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Our ref: CYPS/DW



Subject Matter of this Letter:	Exclusion Procedures
For the attention of:	Head Teachers and Chairs of Pupil Discipline Committees

5 September 2019

Dear Colleague

I am writing to remind you about the Guidance on Exclusions from Schools and Pupil Referral Units September 2017.

This document provides details of the procedures and documentation to complete when excluding a pupil from school.

I would be grateful if you could ensure that staff who are involved in the exclusion process within your school have an opportunity to consider this guidance and that your school exclusion paperwork reflects the guidance and documents provided.

A complete copy of the revised guidance can be accessed at <https://www.gov.uk/government/publications/school-exclusion>

### **Factors to consider before making a decision to exclude**

Exclusion should not be imposed in the heat of the moment, unless there is an immediate threat to the safety of others in the school or the pupil concerned. Before deciding whether to exclude a pupil, either permanently or for a fixed period, the Head Teacher should:

- (a) Ensure that an appropriate investigation has been carried out.
- (b) Consider all the evidence available to support the allegations, taking account of the school's behaviour and equal opportunities policies, and where applicable, the Race Relations Act 1976 as amended and the Disability Discrimination Act 1995 as amended.

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**Children and Young People's Services**  
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- (c) allow the pupil to give his or her version of events.
- (d) Check whether the incident may have been provoked, for example by bullying or by racial or sexual harassment.
- (e) If necessary consult others, but not anyone who may later have a role in reviewing the Head Teacher's decision, for example a member of the Governor's Disciplinary Committee.
- (f) Keep a written record of the actions taken (and copies of written records made by other members of staff) including any interview with the pupil concerned. Witness statements should be dated and signed, wherever possible.
- (g) Protecting victims of bullying by sending them home.

The Standard of Proof to be applied is the balance of probabilities, i.e. if it is more probable than not that the pupil did what he or she is alleged to have done, the Head Teacher may exclude the pupil. However, the more serious the allegation, the more convincing the evidence substantiating the allegation needs to be.

Where a police investigation leading to possible criminal proceedings has been initiated, the evidence available may be very limited. However, it should still be possible for the Head Teacher to make a judgement on whether to exclude the pupil.

### **Procedures Following Permanent Exclusion**

The pupil remains on the roll of the school until the appeal is determined, until the time limit for the parents to lodge an appeal has expired without an appeal being brought or the parent has informed the LA in writing that no appeal is to be brought. It is the responsibility of the school during the first 5 days of a permanent exclusion to ensure that work is sent home for the pupil to complete. During these initial 5 days of exclusion parents must ensure that their children are not found in a public place during normal school hours without reasonable justification. Parents are subject to a fixed penalty notice fine if they fail to do this. (Information of fixed penalty notice can be found on the extranet (Penalty Notices for Truancy/Penalty Notice for excluded pupils protocol).

From the 6th day of the permanent exclusion the LA is statutorily responsible for ensuring that suitable full-time education is provided. This will be the pupil's home LA in cases where the pupil lives in a different LA from the school.

To allow the LA arrangements to be taken up successfully the following arrangements have been agreed.

On the day when a school decides to permanently exclude a pupil they should contact me by telephone (03000 265903). This should then be followed on the same day with an email of the letter that has been sent to parents, outlining the school's decision, a completed Pupil Proforma Academic Profile, CSE risk matrix, SEN checklist and Risk Assessment completed by the school.

The email should be sent to the following:

[bev.mitchell@durham.gov.uk](mailto:bev.mitchell@durham.gov.uk)

**The Woodlands**

[j.duff200@durhamlearning.net](mailto:j.duff200@durhamlearning.net)

[a.burns102@durhamlearning.net](mailto:a.burns102@durhamlearning.net)

[helen.atkins@durham.gov.uk](mailto:helen.atkins@durham.gov.uk)

[j.iancu300@durhamlearning.net](mailto:j.iancu300@durhamlearning.net)

**School and Governor Support**

[linda.ellison@durham.gov.uk](mailto:linda.ellison@durham.gov.uk)

[peterarobson@durham.gov.uk](mailto:peterarobson@durham.gov.uk)

A copy of the letter to parents should also continue to be sent to Education Psychology Service (Area Senior).

If the pupil lives outside the Local Authority in which the school is located, you should also inform the 'home' Local Authority of the exclusion on the day, to allow provision to be arranged.

The EX1 report including evidence relating to the exclusion must continue to be produced and circulated within 3 school days.

**Unofficial Exclusions**

If the Head Teacher is satisfied that, on the balance of probabilities, a pupil has committed a disciplinary offence and the pupil is being 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.

**Procedures Following a Fixed Term Exclusion**

The regulations allow Head Teachers to exclude a pupil for one or more fixed period not exceeding 45 school days in any one school year. The limit of 45 school days applies to the pupil and not the school, therefore, any days of fixed term exclusions serviced by a pupil in any school or PRU in the same school year will count towards the total. However, individual exclusions should be for the shortest time necessary, bearing in mind that exclusions of more than a day or two make it more difficult for the pupil to reintegrate into the school. OFSTED inspection evidence suggests that one to three days is often long enough to secure the benefits of exclusion without adverse educational consequences. Exclusions may not be given for an unspecified period, for example until a meeting can be arranged. Such a practice amounts to an indefinite exclusion, for which no legal arrangements exist.

A Head Teacher must arrange a reintegration interview with parents during or following the expiry of any fixed term exclusion of a primary-aged pupil or more than five school days for a secondary-aged pupil. The interview should normally be conducted by the Head Teacher or senior member of staff.

A fixed period of exclusion must not be extended if such a meeting cannot be arranged in time or the parents do not attend.

The school's obligation to provide education continues and must be met during a fixed term exclusion.

For exclusions up to 5 consecutive days, work should be set and marked. During this period the parents of the excluded pupil must ensure that he/she is not found in a public place during normal school hours without reasonable justification. Parents are subject to a fixed penalty notice fine if they fail to do this.

Where a pupil is given a fixed term exclusion for 6 consecutive days or longer, the school has a duty to arrange suitable full-time educational provision from and including the 6th school day of the exclusion.

All schools have agreed arrangements in place to meet this requirement. The day 6 cover arrangements should be included in the Schools Behaviour Policy.

Notification of all fixed term exclusions must be provided to the LA at the time of the exclusion.

### **Marking Attendance Registers Following Exclusion**

Where pupils are excluded for a fixed period for more than 5 consecutive days and alternative provision is made and the pupil attends it, they should be marked using attendance Code B (Education Off-site).

Pupils who are permanently excluded must not be deleted from either the admission register or the attendance register until the appeal process has been completed. From the 6th day of the exclusion they should be attending the LA provision and should be marked using the attendance Code B (Education Off-site). If the pupil does not attend the LA provision they should be marked absent using Code E.

### **Lunchtime Exclusion**

Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime. A lunchtime exclusion is a fixed period exclusion (deemed to be equivalent to one half of a school day) and should be treated as such, and parents have same right to be given information and to make representations. A lunchtime exclusion for an indefinite period, like any other indefinite exclusion, would not be lawful. Arrangements should be made for pupils who are entitled to free school meals to receive their entitlement which may mean, for example, providing a packed lunch.

## **When exclusion is not appropriate**

Exclusions should not be used for:

- (a) Minor incidents such as failure to do homework or to bring dinner money;
- (b) Poor academic performance;
- (c) Lateness or truancy;
- (d) Pregnancy;
- (e) Breaches of school uniform rules or rules on appearance (for example, relating to jewellery, body piercing, hairstyles etc), except where these are persistent and in open defiance of such rules. (Pupils may be sent home, their parents first having been contacted, as recorded authorised absence to change clothes without being excluded; this should be for no longer than is necessary, otherwise it may amount to an unofficial exclusion;
- (f) Punishing pupils for the behaviour of their parents, for example where parents refuse, or are unable, to attend a meeting.

## **Behaviour Outside School**

Pupils' behaviour outside school on school business - for example on school trips, away school sports fixtures, or work experience placement - is subject to the school's behaviour policy.

For behaviour outside school, but not on school business, a Head Teacher may exclude a pupil if there is a clear link between that behaviour and maintaining good behaviour and disciplinary among the pupil body as a whole. This will be a matter of judgement for the Head Teacher. Pupils' behaviour in the immediate vicinity of the school, or on a journey to or from school, can be grounds for exclusion.

Yours sincerely

David Wall  
Inclusion and Alternative Provision Co-ordinator