

Independent Review of a Permanent Exclusion

A guide for Headteachers



INTRODUCTION

The decision whether or not to ask for an Independent review against a child's permanent exclusion is for the parent to make.

This briefing outlines the process.

A parent must make a request in writing by email to the local authority, within 15 days of receipt of the decision letter from the governing body's discipline committee (GDC).

An independent exclusion review panel will consider the request at a hearing in private. The parent is entitled to attend and present a case to the panel.

An independent exclusion review panel must meet to consider the parents request within 15 school days of its receipt by the clerk. The parent will be contacted to discuss possible dates for the hearing. In setting the date for the hearing the head teacher, the governing body representative (who sat on the original decision making committee) and the representative from the local authority (if applicable) must also be consulted.

Reviews will take place at either Easthampstead House, or Time Square.

WHAT PAPERS ARE SUBMITTED TO THE PANEL?

The papers which the panel consider usually include:

- the letter requesting a review and any supporting information, which the parent 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 the parent 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.

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 Expert, at the parent's request.

There will be three members on the 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 also be made up with at least one member from each of the categories of school governors and head teachers.

- School governors, who have served as a governor for at least 12 consecutive months in the past 5 years, provided they have not been teachers or head teachers during this time.
- Head teachers or individuals who have been a head teacher within the last five years.

The appeal panel must not include any person in any way connected with the school from which the child has been permanently excluded.

WHAT HAPPENS AT THE HEARING?

Review hearings are arranged as informally as possible, but there is a structure. Attendees may put questions to those entitled to attend on the case. Likewise, parties may be questioned on the statement which has been given 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) Parents may put their case forward, 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 expert 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, legal advisor and the clerk) will leave the room. The clerk remains with the panel to record its decision, and legal advisor will advise on points of law.

CAN WITNESSES ATTEND?

The parents may call a witness to put forward evidence about the event that led to the exclusion or in support of other aspects of the case. Likewise, the head teacher and the governing body may also call witnesses. However, witnesses cannot be compelled to attend the panel.

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 the parent, the governing body, the head teacher and the local authority.