring points to discuss the pupil's ongoing behaviour. These reviews should be recorded in writing and be frequent enough to provide assurance that the off-site direction is achieving its objectives.

The governing board must give written notification of their decision as to whether the requirement to continue the placement should continue and if so, for what period of time including the reasons for it to the parent no later than six days after the date of the review meeting.

To support a pupil with reintegration into their referring school, the focus of intervention whilst off-site should remain on ensuring that a pupil continues to receive a broad and balanced curriculum whilst any inappropriate behaviours which require intervention are being addressed. If a pupil with a disability or SEN has been moved offsite, the duties under the Equality Act 2010 and the Children and Families Act 2014 continue to apply (for example, to make reasonable adjustments or to put support in place to meet SEN).

The length of time a pupil spends in another mainstream school or alternative provision will depend on what best supports the pupil's needs and potential improvement in behaviour.

Managed moves

A managed move is used to initiate a process which leads to the transfer of a pupil to another mainstream school permanently. Managed moves should be voluntary and agreed with all parties involved, including the parents and the admission authority of the new school. If a temporary move needs to occur to improve a pupil's behaviour, then offsite direction (as described in 36 to 47) should be used. Managed moves should only occur when it is in the pupil's best interests.

Where a pupil has an EHCP, the relevant statutory duties on the new school and local authority will apply. If the current school is contemplating a managed move, it should contact the authority prior to the managed move. If the local authority, both schools and parents are in agreement that there should be a managed move, the local authority will need to follow the statutory procedures for amending a plan.

Managed moves should be offered as part of a planned intervention. The original school should be able to evidence that appropriate initial intervention has been carried out, including, where relevant, multi-agency support, or any statutory assessments were done or explored prior to a managed move.

The managed move should be preceded by information sharing between the original school and the new school, including data on prior and current attainment, academic potential, a risk assessment and advice on effective risk management strategies. It is also important for the new school to ensure that the pupil is provided with an effective integration strategy.

If a parent believes that they are being pressured into a managed move or is unhappy with a managed move, they can take up the issue through the school's formal complaints procedure with the governing board and, where appropriate, the local authority. Within the school inspections framework, under leadership and management, Ofsted will consider any evidence found of a parent being pressured into a managed move that has resulted in off-rolling and is likely to judge a school as inadequate on the basis of such evidence.

Pupils with disabilities and Special Educational Needs (SEN) including those with Education, Health and Care plans (EHCP)

The Equality Act 2010 requires schools to make reasonable adjustments for disabled pupils. This duty can, in principle, apply both to the suspensions and permanent exclusions process and to the disciplinary sanctions imposed. Under the Children and Families Act 2014, governing boards of relevant settings³⁹ must use their 'best endeavours' to ensure the appropriate special educational provision is made for pupils with SEN, which will include any support in relation to behaviour management that they need because of their SEN.

Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs.

Where a school has concerns about the behaviour, or risk of suspension and permanent exclusion, of a pupil with SEN, a disability or an EHCP it should, in partnership with others (including where relevant, the local authority), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEN or disability.

Where a pupil has an EHCP, schools should contact the local authority about any behavioural concerns at an early stage and consider requesting an early annual review prior to making the decision to suspend or permanently exclude. For those with SEN but without an EHCP, the school should review, with external specialists as appropriate, whether the current support arrangements are appropriate and what changes may be required. This may provide a point for schools to request an EHCP assessment or a review of the pupil's current package of support.

Pupils who have a social worker, including looked-after children, and previously looked-after children

For the majority of children who have a social worker, this is due to known safeguarding risks at home or in the community: over half are in need due to abuse or neglect. For children with a social worker, education is an important protective factor, providing a safe space for children to receive support, be visible to professionals and realise their potential. When children are not in school, they miss the protection and opportunities it can provide and become more vulnerable to harm. Headteachers should balance this important reality with the need to ensure calm and safe environments for all pupils and staff, so should devise strategies that take both of these aspects into account.

Where a pupil has a social worker, e.g. because they are the subject of a Child in Need Plan or a Child Protection Plan, and they are at risk of suspension or permanent exclusion, the headteacher should inform their social worker, the Designated Safeguarding Lead (DSL) and the pupil's parents to involve them all as early as possible in relevant conversations.

Where a looked-after child (LAC) is likely to be subject to a suspension or permanent exclusion, the Designated Teacher (DT) should contact the local authority's VSH as soon as possible. The VSH, working with the DT and others, should consider what additional assessment and support need to be put in place to help the school address the factors affecting the child's behaviour and reduce the need for suspension or permanent exclusion. Where relevant, the school should also engage with a child's social worker, foster carers, or children's home workers.

All looked-after children should have a Personal Education Plan (PEP) which is part of the child's care plan or detention placement plan. This should be reviewed every term and any concerns about the pupil's behaviour should be recorded, as well as how the pupil is being supported to improve their behaviour and reduce the likelihood of exclusion. Monitoring of PEPs can be an effective way for VSHs to check on this. Where previously looked-after children face the risk of being suspended or permanently excluded, the school should engage with the child's parents and the school's DT. The school may also seek the advice of the VSH on strategies to support the pupil

The headteacher's duty to inform parties about an exclusion

To ensure that a child receives the correct support and protection during a suspension or permanent exclusion, it is important that those responsible for their care are promptly informed when exclusions occur or there is a risk of them occurring. As well as communicating with the child where relevant throughout the exclusion process, this section sets out how and when schools should and must share information with parents, social workers, VSH, local authorities, and governing boards.

Duty to inform parents about an exclusion

Whenever a headteacher suspends or permanently excludes a pupil they must, without delay, notify parents or the excluded pupil (if they are 18 years or older) of the period of the suspension or permanent exclusion and the reason(s) for it.

They must also, without delay, after their decision, provide parents with the following information in writing:

- the reason(s) for the suspension or permanent exclusion.
- the period of a suspension or, for a permanent exclusion, the fact that it is permanent.
- parents' right to make representations about the suspension or permanent exclusion to the governing board (in line with the requirements set out in paragraphs 97 to 107) and how the pupil may be involved in this
- parents' right to make a request to hold the meeting via the use of remote access and how and to whom to make this request (further information on other information this should include can be found in Annex A: Key principles when conducting meetings via the use of remote access)
- how any representations should be made; and
- where there is a legal requirement for the governing board to consider whether the pupil should be reinstated, that parents or an excluded pupil

Parents have a right to attend a meeting, to be represented at that meeting (at their own expense) and to bring a friend.

Written notification of the information above can be provided by delivering it directly to the parents, leaving it at their usual or last known home address, or posting it to that address. Notices can be given electronically if the parents have given written agreement for this kind of notice to be sent in this way.⁴⁵

Where a suspended or permanently excluded pupil is of compulsory school age the headteacher must also notify the pupil's parents of the days on which they must ensure that the pupil is not present in a public place at any time during school hours.

These days are the first five school days of a suspension or permanent exclusion (or until the start date of any full-time alternative provision or the end of the suspension where this is earlier). Any parent who fails to comply with this duty without reasonable justification commits an offence and may be given a fixed penalty notice or be prosecuted. The headteacher must notify the parents of the days on which their duty applies without delay and, at the latest, by the end of the afternoon session on the first day of the suspension or permanent exclusion

If alternative provision is being arranged, then the following information must be included with this notice where it can reasonably be found out within the timescale:

- the start date for any provision of full-time education that has been arranged for the child during the suspension or permanent exclusion.
- the start and finish times of any such provision, including the times for morning and afternoon sessions where relevant.
- the address at which the provision will take place; and
- any information required by the pupil to identify the person they should report to on the first day.

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session on the first day of the suspension or permanent exclusion, it may be provided in a subsequent notice, but it must be provided without delay and no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of a suspension or permanent exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

The information in paragraphs 66 to 69 must be provided in writing but can be provided by any effective method.

The failure of a headteacher to give notice of the information required by the required time does not relieve the headteacher of the duty to serve the notice. A notice is not made invalid solely because it has not been given by the required time.

If a child is suspended again following their original suspension, or is subsequently permanently excluded, the headteacher must inform parents and where relevant, the pupil's social worker or local authority if the pupil has an EHCP, without delay and issue a new exclusion notice to parents and the social worker.

Informing parents about an exclusion

For notifications, although this must not delay notification, notification should be in person or by telephone in the first instance as this would allow parents to ask any initial questions or raise concerns directly with the headteacher. Headteachers should consider the following:

- Has the school spoken to the parents (and when appropriate, the child's social worker) to ensure they fully understand the type/scale of the incident?
- Has the school considered how to communicate accessibly and clearly, including whether parents may have particular communication needs relating to a disability or having English as an additional language (EAL)?
- Has the school provided sufficient details in the suspension or permanent exclusion notice letter on the reasons for the suspension or permanent exclusion?
- Does the notice contain all the required information as set out in part six of the suspension and permanent exclusion guidance?
- Has the school informed parents (and when appropriate, the pupil's social worker or the local authority if a pupil has an EHCP) whether their pupil will be able to sit any national curriculum test(s) or public examination(s) occurring during the suspension or permanent exclusion?
- When several suspensions have been issued in a term, has the school informed parents of their right of representation to the governing board?
- Letter templates might be available from the local authority.

When notifying parents about a suspension or permanent exclusion, the headteacher should set out what arrangements have been made to enable the pupil to continue their education prior to the start of any alternative provision or the pupil's return to school, in line with legal requirements.

For notifications, effective methods for providing the information may include email or text message, giving the notice directly to the parents, or sending the information home with the suspended or permanently excluded pupil. Where information is sent home with the pupil, the headteacher should consider sending a duplicate copy by an alternative method or confirming that the information has been received.

When notifying parents about a suspension or permanent exclusion, the headteacher should draw attention to relevant sources of free and impartial information. This information should include:

- The Department's Guidance for parents and carers on behaviour, suspension and permanent exclusion, which can be found here <https://www.gov.uk/government/publications/school-exclusions-guide-for-parents>
- Every local area has a SENDIAS service who provide information, advice and support to children and young people with SEND, including on exclusions. Every exclusion letter should include details of the local service which can also be found here <https://councilfordisabledchildren.org.uk/about-us-0/networks/informationadvice-and-support-services-network>
- Coram's Child Law Advice service can be found through their website

<https://childlawadvice.org.uk/information-pages/school-exclusion/>

or contacted on 0300 330 5485 from Monday to Friday, 10am – 4pm.

- Independent Provider of Special Education Advice (known as IPSEA – www.ipsea.org.uk) is a registered charity. It offers free and independent information, advice and support to help get the right education for children and young people with all kinds of special educational needs (SEN) and disabilities.

Informing social workers and VSHs about an exclusion

Information sharing is vital in safeguarding children and promoting their welfare, including their educational outcomes. Schools should be proactive in sharing information as early as possible to help identify, assess, and respond to risks or concerns about the safety and welfare of children. Keeping children safe in education and Working Together to Safeguard Children set out the requirements for schools and colleges about information sharing in more detail.

Whenever a headteacher suspends or permanently excludes a pupil they must, without delay, after their decision, also notify the social worker, if a pupil has one, and the VSH, if the pupil is a LAC48, of the period of the suspension or permanent exclusion and the reason(s) for it. The information in paragraphs 66 to 69 must be provided in writing to the local authority.

Both the social worker and/or VSH, must be informed when a governing board meeting is taking place, in order to share information. The social worker and/or the VSH can attend the meeting, should they wish to do so.

Social workers and VSHs, must be allowed to join a governing board meeting or IRP via the use of remote access, regardless of the format chosen, as long as the governing board (for a governing board meeting) or arranging authority (for a review panel meeting) are satisfied they will be able to participate effectively, they can hear and be heard (and see and be seen if participating by video) throughout the meeting, and their remote participation will not prevent the meeting being fair and transparent.

Informing the governing board about an exclusion

The headteacher must, without delay, notify the governing board of:

- any permanent exclusion (including where a suspension is followed by a decision to permanently exclude the pupil);
- any suspension or permanent exclusion which would result in the pupil being suspended or permanently excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and
- any suspension or permanent exclusion which would result in the pupil missing a public examination or national curriculum test

When removing a pupil's name from the school admission register, the governing board must ensure this is done under the circumstances prescribed by the School Attendance (Pupil Registration) (England) Regulations 2024.

Informing the local authority about an exclusion

The local authority must be informed without delay of all school exclusions regardless of the length of the exclusion.

For a permanent exclusion, if the pupil lives outside the local authority area in which the school is located, the headteacher must also notify the pupil's 'home authority' of their permanent exclusion and the reason(s) for it without delay. The headteacher must also inform the governing board once per term of any other suspensions of which they have not previously been notified.

Notifications must include the reason(s) for the suspension or permanent exclusion and the duration of any suspension or, in the case of a permanent exclusion the fact that it is permanent. The local authority may reasonably wish to request this information in a standardised format. In doing so, they should take care to minimise the administrative burden this can place on schools.

Guidance to the headteacher on informing the governing board about an exclusion

The headteacher should ask the chair of the governing board whether there are clear processes in place for considering suspensions and permanent exclusions, such as:

- Ensuring parents and pupils are aware of their right to consideration by the governing board
- Asking whether the governing board have taken steps to find a convenient date that the parent, other relevant parties, the local authority representative (if relevant) and the headteacher can attend, within the legal time limits
- Asking the governing board whether they have considered how to involve the pupil in the consideration process
- Collecting all relevant documents, anonymising them, if required, and providing them to all parties

The headteacher should ensure that they have informed the governing board about reinstatement and specify the correct timescale. They should also make clear to the governing board whether the need to consider reinstatement is dependent on receiving parental representations.

A headteacher should ensure a process is in place for a governing board when considering reinstatement following a permanent exclusion:

- Do governors understand the suspension and permanent exclusion process to enable a review within deadlines?
- Would governors benefit from additional training, including on behaviour management, routines, norms and consequences, disability awareness, the Equality Act 2010, the Children and Families Act 2014 and SEN provision?
- Is there a clear and timely system in place to enable parents to make representations?
- Are there up-to-date templates for notifying parents of the decision and explaining the next steps?

The governing board and local authority's duties to arrange education for excluded pupils

Governing boards and local authorities play an important role in ensuring that children who have been excluded from school receive a suitable education that facilitates their successful reintegration into education or meets their long term needs.

The education of pupils from the sixth day of an exclusion

For a suspension of more than five school days, the governing board (or local authority about a pupil suspended from a PRU) must arrange suitable full-time education for any pupil of compulsory school age. This provision is commonly called alternative provision and must begin no later than the sixth school day of the suspension. Where a child receives consecutive suspensions, these are regarded as a cumulative period of suspension for the purposes of this duty. This means that if a child has more than five consecutive school days of suspension, then education must be arranged for the sixth school day of suspension, regardless of whether this is because of one decision to suspend the pupil for the full period or multiple decisions to suspend the pupil for several periods in a row.

For permanent exclusions, the local authority must arrange suitable full-time education for the pupil to begin from the sixth school day after the first day the permanent exclusion took place. This will be the pupil's 'home authority' in cases where the school is in a different local authority area. The school should collaborate with the local authority when the pupil might be eligible for free home to school travel, arranged by the local authority, to the place where they will be receiving education.

In addition, where a pupil has an EHCP, the local authority may need to review the plan or reassess the child's needs, in consultation with parents, with a view to identifying a new placement.

The local authority must have regard to the relevant statutory guidance when carrying out its duties in relation to the education of looked-after children, which can be found here: [Promoting the education of looked-after children and previously looked-after children \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk). Where a looked-after child is excluded, the school should document the provision of immediate suitable education in the child's PEP.

Provision does not have to be arranged by either the school or the local authority for

a pupil in the final year of compulsory education who does not have any further public examinations to sit.

The education of pupils prior to the sixth day of an exclusion

It is important for schools to help minimise the disruption that suspension or permanent exclusion can cause to a pupil's education. Whilst the statutory duty on governing boards or local authorities is to arrange full-time education from the sixth day of a suspension or permanent exclusion, there is an obvious benefit to the pupil in starting this provision as soon as possible. In the case of a looked-after child or child with a social worker, the school and the local authority should work together to arrange alternative provision from the first day following the suspension or permanent exclusion.

Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days of a suspension or permanent exclusion, the school should take reasonable steps to set and mark work for the pupil. Online pathways such as Google Classroom or Oak Academy can be used but schools should ensure that the work set is accessible and achievable by the pupil outside school.

The governing board should ensure that there are clear processes in place to comply with its legal duty to arrange suitable full-time educational provision for pupils of compulsory school age from the sixth consecutive school day of a suspension. This includes:

- Checking that there is a process in place for the governing board to assure itself that the education provided is suitable and full-time
- Quality assuring provision and ensuring that any previous placements have been evaluated, including support for any SEND the pupil may have
- Checking whether there is a process in place to monitor the pupil's attendance and behaviour at the provision
- Checking whether the correct attendance code is being used
- Checking whether the pupil's child protection file and any other information relevant to the pupil's safeguarding and welfare has been securely transferred to their new setting as early as possible, in line with Keeping children safe in education.

The governing board's duty to consider an exclusion

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.⁵⁶ Part 11 of this guidance provides information about how governing board meetings can be held via the use of remote access (for example, live video link) if requested by a parent⁵⁷ or due to extraordinary events or unforeseen circumstances.

Guidance for governing boards on considering an excluded pupil's reinstatement

The governing board has a duty to consider parents' representations about a suspension or permanent exclusion. The requirements on a governing board to consider the reinstatement of a suspended or permanently excluded pupil depend upon a number of factors (these requirements are illustrated by the diagram on page 39, 'A summary of the governing board's duties to review the headteacher's exclusion decision').

The governing board may delegate its functions with respect to the consideration of a suspension or permanent exclusion to a designated subcommittee consisting of at least three governors.

The governing board must consider and decide on the reinstatement of a suspended or permanently excluded pupil within 15 school days of receiving notice of a suspension or permanent exclusion from the headteacher if:

- it is a permanent exclusion.
- it is a suspension which would bring the pupil's total number of school days out of school to more than 15 in a term.
- it would result in the pupil missing a public examination or national curriculum test

The requirements are different for suspensions where a pupil would be excluded for more than five but not more than 15 school days in a term. In this case, if the parents make representations, the governing board must consider and decide within 50 school days of receiving the notice of suspension whether the

suspended pupil should be reinstated. In the absence of any representations from the parents, the governing board is not required to meet and cannot direct the reinstatement of the pupil.

Where a suspension or permanent exclusion would result in a pupil missing a public examination or national curriculum test, there is a further requirement for a governing board. It must, so far as is reasonably practicable, consider and decide on the suspension or permanent exclusion before the date of the examination or test. If it is not practical for sufficient governors to consider the reinstatement before the examination or test, the chair of governors, in the case of a maintained school, may consider the suspension or permanent exclusion alone and decide whether or not to reinstate the pupil.

In the case of an academy the pupil's reinstatement may be considered by a committee of the trust board, including a local governing body, if the trust's articles of association allow them to do so.

The following parties must be invited to a meeting of the governing board and allowed to make representations or share information:

- parents (and, where requested, a representative or friend).
- the headteacher.
- a representative of the local authority (in the case of a maintained school or PRU).
- the child's social worker if the pupil has one; and
- the VSH if the child is LAC.

The governing board must make reasonable endeavours to arrange the meeting within the statutory time limits set out above 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.

In the case of a suspension which does not bring the pupil's total number of days of suspension to more than five in a term, the governing board must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.

Taking into account, the pupil's age and understanding, the pupil or their parents should also be made aware of their right to attend and participate in governing board meetings, and the pupil should be enabled to make a representation on their own behalf if they wish to do so.

Guidance for governing boards on using data on suspensions and permanent exclusions

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.

Governing boards should review suspensions and permanent exclusions, those taken off roll and those on the school admission register but attending education off-site. It is important to consider both the cost implications of directing children to be educated off-site in alternative provision and whether there are any patterns to the reasons or timing of moves. For example, if high numbers of children with SEND are moving, the school, academy or trust may wish to consider reviewing its SEN support.

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

Further information can be found here: Understanding your data: a guide for school governors and academy trustees - GOV.UK (www.gov.uk)

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

1. Is it a permanent exclusion?

If the answer is yes, the governing board must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the permanent exclusion.

If the answer is no, go to step 2.

2. Is it a suspension that alone, or in conjunction with previous suspensions / permanent exclusions, will take the pupil's total number of days out of school above 15 for a term?

If the answer is yes, the governing board must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the suspension. This includes suspensions that exceed 15 school days by less than a whole day, e.g. one that totals 15.5 days.

If the answer is no, go to step 3.

3. Is it a suspension or permanent exclusion that will result in the pupil missing a public exam or national curriculum test?

If the answer is yes, the governing board must convene a meeting to consider reinstatement **within 15 school days** of receiving notice of the suspension or permanent exclusion. The governing board must also take reasonable steps to meet **before** the date of the examination. If this is not practical, the chair of governors may consider a pupil's reinstatement alone.

If the answer is no, go to step 4.

4. Will the suspension(s) take the pupil's total number of school days out of school above five but less than 16 for the term?

If the answer is yes, go to step 5.

If the answer is no, the governing board must consider any representations made by parents but does not have the power to decide whether to reinstate the pupil.

5. Has the parent made representations?

If the answer is yes, the governing board must convene a meeting to consider reinstatement within 50 school days of receiving notice of the suspension.

If the answer is no, the governing board is not required to consider the suspension and does not have the power to decide to reinstate the pupil.

Preparing for the consideration of a suspension or permanent exclusion

Where the governing board is legally required to consider the reinstatement of a suspended or permanently excluded pupil they must:

- not discuss the suspension or permanent exclusion with any party outside the meeting.
- ask for any written evidence in advance of the meeting, including witness statements and other relevant information held by the school such as those relating to a pupil's SEN and the pupil's school record.
- where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting.
- allow parents and the pupil to be accompanied by a friend or representative (where a pupil is to be invited as a witness, the governing board should first seek parental consent)
- invite the pupil's social worker, if they have one, and if the pupil is LAC, the VSH to attend.
- comply with their 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 they will take to enable and encourage the suspended or permanently excluded 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 suspended or permanently

Witness statements can be gathered from the headteacher, the pupil's teachers, the designated safeguarding lead, the pupil themselves, the pupil's parent(s) and if applicable, the designated teacher for looked-after children. Where possible, written statements should also be gathered from the pupil's social worker, and for looked-after children the area's VSH. excluded pupil may feed in their views by other means if attending the meeting is not possible.

Pupils who may miss a public examination or national curriculum test if they are suspended or permanently excluded

There is no automatic right for a suspended or permanently excluded pupil to take a national curriculum test on the school's premises. The governing board should consider whether it would be appropriate to exercise its discretion to allow a suspended or permanently excluded pupil onto the premises for the sole purpose of taking the examination or test or whether this could be facilitated in another way.

Considering the reinstatement of a suspended or permanently excluded pupil

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

The governing board must also consider any representations made by or on behalf of:

- the parents
- the headteacher.
- the pupil's social worker if the pupil has one.
- if the pupil is looked-after, the VSH.
- and the local authority

Taking into account, the pupil's age and understanding, the pupil or their parents should also be made aware of their right to attend and participate in the governing board meeting, and the pupil should be enabled to make a representation on their own behalf if they desire to do so.

When establishing the facts in relation to a suspension or permanent exclusion the governing board 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'.

In the light of its consideration, the governing board can either:

- decline to reinstate the pupil; or
- direct reinstatement of the pupil immediately or on a particular date.

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.

If it decides against the reinstatement of a pupil who has been permanently excluded the parents can request an independent review.

Guidance on considering the reinstatement of a suspended or permanently excluded pupil

The governing board should agree the steps they will take to ensure all parties will be supported to participate in its consideration and have their views heard. This is particularly important where pupils aged under 18 years old are speaking about their own suspension or permanent exclusion or giving evidence to the governing board.

The governing board should ensure that clear minutes are taken of the meeting as a record of the evidence that was considered by the governing board. These minutes should be made available to all parties on request, and the record of discussion should state clearly how the decisions have been reached, which a clerk should be present for.

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.

In reaching a decision on whether a pupil should be reinstated, 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.

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.

In cases where the governing board considers parents' representations but does not reinstate the pupil, it should consider whether it would be appropriate to place a note of its findings on the pupil's educational record.

Claims of discrimination to the First-tier Tribunal (Special Educational Needs and Disability), in relation to disability, or County Court, for all other forms of discrimination, can be made up to six months after the discrimination is alleged to have occurred. Schools should retain records and evidence relating to an exclusion for at least six months in case such a claim is made.

Guidance to social workers and VSHs on attending the governing board meeting

Social workers

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.

Virtual School Heads

The VSH 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 governing board's duty to notify people after its consideration of reinstatement

Where legally required to consider reinstating a suspended or permanently excluded pupil, the governing board must notify parents, the headteacher, and where relevant, the local authority, the pupil's social worker and/or the VSH of its decision, and the reasons for it, in writing and without delay. Where the pupil resides in a different local authority area from the one in which the school is located, the governing board must also inform the pupil's 'home authority'.

In the case of a permanent exclusion where the governing board decides not to reinstate the pupil, the governing board's notification must state that the exclusion is permanent and provide notice of parents' right to ask for the decision to be reviewed by an IRP and the following information:

- the date by which an application for a review must be made (i.e. 15 school days from the date on which notice in writing of the governing board's decision is given to parents)
- where and to whom an application for a review (and any written evidence) should be submitted;

- that a request to hold the meeting via the use of remote access can be made and knows how and to whom to make this request to (further information on other information this should include can be found in Annex A: Key principles when conducting meetings via the use of remote access)
- that any application should set out the grounds on which it is being made and that where appropriate, this should include a reference to how the pupil's SEN are considered to be relevant to the permanent exclusion.
- that, regardless of whether the permanently excluded pupil has recognised SEN, parents have a right to require the local authority/academy trust to appoint a SEN expert to advise the review panel.
- details of the role of the SEN expert; and
- that parents may, at their own expense, appoint someone to make written and/or oral representations to the panel.

In addition to the right to apply for an IRP, if parents believe that there has been unlawful discrimination in relation to the permanent exclusion then they may make a claim under the Equality Act 2010 to the First-tier Tribunal (Special Educational Needs and Disability) in the case of disability discrimination, or the County Court, in the case of other forms of discrimination.

A claim of discrimination under the Equality Act 2010 made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place (e.g. the day on which the pupil was permanently excluded).

The governing board may provide the information in paragraphs 131 and 132 by delivering it directly to parents in person or to their last known address or posting it first class mail to that address.

Notice is deemed to have been given on the same day if it is delivered or on the second working day after posting if it is sent by first class mail.

Providing information to parents following its decision on reinstatement

The governing board should set out the reasons for its decision in sufficient detail to enable all parties to understand why the decision was made.

Where relevant, it will be for the governing board to confirm the details of where the parents' application for an IRP should be sent. This is normally the clerk of the IRP. The notice should make it clear that parents are entitled to bring a friend to the review.

In providing details of the role of the SEN expert, the governing board should refer to the statutory guidance provided to SEN experts. The notice should explain that there would be no cost to parents for this appointment and that parents must make clear if they wish for a SEN expert to be appointed in any application for a review.

Where the governing board declines to reinstate the pupil, it should draw the attention of parents to relevant sources of free and impartial information that will allow them to make an informed decision on whether and, if so, how to seek a review of the decision. This information should be included in the letter notifying parents of a decision not to reinstate a permanently excluded pupil

The governing board's duty to remove a permanently excluded pupil's name from the school register

The correct removal of pupils' names from the school admission register is critical to ensuring that permanent exclusions are carried out lawfully and that pupil movements can be effectively monitored. By carrying this role out properly, governing boards can reduce opportunities for the illegal off-rolling of children and make this issue easier to identify and tackle.

Guidance for governing boards on removing an excluded pupil's name from the school admission register

The governing board must ensure that a pupil's name is removed from the school admission register if:

- 15 school days have passed since the parents were notified of the governing board's decision to not reinstate the pupil and no application has been made for an IRP: or
- the parents have stated in writing that they will not be applying for an IRP.

The school cannot backdate the deletion of the pupil's name to the date the pupil's exclusion began. Where an application for an IRP has been made within 15 school days, the school must wait until the review has been determined, or abandoned, and until the governing board has completed any reconsideration that the panel has recommended or directed it to carry out, before removing a pupil's name from the register. Where a pupil's name is deleted from the school admissions register because of a permanent exclusion the school must make a return to the local authority.

The return must include:

- the pupil's full name and address.
- the full name and address of any parent with whom the pupil normally resides.
- at least one telephone number at which any parent with whom the pupil normally resides can be contacted in an emergency.
- and the grounds upon which their name is being deleted from the admissions register (i.e. permanent exclusion)
- if the pupil's parent or parents have told the school that the pupil is going to live with one or more of them at a new address, the return must also include the new address, the name of the parent(s) the pupil is going to live with, and the date when the pupil is going to start living there.
- if the pupil's parent or parents or someone else with control over the pupil's attendance have told the school that the pupil is already going to another school or is going to go to another school, or the school itself has directed or is going to direct the pupil off-site to another school, the return must also give the name of that school and the first date when the pupil first attended or is due to attend there

Where a pupil's name is removed from the school register and a discrimination claim is subsequently made, the First-tier Tribunal (Special Educational Needs and Disability) or County Court has the power to direct that the pupil should be reinstated.

Guidance on providing exclusion data

In addition, within 14 days of a request, a governing board must provide to the Secretary of State and (in the case of maintained schools) the local authority, certain information about any pupils suspended or permanently excluded within the last 12 months.

Guidance to schools on marking attendance registers following permanent exclusion

Whilst a permanently excluded pupil's name remains on a school's admission register, the pupil must be marked using the appropriate attendance code. Where alternative provision has been made and the pupil attends it, an appropriate attendance code, such as Code D (Dual Registered - at another educational establishment) or Code B (Off-site educational activity, if the provision is an approved educational activity that does not involve the pupil being registered at any other school), should be used. Where pupils are not attending alternative provision, they should be marked absent using Code E.78

Guidance on common transfer files

Once the pupil's name has been deleted from the admission register and the pupil has been registered at a new school the common transfer file should be transferred within 15 school days of the pupil ceasing to be registered at the school.

Guidance to schools on sharing child protection information when a child is permanently excluded

Where pupils leave the school (including in year transfers) the designated safeguarding lead should ensure their child protection file is transferred to the new school or college as soon as possible, and within 5 days for an in year transfer or within the first 5 days of the start of a new term. This should be transferred separately from the main pupil file, ensuring secure transit, and confirmation of receipt should be obtained. Receiving schools and colleges should ensure key staff such as designated safeguarding leads and special educational needs coordinators (SENCOs) or the named person with oversight for SEN in colleges, are aware as required.

The governing board's duty to reconsider reinstatement following a review

When an IRP directs or recommends a pupil's reinstatement, the governing board has the opportunity to look at the pupil's reinstatement afresh. This section offers guidance on how this reconsideration should be undertaken and the necessary next steps.

Guidance on the governing board's duty to reconsider reinstatement following a review

Where the panel directs or recommends that the governing board reconsider whether a pupil should be reinstated, the governing board must reconvene to do so within ten school days of being given notice of the panel's decision. Notice is deemed to have been given on the day of delivery if it is delivered directly or on the second working day after posting if it is sent by first class mail.

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 a direction to reconsider, unless within ten school days of receiving notice of the panel's decision the governing board decides to reinstate the pupil, an adjustment will be made to the school's budget in the sum of £4,000 if the panel has ordered this. In the case of an academy, the school will be required to make an equivalent payment directly to the local authority in whose area the school is located. This payment will be in addition to any funding that would normally follow a permanently excluded pupil.

If the governing board offers to reinstate the pupil within the specified timescale but this is declined by the parents, no budget adjustment or payment can be made. The governing board must comply with any direction of the panel to place a note on the pupil's educational record.

The clerk must also note, where a pupil is reinstated following a direction or recommendation to reconsider, or would have been reinstated if it had been practical to do so, the permanent exclusion does not count towards the rule that an admission authority may refuse to admit a child who has been permanently excluded twice; nor, in the case of a community or voluntary controlled school, does it count for the purposes of the rule that the governing board may appeal against the decision of the local authority as the admission authority to admit the child.

In the case of either a recommended or directed reconsideration, the governing board must notify the following people of their reconsidered decision, and the reasons for it, in writing and without delay:

- the parent
- the headteacher
- the local authority; and, where relevant, the 'home authority'.

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 IRP. There is no requirement to seek further representations from other parties or to invite them to the reconsideration meeting. The governing board is not prevented from taking into account other matters that it considers relevant. It should take care to ensure that any additional information does not make the decision unlawful. This could be the case, for example, where new evidence is presented, or information is considered that is irrelevant to the decision at hand.

The governing board should ensure that clear minutes are taken of the meeting as a record of the evidence that was considered by the governing board. These minutes should be made available to all parties on request.

The governing board should ask any parties in attendance to withdraw before making a decision. Where present, a clerk may stay to help the governing board by reference to their notes of the meeting and with the wording of the decision letter.

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.

The governing board should base its reconsideration on the presumption that a pupil will return to the school if reinstated, regardless of any stated intentions by the parents or pupil. Any decision of a governing board to offer reinstatement which is subsequently turned down by the parents should be recorded on the pupil's educational record. The governing board's decision should demonstrate how they have addressed the concerns raised by the IRP.

Guidance to the local authority on overseeing the transfer of funding following a permanent exclusion

The local authority cannot require a maintained school to make any additional payments following a permanent exclusion, other than the budget share deductions set out in regulations. The local authority will be responsible for adjusting the budget share for maintained schools

If a review panel has ordered a financial adjustment, the local authority will be responsible for reducing the budget share for the excluding school by a further £4,000.

If a review panel has made a financial adjustment order and the excluded pupil is given a place at another school, including a PRU, ('the admitting school'), the local authority may, if it chooses, pass any or all of the amount of the financial adjustment (i.e., up to £4,000) to the admitting school.

The requirements for the transfer of funding following an exclusion from a maintained school are set out in the Education (Amount to Follow Permanently Excluded Pupil) Regulations 1999.

This does not include circumstances where a school has voluntarily entered into a separate legally binding agreement with the local authority.

Statutory guidance to the headteacher, governing board and IRP members on police involvement and parallel criminal proceedings

Police involvement and parallel criminal proceedings against a pupil may affect how the exclusion and its review process are conducted, although they must always remain lawful, reasonable, and procedurally fair. This section offers guidance to headteachers, governing boards, and IRPs when this is the case.

Guidance for headteachers, governing boards and IRPs on police involvement and parallel criminal proceedings

The headteacher need not postpone taking a decision on a suspension and permanent exclusion solely because a police investigation is underway and/or any criminal proceedings may be brought. In such circumstances, the headteacher will need to take a decision on the evidence available to them at the time. In all cases, schools should follow general safeguarding principles as found in Keeping children safe in education.

Where the evidence is limited by a police investigation or criminal proceedings, the headteacher should consider any additional steps they may need to take to ensure that the decision to suspend or permanently exclude is fair. The final decision on whether to suspend or permanently exclude is for the headteacher to make.

Where the governing board is required to consider a reinstatement in these circumstances, it cannot postpone its meeting and must decide whether or not to reinstate the pupil on the evidence available.

The fact that parallel criminal proceedings are in progress should also not directly determine whether an IRP should be adjourned. Relevant factors for the panel to consider will include:

- whether any charge has been brought against the pupil and, if so, what the charge is.
- whether relevant witnesses and documents are available.
- the likely length of delay if the hearing were adjourned and the effect it may have on the suspended or permanently excluded pupil, the parents, any victim, or the school; and
- whether an adjournment or declining to adjourn might result in injustice.

Where a panel decides to adjourn, the clerk (or local authority where a clerk is not appointed) should monitor the progress of any police investigation and/or criminal proceedings and reconvene the panel at the earliest opportunity. If necessary, the panel may adjourn more than

Appendix A: Key principles when conducting meetings via the use of remote access

Things to consider

Headteachers and governing boards may advise the parent, within their written notification, to consider the following, before requesting a remote access meeting:

- the technology that will be used for the governing board or IRP
- Do the parent or excluded pupil have an appropriate space free from other distractions to enable them to participate fully with a remote access meeting?
- Where the parent or excluded pupil have limited access to the Internet, intermittent service or slower speed internet, they should not request a remote meeting for a governing board or IRP
- Where the parent initially asks for a meeting to be held via the use of remote access then decide to withdraw the request, they should inform the governing board or arranging authority without delay. The governing board or arranging authority should without delay, arrange the meeting to be held face to face. It is important to note that headteachers and governing boards should not place undue pressure on the parent to request a meeting to be held via the use of remote access, even if doing so means that they will arrange a meeting any sooner.

Running the meeting via the use of remote access

To ensure the meeting is capable of being held fairly and transparently, the governing board or arranging authority for IRPs should make every effort to check all participants understand the proceedings and be made aware of how to raise any issues that may prevent their effective engagement. If these conditions are not met, the meeting should not be held via remote access and must be arranged face to face without delay.

Things to consider

To help meetings run smoothly and ensure they are accessible to any participants, governing boards and IRPs should: provide clear instructions about how to join the meeting virtually, and distribute the

- joining instructions in a timely manner ahead of the meeting indicate a named person who parents, or any participant should contact, if they have any questions before the meeting takes place
- consider holding a 'test meeting' with any participant to check the available technology is suitable, and that all participants understand how to access the meeting.
- ensure that the chair of governors or IRP is prepared to explain the agenda at the start and provide clear guidance on how the meeting will be run,

for example:

- how participants should indicate they wish to speak
- how any 'chat' functions should be used
- whether there will be any breaks in proceedings
- how parents and excluded pupils can access advocacy services during the Meeting

Things to remember

The use of remote access does not alter other procedural requirements that apply to governing boards, arranging authorities or IRPs. For example, if a parent requests the appointment of a special educational needs expert to advise a review panel, the arranging authority must appoint one and cover the cost as normal. Parents may be joined by a friend as normal. The governing boards and IRPs must consider written representations if they are made. The law does not allow for solely paper based 'meetings', conducted in writing. For the purposes of which information is recorded within minutes, the normal rules apply as per this guidance, and the governing board and IRP can instruct the clerk to record any information or instructions that they deem sensible to include so that the minutes provide a clear and sufficient record of all relevant parts of the meeting, for example, how chat functions or messages will be monitored.

Appendix B: Further information

Guidance	Available document online
Behaviour in Schools	https://www.gov.uk/government/publications/behaviour-in-schools--2
Guidance for parents and carers on behaviour, suspension and permanent exclusion	https://assets.publishing.service.gov.uk/media/66be0d92c32366481ca4918a/Suspensions_and_permanent_exclusions_guidance.pdf
Mobile Phones in Schools	(www.gov.uk)
Governance handbook and competency framework	https://www.gov.uk/government/publications/governance-handbook
Alternative Provision	https://www.gov.uk/government/publications/alternative-provision
Mental health in schools	https://www.gov.uk/guidance/mental-health-and-wellbeing-support-in-schools-and-colleges
Children with Special Educational Needs and Disabilities	https://www.gov.uk/children-with-special-educational-needs
Departmental Advice on attendance	https://www.gov.uk/government/publications/working-together-to-improve-school-attendance
Departmental Advice on safeguarding and child protection	https://www.gov.uk/government/publications/working-together-to-safeguard-children--2
Departmental Advice on Promoting the education of looked-after and previously looked-after children	https://www.gov.uk/government/publications/promoting-the-education-of-looked-after-children
School to school service: how to transfer information What maintained schools must publish online	https://www.gov.uk/government/publications/promoting-the-education-of-looked-after-children
KCC guide to Clerking Exclusions	https://www.kent.gov.uk/_data/assets/pdf_file/0018/6138/A-Guide-to-Exclusions.pdf