

Addendum to Exclusion Policy - COVID-19



In light of the situation regarding COVID -19-Coronavirus, this Addendum is in line with Government guidance and should be used alongside the current LBBD Exclusion Guidance (September 2018) NOT as a separate document.

Reference has been made to the latest May 2020 Amendment 'The School Discipline Regulations 2020' and this is reflected in our School Exclusion Policy and School Behaviour Policy (statutory from 1st June 2020 until review by the Secretary of State by 24th September 2020)

Staff should continue to advocate and promote SonG.

The new regulations change some of the procedures that must be followed in relation to an exclusion, to give greater flexibility to schools, parents and local authorities during the coronavirus (COVID-19) outbreak. They apply to all maintained schools, academies (including alternative provision academies but excluding 16 to 19 academies) and pupil referral units (PRUs).

The normal arrangements and procedures that must follow a decision to exclude on disciplinary grounds are described in the 2017 statutory guidance 'Exclusion from maintained schools, academies and pupil referral units in England'. They are unchanged except as noted below.

Important dates

The arrangements come into force on 1 June 2020 and will apply to all exclusions occurring from then until 24 September 2020 (inclusive of those dates). The arrangements also apply to:

- permanent and fixed term exclusions occurring before 1 June which have not yet been considered by the governing board of the school
- permanent exclusions occurring before 1 June which have been considered by the governing board, if they have chosen not to reinstate the pupil and the time limit to apply for a review of this decision has not passed
- permanent exclusions occurring before 1 June where a parent (or pupil aged 18) has requested a review of a governing board's decision, but this has not yet happened

Any exclusions covered by the arrangements will continue to be subject to them after 24 September 2020, until the procedures for scrutiny of the exclusion have been exhausted.

An exclusion should be taken as having 'occurred' on the first day of the exclusion (not the date when the decision to exclude was made or communicated).

Remote access meetings

When governing boards or independent review panels (IRPs) have to meet to consider an exclusion, they can do so via telephone or video-conference software ('remote access') as long as certain conditions are met.

The conditions are that it is not reasonably practicable for the meeting to take place in person, within the usual timescales, because of coronavirus (COVID-19), and that the governing board (or arranging authority, if the meeting is an IRP) is satisfied that:

- all the participants agree to the use of remote access

- all the participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, if a live video link is used
- all the participants will be able to put across their point of view or fulfil their function
- the meeting can be held fairly and transparently via remote access

It is the responsibility of the school governing board (or the arranging authority in the case of an IRP meeting) to make sure these conditions are met before a meeting takes place.

The governing board or arranging authority should assess the facts of the case, the circumstances in which a meeting in person could be expected to take place, the needs of the intended participants (as far as this is possible), and the latest public health guidance when determining whether it would be reasonably practicable to meet in person.

Arranging a remote access meeting

The governing board or arranging authority should explain the technology they propose to use to participants and should make sure that the participants (particularly pupils and their families) know that they do not have to agree to a meeting to be held via remote access if they do not want to. They should make families aware that if they do not consent to a remote access meeting then the meeting is likely to be delayed.

Though all participants must have agreed to the use of remote access, where a parent or pupil has given their agreement for a meeting to be held via remote access, the other participants should make reasonable efforts to accommodate that preference unless there is a clear reason not to.

The normal requirements for who must be invited to a governing board or IRP meeting remain in place. However, those who have no intention of taking part in the meeting should not be treated as 'participants' for the purposes of the conditions stated above.

Governing boards, arranging authorities and panel members must comply with relevant equalities legislation and recognise that some participants may find it difficult to participate in a remote access meeting (for example, if someone has a disability or if English is not their first language).

If a meeting is held via remote access, every effort should be made by the chair to check the participants understand the proceedings and can engage with them, to ensure the meeting is conducted fairly. If, once the meeting starts, the meeting cannot proceed fairly (for example, because a participant cannot access the meeting), the governing board or IRP should adjourn the meeting.

The use of remote access does not alter other procedural requirements that may apply to governing boards, arranging authorities or IRPs. For example, if a parent requests the appointment of a special educational needs (SEN) expert to advise a review panel, the local authority/academy trust must appoint one and cover the cost as normal. Parents may bring a friend or representative, as normal.

Though governing boards and IRPs must consider written representations if they are made, the law does not allow for solely paper-based 'meetings', conducted in writing.

As long as the conditions for a remote access meeting are met, it is possible for some participants to be present in person and for others to join the meeting via remote access. All the participants must have access to technology which will allow them to hear and be heard by others throughout (and to see and be seen throughout, if a live video link is used).

Timescales for meetings of governing boards

If it has not been reasonably practicable for governing boards to meet in person within the original time limit for a reason related to coronavirus (COVID-19) or remotely for a reason relating to the other conditions for a remote access meeting, the time limit for the meeting will be extended.

The time limit for a governing board meeting will not be extended if it has already passed before 1 June. The government appreciates that it may not have been possible to meet the normal time limits over recent months, due to the disruption caused by the coronavirus (COVID-19) outbreak and the health risks of holding meetings. Governing boards should arrange for overdue meetings to take place via remote access, if the conditions for such a meeting are met, or in person as soon as it is safe and practicable to do so.

If a time limit for a meeting has been extended, the governing board should reassess at regular intervals whether it is reasonably practicable to meet in person and, if it is, should arrange to do so without delay, in light of the need to minimise uncertainty for pupils and their families as far as possible.

Meetings to consider permanent exclusions, and fixed period exclusions resulting in the pupil missing more than 15 school days in a term

If a pupil is permanently excluded or receives a fixed period exclusion which results in them having been excluded for 16 or more school days in a term, then the governing board should try to meet to discuss reinstatement within 15 school days. If it has not been reasonably practicable for the governing board to meet face to face within 15 school days for reasons relating to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting, the limit will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).

Meetings to consider fixed period exclusions resulting in the pupil missing between 6 and 15 school days in a term

If a pupil receives a fixed period exclusion which results in them having been excluded for at least 6 school days in a term but not more than 15 school days in that term, and the parent (or pupil, if aged 18 or above) chooses to make representations about the exclusion, then the governing board should meet to discuss reinstatement within 50 school days. If it has not been reasonably practicable for the governing board to meet face to face within 50 school days for reasons relating to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting, the limit will be extended to 60 days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).

Timescales for application for independent reviews of exclusions

Where a governing board declines to reinstate a pupil who has been permanently excluded, parents (or the excluded pupil, if they are 18 years old or above) can apply for a review of the governing board's decision.

For exclusions covered under these arrangements, the deadline for applications has increased to 25 school days from the date on which notice in writing of the governing board's decision is given to parents, or directly to the pupil if they are 18 or above.

Schools must wait for the extended period of 25 school days to pass without an application having been made before deleting the name of a permanently excluded pupil from their admissions register, in accordance with the Education (Pupil Registration) (England) Regulations 2006 as amended.

Timescales for meetings of independent review panels to consider permanent exclusions

If it has not been reasonably practicable for a review panel to meet in person within the original time limit of 15 school days for reasons related to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the other conditions for a remote access meeting, the timescale for the meeting will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).

The time limit for an IRP meeting will not be extended if it has already passed before 1 June. The government appreciates that it may not have been possible to meet the normal time limits over recent months, due to the disruption caused by the coronavirus (COVID-19) outbreak and the health risks of holding meetings. Arranging authorities should arrange for overdue meetings to take place via remote access, if the conditions for such a meeting are met, or in person as soon as it is safe and practicable to do so.

Date: June 2020

Review September 2020