



Suspensions and Exclusions

-understanding the role of governors

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Aims of this session:



to explore the role of school governance in relation to pupil suspensions and exclusions;



to clarify the latest DfE guidance on Suspensions and Exclusions:



to focus how governors' rigour when considering exclusions, avoids unfavourable Independent Review Panel outcomes

Key roles for governance in Exclusions:

- knowing that *only* the headteacher can suspend or exclude a pupil;
- duty to arrange education for excluded pupils;
- consider exclusions (usually via a panel);
- understand the role of the clerk;
- be aware of Independent Review Panels;
- monitor suspensions and exclusions.

DfE Guidance (current):



Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement

Guidance for maintained schools, academies, and pupil referral units in England

September 2022

- *Fixed Term Exclusions* now replaced by the term '*suspensions*'
- guidance to be viewed as '*companion piece*' to DfE '*Behaviour in Schools*'
- no longer statutory but provides statutory guidance to which we *must* have regard!

DfE Guidance from September 2023



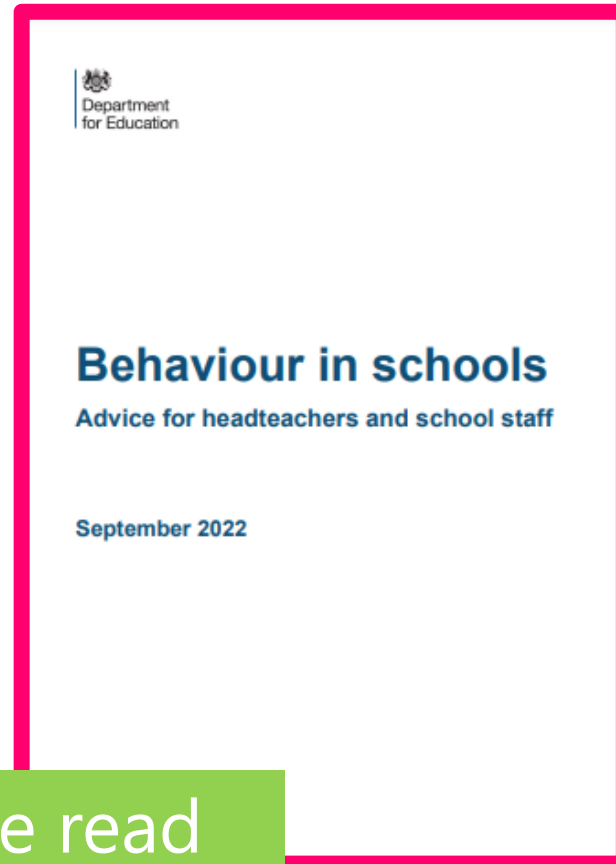
Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement

Guidance for maintained schools, academies, and pupil referral units in England

May 2023

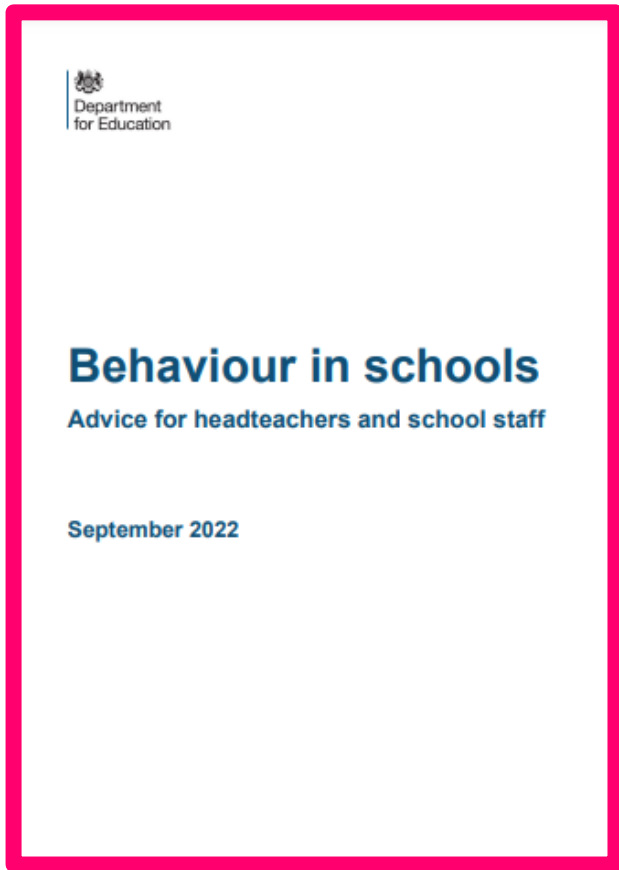
- Published May 2023
- Effective September 2023
- Exclusion and suspensions this term are subject to the 2022 guidance
- Minor changes reflect updates to legislation

DfE Guidance:



Must be read in conjunction with the other

Key points on Behaviour:



- Governors are part of the audience:
- Advice not statutory – but...
- *Acceptable* forms of sanction
- Section on pupils with SEND
- Expectation of monitoring of behaviour trends and emphasis on prevention
- Governors should have regard to this guidance

Back to suspensions and behaviour:



Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement

Guidance for maintained schools, academies, and pupil referral units in England

September 2022

- Ambition to create high standards of behaviour so that pupils are protected from disruption and can learn and thrive in a calm, safe and supportive environment.
- Continue to use suspensions and permanent exclusions appropriately;
- Permanent exclusions remain a last resort.



**GOVERNORS
FOR SCHOOLS**

The road to suspension and exclusion

Sanctions

Ranging from a verbal reprimand and reminder of expectations , to being placed 'on report'

Suspension

Permanent Exclusion

Key changes in the 2022 Guidance:

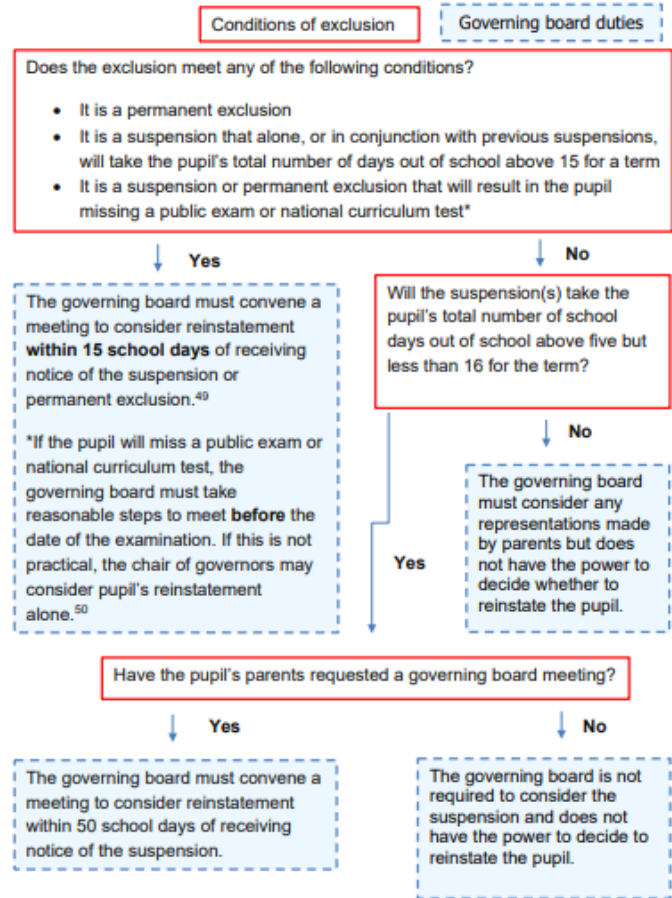
- Headteachers can cancel an exclusion that has not been reviewed by governors;
- pupil's social worker and/or Virtual School must be notified where relevant of suspensions or exclusion;
- LA must be notified without delay of all suspensions and exclusions;
- guidance on off-site direction;
- guidance for GBs on data review.

The Headteacher's role:

- *only* the Headteacher/Acting Headteacher, may suspend/exclude;
- permanent exclusions should be the *very last resort – consider all alternatives*
- exclusions must be lawful, reasonable and fair and based on civil standard of proof;
- Suspensions and exclusions must be for disciplinary reasons – *not* because pupil is not considered mainstream appropriate

Consideration by Governors (panel):

A summary of the governing board's duties to review the headteacher's exclusion decision



- must consider if parents make representation
- suspensions (cumulative) above 15 days;
- All (permanent) exclusions

DfE Expectations of governance:

Section 3: Expectations of academy trust boards and governing bodies of maintained schools

51. Improving attendance requires constant focus, and effective whole school approaches require regular ongoing support, guidance, and challenge. We therefore expect all trusts and governing bodies to:

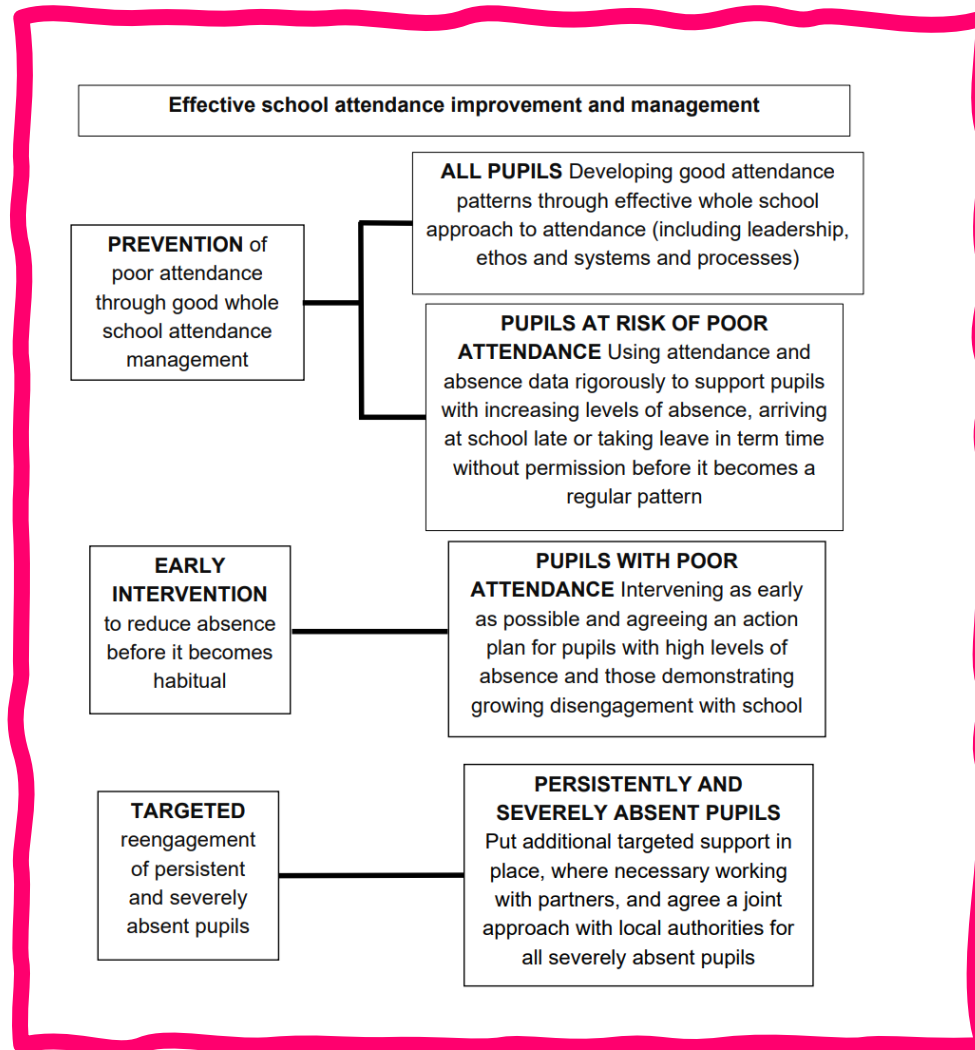
- Recognise the importance of school attendance and promote it across the school's ethos and policies.
- Ensure school leaders fulfil expectations and statutory duties.
- Regularly review attendance data, discuss, and challenge trends, and help school leaders focus improvement efforts on the individual pupils or cohorts who need it most.
- Ensure school staff receive adequate training on attendance.

52. Multi-academy trust boards and governing bodies of federations are also expected to:

- Share effective practice on attendance management and improvement across schools.

53. Whilst it is expected that all trusts and governing bodies will provide support covering these areas, the approach to delivering it should be proportionate to the size of the group of schools and type of school(s) within it.

DfE Expectations of schools:



Governors' Panel Hearing (2):

Governors must meet to consider the suspension/exclusion *within* 15 school days for exclusions that:

- total more than 15 days;
- are *permanent*;
- result in missing public examination or National Curriculum test.

Governors' Panel Hearing:

- may delegate to a sub-committee of governors to consider exclusion decisions;
- representations may be made by parent, pupil, Headteacher or LA with academy consent;
- may select three (or five) as the need arises (three is a quorum);
- must appoint a clerk;
- governors' role is to review the Head's decision.

Meeting procedures / agenda

- The school presents their case
- The parents present their case
- The LA makes representations where appropriate (Academies do not have to have LA presence)
- After each presentation, the other parties and governors may raise questions
- Each party sums up – parent last

Principles of natural justice:

- All hearings must be conducted fairly and according to the law and guidance
- Everyone should have a chance to put their case and challenge the other party's case
- No party to the case should be alone with the governors - includes HT!
- All parties should withdraw before GB make a decision
- Clear notes should be taken of the meeting as a record of evidence considered by the GB

The panel's decision:

- Governors review the Head's decision
- A decision to exclude permanently should only be taken:
 - In response to serious breaches of the school's behaviour policy
 - If allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others
 - As a last resort

The panel's decision (2):

Standard of Proof:

- Civil standard
- 'On the balance of probabilities' it is more likely than not that a fact is true
- The test is that the governors believe that it is more likely than not that a particular event occurred

The Panel's decision (3):

Must reflect the responses to:

- Did the school act in accordance with the DfE 2022 guidance and its own policies?
- Did the Head teacher consider the appropriate factors before suspension/ exclusion?
- If the pupil has a disability/ has a statement of special educational needs/is a looked-after-pupil, has the guidance been followed?

Pupils with Special Needs:

- The headteacher should, as far as possible, avoid permanently excluding any pupil with SEN or a looked after child
- Governing bodies have a statutory duty to do their best to ensure that the necessary provision is made for any pupil who has SEN

Have the pupil's needs been met?

The decision:

Following their consideration of all the facts the governing body can either:-

- **Uphold** a suspension/exclusion; or
- **Direct reinstatement** of the pupil immediately or on a particular date

Where not reinstating, the GB must consider whether the decision to exclude was justified based on the evidence that they have seen.

Tests the panel must apply:

- **Illegality** – outside scope of legal powers
- **Procedural impropriety** – so unfair/flawed that justice was clearly not done
- **Irrationality** – so unreasonable that it was not one a sensible person could have made

Independent Review Panel:

- *NOT* an Appeal Panel
- Purpose has changed – *to review the decision of a GB*, not to reinstate
- Constitution of volunteer members:
 - Lay member (chair)
 - School governor (or 5 years retired)
 - Head teacher (or 5 years retired)

Any Questions?



Further information:

- DfE – Suspensions and Exclusions Guidance (both years)
<https://www.gov.uk/government/publications/school-exclusion>

Thank you

