

## About suspension and permanent exclusion

Suspension and permanent exclusion are behaviour management tools. They are formal, legal sanctions which prevent a child from being in school either temporarily or permanently. Children and young people with special educational needs are more likely to be suspended or permanently excluded than children without SEND.

When a school suspends or excludes a child, they must follow specific processes in order for it to be legal. On these pages you can find information about what these processes are, and what you, and your child, need to do if they are suspended or permanently excluded.

Devon has an education inclusion service. It's an impartial service for parents and carers, professionals and governors. They can give advice and support about inclusion, reintegration and exclusion. The Department for Education has a guide for parents and carers about suspension and exclusion.

You can find details for these at the end of the factsheet.

### What are suspension and permanent exclusion?

Suspension and permanent exclusion are behaviour management tools.

**Suspension** is a fixed period of time when a child is not allowed in school and instead must stay at home. **Permanent exclusion** is when a child is permanently stopped from going to a specific school.

Suspension has, until recently, been called **fixed term exclusion**. It's still the term used in law, and you may still hear professionals use that term. You might also hear permanent exclusion being called expulsion or being expelled.

Schools can use suspension and exclusion as a sanction when a child's behaviour is sufficiently serious or dangerous. A sanction is a penalty for breaking the rules. The aim is to make sure that that other pupils and teaching staff are protected from the disruption caused by serious behaviour and can learn in a safe and calm environment. There are some examples of what might be considered 'serious' behaviour in the section about 'when can my child be suspended or excluded' below.

Suspension and permanent exclusion are formal, legal sanctions. They can be used for repeated incidents of the same type, when the rules in the behaviour policy are broken or behaviour is regularly disruptive. Or they can be used for more serious "one off" incidents. The Department for Education states that the most common reason for a child to be suspended or excluded is for 'persistent disruptive behaviour'. In their guidance for parents, the Department for Education says that suspension or permanent exclusion is sometimes needed as 'a last resort'.

Your child or young person is not allowed in school if they have been suspended or excluded. They must also stay at home during the first five days of a suspension or permanent exclusion. That means they're not allowed to be out in a public place during school hours.

Children and young people who have been suspended or excluded should still have an education. That might mean having schoolwork set and then marked while they are out of school. In the longer term that might also mean

different types of educational support and work. You can find out more about that on our website or in our factsheets about suspension and permanent exclusion.

## What is the law about suspension and permanent exclusion?

The main law about exclusion comes from the Education Act 2011, which is an update of the Education Act 2002. These set out

- a headteacher's right to exclude a child
- the information that must be given when a child is suspended or excluded
- the law about independent review panels (IRP)

You can find out more about the Independent Review Panel on our page about permanent exclusions.

The Department for Education has written legal guidance for headteachers, local authorities, governing bodies and review panel members. It sets out the legal responsibilities for those who suspend and permanently exclude pupils from schools and other educational settings.

The guidance covers the following main areas:

- a headteacher's power to suspend or exclude
- things to consider when making the decision to suspend or exclude a child
- the headteacher's duty to inform children, parents and others about a suspension or exclusion
- the duties of a school's governing body
- the duties of the local authority

There is other legal guidance about behaviour in schools, which helps staff and governors develop their behaviour policy. It includes guidance about the use of sanctions and rewards.

If you want to find out more about the law and how it applies to suspension and permanent exclusion, you can contact:

- IPSEA
- Child Law Advice website.

## Can my child be suspended or excluded from college or from a special school?

The answer is yes, but the rules are different. The law about suspensions and exclusions, and the legal guidance, only relates to children and young people who are at a **maintained mainstream or special school**, an **academy** or a **pupil referral unit**. It also applies to sixth forms in schools.

The law and legal guidance **do not apply** to

- non-maintained special schools
- sixth form colleges or Further Education (FE) colleges
- schools approved under section 41 of the Children & Families Act 2014
- independent schools and colleges

These types of schools and colleges will have their own behaviour and exclusion policies, which they will apply. Ask to see these policies and make sure you're clear about what's in them and what it might mean for your child.

## Is being suspended or excluded the same as being removed from the classroom or an internal exclusion?

No, they're different things.

Some schools use internal suspension/exclusion or 'reset' as a behaviour management tool. This is when a child who is persistently being disruptive is sent out of class to a specific room or area within the school. Once there, they will spend time working quietly or getting support. When they're able to, or when the isolation period ends, they go back to their classes.

It's not the same as suspension or exclusion where a child leaves the school for a period of time or permanently. But, just like any other disciplinary measure school staff take, the use of internal exclusion must be proportionate, reasonable, lawful and fair.

Your child or young person should be internally excluded for no longer than is necessary and their health, safety and welfare must always be put first.

## When can a child be suspended or excluded?

The circumstances when a child or young person can be suspended or excluded are set out in the school's behaviour policy. Every school must have one. It must set out the school rules around behaviour and what is expected of pupils. It must also set out what the consequences will be if rules are broken, including when suspension or exclusion might be used.

You should be able to find a copy of every school's behaviour policy on their website. If you can't find one there, contact the school directly and ask them to send you a copy.

Suspensions and exclusions can only be given for disciplinary reasons. A child can't be suspended or excluded because

- of something their parents did or didn't do
- they have special educational needs or a disability and the school can't meet their needs
- they're not achieving well enough academically
- they haven't met certain conditions after a previous suspension

Most often, suspension and exclusion are given for things that happen in school. Sometimes though, a child or young person can be suspended or excluded for behaviour outside school.

The Department for Education guidance on suspensions and exclusion lists some of the kinds of incidents that might lead to suspension or permanent exclusion. It includes things like

- physical assault against another child or a member of staff
- verbal abuse or threatening behaviour towards another child or a member of staff
- using, or threatening to use, an offensive weapon
- bullying
- racist abuse
- abuse against sexual orientation or gender reassignment or relating to a disability

Only a head teacher (or their deputy in some circumstances) can make the decision to suspend or exclude a child. The decision must be:

- lawful
- rational
- reasonable
- fair
- proportionate – in proportion to the behaviour it's related to

## How should the decision be made?

Deciding to suspend or exclude a child, or not, is something only a headteacher can do. Sometimes this could be someone who is temporarily acting as the headteacher. An acting headteacher is someone who carries out the functions of the headteacher when they're not there, or when there is not a head teacher in post.

These are the things that should be considered when the decision is being made.

- **Any contributing factors.** This means anything else that has happened in the child's life, or when the behaviour happened, which might have affected the way they acted. This might be something like a family bereavement, traumatic event, bullying or mental health difficulties.
- **What the child or young person has to say** about what happened. If they're not able to do it themselves, you can support your child to talk about what happened. Or someone else can do that, such as their teaching assistant.
- **When exploring the facts about what happened, the headteacher should think about whether something is likely to be true or not.** This is called on the 'balance of probabilities' and is about deciding whether it is more likely than not that something is true.
- **Whether the right SEN support was in place.** The Equality Act 2010 says that schools must make reasonable adjustments for disabled pupils. This also applies to the process used to decide whether to suspend or exclude a child, and the sanctions chosen. Schools must make sure that special educational support is in place for a child with SEND. That includes support to help them manage

behaviour which happens because of their special education needs.

- **Whether it's the most appropriate sanction or course of action for that child.** There are many alternative ways of responding to challenging behaviour and a headteacher should consider whether something different may work in a better way. For example, some children would find restorative approaches and conversations harder to deal with than a day's suspension and may learn more from it in the long run.
- **Whether suspension or exclusion is going to be an effective sanction.** For example, if your child has had a few suspensions over a school year and their behaviour hasn't changed, a head teacher should think about whether another suspension would be effective. The headteacher could opt to use off-site direction instead, for example. You can find out more about that on our web page about being at risk of suspension and exclusion.



### What is an informal suspension and what can I do about it?

If your child or young person is suspended, even for a short period of time, it must be formally recorded in writing by the headteacher. The letter sent to you should include the reasons why your child has been suspended. It must also follow the terms of the legal guidance.

'Informal' or 'unofficial' exclusions are unlawful. This could be when your child is sent home to cool off, or when you're asked to come and get them and take them home because of their behaviour. This is unlawful whether you agree to it or not.

If you think your child has been informally excluded, talk to the headteacher in the first instance. If this doesn't resolve the issue, your next step would be to make a formal complaint.

be serious. That's why it's so important to try and prevent it from happening. You can find out what you can do and how the school can support your child if they are at risk of suspension, or when they have had their first suspension. There is information on our website or contact us for a factsheet.

In the short-term, children and young people can

- feel isolated and lose confidence and self-esteem
- be worried about their future
- struggle to manage the uncertainty and change
- feel that problems at home are worse
- have difficulties with friendships and people in their community
- feel powerless and unheard
- lose time in school, which can affect their progress and learning

In the long-term, the impact of a permanent exclusion on a young person can be significant. It can affect a child academically and socially as well as having an impact on their behaviour, health and future job prospects.

### Need more information?

#### Department for Education

Guidance about Suspension and Exclusion  
[www.gov.uk/government/publications/school-exclusion](http://www.gov.uk/government/publications/school-exclusion)

#### IPSEA (Independent Provider of Special Education Advice)

Information about exclusions  
[www.ipsea.org.uk/pages/category/exclusion-from-school](http://www.ipsea.org.uk/pages/category/exclusion-from-school)

#### Child Law Advice

[childlawadvice.org.uk/school-exclusions-hub/](http://childlawadvice.org.uk/school-exclusions-hub/)

#### Devon Education Inclusion Service

[www.devon.gov.uk/educationandfamilies/school-information/education-inclusion-service/](http://www.devon.gov.uk/educationandfamilies/school-information/education-inclusion-service/)

### What impact can suspension and exclusion have on a child or young person?

School exclusion has long and short-term consequences for children and young people, and some of those can

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