

Exclusion Team's advice to school on the use of CCTV footage as evidence in the case for exclusion.

Following reviews in recent cases where CCTV footage has formed part of the school's case for exclusion, we have updated our advice to schools as follows:

All parties must be able to see the same evidence, at the governors review meeting and at any subsequent independent review panel; schools should not rely on CCTV evidence where they are not in a position to show the footage to the family.

In the circumstances, our recommendation is that, wherever possible, schools should avoid relying on/using CCTV footage when considering whether to exclude a pupil and where an exclusion is imposed, should avoid making reference to CCTV footage in the exclusion paperwork and or exclusion related meetings with parents/governors.

If the school considers CCTV footage to be crucial evidence however then, to avoid the possibility of challenge on the grounds of procedural impropriety, the head teacher should take the following steps when considering whether to present CCTV evidence to all parties at the governors meeting and any subsequent review panel.

1. Establish the identities of the people involved.
2. Consider whether at least one condition in Schedule 2 and 3 of the Data Protection Act has been met, i.e: is the disclosure necessary in the exercise of a statutory function or has the person whose image is to be disclosed given their consent to disclosure? (Depending on the age and maturity of the pupil, it may be that it is the consent of the pupil's parent which has to be sought).
3. Is it necessary and proportionate to disclose the identity of the pupils other than the one who is being excluded even when exercising a statutory function? The risk of retaliation whether by a parent or excluded pupil may be a relevant factor in reaching your decision.
4. If it isn't necessary or proportionate to disclose because of for example the risk of retaliation, the only safe basis for disclosure would be if the school has the facility to pixelate the image/identifying clothing/bags etc. of the other pupils.
5. If the image cannot be pixelated, then the head may well have to decide to not rely on the CCTV footage at all.

Each case will be different; the head teacher will have to consider them on a case by case basis and consider seeking their own legal advice.

Schools are reminded that, given the potential problems with CCTV footage as evidence, good written witness statements and a clear record of the school's investigation are all the more important.

Below is a link to the Information Commissioner's Office current Code of Practice for further information:
<https://ico.org.uk/media/1542/cctv-code-of-practice.pdf>