

Ealing and DfE suspension and exclusion guidance September 2023

Items 13,14,32,33,53,128,129 and 130 below are extracts from the DfE Suspension/Exclusion guidance 2023. Items 45 and 79 are extracts from the Behaviour in Schools guidance 2022.

Head teachers cancelling (withdrawing) a permanent exclusion.

The DfE has further clarified the guidance around cancelling a suspension/permanent exclusion, **any issued after 01/09/2023 will fall under the amended guidance** and Ealing's current process for pupils with an EHC Plan or CLA will no longer be feasible.

Currently where all parties agree that xxx school is no longer an appropriate placement, a referral can be made by SEND or the CLA VS Head, to EAP/EPC for interim provision, the head teacher can cancel the exclusion and the pupil will not return to xxx school. This will not be possible from September 2023 as the guidance now makes clear that **the pupil must be allowed back into the school from which they were excluded** without delay.

I am liaising with SEND and the CLA VS to see whether there are other options going forward. In the meantime I recommend where a pupil with an EHC Plan/CLA is likely to be at risk of permanent exclusion, that you contact SEND/Ealing CLA Virtual School as soon as possible to see whether alternatives can be agreed/arranged before a permanent exclusion or suspension 'pending investigation' is issued.

13. 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.

Where an exclusion is cancelled:

- The headteacher must notify the parents, the governing board, the LA and the pupil's social worker and VSH as applicable, without delay. The notification must also provide the reason for the cancellation.
- The governing board's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement.
- Parents (or the excluded pupil if they are 18 years or older) should be offered the opportunity to meet the headteacher to discuss the circumstances that led to the exclusion being cancelled which should be arranged without delay.

13 cont'd..

- The pupil must be allowed back into the school from which they were excluded without delay.
- Any days spent out of school as a result of any exclusion, prior to the cancellation will count towards the maximum of 45 school days permitted in any school year (see paragraph 6).

14. A permanent exclusion cannot be cancelled if the pupil has already been excluded for more than 45 school days in a school year or if they will have been so by the time the cancellation takes effect.

Allocated social worker and or child looked after.

Where a pupil being suspended or permanently excluded has an allocated social worker, all letters about the suspension/exclusion should be copied to the allocated social worker (and to the CLA Virtual School Head Teacher if the pupil is CLA) including the letter of invite to the governors' review meeting.

When your Clerks are circulating the paperwork for the governors review meetings, to parents, governors and the exclusions team, they will also need to send a copy to the allocated social worker/CLA Virtual School, so that they have the relevant information when preparing their statement in advance of the meeting/representations at the meeting.

Social Worker

128. It is likely that pupils with a social worker have experienced or are experiencing adversity or difficulties. Social workers can provide important information that helps the governing board understand the experiences of a pupil and their welfare.

129. Social workers should, as far as possible, attend the governing board meeting to share information. This should include helping to identify how the pupil's circumstances may have influenced the circumstances of the pupil's suspension or permanent exclusion and ensuring that safeguarding needs and risks and the child's welfare are taken into account.

Virtual school head teacher

130. The VSH should, as far as possible, attend the governing board meeting to share information where the pupil is a looked-after child. This should include helping the governing board to understand the pupil's background and circumstances. They should also be able to advise the board on the possible contribution that the pupil's circumstances could have made to the suspension or permanent exclusion.

The pupil's participation in the process.

The new guidance further reinforces the need to consider the pupil's views at all stages of the suspension/exclusion process (depending on their age and ability to

understand), including through advocates such as parents or the social worker, if the pupil has one, both when the head teacher is considering the sanction and when the governors review a decision to exclude. Head teachers should inform the pupil as to how their views have been factored into any decision made.

Greater emphasis on possible steps to manage behaviour prior to reaching the stage of suspension/exclusion.

Behaviour in schools guidance

45. The behaviour policy should include a range of possible sanctions clearly communicated to and understood by pupils, staff, and parents. Examples of sanctions may include:

- a verbal reprimand and reminder of the expectations of behaviour.
- the setting of written tasks such as an account of their behaviour.
- loss of privileges – for instance, the loss of a prized responsibility.
- detention (see paragraphs 62 to 70).
- school-based community service, such as tidying a classroom.
- regular reporting including early morning reporting; scheduled uniform checks; or being placed “on report” for behaviour monitoring.
- suspension; and
- in the most serious of circumstances, permanent exclusion.

Whilst suspension/exclusion may still be an appropriate sanction, the headteacher should also take account of any contributing factors identified after an incident of misbehaviour has occurred and consider paragraph 45 of the Behaviour in Schools guidance.

Para 45 of the Behaviour in Schools guidance does not mention internal exclusion but in my view that too could be considered as an alternative to suspension – as set out in paragraph 79 of the Behaviour in Schools guidance.

Head teachers are encouraged to consider off-site direction [Section 29A of the Education Act 2002] or a managed move to another school as possible alternatives to further suspensions/permanent exclusion.

32. In addition to the strategies set out in initial intervention, page 29 of the Behaviour in Schools guidance, headteachers should also consider the following: a) an off-site direction (temporary measure that maintained schools and academies for similar purposes can use) or b) managed moves (permanent measure) as preventative measures to exclusion.

33. Any use of AP should be based on an understanding of the support a child or young person needs in order to improve their behaviour, as well as any SEND or health needs. Off-site direction may only be used as a way to improve future behaviour and not as a sanction or punishment for past misconduct. Off-site direction should only be used where in-school interventions and/or outreach have been unsuccessful or are deemed inappropriate and should only be used to arrange a temporary stay in AP.

Removal from classrooms

79. Removal is where a pupil, for serious disciplinary reasons, is required to spend a limited time out of the classroom at the instruction of a member of staff. This is to be differentiated from circumstances in which a pupil is asked to step outside of the classroom briefly for a conversation with a staff member and asked to return following this. The use of removal should allow for continuation of the pupil's education in a supervised setting. The continuous education provided may differ to the mainstream curriculum but should still be meaningful for the pupil.

Managed move to another school

The locally agreed high school protocol for school-to-school managed moves has been reviewed in light of the Sept 2022 DfE guidance. Managed moves are covered in sections 48-52 of the Sept 2023 DfE Suspensions/exclusions guidance.

Variation in exclusion rates

53. There are longstanding national trends which show that particular groups of children are more likely to be excluded from school, both for a suspension or permanent exclusion. All of these factors will differ for each child, and the influence of out-of-school factors will vary according to local context, so it is important that schools, local authorities and local partners work together to understand what lies behind local trends. Local leaders will be best placed to effectively plan and put in place additional and targeted action based on their own context. If they identify any gaps, they are also in the position to act to ensure those who work with children have the training, services and support they need to address these.

Guidance for governing boards on using data on suspensions and permanent exclusions.

Whereas previous guidance had highlighted certain ethnic groups as having above average levels of exclusion, the September 2022 and September 2023 guidance instead requires governors to review data on a regular basis, evaluating and challenging what it is telling them. See sections 108-111.

The following is a list of updates in the DfE Suspension/Exclusion guidance 2022 & 2023:

Each element is covered above except where Ealing schools are already doing what is required i.e. notifying parents and the LA without delay of suspensions and permanent exclusions.

Updates in 2023:

- New guidance and amended regulations about a headteacher's ability to cancel an exclusion before the governing board has met to consider whether the pupil should be reinstated. This practice is sometimes known as withdrawing or rescinding an exclusion. If this occurs, the parents, the governing board and the local authority, must be notified and, if relevant, the social worker and VSH. Further information on other actions that should take place following a cancelled exclusion is set out in paragraph 13.

- Governing board reinstatement meetings and IRPs can now be held via the use of remote access (for example, live video link) for suspension and permanent exclusions if requested by the parents, provided certain criteria are satisfied. Meetings held via the use of remote access should not be a default option and face to face meetings should always be encouraged. Further information is set out in sections 242-248.

Updates in 2022:

- Headteachers may cancel an exclusion that has not been reviewed by the governing board. This practice is sometimes known as withdrawing/rescinding a suspension or permanent exclusion. If this occurs, parents, the governing board and the local authority should be notified, and if relevant, the social worker and VSH. Further information of other actions that should take place after an exclusion is cancelled is set out in sections 13-14.
- When headteachers suspend or permanently exclude a pupil they must, without delay, notify parents. Legislative changes mean that if a pupil has a social worker, or if a pupil is looked-after, the headteacher must now, also without delay after their decision, notify the social worker and/or VSH, as applicable.
- When headteachers suspend or permanently exclude a pupil, they must also notify the local authority, without delay. Legislative changes mean that this must be done regardless of the length of a suspension.
- Guidance on the role of a social worker and VSH, during governing board meetings and IRP meetings.
- Guidance on managed moves, what they are and how they should be used.
- Clarified guidance on the use of off-site direction as a short-term measure that can be used as part of a school's behaviour management strategy.
- Further guidance on the practice of involving pupils so that any excluded pupil is enabled and encouraged to participate at all stages of the suspension or permanent exclusion process, considering their age and ability to understand.
- Guidance for governing boards to ensure that they review data to consider the level of pupil moves and the characteristics of pupils who have been permanently excluded to ensure the sanction is only used when necessary, as a last resort.