

Legal duties

The decision to exclude a pupil must be **lawful, reasonable, fair** and **proportionate**

Schools must work within the Equality Act 2010 and have a statutory duty not to discriminate against pupils on the basis of protected characteristics, such as disability or race and should give particular consideration to the fair treatment of pupils from groups who are vulnerable to exclusion.

A decision to exclude a pupil permanently should only be used as a last resort and taken:

- in response to a serious breach or persistent breaches of the school's behaviour policy; **and**
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

The head teacher must, without delay, notify parents and provide them with the following information in writing:

- the reason(s) for the exclusion;
- the fact the exclusion is permanent;
- parents' right to make representations to the governing board;
- how any representations should be made and how the pupil may be involved in this;
- that parents have the right to attend, to be represented (at their own expense) and to bring a friend to support them.

Information provided to parents should be clear and easily understood. Consideration should be given, where practical, when the parents' first language is not English to ensure that the details of the exclusion and their right to make representations to the governing board have been understood.

Further information

For more information you can contact the Local Authority's Education Inclusion Service at:

Phone: 01452 427360

Email: schoolexclusions@gloucestershire.gov.uk

Website: www.gloucestershire.gov.uk/education-and-learning

Government's statutory guidance on exclusions: <https://www.gov.uk/government/publications/school-exclusion>

Where can you find support?

Sources of free, impartial support and information include.

- SENDIASS Gloucestershire (www.sendiassglos.org.uk)
- Coram Children's Legal Centre (www.childrenslegalcentre.com)
- ACE Education (<http://www.ace-ed.org.uk>)
- National Autistic Society (NAS) School Exclusion Service (England) (0808 800 4002 or schoolexclusions@nas.org.uk)
- Independent Parental Special Education Advice (<http://www.ipsea.org.uk>).
- Child Law advice (<https://childlawadvice.org.uk/information-pages/school-exclusion/>)

Permanent Exclusion



Information for Parents and Carers

What happens next?

When a child is permanently excluded, the local authority will arrange suitable full-time education for your child; this will begin no later than the sixth school day of the exclusion.

The school's governing board must meet to consider whether they believe the exclusion should be upheld. This meeting should be within 15 school days of you receiving notice of the permanent exclusion. This meeting is called a Governor Disciplinary Meeting (GDM) and you will be invited to attend and given an opportunity to talk about the exclusion and to share any information you consider to be relevant.

It is unlawful for schools to exclude for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet.

Or for a reason such as: Academic attainment/ability;

- The action of a pupil's parents;
- Failure of a pupil to meet specific conditions before they are reinstated.

It is therefore the duty of the governing board to ensure the permanent exclusion is **lawful, reasonable, fair and proportionate**.

What to expect at a Governor Disciplinary Meeting (GDM)

You and your child will be allowed to bring a friend and/or representative to support you in this meeting. The following people will also be attending; head teacher, other appropriate school staff like the Special Educational Needs Coordinator (SENCO), clerk to governors and a Local Authority representative.

The Governing panel will usually be made up of 3 Governors and is legally required to consider the reinstatement of an excluded pupil. They should:

- Try to arrange the meeting for a date and time that is convenient to everyone;
- Not discuss the exclusion outside the meeting;
- Ask for any written evidence in advance of the meeting;
- Circulate any written evidence to all parties at least five school days in advance of the meeting;

- Make reasonable adjustments to support the attendance and contribution of parties at the meeting;
- Encourage the excluded pupil to attend the meeting and speak on their own behalf whilst taking into account the pupil's age and understanding.

When establishing the facts, in relation to an exclusion, the governing board must apply the civil standard of proof; i.e. 'on the balance of probabilities' (it is more likely than not that a fact is true).

The meeting will follow a fixed agenda which gives everyone allocated time to contribute their information.

Representations you can make

It is important you feel comfortable to give your input into the GDM. Information you might want to include:

- Why you agree/disagree with the decision to exclude.
- What impact the exclusion will have.
- What the school has done that has helped.
- What more you feel the school could have done.
- Any needs or contributing factors you feel were unaddressed or need consideration.
- Any concerns or queries you have.

It is important that your child also feels they can give their views if they wish to. They could include:

- What happened and why they think it did happen.
- What could be different if they are allowed back to school.

Reaching a decision

After hearing all the information, the governing board will ask everyone, except the Clerk, to leave the room and they will deliberate and come to their decision. They can only make one of two decisions:

• To uphold the head teacher's decision

This means the exclusion is confirmed and your child will not be returning to the school.

If the head teacher's decision is upheld by the school governors, you have a right to ask for the decision to be reviewed by an independent review panel. You will be given details about this in the governors' letter informing you of their decision following a permanent exclusion

• To overturn the head teacher's decision

This means your child is not excluded from the school and will be returning at a date, agreed by all parties, to be best for the child.

When communicating their decision to you, the governing board must set out their reasons in sufficient detail and explain why the decision was made.

What should the school have done?

Disruptive behaviour can be an indication of unmet needs.

Where a school has had concerns about your child's behaviour, they should have tried to identify whether there are any causal factors and tried to intervene early.

In this situation, schools should have considered whether a multi-agency assessment that went beyond your child's educational needs was required. Such assessments may pick up unidentified special education need (SEN) but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems. Support should have been explored using the Gloucestershire's graduated pathway.

The head teacher should have taken into account any contributing factors that were identified after the incident of poor behaviour occurred. For example, where it comes to light that your child has suffered a bereavement, has mental health issues or has been subject to bullying.

Additional Needs

Schools should have engaged proactively with you in supporting the behaviour of your child with additional needs.

Where a school has had concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with an Education Health Care Plan (EHC plan) or a looked after child, it should have, in partnership with others (including the local authority as necessary), considered what additional support or alternative placement may be required. This should have involved assessing the suitability of provision for your child's SEN.

Where your child has an EHC plan, the school should have considered requesting an early annual review or interim/emergency review.