



# Permanent exclusion

A practical guide to parents' legal rights



## Contents

### Part I - Dealing with the new situation

- (a) What's happening now
- (b) The future

### Part II - Challenging the exclusion

1. Law and guidance on exclusions
  - 1.1 When can the school exclude a child?
  - 1.2 How should it be done?
2. Preparing your case
  - 2.1 Letter to the Governors
  - 2.2 Preparing your case summary
    - 2.2.1 Reasons for exclusion
    - 2.2.2 Procedures
    - 2.2.3 Evidence
    - 2.2.4 Support
    - 2.2.5 Other Factors
    - 2.2.6 Alternative solutions
  - 2.3 Your summary
3. Meeting with the Governors
4. Going to the Independent Appeal Panel

### Abbreviations

BESD = behavioural, emotional and social difficulties

CAF = Common Assessment Framework

CAMHS = Child and Adolescent Mental Health Service

EWO = Education Welfare Officer

Guidance = 'Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units, 2008'.

IAP = Independent Appeal Panel

LA = Local Authority

PRU = Pupil Referral Unit

SEN = special educational needs

Web Guidance = government guidance on the law at [www.teachernet.gov.uk](http://www.teachernet.gov.uk)

- There are two types of exclusion – fixed period and permanent. This booklet deals with **permanent** exclusions.
- In this booklet 'Governing Body' also applies to the Management Committee of a Pupil Referral Unit (PRU); 'Headteacher' (Head) also applies to the Head of a PRU.

This booklet is based on the laws of England.

*If there is anything in this booklet you don't understand or if you would like more information, please call our free exclusions advice line on 0808 800 0327.*

# My child has been permanently excluded - what can I do?

This can be very upsetting and worrying for you and your child. In this guide we have set out the sorts of things you will need to think about. These fall into the following categories:

- (a) what should be happening to your child now s/he is excluded
- (b) how your child will be educated in the future
- (c) whether to challenge the decision to exclude your child and how to go about it.

Part I of this booklet looks at (a) and (b) and Part II looks at (c).

Not everything in this booklet may apply to your child. Use the sections which fit your situation.

## Part 1: Dealing with the new situation

### (a) What's happening now

- *Homework* – Government Guidance says that your child should receive homework from the school for the first 5 days of the exclusion and the school should arrange for it to be marked. If you haven't received homework get in touch with the school and request some for your child.
- *Right to full time education* – The Local Authority (LA) must provide suitable full time education for your child from the 6th school day of a permanent exclusion. Full time means between 21 and 25 hours a week, depending on the age of your child. (Note that if a child has a statement of special educational needs, they should get the number of hours specified on the statement.) The LA will normally be in contact with you during the first few days to arrange this. You can ring the LA to check that something is being done. If you do not have a named contact ask for the Exclusions Officer. (Note that looked-after children are entitled to full time educational provision from the first day of a permanent exclusion.)
- *Staying at home* – It is very important that your child stays at home and is not in any public place during school hours for the first 5 days of the exclusion. This includes, say, going to see the GP and the fact that you might be accompanying your child does not make it lawful. If s/he is found in a public place and you don't have a very good reason, you may be issued with a penalty notice. This will require you to pay a fine of £50. If you fail to pay it within 28 days the fine will go up to £100. If you fail to pay that within 42 days, you could be taken to court.

**Confidentiality**

Government Guidance says that all exclusions should be treated in the strictest confidence. This means that only those people who need to know about the exclusion should be told.

**(b) The Future**

Very often children who have been permanently excluded are sent to a **Pupil Referral Unit (PRU)** first but this is usually a short term solution. After that the LA will often use its Fair Access Protocol to offer them a place in a new school. The Fair Access Protocol is a local agreement about how to get hard-to-place children back in school as quickly as possible.

You may not know at this point where your child will be educated from now on. Alternatively, you may know but might not be happy with what is being offered. The following is a list of options you may be offered or could ask for:

- **a managed move** – this is where the school gets involved in arranging to transfer your child to another school. Occasionally the school might agree to withdraw the exclusion and organise a managed move. Your child would avoid having an exclusion on his or her school record and would get a fresh start at a new school. (If your child has a statement of special educational needs you can ask for an urgent annual review with a view to the LA naming another school.)
- **applying for schools yourself** – you are always free to apply to schools in your LA area and in other LA areas. Ring the LA(s) and ask for a list of those schools that have spaces in your child's school year. Make written applications. If you are turned down you will have a right of appeal. (See our booklets *Applying for a School* and *Appealing for a School* for more details.) Your child cannot be refused a place because of previous bad behaviour or previous exclusions, unless s/he has had 2 previous permanent exclusions in the last 2 years, or unless exceptional circumstances apply to the school (i.e. that it has recently been in special measures and it has taken a taken more than its fair share of children with behavioural difficulties). In general, the fact that your child has been permanently excluded should not stop you finding a place. Some schools may be reluctant to take children in Key Stage 4 but there is no basis in law for this.
- **flexible learning at Key Stage 4** – if your child is in Key Stage 4, i.e. Years 10 or 11, they will not have as many compulsory subjects to do under the national curriculum as before. So an arrangement can be made for them to spend some time doing subjects that they find interesting and relevant to them. In some areas local FE colleges offer vocational courses and you might try arranging with the school for them to take your child back part time to study the core curriculum and go to college for the rest of the week (say 2 to 3 days). Alternatively,

sometimes Key Stage 4 children do extended work experience and local voluntary schemes. Check out what is available in your area by contacting your local Connexions service. Then decide what you want to ask the school for before you meet with them.

- **home education** – you can choose to educate your child at home if you wish, but you must make sure s/he receives a ‘suitable education’, i.e. an ‘efficient full time education suitable to his/her age, ability and aptitude and to any special educational needs s/he may have’. If you want to home educate your child you don’t generally need to get the LA’s permission, but you do need to tell them what you are doing and they will check it up. (Note that if your child attends a special school the rules are different and you do need permission.)

- **support** – it is important to ensure that your child gets the right kind of support now and in the future. If this has not already been done, your child should be assessed under the Common Assessment Framework (CAF) to find out more about his or her individual needs and the services available to meet them. Parents also can ask for their child to be assessed under the CAF. You could ask a professional of some kind (it could be, say, an education welfare officer) to act as the lead professional and fill out a CAF form for your child. If you think your child might have mental health difficulties that are not being properly met, you could go to your GP or contact the Child and Adolescent Mental Health Service (CAMHS) for some help.

#### **Withdrawing the exclusion**

The Head can withdraw the exclusion before the Governors have met to review it.

If you think the Head could be persuaded, have a meeting with him or her to discuss this.

At the same time you might wish to discuss one of the above options with the school as an alternative

## **Part 2: Challenging the exclusion**

You may wish to challenge the exclusion if:

- You want your child to be reinstated in the excluding school
- You don’t want your child back in the school but you feel the exclusion was unfair

You have the right to challenge the exclusion by making representations to the school governors and, if they don’t agree with you, you can appeal to an Independent Appeal Panel (IAP) (See section 4). If you are successful the exclusion will be overturned and your child might be given the right to return to the

school. However, many appeals do not succeed and not all successful appeals result in the child being reinstated in the school.

If you are thinking of challenging the decision, read section 1 below, covering what the law says about exclusions. Then prepare a written summary of your case using the guide set out in section 2.

### 1. Law and guidance on exclusions

The government has issued guidance on the law on exclusions, which schools, Governors and LAs need to follow, called *Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units, 2008* (the 'Guidance'). You can download a copy from the website given on page 19 or we can send you one if you call our exclusion information line on 020 7704 9822. By law this Guidance must not be ignored. It should be followed unless there is good reason not to. The government also gives further guidance on its 'teachernet' website – see page 19, which we call the 'Web Guidance' in this booklet.

#### 1.1 When can the school exclude a child?

A child should **only** be permanently excluded from school:

- if they have seriously broken the school's behaviour policy *AND*
- it would seriously harm the education or welfare of themselves or others if they stayed in school.

A child **should not be excluded** for minor incidents such as

- not doing homework or poor academic performance
- lateness or truancy
- pregnancy
- breaking school uniform/appearance rules (except where persistent and 'in open defiance' of these rules)
- behaviour of parents such as parents' refusal or inability to come to a meeting
- for their own protection from bullying.

#### Looked after children

Schools are expected to only consider the exclusion of Looked after Children as an 'absolute last resort'. Looked after children may have unmet social and emotional needs. Schools are expected to proactively support and co-operate with foster carers and the local authority. Before excluding a Looked after Child the school should discuss their concerns with the local authority to consider alternatives. The child's social worker should be involved at the earliest opportunity to work with the school to avoid exclusion.

#### Children with Statements

Schools should avoid permanently excluding pupils with Statements of special educational needs other than in the 'most exceptional circumstances'.

*As a 'last resort'*

Generally, exclusion should be used as a **last resort** when all other available alternatives have been tried.

*Serious offences*

In exceptional circumstances, a Head may exclude for a first or one-off serious offence where such behaviour can affect the discipline and well-being of the whole school for example:

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

If the basic facts of the case have been clearly established on the balance of probabilities (i.e. it was more likely than not to have happened) and the Governors or the Independent Appeal Panel believe that your child has carried out such an offence they will not normally reinstate your child.

*Incidents outside school*

Children can be excluded for behaviour which took place outside school if the Head feels that there is a clear link between that behaviour and maintaining good behaviour and discipline within the school.

**1.2 How should it be done?***The Head's decision:*

The Guidance sets out the procedures that the school must follow when excluding a child and gives some ground rules about how things should be done. For example, the Guidance makes clear that only the Head teacher may exclude a child. (If the Head is absent it should be done by the acting Head). The Guidance also says that any exclusion should be in proportion to your child's actions and that a child should not be excluded in the heat of the moment, unless there was an immediate threat to the safety of your child or others in the school. The Guidance stipulates that before deciding to exclude a child the Head should:

- make sure that a thorough investigation has been carried out
- consider all the evidence available and if necessary consult others
- allow and encourage your child to say what happened
- take into account the school's behaviour and equal opportunities policies, plus the law on race relations and disability discrimination if relevant, as schools have a positive duty to promote equality
- check whether bullying or racial or sexual harassment of your child led to your child's actions
- keep a written record of actions taken, including any interview with your child (witness statements must be dated and should be signed, if possible).

*Informing you about the exclusion:*

The Head must tell you about the exclusion immediately, ideally by telephone followed up by a letter within one school day. The letter must include the following information:

- that it is a permanent exclusion and its start date
- the reasons for it
- your right to state your case to the Governors, how to do this and the latest date by which the Governors must meet (it must be within 15 school days of the exclusion)
- the days when you must make sure your child is not in a public place during school hours
- what arrangements the school has made for your child to continue his or her education for the first 5 days, e.g. by giving homework and marking it
- when your child will be provided with alternative suitable full time education.

**2. Preparing your case****2.1 Letter to the Governors**

Let the Governors know that you wish to meet with them to state your case. You have a right to a meeting with them. They **must** meet within 6-15 school days of a permanent exclusion. They may convene a panel of a small number of them (usually 3 or 5), sometimes called a discipline committee, to hear your case.

Write to the Governors to ask for a meeting as follows:

To Chair/Clerk of the Governors  
 Dear Sir/Madam  
 Re: *[your child's full name and date of birth]*

I wish to make representations in person to the Governing Body about the exclusion of my child.  
 Please send me copies of my child's school record, the school's behaviour/discipline policy as well as *[if relevant to you child's case]* the special educational needs, race equality and equal opportunities policies and any witness statements, including my child's statement. I would like to bring a friend/adviser with me to the meeting *[if you would like to do so]*

Yours faithfully,  
*[your name]*

*Always keep copies of your letters*

In your letter to the Governors above you are asking for various types of information:

Your child's **school record** should contain an incident report of the event which led to the exclusion, plus information about your child's previous behaviour and the sorts of things teachers have thought and said about your child in the past. You have a right to receive your child's school record from the Governors within 15 school days of their receipt of your letter. They can charge a fee for copying or you can ask to view the record at the school instead free of charge.

The school's **behaviour policy** should say how they deal with behaviour of the kind your child was excluded for. Check to see whether they were following their policy in your case.

## **2.2 Preparing your case summary**

Next we suggest you prepare a summary of your case which you can read out to the Governors at the meeting. This will make sure that your points are clear and nothing is accidentally missed out. You do not have to send in your summary before the meeting but you can if you wish. If the Governors uphold the decision to exclude your child, you will have a right of appeal to an Independent Appeal Panel (IAP) and you can use your summary again to present your case to them.

The following notes should help you to write your summary. First you should collect the evidence together by reading sections 2.2.1 to 2.2.6 and making notes and then at section 2.3 you can use our model summary to help you write what you want to say.

### **2.2.1 Reasons for exclusion**

Look back at sections 1 and 1.1 and check whether the Guidance has been followed in your child's case. If it hasn't, you will need to set out in your summary what the law says and what actually happened. Look also at the school's behaviour policy and make notes for your summary of anything that stands out.

### **2.2.2 Procedures**

Look back at section 1.2 and check that the correct procedure has been followed for your child's exclusion. Also look at the Guidance and the Web Guidance if you can. If you don't have access to the Internet you can ring our exclusion information line on 020 7704 9822 and we can send you a copy. Remember, the Guidance should be followed unless there is good reason not to. Check for example, whether the exclusion was made in the heat of the moment. Was a proper investigation carried out? If not, make notes about these things for your summary.

### 2.2.3 Evidence

Look at your child's school record, including the incident report, to help you tackle this section. The school should only exclude a child if they are sure on a balance of probabilities (i.e. it is more likely than not) that what they say happened, actually did happen. You need to look carefully at the evidence and note down any weaknesses for your summary.

#### *what your child says:*

Ask your child what happened as soon as possible and record what they say in detail.

For example:

- "Show me exactly where you were.
- "Where was everyone standing?"
- "Did anything lead up to this?"

Now check – was what happened a *serious breach* of the school's behaviour policy?

#### *what others say:*

You should be sent copies of all the statements the Head used to decide whether to exclude. Check whether these support your child's story or not and mark any differences between the statements. If you think they are inaccurate make a note of how. If you can, take statements yourself from witnesses who were not interviewed by the school.

#### *about your child:*

Are there any reports which show what your child is like? Could someone like a sports coach, youth worker or doctor write a letter saying something positive about them?

- Was the exclusion right given their age, health and any personal issues?
- Was anything upsetting your child, or was there pressure from others?
- Could anything else have affected their behaviour?

Describe your child and add anything that explains their behaviour and/or shows that the exclusion may be wrong.

If your child wants to apologise for something, s/he could do so in writing, but be careful not to say sorry for doing something s/he didn't do. You could attach the apology to the back of your summary.

*And very importantly*, if your child were back in school (rather than excluded) would this seriously harm the education or welfare of your child or others? If not, note down your reasons.

### 2.2.4 Support

The Guidance says what schools can do to improve pupils' behaviour and reduce exclusions. This includes changes to the curriculum or your child's class, help from a mentor or Connexions personal adviser (if s/he is 13 or over), or temporary attendance at a learning support unit or a PRU. Schools can also ask for specialist help, usually from the LA. The Web Guidance says pupils who are in danger of permanent exclusion should have a Pastoral Support Programme (PSP). Did your child have any of this help before being permanently excluded?

Think carefully about your child's behaviour and talk to your child. Has the school tried a wide range of strategies? Did your child have a PSP? Did the school try to help your child manage their behaviour better with anger management training or a mentor? Did staff ask for advice on dealing with your child's behaviour? Is the behaviour as persistent and defiant as they claim? Could the incident have been avoided if your child had been given the right support? Add all you think about these questions to your case.

#### *Children at risk within the education system*

##### These include:

- children from minority ethnic and faith groups, travellers, asylum seekers and refugees
- children needing support with English as an additional language
- looked after children (i.e. in care)
- sick children
- young carers
- children from families under stress
- pregnant schoolgirls or teenaged mothers
- any other pupils at risk of disaffection and exclusion

The Web Guidance says that these groups are 'at risk within the education system' and explains special action that schools should take to support them. If your child fits into one of these categories did the school take account of it? If not, note it down in your summary

### 2.2.5 Other factors

#### (a) Learning difficulties

If a child has a learning difficulty and needs extra help at school that child has special educational needs (SEN). Help with learning difficulties, including behavioural difficulties, is given through School Action or School Action Plus.

Children with difficulties that are long term and significant may require a statement of special educational need. If a child's behaviour is much more difficult than average or they cannot control their feelings, they may have emotional, social and behavioural difficulties (BESD). This is recognised as a type of SEN.

If your child is on School Action or School Action Plus or is being assessed for a statement, the school should try all practical means to keep them in school. This includes asking for outside professional advice, an assessment for a statement, or a review of a statement, as necessary. If the LA can give more help or change the school on a Statement, the Head should normally withdraw the exclusion if the Governors have not yet met.

As mentioned above, schools should avoid permanently excluding pupils with statements other than in the most exceptional circumstances.

SEN is a complex area and you may need more information. Get a copy of the *SEN Code of Practice* – see page 19. If you feel your child has any learning difficulty, including BESD, explain why. What support has been put in place to meet your child's needs? Are they getting the help they need? If they had been given the right help could this have helped their behaviour? Has the school followed its special educational needs policy? Add your conclusions to your summary.

#### **(b) Discrimination and bullying**

Schools must have a race equality policy and monitor how policies affect different racial groups. If you feel that your child's exclusion was linked in some way to their racial group, make a note of it for your summary. If you feel that your child's exclusion was linked in some way to a disability, the Disability Discrimination Act as amended might apply. For example, if their behaviour was related to their disability the school is expected to take steps where possible to prevent the behaviour resulting in punishments like exclusion. You can get more information from the Equality and Human Rights Commission helpline for issues of discrimination (see page 19).

Similarly, schools have a duty to prevent all forms of bullying and must have an anti-bullying policy. This may be in a separate policy document or it may be part of the school's behaviour policy. Check the policy and make a note of any useful points for your summary.

#### **(c) Serious offences**

If your child is accused of something serious, the school may have the right to permanently exclude your child, even though it was a first or one-off offence (see section 1.1) Check whether you think the accusation fairly describes what your child has done. If you think it exaggerates the severity, say so in your summary. If you believe it will not happen again, explain why not.

If the incident involved drugs check the school's policy on drugs – this should be a key factor in deciding whether or not permanent exclusion is appropriate. The Head should consult the school's drugs co-ordinator (if there is one) and take

account of the policy. The Government's drugs guidance (see page 19) says that in some cases fixed period exclusion will be more appropriate than permanent exclusion. Check the drugs guidance against the incident your child was excluded for. Note that if your child is found repeatedly using or in possession of an illegal drug on school premises, the Governors should not normally reinstate him or her.

**(d) Have relationships broken down?**

*This section only applies if you are planning to use your summary before an Independent Appeal Panel (IAP). It does not apply to meetings with Governors.*

If the school say that there has been a breakdown in relationships between your child and others at the school think carefully about how you would show that this is not the case. Try to show how relations can be improved with goodwill on both sides.

This is very important because if the IAP disagrees with the exclusion, they may, in exceptional circumstances, decide not to reinstate your child if they believe a serious breakdown exists and cannot be put right. If you think any bad feeling is temporary and not exceptional, how might you show this to the IAP?

**2.2.6 Alternative solutions**

The Guidance suggests schools try the following instead of exclusion:

- restorative justice – which allows your child to put right any harm done
- mediation – where a trained person helps sort out any conflict between your child and other pupils or a teacher
- internal exclusion - where your child is sent somewhere else within the school with appropriate support, or moved to another class on a temporary basis. Internal exclusion may continue during break periods
- a managed move to another school – which is organised by the school. This should only be done if you and the LA agree and it is in the best interests of your child. You should not be pressured into removing your child from school under threat of a permanent exclusion.

If you think there is another solution that could work for your child, such as a different punishment coupled with help for behaviour problems or special educational needs, add this to your summary.

**2.3 Your summary**

Use the model summary on the next page to help you organise all the evidence you have collected from reading the previous section. If you have other written evidence, attach it to the back of the summary.

## Summary

### 1.Reasons for exclusion

*For example:*

“I understand that a child should only be excluded for a serious breach of the behaviour policy and if their being in school would seriously harm the education or welfare of themselves or others and that exclusion should not be used if there is an alternative.

In my child’s case this was:

- not a serious breach of the school's behaviour policy
- s/he would not seriously harm the education or welfare of themselves or others in the school

I also feel that:

- this was a one-off/first offence and not serious...” *[say why]*
- the school should not have excluded my child because the incident did not occur on school premises/in school hours and there is no link between school and the incident.” *[say why]*

### 2.Procedures

*For example:*

“I feel the school has failed to act in line with some of the government guidance on exclusions or DCSF web guidance. I have marked this on pages...” *[say how this affected your child’s exclusion]*

### 3.Evidence

“I disagree with my child's exclusion, because s/he:

- did not do what s/he is accused of...*[say why]*
- did not do all of the things s/he is accused of...”*[say why]*

*[give details of all the evidence you have accumulated showing discrepancies and inaccuracies in the case against your child]*

#### 4.Support

“I disagree with my child's exclusion, because the school has not exhausted all alternative strategies to improve my child's behaviour before resorting to exclusion...”

*[say what help the school can offer and whether it offered it to your child.]*

#### 5.Other factors

“I disagree with my child's exclusion because s/he:

- has special educational needs but is not getting all the help that s/he needs...*[say why]*
- was affected by harassment... *[say why]*
- was affected by bullying...*[say why]*

On your relationship with the school say something like:

“Although this has been a difficult time, I don't believe that our relationship with the school has completely broken down and I look forward to working with the school in the future if my child is reinstated.”

#### 6. Alternative solutions

*For example:*

If my child is reinstated I would like to suggest that s/he participates in

- restorative justice
- mediation...” *[say what you have in mind]*

#### 7. Conclusion

This could include:

- evidence from the school record of good things about your child
- any consequences you imagine if your child is not reinstated, such as worries you have about their education.

---

## Part 3. Meeting with the Governors

### Who will be at the meeting?

- Generally 3 Governors, but can be up to 5 (none should have any involvement which could make them biased)
- Clerk to take notes and advise the Governors on procedure
- LA representative will be invited to give their comments
- The Head to put their case
- Possibly, witnesses including any alleged victim.

### How will the meeting be run?

You should be told how it will be conducted beforehand. Usually the case against your child is put first so you can reply to it. For fairness if the Head brings new evidence or papers, ask for a break to read them or for the meeting to be rearranged. You should be able to put your case without interruption. Neither the Head nor the LA representative should be with the Governors when you are not there.

We suggest you read out your summary and then hand copies of it, plus any other evidence you have, to the Governors. If the summary does not include some of your points, state those too. Giving written copies of your evidence to the Governors may help them remember your points and you can ask for a copy of it to go on your child's school record. If at the end of the meeting you are asked to "sum up", you can read your summary out again.

### Must my child go to the meeting?

No, s/he does not have to go to the meeting but should be allowed and encouraged to attend and speak if s/he wishes. You child can either stay for the whole of the meeting, in which case s/he may be questioned by the Governors, or for part of the meeting, in which case s/he could make a statement, or apologise and then leave. If your child is to attend, s/he should receive copies of any papers sent round before the meeting.

### The Governors' decision

The Governors will weigh up all the evidence and decide whether they should **uphold** the school's decision or **overturn** it. If they overturn it, they will reinstate your child at school. Even if you do not wish your child to return to the school, the Governors must still make a decision about whether the exclusion was justified.

There are certain circumstances in which the governors will **not** usually overturn an exclusion. These are:

- if your child carried out a serious offence that affects the discipline and wellbeing of the school community as a whole; or
- if your child has persistently and defiantly misbehaved (including bullying or repeated possession and/or use of an illegal drug at school).

#### **After the meeting**

The Governors must let you know of their decision in writing within 1 school day of the hearing. If they uphold the exclusion, they must tell you of your right to appeal to an Independent Appeal Panel (IAP). If they overturn the exclusion, they must direct your child's reinstatement, either immediately or by a particular date.

*The exclusion will not be deleted from your child's school record, but a copy of the Governors' decision letter should normally be placed on it.*

### **Part 4. Going to an Independent Appeal Panel**

If the Governors have upheld the decision you have a right of appeal to an Independent Appeal Panel (IAP). The IAP is independent of both the school and the LA. You have 15 school days from receiving the Governors' decision letter to write back and say that you want to appeal and give your reasons, i.e. the main points in your summary plus any new points. The school Governors and the Head should not give new reasons for the exclusion but either you or they can present new evidence. The hearing must be held no later than 15 school days from when your letter was received.

*Make sure you do not miss the deadline - your appeal will be rejected if you do.*

#### **How will the meeting be run**

You should be told the order of the hearing and it should be conducted fairly. The same procedure is used as for the Governors' meeting, except that a Governor can also put their case. They and the Head can be legally represented. An alleged victim can attend as a witness, put their views in writing, or give them through a representative. You also have the right to take a friend, advocate or legal representative.

#### **The IAP's decision**

The IAP first must decide whether to **uphold** or **overturn** the exclusion. If they decide to overturn it they must go on to consider whether or not to **reinstate** your child.

### (a) Upholding the school's decision

If they uphold the decision your child cannot return to the school and you will need to ensure that s/he gets educated elsewhere (see Part I). The IAP's decision about the facts of the case is final. (In rare cases, the way the IAP *conducted* the hearing may have been flawed and could be challenged, but the facts of the case will not be reopened when the hearing is reviewed).

If the school or LA think you need support with your child's behaviour, they may offer you a *Parenting Contract* (you cannot be made to sign a contract and it must not be used as a condition of admission to another school). If they believe you are unwilling or unable to deal with your child's behaviour they may apply to a magistrate's court for a *Parenting Order*, which could require you to attend parenting classes.

### (b) Overturning the school's decision

If they overturn the decision, the IAP will then have to decide whether or not to *reinstate* your child, unless you have told them already that you don't want your child to go back. Normally they should allow your child to return to the school but they must weigh up the interests of your child and the interests of all the rest of the school community in order to make their decision.

If the school tries to argue against your child being reinstated by using only the same arguments that it used to exclude your child in the first place, the IAP is likely to direct reinstatement.

In exceptional circumstances the IAP can decide that *reinstatement is justified but not practical*. 'Exceptional circumstances' can include where there has been an irretrievable breakdown in relations between the child and teachers or other pupils involved in the exclusion. Before making its decision the IAP should ask what efforts have been made to improve relations and you should be allowed to give your views.

### After the meeting

The IAP must let you know its decision within 2 working days of the hearing. If they uphold the exclusion or if they overturn it but don't reinstate your child, the LA must make arrangements for your child to continue his or her education. If the IAP overturns the exclusion and directs reinstatement, it should immediately inform the Head of the school of the date when your child must be allowed to return to school.

## Further help

### From ACE:

ACE freephone Exclusion advice line 0808 800 0327

ACE freephone advice line 0808 800 5793

Free advice by text message - text AskACE to 68808

Information and free advice booklets can be downloaded from

[www.ace-ed.org.uk](http://www.ace-ed.org.uk) or by contacting ACE (see back page).

### From the DCSF:

**Publications available to order from 0845 60 222 60 or to download from**

**[www.teachernet.gov.uk](http://www.teachernet.gov.uk)**

Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units (00611-2007BKT- EN)

[www.teachernet.gov.uk/wholeschool/behaviour/exclusion/guidance2007](http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/guidance2007)

Drugs: Guidance for Schools (DCSF/0092/2004)

[www.teachernet.gov.uk/wholeschool/behaviour/drugs](http://www.teachernet.gov.uk/wholeschool/behaviour/drugs)

SEN Code of Practice 2001 (DCSF/581/2001)

[www.teachernet.gov.uk/wholeschool/sen/sencodeintro](http://www.teachernet.gov.uk/wholeschool/sen/sencodeintro)

Web based School Discipline and Pupil Behaviour Policies guidance

[www.teachernet.gov.uk/wholeschool/behaviour/schooldisciplinepupilbehaviour/policies](http://www.teachernet.gov.uk/wholeschool/behaviour/schooldisciplinepupilbehaviour/policies)

Guidance on Education-Related Parenting Contracts, Parenting Orders and Penalty Notices (00530-2007BKT-EN)

[www.dcsf.gov.uk/behaviourandattendance](http://www.dcsf.gov.uk/behaviourandattendance)

### From Equality and Human Rights Commission:

Equality and Human Rights Commission Helpline 0845 604 6610

Duty to Promote Race Equality: Statutory Code of Practice

Duty to Promote Disability Equality: Statutory Code of Practice

[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

ACE is a charity and depends on grants and donations to operate our advice services. If you have found our advice helpful and would like to make a donation please visit [www.ace-ed.org.uk](http://www.ace-ed.org.uk)  
Thank you.



Whilst ACE has made all reasonable efforts to ensure that the information contained in this booklet is accurate and up-to-date at the time of publication, it does not constitute legal advice and should not be relied upon as a substitute for legal advice. ACE cannot accept any responsibility for any loss or damage suffered as a consequence of any reliance placed upon it.

© Advisory Centre for Education (ACE) Ltd. 2009

ACE, 1C Aberdeen Studios, 22 Highbury Grove, London N5 2DQ

Telephone: 020 7704 3389 (Admin only). Fax: 020 7354 9069

Registered Charity: 313142. Registered Company: 663126

Designed by Sally Doust. Illustration by Linda Scott. Printed by Wyndeham Gait, Castle Press, Victoria Street, Grimsby

---