

Information Advice and Support Kent

A service for special educational needs and disabilities
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A Guide to Exclusions

The Government's guidance on exclusions applies to all maintained schools, Academies, free schools and Pupil Referral Units (PRU's), including pupils who may be below or above compulsory school age. It also applies to maintained nursery schools, alternative provision Academies and alternative provision free schools.

This guidance does **not** apply to independent schools, colleges and 16-19 Academy schools as they have separate exclusion procedures.

Only the Head Teacher or the next most senior teacher who is acting as Head Teacher can exclude.

All schools will have a behaviour policy which they should refer to when deciding whether to exclude.

Exclusion should not be used for:

- Poor academic performance
- lateness or truancy
- pregnancy
- breaking school uniform rules on appearance including jewellery, body piercing and hairstyle (except where there is persistent and open defiance of these rules)
- Pupils cannot be excluded for the behaviour of their parents
- A pupil should not be excluded in the heat of the moment, unless there is an immediate threat to the safety of themselves or others.

What happens when a pupil is excluded?

Before asking a pupil to leave the school site, the Head Teacher should:

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

The Head Teacher must inform you (parent/carer) of the exclusion in writing, without delay. The letter should explain:

- reason for the exclusion;
- length of and type of exclusion;
- your right to make representations to the Governing Body about the exclusion (state your case) and how your son/daughter may be involved in this;
- school days on which your child must not be seen in a public place during school hours without a reason (you could be fined if you breach this);
- arrangements the school has made for your child to continue their education during the first 5 days of an exclusion, including setting and marking work.
- (Parents have a responsibility to ensure that work sent home is completed and returned to school);
- arrangements that the school has made for your child to continue their education from the 6th day of an exclusion;
- details of when your child should return to school (for a fixed period exclusion).

Fixed Period Exclusion (also refer to process flow chart on page 3)

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

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

Schools must set and mark work for exclusions of more than one day and must provide suitable full time education from and including the 6th school day.

Parents must ensure that their child is not in a public place without reasonable justification for the first 5 days.

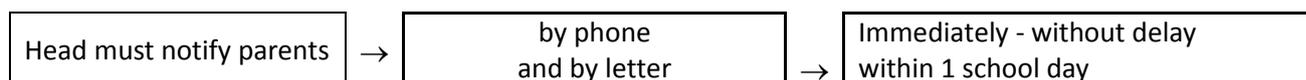
If you feel that the exclusion is unjustified, or for an unreasonable length of time, or that your child did not do whatever they have been accused of, you can appeal to the Governing Body - see page 6 (Preparation for appealing to the Governors).

The Governors can reinstate a pupil immediately or on a specified date if the exclusion is for more than 5 days. The exclusion cannot be deleted from the school record, but if the Governors feel the exclusion was not justified they may put a note on the school record to reflect this.

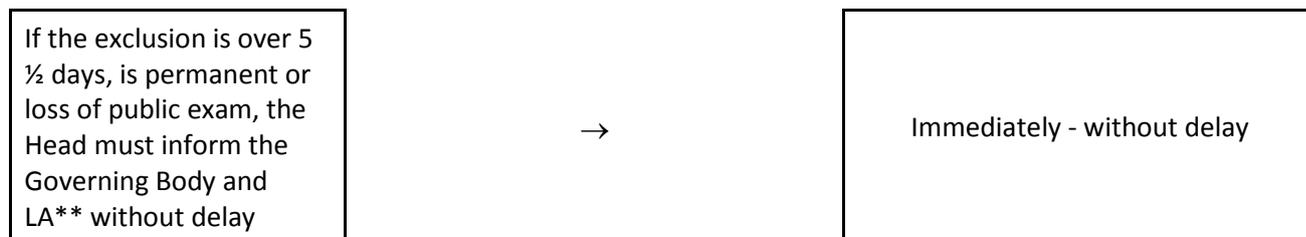
When a pupil returns to school following a fixed period exclusion there should be a strategy for reintegration and for managing their future behaviour.

In exceptional circumstances a fixed period exclusion may be made longer or permanent. In this case, the Head Teacher must write to parents/carers, giving reasons for the change.

Fixed Term Exclusion Process (for different periods of exclusion)



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



Written witness statements may be taken

Period of exclusion	Governors' Review	Meeting the Governors
Exclusion: 5 school days or less in one term. Parents can request a meeting	→ No automatic review by governors but they must consider parent's written points about the exclusion	→ Governors can agree to meet with the parent if the parent requests this, but they do not have to
Exclusion: 5 ½ - 15 school days in one term. Parents can request a meeting	→ No automatic review by governors but they must meet if the parent requests this	→ Meeting must be within 50 school days after receiving information about the exclusion from the Head
Exclusion: 15 ½ school days or more in one term. Governors have a statutory duty to meet	→ Governors will automatically review and consider parent's written points about the exclusion and must invite parents to their meeting - see page 7	→ Meeting must be within 15 school days after receiving information about the exclusion from the Head
Clerk to the governors receives and circulates any written evidence, eg witness statements and other relevant information such as those relating to a pupil's SEN	→	At least 5 days in advance of the meeting
Decision of governing body notified to parents, Head Teacher and LA	→	In writing and without delay

* Parents means anyone with parental responsibilities

** LA means local authority

There is no right of appeal if the Governors uphold the school's decision. If you believe the exclusion has occurred as a result of discrimination relating to your child's special educational need or disability, you can ask to see the school's Disability Equality Policy. In some cases there may be grounds to make a claim under the Equality Act 2010 to the First-tier Tribunal (see Special Educational Needs and Disability (SEND) Tribunal leaflet). This also applies to permanent exclusions.

Permanent Exclusion

A decision to permanently exclude should only be taken:

- in response to **serious breaches** of the school's behaviour policy **and**
- if allowing the pupil to remain would seriously harm the education or welfare of the pupil or others in the school.

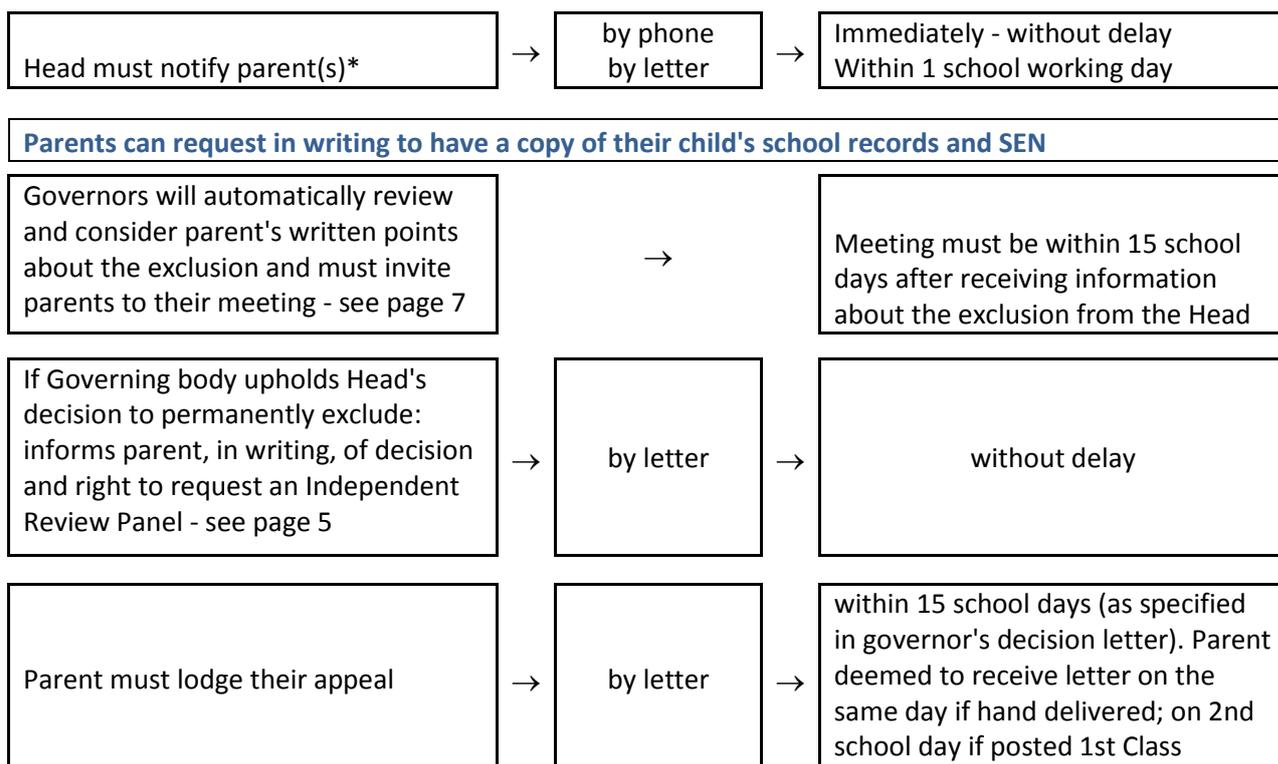
If a pupil is permanently excluded, it means they will no longer be allowed to attend school and their name will be removed from the school roll.

Permanent exclusion should normally be a last resort when a school has tried all other available strategies. Local Authorities are required to arrange educational provision for excluded pupils of compulsory school age from all institutions from the 6th day of permanent exclusion.

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

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

Permanent Exclusion Process



* Parents means anyone with parental responsibilities

The Independent Review Panel (IRP)

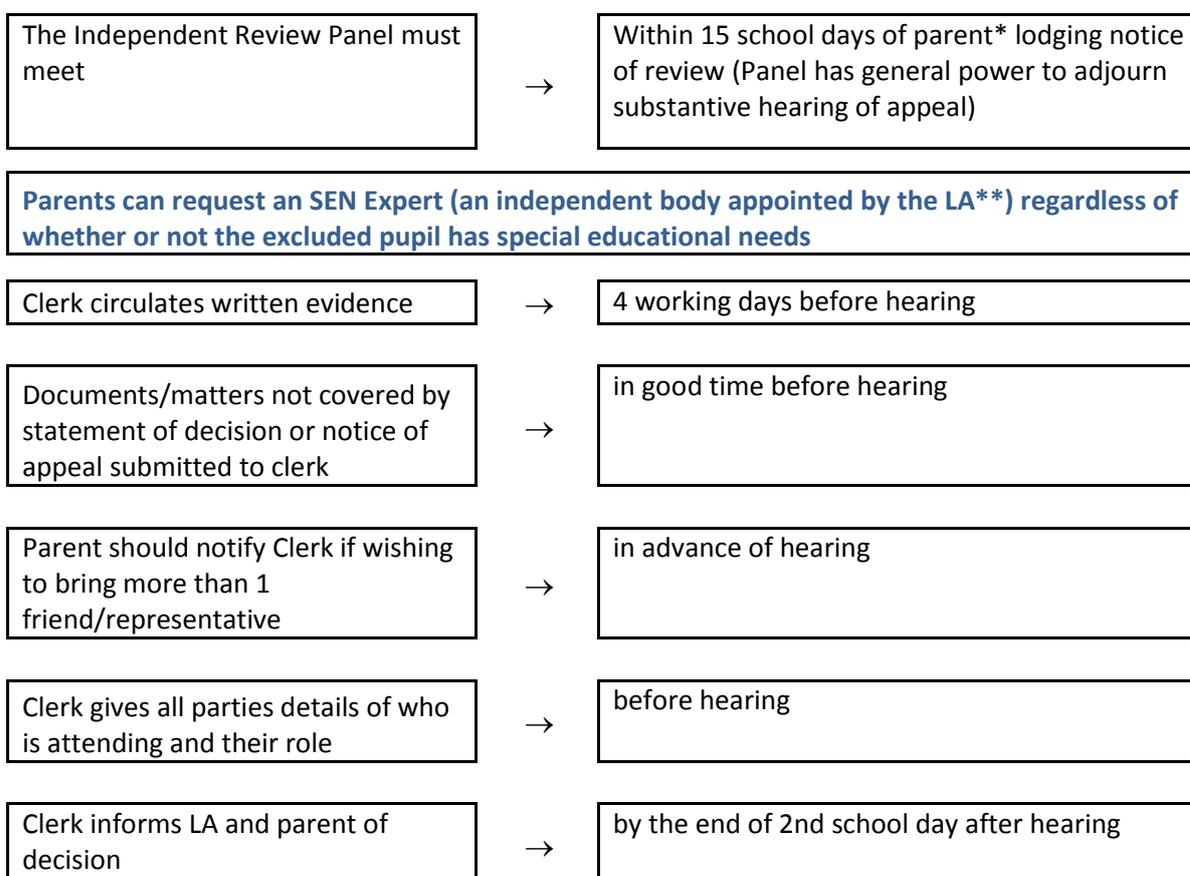
For permanent exclusions, if the governors uphold the school's decision, you can ask for this decision to be reviewed by an IRP.

Regardless of whether your child has recognised special educational needs (SEN), you have a right to request the Local Authority/Academy Trust to appoint an SEN expert to attend the review. There is no cost to you for this, but you must make it clear if an expert is to be appointed.

An IRP does not have the power to direct a governing body to reinstate an excluded pupil. It can recommend the governing body to reconsider, however where the panel decides that the governing body's decision is flawed, they can quash the decision and direct the governing body to consider the exclusion again.

If the pupil is permanently excluded, it is the Local Authority's duty to find the pupil another school or place of education.

Independent Review Panel process



* Parent means anyone with parental responsibilities

** LA means local authority

Preparation for appealing / writing a letter to/meeting with the Governors

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

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

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

- It is helpful to put things into a logical order. This could be chronological, including any relevant history.
- Is this the first exclusion? If not, were the others for a similar incident?
- If the meeting is for permanent exclusion, it is likely that past conduct and previous exclusions will be taken into account.
- What were the circumstances that led up to the incident resulting in the exclusion?
- Did your child do what they are being accused of?
- Was there provocation for example was your child affected by bullying and/or harassment?
- Were there any misunderstandings?
- Did your child's actions seriously harm the education or welfare of themselves or others in the school?
- Has your child been asked to write an account of what happened?
- You could ask your child to write their version of events so that the Governors can see your child's perspective.
- How does your child feel now?
- What is the usual academic achievement and potential of your child?
- Has the school followed procedures, regarding letters, sending work home and marking work since the exclusion?
- Have you spoken with the Local Authority Inclusion Officer who deals with exclusions? (KCC contact number 03000 41 21 21)
- What support is currently in place to support your child with their SEN/disability?
- How has the school managed your child's needs/behaviour?
- What kind of strategies are in place for your child? These could include pastoral support, a red card system, time out cards, peer mentor, a learning mentor, a counsellor or teaching assistant.
- Has an alternative to exclusion been discussed, such as internal exclusion, restorative justice or a managed move?
- Do you feel the exclusion was reasonable, fair and proportionate?

The Governors' Meeting (also known as a Discipline Committee)

If your son/daughter has been excluded for more than 5 days, you can ask for a meeting with the Governors. In cases of permanent exclusion, the Governors will automatically meet to review the decision.

In the case of an exclusion of more than 15 days or a permanent exclusion, you must be invited to the meeting/review. Your son/daughter should also be invited to attend the meeting and speak, subject to age and understanding. The Governors will consider your written points if you do not attend in person. The meeting must be within 15 school days after the Governors received notification about the exclusion from the Head Teacher. The Head Teacher should inform the Governors of the exclusion within one school day.

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

At the Governor's meeting for a permanent exclusion there will always be a Clerk to the Governors and in the case of a maintained school or pupil referral unit, a Local Authority representative. If the school is an Academy, you 'may invite a representative of the local authority to attend a meeting with the Governing Body, as an observer. That representative may only make representations with the Governing Body's consent' [Exclusion from maintained schools, Academies and pupil referral units in England, page 12, footnote 17].

The Head Teacher speaks first and explains why your child was excluded.

- The Head Teacher's witnesses speak and can be asked questions.
- The alleged injured party may be allowed to attend and speak and can also be asked questions.
- You state your case and you can be asked questions.
- If your child and witnesses attend, they may be asked to speak and be asked questions.
- In the case of a maintained school or pupil referral unit, a Local Authority Officer who deals with exclusions can make representations (give their views).
- The Head Teacher gives a final summary.
- you give your final summary.
- The Chair of Governors gives a final summary and explains when you will hear what their decision is.

You should be given enough time to put your case forward and comment on information from the Head or Local Authority. The Head and Local Authority should not be with the governors without the parent being there too.

The Governors must write to you to let you know their decision within one school day of the hearing. If the Governors overturn the exclusion they must direct your child's re-instatement to school either immediately or by a particular date. The exclusion will not be deleted from your child's record, but a copy of the Governors' decision letter should normally be placed on it.

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

Early Intervention and Alternatives to exclusion

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

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

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

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

Where a child and their family could benefit from support both in and out of school, a referral to access the services offered by the **Kent Family Support Framework** could be considered. The referral would usually be made by the school's SENCo, but any professional working with a child can make a request.

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

A pupil can be transferred to another school as part of a '**managed move**' with the consent of the parties involved, including the parents. This should be for an agreed period of time and the child remains on their current school roll. The threat of exclusion must not be used to influence parents to remove their child from the school.

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

Other points to note:

- a) Pupils whose **behaviour at lunchtime** is disruptive maybe excluded from the school premises for the lunchtime period and this is counted as half a school day.
- b) The head teacher **may withdraw an exclusion** that has not been reviewed by the governing body.
- c) When establishing the facts in relation to an exclusion decision the head teacher must apply the **civil standard of proof**, i.e. 'on the balance of probabilities'.
- d) **Informal or unofficial exclusions are illegal**, regardless of whether they are done with your agreement. If a Head Teacher is satisfied that a pupil has committed a disciplinary offence and needs to be removed from school for that reason then formal exclusion is the only legal method.

If your child is excluded or has been excluded unofficially (i.e. without going through formal procedures) you may wish to contact the Local Authority Inclusion Officer who deals with exclusions. You can ask to speak with the Inclusion Officer for your area by calling 03000 41 21 21.

- e) Exclusions may not be given for **an unspecified period**.
- f) Under the Equality Act 2010 ("the Equality Act") **schools must not discriminate** against, harass or victimise pupils because of their: sex; race; disability; religion or belief; sexual orientation; because of a pregnancy / maternity; or because of a gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices.
- g) **It is unlawful** to exclude or to increase the severity of an exclusion for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment / ability; the action of a pupil's parents; or the failure of a pupil to meet specific conditions before they are reinstated. Pupils who repeatedly disobey their teachers' academic instructions could, be subject to exclusion.
- h) **In exceptional cases** – usually where further evidence has come to light, a fixed period exclusion may be extended, or converted to a permanent exclusion. The Head Teacher must write again to the parents explaining the reasons for the change. The Head Teacher may withdraw an exclusion that has not yet been reviewed by the governing body.
- i) **Reintegration.** Schools should have a strategy for pupils returning to school following a fixed period exclusion, and for managing their future behaviour. (A fixed period exclusion should not be extended if a reintegration meeting cannot be arranged in time or the parents do not attend. A meeting is not a statutory requirement).
- j) Schools should take reasonable steps to **set and mark work** for pupils during the first five days of an exclusion, and alternative provision must be arranged from the sixth day.

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

For a full explanation of the legal procedures around exclusions, see the Government's Guide: **[Exclusion from maintained schools, Academies and pupil referral units in England](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269681/Exclusion_from_maintained_schools_academies_and_pupil_referral_units.pdf)** link:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269681/Exclusion_from_maintained_schools_academies_and_pupil_referral_units.pdf

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

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January 2016