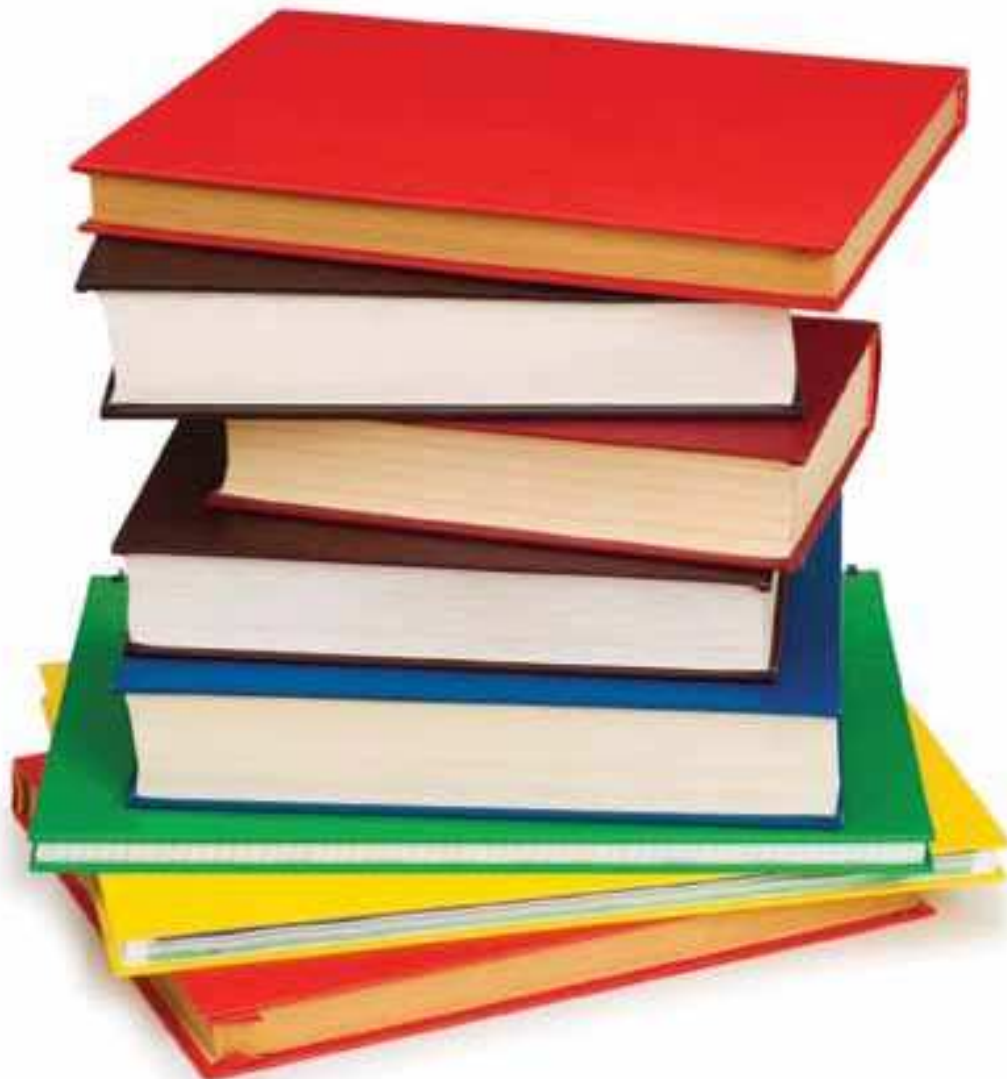


Permanent Exclusion



What happens now?



Nottingham
City Council

Dear Parent / Carer

When your child has been permanently excluded from school it can be a very difficult, upsetting and worrying time for you and your family.

This booklet explains what will happen next, what you can do and who you can contact for help and support.

What does it mean?

To exclude a child permanently is a very serious decision and should only be used as a last resort. Your child should only be excluded from school:-

- if they seriously or persistently breach the school's behaviour policy, and
- it would seriously harm the education or welfare of themselves or others in the school if they remained in school.

The Head Teacher / Principal is the only person who can make the decision to exclude your child. (If the Head Teacher / Principal is absent the Deputy Head Teacher or most senior teacher who is acting as Head can exclude your child.)

Ideally, the Head Teacher should telephone you immediately to inform you that your child is being excluded, followed by a letter within one school day. The letter must inform you that your child has been permanently excluded and the reasons for the exclusion.

A Head Teacher cannot exclude a pupil from school on an informal basis, such as:

- Sending a child home until they comply with requirements;
- Encouraging parents to voluntarily withdraw their child from school;
- Advising parents to keep their child at home for a period of time;
- Placing undue pressure on parents to keep their child at home whilst seeking a transfer of school, to avoid formal exclusion.

All of the above amount to an exclusion and the appropriate formal procedure must be followed.

This decision must then be reviewed by the governing body. They decide whether or not your child can return to the school and you will be invited to attend the meeting.

What happens next?

You have a duty to ensure that your child is not found in a public place during the first 5 days of exclusion unless there is a reasonable justification for this. This requirement applies regardless of whether or not your child is in the company of a parent / carer. If your child is found in a public place during normal school hours whilst excluded, without reasonable justification, you may receive a fixed penalty notice from the Local Authority or face prosecution. Your child may also be removed from the public place by the police and taken to designated premises.

The school must provide work for your child during the first 5 days of the exclusion. The school will give you the name of the teacher who is providing the work and the arrangements for marking the work. You should ensure that the work is returned for marking and advise the school if your child needs more work. From the 6th day of exclusion onwards the Local Authority will provide suitable supervised full-time education.

A representative from one of the Local Authority's Learning Centre's will invite you to a separate meeting to discuss educational provision whilst your child is not in school. This meeting may take place before the governors have met to consider the Head Teacher's decision. The meeting is not linked in any way to the Governor's decision, and is set up as soon as possible after the Local Authority is notified about the exclusion. This is to ensure your child is not without education provision.

The Governors' Discipline Committee Meeting

The governing body must meet **within 15 school days of the exclusion** to consider the decision made by the Head Teacher to permanently exclude your child and you will be invited to attend the meeting. The Head Teacher will provide you and the governors with a written report at least 5 days in advance of the meeting outlining the reasons why your child has been excluded and the evidence collected during the school's investigation of the incident(s) for which your child has been excluded.

The governors will consider the evidence provided in the Head Teacher's report and any information that you provide at the meeting. They can decide to end the exclusion and allow your child to return to the school if they believe that the exclusion was not appropriate.

Preparing for the meeting

You should read through the Head Teacher's report and make a note of any questions that you may wish to ask or anything that you do not understand or you do not agree with. You can then raise these at the meeting.

You do not have to attend the meeting as the exclusion can be considered without you. If you are unable to attend you can send a letter to the governors with any information or points which you would like them to consider. However, we strongly encourage you to attend so that you can support your child and you can both give your views about the exclusion and ask any questions. Governors usually ask questions about your child and it can be difficult to make the best decision without all the information.

Can I take someone with me?

You can take anyone of your choice with you, a friend, partner, relative, other supporter or legal representative to help you at the meeting.

If you need an interpreter, you can bring someone with you or the person who invited you to the meeting can arrange for someone to help you, if you let them know in advance.

Who else will be at the meeting?

- **3 or 5 governors** who act as the Discipline Committee.
- **The Head Teacher** and possibly additional staff who may be called as witnesses.
- **A Clerk** to take notes and advise the governors on procedure.
- **A Local Authority representative** may be invited to give their view of the exclusion.

What will happen at the meeting?

The meeting will be held in private and will be as informal as possible but will follow a set procedure to make sure that every school deals with exclusion in the same way. Governors understand that this is a difficult and stressful time for you. They are used to dealing with parents and carers at this difficult time, so don't worry if you need extra time to think about all the things that you want to say.

- The Head Teacher will go through their report and give the reasons and evidence for the decision as to why your child has been permanently excluded.
- You can then ask questions about the report. Do not be afraid to ask about anything you do not understand or do not agree with.
- The governors will usually ask the Head Teacher questions as well.

- You will have an opportunity to put forward your views and comments.
- The Head Teacher and the governors may ask you questions.
- The Head Teacher can decide to withdraw the exclusion at this stage if they wish.
- The governors may ask if it's appropriate for the pupil to wait outside as they will not be required to answer any more questions.
- If a Local Authority representative has been invited they may also ask questions and give advice of how other schools have responded to similar incidents. The governors, parent(s) and Head Teacher may ask questions of the Local Authority representative.
- The Head Teacher will summarise the reason for the exclusion.
- You (and your supporter/legal representative, if appropriate) can sum up.

Everyone except the governors and the Clerk must then leave for the governors to consider in private whether to uphold the Head Teacher's decision or to allow your child to return to the school.

Whilst the Clerk may remain with the governors whilst they discuss the exclusion, they take no part in the decision making.

When will I know the decision?

Governors must inform you of the decision in writing within one school day of the meeting, stating their reasons.

- **if governors decide to reinstate**

This means that the governors have decided that your child can return to the school. The letter informing you of the decision will give a date when your child should return.

You and your child may be required to attend a reintegration interview at the school. The purpose of the meeting is to discuss how best your child's return to school can be managed.

- **If governors decide to uphold the exclusion**

This means that the governors have decided that your child should be permanently excluded from the school.

Can I appeal against the decision?

If you feel that your child has not been treated fairly you **do not** have the right of appeal against the decision. However, you do have the right to ask for the decision to be reviewed by an independent review panel, **within 15 school days** of receiving the letter informing you of the governors' decision.

The letter from the governors will advise you of the name and address to whom an application for a review should be made.

You must give your reasons why you want the decision to be reviewed (and provide any written evidence). You should also include, if appropriate, any reference to how your child's special educational needs are relevant to the exclusion.

Regardless of whether your child has any recognised special educational needs, you have the right to request the attendance of a Special Educational Needs expert at the independent review and you

must make clear in your written request if you wish a Special Educational Needs expert to be present.

If you do not make an application for an independent review within 15 school days, you will lose your right to do so.

In addition to the right to apply for an independent review panel, if you believe that the exclusion has occurred as a result of discrimination then you may make a claim under the Equality Act 2010 to the First-tier Tribunal (Special Educational Needs and Disability), in the case of disability discrimination, or the County Court in the case of other forms of discrimination.

Any claim of discrimination should be lodged within 6 months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the pupil was excluded.

What is a Special Educational Needs Expert?

The Special Educational Needs (SEN) expert is a professional who has first-hand experience of the assessment and support of special educational needs, as well as an understanding of the legal requirements on schools in relation to special needs and disability.

Examples of individuals who may be an SEN expert include educational psychologist, specialist SEN teachers, special educational needs coordinators or behaviour support teachers.

The Independent Review Panel

If you apply for a review, **within 15 schools days** of being given the governors' decision not to reinstate your child, the local authority or (in the case of an Academy) the Academy Trust must arrange for an independent review panel hearing to review the governors' decision.

You may request an independent review panel even if you did not make a case to, or attend, the governors discipline committee meeting. The review must be held **within 15 school days** of receiving your application and you will be invited to attend the meeting.

The Clerk to the review panel will provide you with a copy of the relevant papers 5 school days in advance of the review. These papers must include:

- the governing body's decision;
- your application for a review; and
- any policies or documents that the governing body was required to have regard to in making their decision.

Can I take someone with me?

You can take anyone of your choice with you, a friend, partner, relative or other supporter. Alternatively, you may, at your own expense, appoint someone to make written and or oral representations to the panel such as a legal representative.

Who else will be at the meeting?

- 3 – 5 panel members who act as the review panel.
- representatives of the governing body;
- the Head Teacher;

- A Clerk to take notes and advise the panel on procedure, legislation and guidance which may be relevant to exclusion.
- An SEN expert, if requested by parent / carer.
- A Local Authority representative may be invited (if they were present at the governors discipline committee meeting).

What will happen at the meeting?

The meeting will be held in private and will be as informal as possible but will follow a set procedure. The role of the panel is to review the governor's decision not to reinstate your child to the school following permanent exclusion.

The panel must consider the interests and circumstances of your child, the reasons why your child has been excluded and consider the interests of other pupils and people working at the school.

What can the review panel decide?

The review panel can decide to:

- uphold the exclusion decision;
- recommend that the governing body reconsiders their decision, or
- quash the decision and direct that the governing body considers the exclusion again.

The panel may only quash the decision where it considers that it was flawed; the panel will apply the following tests:

- Illegality – did the head teacher and / or governors act outside the scope of their legal powers in taking the decision to exclude?
- Irrationality – was the decision of the governing body not to reinstate the pupil so unreasonable that it was not one a sensible person could have made?
- Procedural impropriety – was the process of exclusion and the governing body's consideration so unfair or flawed that justice was clearly not done?

If the panel directs or recommends that the governors reconsider their decision, the governors must reconvene to do so **within 10 school days** of being given notice of the panel's decision.

The governors must notify you in writing of their reconsidered decision and the reasons for it. The governors can decide to:

- **reinstate** your child, which means that your child can return to the school. The letter informing you of the decision will give a date when your child should return.
- **uphold the exclusion**, which means that your child will remain permanently excluded from the school.

Information / questions that may help you prepare for the Governors' Meeting

- Are there any points that you disagree with?
- How do you feel about the exclusion?
- Has your child got a view about what happened?
- Has the school kept you fully informed about your child's behaviour?
- Does your child have special educational needs? (If yes, do they have a support plan and when was it last reviewed?)
- What support has the school put in place to help your child before deciding to exclude?
- Was excluding your child appropriate given your child's age, health and any personal issues?
- Was anything upsetting your child?
- Was there pressure from others?
- Could anything else have affected their behaviour?
- Have they been bullied, racially or sexually harassed or faced discrimination inside or outside of school?
- The school's policies must include how they deal with bullying and harassment. How well does the school deal with this, in general, and for your child?
- If others were involved, were their punishments in line with your child's?

Tell the governors about your child's good points. If your child attends clubs or scouts/brownies, ask the leaders to write about your child's good points.

Helpful documents

An example of a letter you can send if you are unable to attend the Governors' meeting.

To the Clerk of Governors' Discipline Committee

c/o (the school's address)

Date

Dear Sir/Madam

Child's Name: _____ DOB: _____

I will not be attending the governors' meeting to consider my child's permanent exclusion. I would like the governors to know the following *(write down the good things you want them to know)* about my child.

and / or

My child disagrees with some / all of the evidence presented. My child's views of what actually happened are as follows: *(write down everything your child has told you about the incident)*

I would like to complain about the following:
(this may include anything that you consider unfair or not managed properly)

I would like this information to be considered when the Governors' Discipline Committee meeting is held.

Yours sincerely

Further information

If you have any questions call us on 0115 87 64626 or visit www.mynottingham.gov.uk

For free legal information, advice and representation to children, young people, their families/carers call The Children's Legal Centre on 08088 020 008. The advice line is open from 8.00 am to 8.00 pm Monday to Friday, except Bank Holidays and 24 December to 1 January or you can visit www.childrenslegalcentre.com

The Parent Partnership Service supports parents/carers of children with special educational needs and disabilities. They can be contacted on 0115 948 2888 or at Suite 5, Clarendon Chambers, 32 Clarendon Street, Nottingham NG1 5LN, alternatively you can visit www.ppsnotts.org.uk

Nottingham Black Families in Education have been pro-active in the African Caribbean community since 1998 providing support and advocacy to families and on exclusion issues. They can be contacted on 0115 841 3896 or c/o Hyson Green Community Centre, 37a Gregory Boulevard, Nottingham NG7 6BE, alternatively you can visit www.nbfe.co.uk/nbfe_organisation.html

For information on making a claim under the Equality Act 2010 to the First-tier tribunal (Special Educational Needs and Disability), visit www.justice.gov.uk/tribunals/send/appeals

