

Suspension (fixed term exclusion)

When your child is suspended for the first time, it can come as quite a shock. Many parents, carers and children, find it stressful, difficult and upsetting. This can be especially true if you have a child with special educational needs. Sometimes it can be hard to unpick how much your child's needs are affecting their behaviour at school and whether that may have led to the suspension. You may also be wondering whether the type and amount of support they get is a factor too.

It can be hard to think of suspension as a positive thing. But it can be a wake-up call for those involved, telling everyone something is not right. It can be a good opportunity to look at your child's support and needs, and how they're managing in school. Most importantly it's also a time to ask about, and listen to, what your child is saying about their day-to-day school life.

There are legal procedures that schools must follow when a child is suspended. This information sets out what those are and what should happen to your child before, during and after a suspension. There is also information about what to do if your child is being suspended often and how to go about challenging the decision to suspend.

What is a suspension?

A suspension is when a child or young person is temporarily not allowed to be at school.

Suspensions used to be called **fixed term exclusions**, and you might still hear them called that. It's a formal process and the school must follow certain rules for the suspension to be legal.

Suspension is used by schools as a way of managing behaviour. As such, there should be information about how it's used in every school's behaviour policy.

The Department for Education (DfE) guidance on suspension and exclusions says:

"A suspension may be used to provide a clear signal of what is unacceptable behaviour as part of the school's behaviour policy and show a pupil that their current behaviour is putting them at risk of permanent exclusion".

The DfE also states that suspension can "sometimes be necessary as a last resort".

A child or young person can be suspended for one or more fixed periods of time, such as a day. This can go up to a maximum of 45 days in a school (academic) year. This maximum amount applies even if your child has changed school part way through the year. If your child reaches 45 days of suspension in a school year, the school cannot give any more suspensions. They can only give a permanent exclusion.

Suspensions do not have to be for a continuous period of time. They can also be for periods of time shorter than a day, so, for example, a child can be excluded for a half day. A suspension can start straight away on the day the behaviour happened, or on another school day.

What is the law about suspension?

For a suspension to be lawful it must be reasonable, proportionate and fair. Any decision to suspend a child should be made in an individual, case-by-case way.

These are the main things that the legal guidance says about suspensions:

- Only a head teacher, or someone who is deputising for them, can take the final decision to suspend your child.
- A child can only be suspended for a disciplinary reason. A child cannot be suspended for any other reason.
- The headteacher should take account of any contributing factors that might have led to the behaviour, such as home circumstances, anxiety or bullying. The headteacher should also talk to your child to get their views about what happened and anything that led up to an incident.
- Your child can be suspended for something that happens outside school as well as in school. The school's behaviour policy will set out when this might apply, but it could be behaviour when a child is on a school trip, travelling to and from school or behaviour that poses a risk to another child or member of the public.
- When they're exploring the facts about what happened, the headteacher must decide 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.
- For the first five school days of a suspension, it's your responsibility to make sure your child stays at home. They cannot be in a public place during normal school hours unless there is a good reason – for example, if they're going to a doctor's appointment. This applies to children of compulsory school age (between 5 and 16).
- Work should be set and marked for your child during the first five school days of their suspension.
- School staff cannot extend a suspension to add more time or convert a suspension into a permanent exclusion. A suspension has to formally end before the next sanction starts.

You can find out more about the law and suspensions on the Child Law website, the IPSEA website or in the Department for Education guidance.

Can a child with special educational needs or a disability be suspended?

Children and young people with SEND can be suspended. However, suspensions should not be used

to manage a child's special educational needs or because their needs cannot be met in school.

Schools do have a legal duty not to discriminate against a child by suspending them from school because of their disability. You can find out more about the definition of disability on our New to SEND? web page.

Reasonable adjustments may need to be made. In other words, if a child's behaviour is a direct result of their disability, and appropriate support wasn't in place and given, suspending them may be discriminatory. The law that includes this duty is the Equality Act 2010. If you think that this may have happened, and want to discuss it, contact us for advice.

It's not always the case that a child's SEND is a factor in their behaviour. But school staff should think about whether your child's special educational needs contributed to the breaking of the school rules. If they think that's the case, they should consider whether it is right and lawful to suspend them.

Schools must also make sure they do not discriminate against disabled children and young people by increasing their risk of suspension more than other pupils, without a good reason.



The Department for Education Behaviour in Schools Guidance, says:

“Schools should consider whether a pupil's SEND has contributed to the misbehaviour and if so, whether it is appropriate and lawful to sanction the pupil. In considering this, schools should refer to the Equality Act 2010 and schools' guidance.”

“The school should also consider whether any reasonable adjustments need to be made to the sanction in response to any disability the pupil may have. It is also important for the schools to seek to try and understand the underlying causes of behaviour and whether additional support is needed.”

How is a suspension given?

The following things should happen when your child is suspended.

- The headteacher (or their deputy) must tell you why your child has been suspended and for how long. This should be done straightaway.
- Then the headteacher must also write to you, by email or letter, to explain what you can do if you disagree with the suspension. You have a right to say why you object to the suspension and give your views. You should also be given details about information, advice and support services to contact for help, such as DiAS.
- If your child would be missing an exam or SATS test during their suspension, or if they're suspended for more than 5 days, the headteacher must also tell the school governors.
- The headteacher must tell the local authority about the suspension. If your child has a social worker, they must be told as well. Information is also shared with the virtual school for all children in care who are given a suspension.

What happens about my child's education while they are suspended?

While your child is suspended, they should still get their education. The headteacher should make sure work is set and marked for them during the first five school days of a suspension. This can include using online learning.

If your child is suspended for longer than five school days, the school must arrange suitable full-time education to start from the sixth school day of the suspension. This is for children who are between 5 and 16 years old (compulsory school age).

For children with SEND, the school's legal duties stay in place during a suspension. That could mean giving extra or different support to help your child do the work they have been set. This is worth remembering, as children with SEND often need learning support and may find it difficult to get work done at home without it.

If your child is due to sit an exam or national test, such as a GCSE or SATs test, during the time they have been

suspended, the schools governing board should consider whether to allow them into school to sit it. They can also consider whether your child could do the exam or test some other way than being in school.

Going back to school after a suspension

Before, or at the start of, your child's return to school there should be a **reintegration meeting**. This is where you, your child and one or more members of school staff get together. If you cannot be at the meeting, it shouldn't stop your child returning to school.

The aim of the reintegration meeting is to plan how to give your child the best chance for a successful return to school. At the meeting there should also be a plan to help prevent further behaviour difficulties or suspensions. The plan should be realistic and based on what your child is able to manage.

At the heart of any reintegration plan and meeting should be a clear message to your child that this is a fresh start. That means that the professionals should say and show that your child is valued. It should also be clear that what's happened in the past will not get in the way of them succeeding in the future. The meeting is also an opportunity to explore with your child the impact of their behaviour on themselves and others. Talking to your child about whether there was anything that could have stopped the incident from happening can be helpful too.

If you haven't been offered a meeting, ask for one. You might also need to ask for a separate meeting to look at your child's school plan and to talk about the support they have in school, and whether it's right or enough.

You can find out more about reintegration meetings in our top tips information sheet.

Is there anything else that should happen while my child is suspended, or when they go back to school?

To help your child have the best chance of going back into school successfully, school staff may put other support in place. That could include:

- staff members keeping in regular contact with your child during their suspension and welcoming them back to school.
- some support from staff from the pastoral team, such as a daily check in or support with learning
- spending time with a mentor during and after the suspension
- support to catch up with work they have missed
- using a report card to encourage positive behaviour and acknowledge their progress

Can a suspension be cancelled?

The headteacher can cancel any suspension that has already started or one that has not yet begun. This can only happen if the governing board hasn't already met to talk about whether your child should be reinstated.

If the suspension is cancelled, the headteacher must tell you straightaway. You and your child should be offered the chance to meet with the headteacher to talk about the circumstances that led to the suspension.

What if I don't agree with the suspension?

If you disagree with the suspension, you have the right to challenge the decision.

This is called making a '**representation**' and you must do that in writing. Information about how to do this, and who to send it to, should be in the letter from the headteacher about the suspension. The legal charity IPSEA also has some advice about what to put in the letter and how to write it.

Letters of representation are sent to the governing body for the school. What happens then depends on how many days of suspension your child has had in a term, and whether they're about to sit a public exam or SATs test.

The governing board must decide whether to reinstate your child within **15 school days** of being told about it, if:

- it's a suspension which would bring your child's total number of days out of school to more than 15 in a term
- it would mean your child misses a public exam (such as a GCSE) or a SATs test

If your child has had between 5 and 15 days of suspension in a term, what happens is slightly different. If you make representations, the governing board must decide within 50 school days whether your child should be reinstated.

You can find out more about challenging the decision to suspend your child on the IPSEA website or in the Department for Education Guidance.

What can I do if my child is getting lots of suspensions?

If your child is getting suspended again and again, the school staff should be thinking about whether this is the right approach and whether it's working. They should be looking at alternatives and reviewing the support your child has.

The Department for Education guidance about suspensions and exclusions says:

"Where suspensions are becoming a regular occurrence for a pupil, headteachers and schools should consider whether suspension alone is an effective sanction for the pupil and whether additional strategies need to be put in place to address behaviour."

For children with SEND, that may mean looking at the support already in place, considering whether they need to be assessed and getting advice and support from professionals outside of school. There are other alternatives, such as off-site direction and managed moves. You can find out more about these on our webpage about being at risk of suspension or exclusion. If your child has an EHC plan, you could ask for an early review of the plan to get together with professionals and discuss and review the support your child is getting.

If you're worried that your child is starting to struggle in school and is at risk of being permanently excluded, ask for a meeting with the SENCO. Don't ignore it or put it off. The sooner you start conversations and work together support your child the better, and the greater your chance of preventing permanent exclusion.

Need more information?

SEND Code of Practice

Department for Education guidance on the special educational needs and disability system
www.gov.uk/government/publications/send-code-of-practice-0-to-25

IPSEA

SEND law charity
www.ipsea.org.uk

Child Law Advice

childlawadvice.org.uk

Department for Education Guidance on suspensions and exclusions

www.gov.uk/government/publications/school-exclusion



DiAS information that may be helpful.

These resources are on our website or available as a document by contacting us.

- Top tips for a successful reintegration meeting
- About suspension and permanent exclusion
- At risk of suspension or permanent exclusion
- Managing difficult conversations
- Getting the most out of meetings

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Published: November 2024

Due for review: November 2026