

Information for Parents/Carers: Exclusions Explained

When a parent/carer is advised that their child is excluded from school it can be a distressing and confusing time, for both the parents/carers and child. This booklet aims to answer some of the most frequently asked questions associated with exclusion, and advise you on where to get further support.

What does exclusion mean for my child?

The Head teacher of your child's school has the authority to exclude any child from school, if s/he feels that their behaviour warrants it. If the Head teacher is satisfied and has reasonable proof that your child committed a disciplinary offence then an exclusion could take place. This means that if your child is excluded s/he will not be able to attend school during the time of the exclusion. A Head teacher can exclude for lunch times only, or for a fixed period of days (from ½ to 45 school days in an academic year), or permanently. All exclusions are a concern but a permanent exclusion is very serious since, if upheld, it would result in your child not being allowed to return to their school, and alternative education would need to be found.

However there are strict procedures that the school and the Local Authority have to follow which make sure the process is fair and in line with government guidance. If a head teacher is satisfied that, on the balance of probabilities, a pupil has committed a disciplinary offence and needs to be removed from the school site for that reason, formal exclusion is the only legal method of removal. **Informal or unofficial exclusions are illegal**, regardless of whether they are done with the agreement of parents or carers. This means that a school is not allowed to exclude a child without following national exclusion guidance.

What does the government guidance say?

Government guidance has been circulated to all schools (including academies) and local authorities, in order that all schools (whether primary, secondary or special) and support centres follow the same rules. This means that the processes in Derbyshire Local Authority and its schools should be the same as in schools and support centres in any other area of the country. More details about the government's expectations for schools and Local Authorities are set out in the Department for Education guidance **Exclusion from maintained schools, academies and pupil referral units in England - A guide for those with legal responsibilities in relation to exclusion (2012)** and on the following website:

www.education.gov.uk/government/publications/school-exclusion

What happens now that my child is excluded?

The school has to follow the government guidance mentioned above. Some of the basic processes are outlined below.

Step 1- Head teacher's decision

Whether for lunchtime, fixed period or permanent exclusion the school must notify you immediately, ideally by phone. Then the school must follow up the decision by letter by the end of the afternoon session.

Correspondence should outline the reasons for exclusion and give advice on the next stage of the process.



Step 2 – Setting school work

Schools should make reasonable steps to set and mark work for pupils during the first 5 days of an exclusion. However, **you** will need to contact the school to make arrangements for collection & return of completed work.



Step 3 – Parents' responsibility between days 1-5

For the first 5 school days of a fixed period or permanent exclusion, parents must ensure that their child is not present in a **public place** during normal school hours without reasonable justification. This applies whether or not your child is with you.

Not complying with this requirement has serious consequences which include either a £50 fixed penalty notice or prosecution.

Step 4 – School & local authority responsibility from day 6

The school has a duty to arrange suitable full-time education from (and including) the sixth school day of a fixed period exclusion.

After a **permanent exclusion** the Local Authority should arrange to assess your child's needs and arrange a meeting with you to discuss education options. From the sixth school day of a permanent exclusion, the Local Authority must ensure that suitable full-time education is provided.

Step 5 – Parental representation & governors' meetings

As a parent/carer you have the right to state your views in writing to the school governors, on any exclusion of your child. For short, one-off exclusions, the governing body must consider your representations, but it can't overturn the Head's decision. For longer, or cumulative, exclusions, the governing body has to hold a meeting to decide whether they agree or disagree with the Head teacher's decision.

For fixed period exclusions that bring the total up to **more than 15 school days in a school term**, or result in your child missing a **public examination**, and for **all permanent** exclusions, the governors must hold a review meeting within 15 days, and the clerk will invite you to attend.

However, for exclusions that total between **5 and 15 school days in a school term** you will need to write to the clerk to ask for the governors to hold a meeting to consider reinstatement. The governors must then arrange a meeting within 50 days.

For exclusions **under 5 days**, governors must consider your views, but don't have to hold a special meeting, and don't have the power to reinstate.

N.B. For exclusion purposes a school term relates to 3 terms (i.e. periods between 31st December to Easter Monday; Easter Monday to 31st July; and 31st July to 31st December)

If you wish to submit your views then you should address the letter in the following way:

**For attention of: The Clerk to Governors
C/O name of your child's school
School Address**

The envelope should be marked confidential. The clerk will respond to you and advise you of the next steps of the process. The review meetings are important because everybody has an opportunity to present their views (parents, the school and the local authority). Excluded pupils are also encouraged to take part in all stages of the exclusion process, subject to their age and understanding. For fixed period exclusions the governors' meeting is your only opportunity to present your views, and it is strongly advised that parents send in written representations, or, if applicable, attend in person. If the fixed period exclusion is short your child may actually have served the exclusion **before** the governors have had an opportunity to meet. However, it is important that you take the opportunity to ensure that the governors take your views into account, particularly if you have a different view from the Head teacher.

The Coram Children's Legal Centre provides useful guidance on exclusion legislation and processes. You can also contact the Derbyshire Information, Advice & Support Service (DIASS) for SEND who will be able to explain the government guidance and offer support. The outline of the Governors' meeting is set out below.

	Outline of the governors' meeting
	Introductions by the Chair and explanation of the purpose and conduct of the meeting
	Report by Head teacher and other school staff on reasons for exclusion
	Questions to the Head teacher from parents/carers, governors and the Local Authority (where in attendance)
	Parent/carer's or pupil's view (parents/carers and pupils can also be supported by a friend or adviser if they wish)
	Questions to parent/carer and/or pupil from governors, the Head teacher and the Local Authority (where in attendance)
	Local Authority representative's views (where in attendance)
	The Head teacher and then the parent/carer are each invited to sum up

<p>The governors are left alone, or with their clerk, to consider their decision</p>
<p>Governors come to a decision on whether to uphold the exclusion or reinstate the pupil. Governors cannot extend the length of fixed period exclusion or change a fixed period exclusion to a permanent exclusion.</p>
<p>The governors then invite the other people to join them to inform them of the decision.</p>
<p>If you as the parent/carer decide to return home prior to the decision, or the Chair feels that the governors' deliberations will be lengthy, the Chair should contact you at the end of the meeting and verbally convey the decision.</p>
<p>When giving the decision to parents/carers it is considered good practice for the Chair to advise you of the reasons behind reaching this decision.</p>
<p>This decision must be confirmed in writing within 1 school day. This remains the responsibility of the Clerk to Governors.</p>
<p>Minutes of the meeting should be placed on the pupil's record with a copy of the Head teacher's exclusion letter.</p>

What happens next?

The next stage depends on whether the exclusion was for a fixed period (a number of days or lunch times) or permanent. After a **fixed period exclusion** your child would return to school. It is expected that schools will have a strategy for reintegrating pupils that return to school following a fixed period exclusion, and for managing future behaviour.

If your child is **permanently excluded** the governors could either overturn the exclusion (so your child will be able to go back to school i.e. 'reinstated'), or uphold the decision (so your child will not be allowed back). When a permanent exclusion is upheld, the Local Authority will be in touch with you, and meetings will be called to discuss options for the next stage of education for your child. If the governors uphold the decision, and you disagree with their decision, you

can go to an Independent Review Panel (IRP). The procedure is outlined below:

Step 6 – Independent Review Panel (IRP) for permanent exclusions

You have 15 school days from when you are told the governors' decision to apply for an IRP hearing. Any application made after 15 days must be rejected by the Local Authority.

The IRP will sit within 15 school days of receiving your request and will consider evidence from you, the Head teacher, the governing body & the Local Authority representative before reaching their decision. Parties who attend the hearing may also bring a representative.

You have the right to request that a special educational needs (SEN) expert attends the IRP hearing, regardless of whether your child has been assessed as having SEN. The SEN expert will be a professional with first-hand experience of the assessment and support of SEN, as well as an understanding of the legal requirements on schools in relation to SEN & disability. Their role is to give impartial advice to the IRP on how SEN might be relevant to the exclusion. They will look at school policies and how they've been applied, but can't carry out a SEN assessment of your child.

The IRP can come to one of three decisions:

- uphold the exclusion (i.e. your child does not return to school)
- recommend that the governing body reconsiders its decision
- quash the decision and direct the governing body to consider the exclusion again

The IRP can only make a direction if they feel that the governors' decision was illegal, or irrational, or the process was so unfair or flawed that justice was not done.

If the IRP directs the governing body to reconsider, the IRP may also order that the school will have £4000 removed from its budget if the child is not reinstated within 10 days. If the governing body reinstates your child, they will be allowed to return to school.

The IRP is independent of all the parties and its decision is binding on the school, the pupil, parents/carers and the Local Authority. If you believe an IRP carrying out a review of an exclusion from a Council maintained school, acted unfairly or incorrectly, you can complain to the Local Government Ombudsman

(LGO). Details of how to make a complaint can be found on the LGO website: www.lgo.org.uk. . Complaints concerning an Academy IRP can be made to the Education Funding Agency (EFA) by using the online school complaints form or by writing to:

The Department for Education
 Sanctuary Buildings
 Great Smith Street
 London
 SW1P 3BT

In cases where no maladministration has occurred but parents or schools want to challenge the decision of an IRP, they may seek a judicial review. Any application for a judicial review should be made within three months of the panel's decision.

If you believe the exclusion happened as a result of discrimination, you can make a claim to the County Court or, in cases of disability discrimination only, to the First Tier Tribunal (Special Educational Needs and Disability).

Who can I go to for help?

There are a number of people that can provide you with further advice. Some of the contacts listed work within the Local Authority, while the other agencies are set up to offer independent and impartial advice to parents. The following people will be able to help:

AGENCY:	CAN HELP YOU WITH:	CONTACT DETAILS:
Derbyshire LA – Inclusion Team	General advice on the exclusion process. Alternatives to permanent exclusion (managed moves, deferred exclusion transfer).	01629 535802
Derbyshire LA – Integration Pathways Team	Integration Pathways Team will contact you directly to advise you of education provided by the LA after permanent	Integration Pathways Team General Offices: 01629 531651 01246 207709

	<p>exclusion (for pupils of statutory school age).</p> <p>Alternatives to exclusion - Assisted Transfer of statemented pupils.</p>	
<p>Derbyshire Information, Advice & Support Service (DIASS) for SEND</p>	<p>Help you to collect all the important information you need about your child, the school and exclusion.</p> <p>Help you to write letters to the school.</p> <p>Help you to collect information about the incident and write your ideas and thoughts down about your child's exclusion and possible reasons why it happened.</p> <p>May be able to attend meetings with you at school and help you to state your case effectively.</p> <p>Speak to school and/or other professionals.</p>	<p>Advice line - 01629 533668</p> <p>Opening hours 9.30-3pm but messages can be left outside these hours</p> <p>ias.service@derbyshire.gov.uk</p>
<p>Coram Children's Legal Centre</p>	<p>Parent- friendly exclusion information.</p> <p>Helpline for child law advice</p>	<p>Coram Children's Legal Centre University of Essex Wivenhoe Park Colchester Essex CO4 3SQ</p> <p>Child Law Advice Line:08088 02 0008</p>

<p>Department for Education</p>	<p>Copies of: Exclusion from maintained schools, academies and pupil referral units in England - A guide for those with legal responsibilities in relation to exclusion (2012)</p> <p>Copies of the SEND Code of Practice: 0-25 years (2015)</p>	<p>Department for Education publications:</p> <p>www.gov.uk/government/publications/school-exclusion</p> <p>www.gov.uk/government/publications/send-code-of-practice-0-25</p>
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