



FIXED PERIOD EXCLUSION

WALES



What does it mean?

In this guide we use:

must when the law says something must happen.

should when the government expects something to happen.

Other things you need to know

In *Exclusion from Schools and Pupil Referral Units* (Circular 1/2004 revised in 2006) the National Assembly for Wales (NAW) explains the law and what the Assembly expects from schools, governing bodies, and local education authorities (LEAs) when pupils are excluded from school. This should be followed unless there is good reason not to. Circular 47/2006, *Inclusion and Pupil Support*, is good practice guidance for schools and LEAs but has not as high status in law as Circular 1/2004. **ACE strongly advises parents to get free copies of both (see page 12).**

Schools must have a **discipline/behaviour policy** which should include a scale of punishments. It should say what the school will do to avoid children with additional learning needs being excluded more than others and whether there is help for parents.

Fixed period exclusions of a pupil must not add up to more than 45 school days in one school year. If extended or made permanent, this counts as a new exclusion. **Lunch time exclusions** count for a quarter of a day. Schools should set and mark work for the first 15 days of the exclusion. For longer exclusions they should plan with the LEA for full-time suitable education.

Exclusion should not be used for: minor incidents such as not doing homework; poor academic performance; lateness or truancy; pregnancy, breaking school uniform rules or rules on appearance including jewellery and hairstyle (except possibly where persistent and in open defiance of these rules); the behaviour of parents; parents' refusal to come to a meeting.

To the Chair or Clerk of the Governing Body

Dear Sir/Madam

My child *[give name]* has been excluded.

I would like to state my case in person to the governors.

Please give me copies of my child's school record, the school's behaviour/discipline policy and (if relevant) the special educational needs, race equality and equal opportunities policies and any witness statements, including my child's statement. Please tell me the order in which people will speak at the meeting (if applicable). I would like to bring a friend or adviser with me.

Yours faithfully, *[name]* Parent

(Keep copies of letters)

My child has been excluded for a fixed period

What can I do?

This can be a difficult and worrying time for you and your child. This guide looks at what you can do if you disagree with the exclusion.

Step 1: Send a letter

You have the right to put your case in writing and also often in person to the school's discipline committee which is made up of school governors. The committee can decide if the exclusion was the right action to take.

To find out if you have the right to put your case in person to the governors, first check how many days your child has been excluded this term. Add together this exclusion and any other exclusions in this term:

- **If the total is 5 school days or less:** the governors do not have to meet with you but it is good practice if you want to meet. Ask if you want a meeting. Otherwise just write your case and send to the committee.
- **If the total is more than 5 school days, or if your child will miss a public examination** (not mock exams or SATs): you have the right to put your case at a meeting of the discipline committee. They are able to return to school a child who is still excluded, this is called **reinstatement**.

Write immediately to the governors (see example letter on page 2).

Exclusion is a serious step for a school to take. Even if you do not want to put your case to the discipline committee, it generally helps your child if you meet with teachers to discuss the exclusion and the future.

For exclusions which total 15 school days or less in one term the discipline committee will only review your child's exclusion if you put your case to them. Whether or not you attend, governors must meet for each exclusion which adds up to more than 15 school days in one school year.

Step 2: Putting your case together

ACE advises that you write down your case and read it out at the meeting. This will make sure that your points are clear and nothing is accidentally missed out. You do not have to send in your case before the meeting, but you can if you wish.

To put together your case, go carefully step-by-step through to Step 11. Not all steps will apply to your case, and you may want to add other points.

First check: should your child have been excluded?

Your child should only have been excluded from school:

- if they have seriously broken the school's behaviour policy
- and*
- it would seriously harm the education or welfare of themselves or others if they stayed in school.

Exclusion should not be used if alternative solutions are available.

Now check the list on page 2 of things that children should not be excluded for.

Children can be excluded for behaviour outside school if the Head feels there is a clear link between that behaviour and maintaining good discipline in the school.

If you feel that your child's actions should not have led to exclusion, explain why briefly. The next steps will help you look at the points in more detail.

Step 3: Check the exclusion

Only the Head may exclude. (If the Head is absent it should be the most senior teacher who is acting as Head.)

The Head **must**:

- publicise the school's behaviour policy to parents and pupils each year, and
- let you know as soon as possible (usually by telephone) about the exclusion and your rights.

The Head **should not** have excluded your child in the heat of the moment, unless there was an immediate threat to the safety of your child or others in the school. Any exclusion should be in proportion to your child's actions. In exceptional cases a fixed period exclusion may be made longer or permanent.

Before deciding to exclude your child the Head **should**:

- ✓ make sure that an appropriate investigation has been carried out
- ✓ give your child a chance to say what happened
- ✓ think carefully about the evidence available
- ✓ take into account the school's behaviour and equal opportunities policies and if relevant the Race Relations Act and Disability Discrimination Act.
- ✓ check whether bullying or racial or sexual harassment of your child led to your child's actions
- ✓ if necessary consult others

The Head may exclude a child if they feel 'on the balance of probabilities' they did what they are accused of, i.e. it is more likely than not that they did it. The more serious the behaviour your child is accused of, the stronger the evidence needs to be. This could include your child's past behaviour.

Within one school day the head should send a letter which must include

- The precise period of the exclusion
- The reasons for the exclusion
- Your right and your child's right (if aged 11 or over) to state their case to the discipline committee and how to go about this

The letter should also include:

- How your child can continue their education – arrangements for setting and marking work.
- The latest date for the discipline committee to meet (if applicable).
- Your right to have a copy of your child's school record.
- The date and time for your child to return to school.
- The phone number of ACE's helpline and someone in the local education authority (LEA) who can advise you.

Fixed period exclusions are for a specified time and must not add up to more than 45 school days in a school year. Indefinite exclusions are not lawful. An exclusion should be for the shortest time necessary. Circular 1/2004 says exclusions of more than a day or two make reintegration difficult and 1–3 days is often long enough and avoids seriously affecting a child's education.

Lunch-time exclusions should be a short-term measure – the school should review it regularly. Arrangements should be made for pupils who have free meals.

If the exclusion was not in line with any of these points, explain what happened and how this may affect your child.

Step 4: Are the details clear?

What does your child say?

Ask your child what happened. Try to do this as soon as possible. Write down or tape what they say. Then go back to the beginning and question them closely.

Questions you could ask your child:

“Show me *exactly* where you were.”

“*Where* was everyone standing?”

“Did *anything* lead up to this?”

“What *exactly* did the teacher say?”

Write the details of your child's answers out fully.

Now check – was this a serious breach of the school's behaviour policy? This is most important.

What do others say?

- Look at what the Head says.
- Look at what other people say. Were statements taken from your child and witnesses? You should be sent all the statements that will be taken into account by the discipline committee.
- Will anyone support your child's story? Try to get a statement from them with clear details.
- If there are important disagreements between the statements, mark them. Has there been a misunderstanding?
- Do the words used by others accurately describe what happened?

Add all the main points to your case. If your child now wants to apologise for something, they could do so in writing.

Step 5: Now make notes about your child

You may want to say a little about your child

Imagine you are describing them to a stranger. Remember their good points! Are there any reports which show what your child is like? Could someone official like a playgroup leader, doctor or youth worker or perhaps a neighbour write a letter about them?

Think about your child at the time of the exclusion

Was the exclusion right given their age, health and any personal issues?

Was anything upsetting your child, or was there pressure from others?

Could anything else have affected their behaviour?

And very importantly

- If your child were back in school (rather than excluded) would this seriously harm the education or welfare of themselves or others?
- How is your child affected by the exclusion?

Think about the incident

If others were involved, were their punishments in line with your child's? Have others at the school, or other local schools, been treated differently? The local education authority may be able to tell you this.

Check your child's school record

You are entitled to a full copy of their record. Does it reveal misunderstandings? Does it include new information which may affect your case?

Describe your child and add anything that explains their behaviour and/or shows that exclusion may be wrong.

Step 6: Does your child have additional learning needs?

These include children who:

are changing schools; are from minority ethnic backgrounds; in care; refugees; travellers; young carers, or from families in difficult circumstances or who have disabilities and/or special educational needs including emotional and behavioural difficulties or who may be able and talented.

Circular 47/06 says that children with additional learning needs are “**at greater risk of disengagement from school**”. It explains how schools should monitor the impact of policies, for example, if children from ethnic minority families are punished or excluded more than others, schools should take steps to put this right.

If your child is at particular risk, write down why and what help they need. This could be very important if your child is disabled. If you think the right help may have prevented the behaviour which your child is accused of, you may have a claim of disability discrimination (see Step 10).

Step 7: Strategies to improve behaviour

Schools generally have access to behaviour specialists. Circular 47/06 says pupils who are in danger of permanent exclusion or disaffection should have a Pastoral Support Programme (PSP). This should bring help for a child with their behaviour.

Think carefully about your child's behaviour and talk to your child. Has the school tried to help your child manage their behaviour better with anger management training, the use of a learning coach etc? Have they involved you in setting up a PSP? Do staff need advice on dealing with your child's behaviour?

Could this incident have been avoided if your child had been given the right support at school? Add to your case.

Step 8: Does your child have emotional and behavioural difficulties or another learning difficulty?

If a child has a learning difficulty and needs extra help at school they have special educational needs (SEN).

If a child's behaviour is much more difficult than average or they cannot control their feelings they may have emotional, social and behavioural difficulties (ESBD or EBD). This is a learning difficulty. If children with learning difficulties do not get the right help at school, this can lead to poor or worsening behaviour.

Help with learning difficulties, including behavioural difficulties, is given through a statement of special educational needs or, for children with less serious difficulties, School Action or School Action Plus.

This is a complex area, for more help see list of publications on page 12.

If you feel your child has ESBD or any other learning difficulty, explain why. Are they getting the help they need? If they had been given the right help could this have affected their behaviour? Has the school followed its SEN policy?

Step 9: Were drugs involved?

Check the school's drugs policy. The Head should consult the school's drugs co-ordinator (if there is one) and take account of both the policy and the precise circumstances of the case and the evidence. National Assembly for Wales guidance on drugs says schools should not use harsher punishments than the law.

Step 10: Was discrimination or bullying involved?

In schools, race relations law covers the need to get rid of unlawful racial discrimination and to encourage equality of opportunity and good relations between people of different racial groups. This applies, among other things, to discipline and exclusion. Schools must also have a race equality policy and monitor how policies affect different racial groups.

If you feel that your child's exclusion was linked in some way to their racial group, the Race Relations Act might apply. Concerns about these issues can be referred to the Commission for Racial Equality complaints team (see page 12).

If you feel that your child's exclusion was linked to their disability, the Disability Discrimination Act might apply. You will need to show that the school treated your child less favourably because of their disability and without a lawful reason. Claims of disability discrimination in relation to fixed period exclusions are decided by the Special Educational Needs and Disability Tribunal. More information from ACE or the Disability Rights Commission Helpline (see page 12).

Check the school's behaviour policy which must include bullying and should include harassment.

If you feel bullying, discrimination or harassment were involved in your child's exclusion, explain why. For more information on all these issues see page 12.

Step 11: Alternative solutions

Exclusion should not be used if alternative solutions are available, for example:

- using a Pastoral Support Programme drawn up with pupil, parents and outside bodies such as the LEA.
- using a restorative justice process, which allows the pupil to put right any harm done.
- internal exclusion (also known as internal seclusion) to somewhere else within the school with appropriate support, or moving to another class on a temporary basis. Internal exclusion may continue during break periods.
- a managed move to another school with your full knowledge and co-operation and the LEA, and where it is in the best interests of your child. You should not be pressured into removing your child from school under threat of a permanent exclusion.

Is there another solution that would work for your child? Explain why. An example may be a different punishment coupled with help for behaviour problems or special educational needs.

Step 12: Your summary

At the end of your case, the summary briefly repeats all your points from steps 2-11 and any other important points you have made. Are there parts of the Circulars which may not have been followed? Remember, they should not be ignored. You could include the relevant pages with the parts highlighted. You can take or send enough copies for everyone at the meeting.

Your summary

I feel the school, without good reason, has not acted in line with some of the National Assembly guidance in Circular 1/2004 and/or Circular 47/06. I have marked this on pages... **[say how this affected your child's exclusion]**

I understand that a child should only be excluded for a serious breach of the behaviour policy and if they seriously harm the education or welfare of themselves or others and that exclusion should not be used if there is an alternative solution.

In my child's case this was not a serious breach of the school's behaviour policy... **[give reasons if relevant]** s/he would not seriously harm the education or welfare of themselves or others in the school... **[give reasons]** there was an alternative solution... **[give examples]**

I disagree with my child's exclusion, or feel it is too long because s/he: **[add your main points and give brief details, for example:]**

- Did not do what s/he is accused of...
- Did something that should not lead to exclusion...
- Was affected by bullying and/or harassment...
- Has additional learning needs but is not getting all the help that s/he needs...

I also feel that:

- There may have been misunderstandings...
- The exclusion is not for the shortest time necessary and/or is harmful to my child...

Step 13: Stating your case

The meeting should be at a time and place convenient to you as far as possible. You can just put your case in writing but it is often better to be there in person.

Before the meeting:

- Write or type out your case to read at the meeting. If you give out copies at the meeting it may help the governors remember your points.
- Look through your case and write down any questions you want to ask.
- Collect any back-up materials (eg apology, letters). Send them to the clerk, even if you have missed the deadline.

Think about taking a friend, relative or adviser along. You can take a legal representative, but make sure they know about school issues.

Who will be at the meeting?

- Generally 3 or 5 governors who make up the discipline committee (none should have an involvement which could make them biased).
- A clerk to take notes and advise the governors on procedure
- A local education authority representative will be invited to give their comments but are unlikely to attend for short exclusions
- The Head to put their case
- Possibly, witnesses

How will the meeting be run?

You should be told the order beforehand. Usually the case against your child is put first so you can reply to it. You should be sent any statements beforehand. For fairness if the Head brings new evidence or papers, ask for a break to read them or for the meeting to be rearranged. You should be able to put your case without interruption. The Head should not be with the discipline committee when you are not there. We advise you to read out your full case including the summary before giving it out. If at the end of the meeting you are asked to “sum up”, you can read your summary out again, adding any new points.

Must my child go to the meeting?

No, children often do not attend and cannot be made to do so. Your child has a right to have his or her views heard but this could be through a written statement. Do you think it would help if they were there for all or part of the time? Decide beforehand if you are happy for them to be questioned or just to make a statement and leave. Make clear to the discipline committee which it will be. Remember, if your child is aged 11 or over they can decide to make their case in their own right and must be allowed to attend.

Step 14: The governors decide

For exclusions that add up to 5 school days or less in a term the discipline committee must consider your written case. For exclusions that total more than 5 school days in a term, or lead to your child missing a public examination, and where you or your child (if aged 11 or over) request it, the discipline committee:

- must meet with you to look at the circumstances of the exclusion
- must consider your case and the views of the LEA

If your child has returned to school, the committee:

- must decide, based on the evidence, whether or not the Head was justified in excluding your child. The committee's views should go on your child's school record. Ask for your written case to go on your child's record too.

If your child is still out of school, the discipline committee:

- must decide whether to reinstate your child and when
- must consider any points made by your child
- should consider whether the Head has followed the exclusion procedure and the exclusion guidance
- should ask what support the LEA can give towards reintegration.

If the school or LEA think you need support with your child's behaviour, they may ask you to sign a Parenting Contract after the hearing. Your agreement must not be made a condition of your child's return to school.

In some cases, where this is your child's second fixed period exclusion for serious misbehaviour within a 12 month period and the local authority think you are unwilling or unable to work with them and the school on a voluntary basis, the authority may apply for a Parenting Order. (See Circular 47/06 Annex 3.i)

More information

From ACE: Advice lines: exclusion – 0808 8000327; all other matters – 0808 8005793
ACE guides: **Tackling Bullying, Disability Discrimination, Getting Extra Help**, £1.70 each and **Special Education Handbook**, £17.99 Address below.

Booklets and other advice also on ACE website: www.ace-ed.org.uk

From the National Assembly for Wales :Tel: 029 2082 1556 Exclusion from Schools and Pupil Referral Units (Circular 1/2004 also available from www.learning.wales.gov.uk);

Circular 47/06 Inclusion and Pupil Support (relevant chapters available from ACE as part of exclusion pack - leave your details on 0207 704 9822 or available from above phone number or www.wales.gov.uk/inclusionandpupilsupport)

SEN Code of Practice; Substance Misuse: Children and Young People (Circular 17/02) (available from www.learning.wales.gov.uk)

From Commission for Racial Equality: Code of Practice on the Duty to Promote Race Equality. CRE website: www.cre.gov.uk or from the CRE Tel: 020 7828 7022

