

my child in school



Fixed Period Exclusion

a practical guide to
parents' legal rights

Wales



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Abbreviations

ALN Additional Learning Needs (see also SEN)

BESD Behavioural, emotional and social difficulties

CAF Common Assessment Framework

CAMHS Child and Adolescent Mental Health Service

Discipline Committee Panel of 3 or 5 school governors, not including the head teacher, which is set up to review the use of exclusion in the school

EWO Education Welfare Officer

Guidance 'Exclusion from Schools and Pupil Referral Units', Welsh Assembly Government Circular No: 001/2004 (reprinted February 2008).

IEP Individual Education Plan

LEA Local Education Authority

Pupil Support Guidance 'Inclusion and Pupil Support', Circular No: 47/2006, National Assembly for Wales

PSP Pastoral support programme

PRU Pupil Referral Unit

SEN Special educational needs (see also ALN)

Important notes

- There are two types of exclusion – **fixed period** and **permanent**. This booklet deals with **fixed period exclusions**.
- For PRUs, where we say 'the Discipline Committee' this means 'the LEA' and where we say 'the Head' this means 'the teacher in charge of a PRU'.
- This booklet is based on the law applicable in Wales.



If there is
anything in this booklet
you don't understand or if
you would like more information,
please call our free
exclusions advice line
on 0808 800 0327.

“My child has been excluded – what can I do?”

A fixed period exclusion means a fixed period of time that your child is not allowed in school and must remain at home because s/he has committed a disciplinary offence. It can be used for a one-off incident or for a wider pattern of behavioural difficulties. It used to be known as a ‘suspension’. It may be as short as half a day or as long as several weeks. Most fixed period exclusions are for 5 days or fewer.

Having a fixed period exclusion can be very upsetting and worrying for you and your child. In this guide we have set out the sorts of things you will need to think about. These fall into the following categories:

- (a) what should be happening to your child now s/he is excluded
- (b) how your child will be reintegrated back into the school
- (c) whether to challenge the decision to exclude your child and how to go about it.

Part I of this booklet looks at (a) and (b) and **Part II** looks at (c).

Not everything in this booklet may apply to your child. Use the sections which fit your situation.

Part I

Coping with the exclusion and getting support

1 What’s happening now

- **School work** Government Guidance says that for exclusions of more than a day, your child should receive work from the school during the exclusion and the school should arrange for it to be marked. If you haven’t received any work get in touch with the school and request some for your child.
- **Full time education if your child is excluded for more than 15 days** The LEA should ensure appropriate full time provision is received by your child at another school (or if necessary a PRU or an alternative setting) from the 16th school day after an

exclusion has been upheld by the Discipline Committee (a panel of 3 or 5 school governors). In some cases, your child may be phased back into full time education but if so, the school and the LEA should draw up a plan to show how the return to full time education will be achieved. Full time means an amount which is similar to that provided by local mainstream schools. This might be up to 25 hours a week, depending on the age of your child. (Note that if a child has a statement of special educational needs, they should get the number of hours specified on the statement.)

Confidentiality

The Guidance says that all exclusions should be treated in the strictest confidence. This means that only those people who need to know about the exclusion should be told.

2 Your meeting with the school

In your letter from the school informing you of the exclusion you may be offered a 'reintegration' meeting and you should make every effort to attend it. Your child will normally attend too, but does not have to be there for the whole time. Note that the school must not extend the length of the exclusion whilst a meeting is being arranged or if either you or your child does not attend.

The purpose of the meeting should be to talk about your child's behaviour, but also to explore whether there is anything that could be affecting it and to discuss making some support available if that would help your child. Even if you haven't been offered a reintegration meeting, we recommend you ask the school for a meeting anyway, especially if you think your child could benefit from any of the extra support set out below.

Pastoral support

The Pupil Support Guidance says that pupils who are in danger of permanent exclusion should have a Pastoral Support Programme (PSP). The PSP should also involve any other agencies already working with your child. It can include any of the help described below or other strategies suggested by the school, LEA or yourself:

- **Mentoring** – where an older person, often a teacher or volunteer from outside the school, advises your child. This is most common for secondary age children.
- **Counselling** – some schools have professional counsellors working in the school to help pupils.
- **Behaviour support** – your child may be offered a course on anger management, for example, to help them deal with their behaviour.



Learning support

Special educational needs (SEN) – also sometimes called additional learning needs (ALN)

Many children who are excluded from school also have learning difficulties, or 'special educational needs' (SEN). Consider whether any behavioural issues your child has could be a symptom of unmet SEN.

For more information about SEN see our booklets on *Getting Extra Help* and *Asking for a Statutory Assessment*, and get a copy of the *SEN Code of Practice for Wales* – see page 17.

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 (BESD). This is a recognised type of SEN.

Ask for a copy of your child's school record so that you can see what kind of progress s/he is making. Discuss the details with the teachers. If your child is on School Action or School Action Plus s/he may also have an IEP you can look at.

Flexible learning at Key Stage 4

If your child does not have SEN but is aged 14–16 and not enjoying normal school subjects, some schools offer a different curriculum, which could help to involve your child and resolve behavioural difficulties. This could include:

- dropping some subjects
- studying vocational subjects
- longer than usual work experience
- going to further education college for part of the week
- doing voluntary work or outdoor activities.

Other help

Parents can ask for their child to be assessed under the Common Assessment Framework (CAF) to find out more about their individual needs and the services that are available to meet them. You could ask a teacher to act as the 'lead professional' and fill out a CAF form for your child, which will be used to decide whether s/he has any additional needs that can be provided by various services.

If you think your child might have mental health difficulties that are not being met, you could go to your GP or contact the Child and Adolescent Mental Health Service (CAMHS) for help. You can also discuss your worries with the school.

Other factors to discuss

Children who may be at risk within the education system

These include:

- children from minority ethnic and faith groups, travellers, asylum seekers and refugees
- children needing support with English/Welsh as an additional language
- looked after children (i.e. in care)
- sick children
- young carers
- children from families under stress
- pregnant schoolgirls or teenage mothers
- any other pupils at risk of disaffection and exclusion.

If your child fits into one of the above categories, make sure the school knows and ask them what kind of support they can give to help.

Discrimination, bullying and harassment

If you feel that your child's exclusion was linked in some way to disability, the school is expected to take steps where possible to prevent the behaviour resulting in punishments such as exclusion. In addition, check the school's behaviour policy, which must cover bullying and should include harassment. Discuss with the school how these things can be managed better in the future.

Help for parents

Some schools may offer you voluntary parenting classes to help you manage your child's behaviour. Ask during the meeting if you think this may help you or your child.

If your child is at risk of permanent exclusion...

If your child has had a series of fixed period exclusions and there is a risk that s/he will be permanently excluded in the future, you may want to think about changing schools or getting educational provision for your child in some other way. This could involve:

- a managed move – where the school organises a transfer to another school
- flexible learning at Key Stage 4 – e.g. attending school part time and going to a local FE college part time to do a vocational course
- applying for schools yourself
- home education

For more detail about this see our **Permanent Exclusion (Wales)** booklet.

Part II

Challenging the exclusion

You or your child may wish to challenge the exclusion if you feel strongly that it was unfair. You have the right to put your case in writing, and possibly also in person, to the school Discipline Committee. You can make representations to the Discipline Committee on behalf of your child, but in addition, any child of 11 or over who has been excluded has the right to make representations to the Discipline Committee in their own right. If a child wishes to do this and goes to a meeting unaccompanied by parents, the LEA should try to provide an advocate to speak on his/her behalf.

Can I meet with the Discipline Committee?

If the exclusion plus any previous exclusions within this term total:

(a) 5 school days or less in the term – you have no automatic right to meet with the Discipline Committee but they must consider any case you and your child put in writing, and you can ask if they will meet you anyway. Many consider it good practice to meet with parents if they ask. Note that the Discipline Committee only has the power either to uphold the decision if they agree with the school, or place a copy of their findings on your child's school record if they disagree. They cannot reinstate your child at school.

(b) between 5½ and 15 school days in the term including the current exclusion – you and/or your child can request to meet the Discipline Committee in person and they must meet between the 6th and 50th school day after being notified of the exclusion. The Discipline Committee will decide whether they should uphold the school's decision or overturn it. If they overturn it they will direct the school to take your child back either immediately or at a later date.

(c) more than 15 school days in the term – the Discipline Committee will automatically meet to review the exclusion and meet with you and/or your child in person. They must meet between the 6th and 15th school day after being notified of the exclusion. The Discipline Committee will decide whether they should uphold the school's decision or overturn it. If they overturn it they will direct the school to take your child back either immediately or at a later date.

Note: Even if the Discipline Committee agrees with the school's decision, they do not have the power to increase the length of the exclusion or turn it into a permanent exclusion.

Read Section 1 below, covering what the law says about exclusions. Then, if you want to state your case, prepare a written summary using the guide set out in Section 2. Even if you do not want to put your case to the Discipline Committee, reading this section might help you to organise your thoughts for any meetings that you have with the school.

1 Law and guidance on exclusions

The government has issued guidance on the law on exclusions, which schools, Discipline Committees and LEAs need to follow, called 'Exclusion from Schools and Pupil Referral Units, 2008', (the 'Guidance'). You can download a copy from the website given on page 17 or we can send you one if you call our exclusion information line on 020 7704 9822. By law this Guidance must not be ignored. It should be followed unless there is good reason not to.

When can the school exclude a child?

A decision to exclude a pupil for a fixed period should be taken only if:

- in response to a serious breach of the school's behaviour policy; AND
- if allowing the child to remain in school would seriously harm the education or welfare of the child or others in the school.

Fixed period exclusions should be for 'the shortest time necessary'. The Guidance mentions that inspection evidence suggests 1–3 days is often long enough.

A child **should not be excluded** for minor incidents such as:

- not doing homework or poor academic performance
- lateness or truancy
- pregnancy
- breaking school uniform/appearance rules (except where persistent and 'in open defiance' of these rules and all other ways of resolving this have been tried)
- the behaviour of their parents (e.g. in not attending a meeting).

Children can be excluded for behaviour which took place outside school but only if the Head feels that there is a clear link between that behaviour and maintaining good behaviour and discipline within the school.

Extending an exclusion

The Head can extend a fixed period exclusion or convert it into a permanent exclusion in 'exceptional cases'. This usually means where new evidence has come to light. The Head must write to you again to say that this has been done and must give reasons for the decision.

Withdrawing an exclusion

The Head can withdraw an exclusion before the Discipline Committee has met to review it. If you think the Head could be persuaded, have a meeting with him or her to discuss this.

How should it be done?

The Head's decision

The Guidance sets out the procedures that the school must follow when excluding a child and gives some ground rules about how things should be done. For example, the Guidance makes clear that only the Head teacher may exclude a child. (If the Head is absent it should be done by the most senior teacher, as 'acting Head'). The Guidance also says that a child should not be excluded in the heat of the moment, unless there was an immediate threat to the safety of your child or others in the school.

The Guidance says that before deciding to exclude a child the Head should:

- make sure that a thorough investigation has been carried out
- consider all the available evidence
- allow your child to say what happened
- check whether bullying or racial or sexual harassment of your child led to your child's actions
- if necessary consult others (but not anyone who might later be involved in reviewing the Head teacher's decision, e.g. a member of the Discipline Committee).

Informing you about the exclusion

The Head must tell you about the exclusion immediately, ideally by telephone followed up by a letter within one school day. The letter must include the following information:

- that it is a fixed period exclusion and its start and end dates
- the reasons for it
- your right to state your case to the Discipline Committee and how to do this.

The letter should also say:

- the latest date by which the Discipline Committee must meet to discuss the exclusion
- your right to have a copy of your child's school record
- the date and time when your child should return to school
- what arrangements the school has made for your child to continue his or her education, including by giving school work and marking it
- the name and phone number of an officer in the LEA who can provide advice and the phone number for ACE's exclusions information line (0808 800 0327).

Lunchtime exclusions

Lunchtime exclusions count as quarter day exclusions. These should not be drawn out – other ways of dealing with the problem should be worked out, but if they add up to more than 5 school days in a term, including when added to other fixed period exclusions, this will entitle you to make representations about the exclusions to the Discipline Committee. If your child has free meals, the school must make other arrangements such as a packed lunch.

2 Preparing your case

Letter to the Discipline Committee

Let the Discipline Committee know that you wish to state your case to them. Even if you are not automatically entitled to a meeting with them, you may want to ask for one.

If you wish to meet with the Discipline Committee, write to ask for a meeting as shown in the model letter below.

Always keep copies of your letters.

To Chair/Clerk of the Discipline Committee

Dear Sir/Madam

Re: [your child's full name and date of birth]

I wish to make representations in person to the Discipline Committee about the exclusion of my child.

Please send me copies of my child's school record, the school's behaviour/discipline policy as well as [if relevant to you child's case] the special educational needs, race equality and equal opportunities policies and any witness statements, including my child's statement.

I would like to bring a friend/adviser with me to the meeting [if you would like to do so]

Yours faithfully,

[your name]

In your letter to the Discipline Committee above you are asking for various types of information.

Your child's **school record** should contain an incident report of the event which led to the exclusion, plus information about your child's previous behaviour and the sorts of things teachers have thought and said about your child in the past.

You have a right to receive your child's school record within 15 school days of their receipt of your letter. They can charge a fee for copying or you can ask to view the record at the school instead free of charge.

The school's **behaviour policy** should say how they deal with behaviour of the kind your child was excluded for. Check to see whether they were following their policy in your child's case.

Preparing your case summary

Next we suggest you prepare a summary of your case which you can either read out to the Discipline Committee at the meeting or that you can send to them if they will not meet with you. They must consider what you say, even if they will not meet with you. This will make sure that your points are clear and nothing is accidentally missed out. You do not have to send in your summary before the meeting but you can if you wish.

The following notes should help you to write your summary. First you should collect the evidence together by reading sections 1 to 6 on pages 10–12 and making notes. Then you can use our model summary on pages 13 and 14 to help you write what you want to say.

1. Reasons for exclusion

Look back at pages 6–7 and check whether the Guidance has been followed in your child’s case. If it hasn’t, you will need to set out in your summary what the law says and what actually happened. Look also at the school’s behaviour policy and make notes for your summary of anything that stands out.

2. Procedures

Look back at pages 7–8 and check that the correct procedure has been followed in your child’s case. Also look at the Guidance. Remember, the Guidance should be followed unless there is good reason not to. Check for example, whether the exclusion was made in the heat of the moment. Was a proper investigation carried out? If not, make notes about these for your summary.

3. Evidence

Look at your child’s school record, including the incident report, to help you tackle this section. The school should only exclude a child if they are sure on a balance of probabilities (i.e. it is more likely than not) that what they say happened, actually did happen. You need to look carefully at the evidence and note down any weaknesses for your summary.

What your child says

Ask your child what happened as soon as possible and record what they say in detail. For example:

- “Show me exactly where you were.”
- “Where was everyone standing?”
- “Did anything lead up to this?”

Now check – was what happened a breach of the school’s behaviour policy?

What others say

You should be sent copies of all the statements the Head used to decide whether to exclude. Check whether these support your child's story or not and mark any differences between the statements. If you think they are inaccurate make a note of how. If you can, take statements yourself from witnesses who were not interviewed by the school.

About your child

Are there any reports which show what your child is like? Could someone like a sports coach, youth worker or doctor write a letter saying something positive about them?

- 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?

If your child wants to apologise for something, s/he could do so in writing, but be careful not to say sorry for doing something s/he didn't do. You could attach the apology to the back of your summary.

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

4. Support

Look back at the range of possible support set out in Part I (pages 2 and 3). Has the school tried a wide range of strategies? Does your child have a PSP? Did the school try to help your child manage their behaviour better with anger management training or a mentor? Did staff ask for advice on dealing with your child's behaviour? Is the behaviour as persistent and defiant as they claim? Could the incident have been avoided if your child had been given the right support? Add all you think about these questions to your case.

5. Other factors

(a) Learning difficulties

If your child has special educational needs/additional learning needs the school should try all practical means to keep them in school.

Look back at Part I (pages 2 and 3) and think about what support has been put in place to meet your child's needs. Are they getting the help they need? If they had been given the right help could this have helped their behaviour? Has the school followed its special educational needs policy? Add your conclusions to your summary.

(b) Discrimination and bullying

Schools must 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, make a note of it for your summary.

If you feel that your child's exclusion was linked in some way to a disability, the Disability Discrimination Act as amended might apply. For example, if their behaviour was related to their disability the school is expected to take steps where possible to prevent the behaviour resulting in punishments like exclusion.

You can get more information from the Equality and Human Rights Commission helpline for issues of discrimination (see page 17).

Similarly, schools have a duty to prevent all forms of bullying and should have an anti-bullying policy. This may be in a separate policy document or it may be part of the school's behaviour policy.

6. Alternative solutions

Particularly if the exclusion is on-going or the school is threatening permanent exclusion, you might want to raise the idea of alternative forms of punishment.

The Guidance suggests schools try for example:

- **restorative justice** – which allows your child to put right any harm done
- **internal exclusion** – where your child is sent somewhere else within the school with appropriate support, or moved to another class on a temporary basis. Internal exclusion may continue during break periods

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

Your summary

Use the following model summary to help you organise all the evidence you have collected from reading the previous section. If you have other written evidence, attach it to the back of the summary. If you are meeting with the Discipline Committee you can send it to them and ask them to consider it as your written representations to them. Say you would be grateful for a prompt response.

Summary

1. Reasons for exclusion

For example some of the following statements might be relevant to your case:

“I feel that the school has failed to act in line with some of the government Guidance on exclusions without good reason. I understand that a child should only be excluded for a fixed period if the school can prove that they are more likely than not to have committed a serious breach of the school’s behaviour policy and if allowing the child to remain in school would seriously harm the education or welfare of the child or others in the school. In my child’s case:

- the school has not proved that there was a serious breach of the behaviour policy
- allowing my child to remain in school would not seriously harm the education or welfare of my child or any other in the school” [explain why]

“I understand that the decision to exclude a pupil for a fixed period should not be made for minor incidents, such as lateness...” [see list on page 7]

“I am aware that fixed period exclusions should be for ‘the shortest time necessary’ but I believe that in my child’s case the exclusion was for longer than necessary” [explain why]

“I also feel that:

- this was a one-off/first offence and not serious...” [say why]
- the school should not have excluded my child because the incident did not occur on school premises/in school hours and there is no link between school and the incident” [say why]

2. Procedures

For example:

“I feel the school has failed to act in line with some of the government Guidance on exclusions. I have marked this on pages...” [attach the relevant pages if you can and say how this affected your child’s exclusion]

3. Evidence

“I disagree with my child’s exclusion, because s/he:

- did not do what s/he is accused of. . .
- did not do all of the things s/he is accused of. . .”

[give details of all the evidence you have accumulated showing discrepancies and inaccuracies in the case against your child]

continued on page 14

4. Support

“I disagree with my child’s exclusion, because the school has not taken into account the pressure my child is under [e.g. family matters you have told them about before] and has not offered any support [e.g. a pastoral support programme – say what kind of support you think would help]”

5. Other factors

“I disagree with my child's exclusion because s/he:

- has additional learning needs but is not getting all the help that s/he needs...” [say why]
- was affected by harassment...” [say why]
- was affected by bullying...” [say why]

6. Alternative solutions

If the exclusion is ongoing or there is a threat of permanent exclusion and you have an alternative punishment to suggest, you could say:

“I would like to suggest that s/he participates in restorative justice/mediation [say what you have in mind] as an alternative to exclusion.”

7. Conclusion

This could include:

- evidence from the school record of good things about your child
- any damage you think will occur as a result of being excluded, such as worries you have about reintegration or missing part of their education.

3 The Discipline Committee

If you are not meeting with the Discipline Committee...

If you are not meeting with the Discipline Committee but have sent in your summary or something which says you would like them to consider the exclusion, you are entitled to a response from them. Ask at the school if you hear nothing.

If you are meeting with the Discipline Committee...

Who will be at the meeting?

- The Discipline Committee is generally a panel of 3 or 5 governors (none should have any involvement which could make them biased).
- A clerk to take notes and advise the Discipline Committee on procedure.
- An LEA representative will be invited to give their comments but is unlikely to attend for short exclusions.
- The Head to put their case.
- Possibly, witnesses including any alleged victim.

How will the meeting be run?

You should be told how it will be conducted beforehand. Usually the case against your child is put first so you can reply to it. 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. Neither the Head nor any LEA representative should be with the Discipline Committee when you are not there.

We suggest you read out your summary and then hand copies of it, plus any other evidence you have, to the Discipline Committee. If the summary does not include some of your points, state those too. Giving written copies of your evidence to the Discipline Committee may help them remember your points and you can ask for a copy of it to go on your child's school record. If at the end of the meeting you are asked to "sum up", you can repeat the main points of your summary.

Must my child go to the meeting?

No, your child does not have to go to the meeting but must be offered the opportunity to give their views at the meeting. If s/he does attend, your child can either stay for the whole of the meeting, in which case s/he may be questioned by the Discipline Committee, or for part of the meeting, in which case s/he could make a statement, or apologise and then leave. If your child is making representations for themselves, s/he should receive copies of any papers sent round before the meeting.

What the Discipline Committee can decide

If the exclusion is for **5 school days or less in the term** the Discipline Committee only have the power either to uphold the decision if they agree with the school, or place a copy of their findings on your child's school record if they disagree. They cannot reinstate your child at school.

If the exclusion is for **more than 5 school days** in the term including the current exclusion, or if your child will miss a **public examination** the Discipline Committee will decide whether they should uphold the school's decision or overturn it. If they overturn it they can direct the school to take your child back either immediately or at a later date.

If the Discipline Committee or your LEA think you need support with your child's behaviour they may ask you to sign a Parenting Contract. You cannot be forced to sign a contract and if you do agree, that must not be made a condition of your child's return to school.

In some cases if your child is seriously misbehaving so that it has or could have resulted in exclusion and the school or LA think you are unwilling to work with them, the school or LEA may apply to the magistrates' court for a Parenting Order, which could require you to attend parenting classes.

After the meeting

The Discipline Committee should let you know of their decision in writing within 1 school day of the hearing, giving their reasons. The exclusion will not be deleted from your child's school record, but a copy of the Discipline Committee's decision letter should be placed on it.

Further help

From ACE

ACE freephone Exclusion advice line **0808 800 0327**

ACE freephone advice line **0808 800 5793**

Information and free advice booklets can be downloaded from www.ace-ed.org.uk or by contacting ACE (see back page).

From the Welsh Assembly

Publications available to order from **029 2082 1556** or to download from <http://new.wales.gov.uk/topics/educationandskills>

'Exclusion from Schools and Pupil Referral Units', Welsh Assembly Government Circular No: 001/2004 (reprinted February 2008).

NB: We refer to this as 'the Guidance' throughout the text of this booklet.

SEN Code of Practice for Wales 2002

From The Equality and Human Rights Commission

Equality and Human Rights Commission Helpline **0845 604 6610**

Duty to Promote Race Equality: Statutory Code of Practice

Duty to Promote Disability Equality: Statutory Code of Practice

www.equalityhumanrights.com

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ACE, 1C Aberdeen Studios, 22 Highbury Grove, London N5 2DQ
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