

Special Educational Needs
and Disability Information,
Advice & Support Service

sendiass

Permanent exclusion



Introduction

Being told your child has been permanently excluded is an unsettling and confusing time for parents and carers. You are likely to have lots of questions, and you may be worried about what happens next. We hope the information and advice in this factsheet may help you.

National statistics show that children and young people with SEN (with or without an EHC plan) are more likely to be excluded.

What is SEN?

A 'Special Educational Need (or SEN)' means help that is in addition to, or different from, the support generally given to all children of the same age.

Teachers make adjustments so that they can meet the wide range of needs for all the children in a class and this is known as 'differentiation'.

A child has a Special Educational Need (SEN) if they need further adjustments or support on top of 'differentiation'.

A child does not need a medical diagnosis to be recognised as having SEN.

A disability which creates barriers to education may also be the trigger for additional support.

SEN is not always about a child's academic attainment, some children may have other barriers to learning.

Department for Education guidance for schools (includes academies and pupil referral units)

The statutory '**Suspension and permanent exclusion guidance**' from the Department for Education sets out the expectation that permanent exclusion should only be used as a last resort, where other approaches towards behaviour management have been exhausted.

The 'Behaviour in schools: advice for Headteachers and school staff' says:

“ The law also requires schools to balance a number of duties which will have bearing on their behaviour policy and practice, particularly where a pupil has SEND that at times affects their behaviour. In particular:

- schools have duties under the Equality Act 2010 to take such steps as is reasonable to avoid any substantial disadvantage to a disabled pupil caused by the school's policies or practices;
- under the Children and Families Act 2014, relevant settings have a duty to use their 'best endeavours' to meet the needs of those with SEND*;
- if a pupil has an Education, Health and Care plan, the provisions set out in that plan must be secured and the school must co-operate with the local authority and other bodies. (37) ”

*The Suspensions and exclusions guidance states this 'will include any support in relation to behaviour management that they need because of their SEN'.

As part of meeting any of these duties, schools should, as far as possible, anticipate likely triggers of misbehaviour and put in place support to prevent these.' (38 – which also includes examples)

What happens following a permanent exclusion?

The Education Access Team at the local authority support children and young people who are unable to access full time education due to being permanently excluded, or who are at risk of permanent exclusion. They provide direct support and guidance to parents and carers of children and young people who have been permanently excluded from school.

They will also liaise with Family Services (the local authority team which manages EHC needs assessments and plans) about any child who has an EHC plan.

The SEND Code of Practice 2015 says:

“ Where a young person of compulsory school or participation age – i.e. under the age of 18 – is excluded from their education or training setting or leaves voluntarily, the local authority must not cease their EHC plan...the local authority must review the EHC plan and amend it as appropriate to ensure that the young person continues to receive education or training’ ”

(9.202 and **SEND Regulations 2014** – 22 & 29 (2))

This means that following a permanent exclusion for a child with an EHC plan, the local authority must review and amend the plan to ensure education continues.

Was the decision taken by the headteacher and on disciplinary grounds?

Only the headteacher of a school can suspend or permanently exclude a pupil on disciplinary grounds.

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.

Only in exceptional cases, where additional evidence has come to light, can a further suspension or a permanent exclusion be issued to begin after the first suspension.

Was the decision (including the reason and your rights) notified to you in writing?

The headteacher must, without delay, provide this information in writing to parents/carers:

- The reason for the permanent exclusion.
- Rights to make representations to the governing body (challenge the decision).
- The right to, and how to, request a remote meeting*.
- Right to attend the meeting and be represented at that meeting.
- Right to bring a friend or representative (if you decide to bring someone with you, let the governing body know).
- When you must ensure that your child is not present in a public place at any time during school hours, usually the first 5 days following a permanent exclusion.
- Where known, the start date, times and address of any provision of education that has been arranged. (If this information is not immediately available, it must be provided without delay and no later than 48 hours before it is due to start).

*The meeting must be in person unless you have requested this to be remote, or there are extraordinary events or unforeseen circumstances. Before requesting a remote meeting, consider whether you have appropriate space, technology and internet connection.

The headteacher should also draw attention to relevant sources of free and impartial information, such as SENDIASS.

Have you considered speaking with the headteacher before the governing body meeting?

Speak to the headteacher as soon as you are informed of the permanent exclusion, as the decision is not formally agreed until the governing body has considered.

The statutory 'Suspension and permanent exclusion guidance' from the Department for Education says:

“ 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. (13)

”

Will work be set for my child?

Headteachers should take reasonable steps to ensure that work is set and marked during the first five school days following a permanent exclusion.

From the **sixth school day after the first day the permanent exclusion took place** suitable full-time education must be arranged by the local authority or governing body.

What is the governing body meeting?

When a headteacher decides to permanently exclude a pupil, they must notify the governing body. The governing body must then meet (within 15 school days) to consider the decision.

The governing body must invite and make reasonable endeavours to arrange the meeting for a date and time which suits:

- parents
- the pupil if 18 years or over
- the headteacher
- a representative of the local authority (in the case of a maintained school or Pupil Referral Unit*)
- the Social Worker if the child has one
- the Virtual School's Head if the child is looked after.

*For other school types you may request a representative from the local authority attend, but the governing body would have to consent to them making any representations (ie. they may only be allowed to observe).

You can ask to take a friend or representative along to the governing body meeting with you and they must be allowed to make representations or share information on your behalf. You will usually receive a list of who is attending with copies of written evidence and information at least 5 days in advance of the meeting.

The governing body should identify steps they will take to encourage your child to attend and support them to take part (or share their views another way). This can include letting your child know they can take a friend along and providing information which is easy to understand.

They must also make reasonable adjustments for any disabled pupil or parent, to support them to take part.

Do I have to attend the governing body meeting?

You do not have to attend but the meeting is a good opportunity to ask any questions about the circumstances surrounding the exclusion and/or challenge the decision.

If you have concerns about whether the decision taken (or process followed) were in accordance with national guidance for schools, this is your opportunity to discuss these with the governing body.

You can discuss your child's SEN, disability and the support in place. If attending would be difficult, you can share your views in writing instead, so that your voice is still heard.

Prepare your questions and concerns about an exclusion (for the headteacher and governing body)

- **Were the duties for schools around exclusions considered?**
(check the statutory guidance from the Department for Education)

'Schools should consider whether a pupil's SEND has contributed to the misbehaviour and if so, whether it is appropriate and lawful to sanction the pupil.'
(The Behaviour Guidance paragraph 58)

Share in what ways you feel your child's needs impact on their understanding of behavioural expectations and their ability to follow them.

- **Read through the school's evidence** about the circumstances, support in place and identify any gaps. For example, what was put in place to help your child manage their feelings and behaviour, and was this having any impact?

'Where a school has concerns about the behaviour, or risk of suspension and permanent exclusion, of a pupil with SEN, a disability or an EHC plan 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.'
(Suspension and exclusions guidance paragraph 56).

- **Check the support plan**, (this may be called something else eg. IEP, Learning Plan or Pupil Passport). You can ask school for a copy if you do not have one. Do you have any concerns about the support that was in place at the time of the incident/s?
- Do you feel the headteacher **took into account your child's SEND and their views**, and/or made 'reasonable adjustments'?
- **Had all support options been exhausted, and was this decision a last resort?** You can check the school's own website for support options (SEN policy & SEN Information report), also the Local Offer.
- **Read the school's behaviour policy** as this may help you identify some further questions. For example, was the exclusion in accordance with their policy?
- Any information or **circumstances the headteacher was unaware of** (don't wait for the meeting in this case – get in touch with the headteacher as soon as you learn of the exclusion).
- **If your child has an EHC plan**, did an early Annual Review take place and were any changes to the plan made, for example with their needs, provision or with the outcomes?
- **How your child has been impacted?** Ask them to explain how they have been affected and how they feel so you can share this at the meeting. Include any negative impact on their wellbeing or with their confidence and self-esteem.

What decisions can the governing body make?

The governing body will decide to:

- uphold an exclusion; or
- direct reinstatement of the pupil immediately or on a particular date.

Where reinstatement is not practical or you make clear you do not want your child reinstated, the governing body must still consider whether your child would have been officially allowed back into school.

The governing body must notify you, the headteacher and the local authority (and, if relevant, the social worker and Virtual School Head) of its decision, and the reasons for its decision, in writing and without delay.

The governing body's notification must also include the following information:

- the fact that it is permanent;
- your right to ask for the decision to be reviewed by an Independent Review Panel.

Disability discrimination

If you believe that your child has been disadvantaged due to their disability, you may also wish to make a claim to the **First-tier Tribunal (Special Educational Needs and Disability)** (within six months of the exclusion).

Further information

You can read more on our website:

<https://suffolksendiass.co.uk/education/school-exclusion/>

You can contact us with any specific questions or to request further support:

<https://suffolksendiass.co.uk/contact-us/>

National organisations who offer information and advice

ACE Education

www.ace-ed.org.uk/

Child Law Advice (education law advice for families)

www.childlawadvice.org.uk

IPSEA

www.ipsea.org.uk/

Further information

View our other information leaflets and resources at
www.suffolksendiass.co.uk/leaflets



Information: You may find it helpful to look at our other leaflets and information on our website, social media channels and through our workshops and courses.



Advice: We provide unbiased information and advice about what the law says, the local authority's policies and procedures, and about the policy and practice in local schools or other settings



Support: We can help you by listening to your views and concerns, and working with you to explore your options.

Useful links

Contact (for families with disabled children)

www.contact.org.uk

Child Law Advice (education law advice for families)

www.childlawadvice.org.uk

Council for Disabled Children (umbrella body for the disabled children's sector) www.councilfordisabledchildren.org.uk

Useful links, continued

The Source (for young people in Suffolk)

www.thesource.me.uk

Suffolk Local Offer (for the full range of services and support for children and young people with SEND)

www.suffolklocaloffer.org.uk

Department for Education guidance for schools:

School suspensions and permanent exclusions:

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

Behaviour in schools:

www.gov.uk/government/publications/behaviour-in-schools--2

Department for Education guidance - School exclusion: guide for parents:

<https://www.gov.uk/government/publications/school-exclusions-guide-for-parents>

SEND Code of Practice 2015:

www.gov.uk/government/publications/send-code-of-practice-0-to-25



www.suffolksendiass.co.uk



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ADVICE4ME to 87007

English	If you need help to understand this information in another language, please contact us.
Arabic	إذا كنت بحاجة إلى المساعدة في فهم هذه المعلومات بلغة أخرى، فالرجاء الاتصال بنا.
Bengali	অন্য কোন ভাষায় এই তথ্য বুঝতে আপনার সাহায্যের প্রয়োজন হলে, অনুগ্রহ করে আমাদের সাথে যোগাযোগ করুন।
Farsi	در صورتی که نیاز به کمک دارید تا این اطلاعات را به زبان دیگری درک کنید، لطفاً با ما تماس بگیرید.
Kurdish	ئە گەر پێویستت بە یارمەتی هەیه بۆ تیگەیشتن لەم زانیاریانە بە زمانیکی تر، تکایە پەیوەندیمان پێوه بکە.
Lithuanian	Jei reikia pagalbos suprasti šią informaciją kita kalba, susisiekite su mumis.
Polish	Jeśli potrzebujesz pomocy, aby zrozumieć tę informację w innym języku, proszę się z nami skontaktować.
Portuguese	Por favor contacte-nos caso necessite de ajuda para compreender esta informação em outro idioma.
Romanian	Vă rugăm să ne contactați dacă aveți nevoie de ajutor pentru a înțelege aceste informații într-o altă limbă.
Ukrainian	Якщо вам потрібна допомога, щоб зрозуміти цю інформацію іншою мовою, зв'яжіться з нами.

