

# APPEALS AGAINST PERMANENT EXCLUSION

## A GUIDE FOR PARENTS ON EXCLUSION APPEAL REVIEW PANELS



### INTRODUCTION

The decision whether or not to appeal against your child's permanent exclusion is for you to make. This leaflet outlines the process and tells you what you need to do if you decide to appeal. It is not a full statement of the law or guidance, but refers to the main points in the exclusion appeal process.

### HOW DO I MAKE AN APPEAL?

**You must make your appeal in writing by email to the address below. If you do not have access to email, please call our office on 01344 352253:**

[admission.appeals@bracknell-forest.gov.uk](mailto:admission.appeals@bracknell-forest.gov.uk)

**You must lodge your appeal within 15 school days of your receipt of the letter from the school governing body or the governing body's discipline committee.** This is the letter which confirmed your child's permanent exclusion. **You must state the reasons for your appeal** and you may include any documents you wish to put before to the appeal panel in connection with your appeal.

Once received, your appeal will be formally acknowledged. The school, its governing body and the local authority (the Council's Education Department) will be told that you have appealed and will be sent a copy of your appeal letter.

### HOW WILL THE APPEAL BE CONSIDERED?

An independent exclusion review appeal panel will consider your appeal at a hearing in private. You will be entitled to attend and present a case to the panel.

### WHEN WILL THE APPEAL BE HEARD?

**An independent exclusion review appeal panel must meet to consider your appeal within 15 school days of its receipt by the clerk.** You will be contacted to discuss possible dates for the appeal hearing. In setting the date for the hearing the head teacher, the governing body representative and the representative from the local authority must also be consulted.

### WHERE DO APPEAL HEARINGS TAKE PLACE?

Appeals will take place at the Council offices in Bracknell (Easthampstead House until March 2018, Time Square thereafter) and you will be sent a map showing its location.

## **WHAT IF I FEEL THERE HAS BEEN DISCRIMINATION?**

If you feel that there has been disability, racial or any other form of discrimination in the exclusion process, you are strongly advised to seek advice from one of the organisations listed at the end of this leaflet. You should clearly state in your appeal letter that you are making a claim of disability, racial or other discrimination.

In addition to your right to appeal to an independent exclusion review panel, you have the right to 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.

## **WHAT PAPERS ARE SUBMITTED TO THE PANEL?**

The papers which the panel consider usually include:

- your letter of appeal and any supporting information, which you submit;
- the minutes and decision letter of the school governing body discipline committee;
- the papers submitted by the head teacher, including the head teacher's letter notifying you of the permanent exclusion and the school's published discipline or behaviour policy; and
- a written statement by the representative of the local education authority.

**Five school days before the hearing, all the papers should be circulated to the panel and all those entitled to attend.** If you wish to submit any additional papers after this, you may do so, but if you raise new substantial issues at the hearing, it may lead to an adjournment. This could mean the panel continuing the hearing at a later date.

## **WHO ELSE CAN ATTEND THE APPEAL HEARING?**

The following people are entitled to attend and make representations to the Panel:

- The head teacher (and possibly other representatives from the School);
- A representative of the school governing body;
- A representative of the local education authority (the Council's Education Department).
- A Special Educational Needs Professional, at your request.

**In addition to your right to attend, you may be represented or be accompanied by a friend.** If you do decide to be represented or to be accompanied, please inform the clerk in advance, so that seating arrangements can be made.

Where there is an alleged victim, he or she will be invited to attend. If an alleged victim or their parents decide to attend, you will be notified in advance of the hearing.

## **WHO IS ON THE APPEAL PANEL?**

There will be three members on the appeal review panel. The panel will be chaired by a 'lay member' – this is a person who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer. The panel must include someone who is or who has been within the previous five years a head teacher of a state school. The panel must also include one person who is or who has been a governor of a state school for at least twelve months in the last five years.

**The appeal panel must not include any person in any way connected with the school from which your child has been permanently excluded.** You have a right to a fair hearing before an independent and impartial panel. This means you should be able to present your case to the panel under conditions which do not put you at a substantial disadvantage compared to the school governing body or the head teacher. The appeal panel must not show bias or give you any reasons for legitimately doubting whether it is being impartial.

## **WHAT HAPPENS AT THE HEARING?**

Appeal hearings are arranged as informally as possible, but there is a structure. You may put questions to those entitled to attend on their case. Likewise, you may be questioned on the statement which you make to the panel. Members of the panel are also able to put questions to those present. The order is likely to be as follows:

- (1) The alleged victim or alleged victim's parents (if applicable) may make a statement, followed by a round of questions.
- (2) The head teacher and the governing body representative present their case, followed by a round of questions.
- (3) You may put your case, followed by a round of questions.
- (4) The representative of the local education authority may also make a statement, followed by a round of questions.
- (5) If applicable, a Special Educational Needs professional will present their statement.
- (6) The head teacher, the governing body representative and you will be given the opportunity to sum up your case, during which you should not raise any new issues.

After this everybody (except the panel members, clerk and legal advisor) will leave the room. The clerk remains with the panel to record its decision, and the legal advisor will advise on points of law.

## **CAN WITNESSES ATTEND?**

You may call a witness to put forward evidence about the event that led to the exclusion or in support of other aspects of your case. Likewise, the head teacher and the governing body may also call witnesses. However, witnesses cannot be compelled to attend the panel. If you intend to call witnesses, please notify the clerk in advance.

## HOW DOES THE PANEL MAKE ITS DECISION?

The role of the panel is to review the governing body's decision not to reinstate a permanently excluded pupil. In reviewing the decision the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school.

## WHAT DECISION CAN THE PANEL MAKE?

There are three possible decisions:

- (1) The panel can decide to uphold the exclusion decision; or
- (2) Recommend that the governing body reconsiders their decision, or
- (3) Quash the decision and direct that the governing body considers the exclusion again.

When considering their decision, the panel will consider:

- Illegality – did the head teacher and/or governing body 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?

**The decision of the appeal panel is binding on you, the governing body, the head teacher and the local authority.** The Clerk will write to you to let you know the panel's decision and the reasons for it as soon as possible after the hearing.

## WHERE CAN I GET FURTHER INFORMATION?

**Documents** – This leaflet is only a brief guide. General procedural advice and copies of the some of the following documents are available from the clerk's office - phone (01344) 352253.

### Sources of Advice

The Advisory Centre for Education (ACE) - Exclusions Help-line: 020 7704 9822  
web site: [www.ace-ed.org.uk](http://www.ace-ed.org.uk)

The Equality & Human Rights Commission – Helpline: 0845 6046610  
webs site: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)