

Appendix 4



Tibshelf Community School

The Governors' Role in Exclusions

Status	Date	CHAIR OF COMMITTEE	Minute No:
Approved by Full Governors	21 March 2018	Justin Hawley	FG/03/18/06

Review Period: 1 Year



Appendices

Appendix 5	DfE Exclusions from Maintain Schools – September 2017
Appendix 6	Fair Access Protocol for Secondary School Pupils
Appendix 7	Blank Copy of the Headteacher's Report
Appendix 8	Flow Chart – Reviewing the Headteacher's Exclusion Decision

Introduction

Most governors do not take on the role hoping or expecting to be involved in pupil exclusions but it is something that they may be called upon to do at times, and it is very important that their involvement is handled correctly.

Governing boards have a statutory obligation to have regard to the current statutory guidance when making decisions on exclusions and administering the exclusion process.

The full current guidance from the Department for Education is attached at Appendix 5 (Exclusions from Maintained Schools September 2017).

Derbyshire County Council has a Fair Access Protocol to ensure that access to education is secured quickly for children who have no school place but for whom a place at a mainstream school is deemed appropriate, and to ensure that all schools in an area admit their fair share of children with challenging behaviour, including children excluded from other schools. The Fair Access Protocol for Secondary School Pupils is attached as Appendix 6.

The governors' role around pupil behaviour is to formally approve the Behaviour Policy and the framework within which the school should operate.

Governors should not be involved in discussions around the behaviour of individual pupils or in direct contact with individual pupils in connection with their behaviour.

Not only is such involvement inappropriate in the context of governors fulfilling their strategic role within the school and allowing the Headteacher to manage the day to day activity, it compromises the governors' ability to deal with their statutory role to review the Headteacher's decision around exclusions.

If governors have been involved in a direct intervention with a pupil they cannot be called upon to review a fixed or permanent exclusion for the same pupil. Good practice guidance states that 'if any governor has a connection with the pupil or knowledge of the incident that led to the exclusion which could affect his or her ability to act impartially, he or she should step down.'

Timeframes

The DfE's exclusion guidance clarifies that 'academic year' means a school's academic year beginning with the first day of school after 31 July and ending with the first day of school after the following 31 July.

The guidance states that: "The governing board must consider the reinstatement of an excluded pupil within 15 school days of receiving notice of the exclusion if:

- The exclusion is permanent;
- It is a fixed-period exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term; or
- It would result in a pupil missing a public examination or national curriculum test."

Where an exclusion coincides with an examination, the governing board should, "as far as is reasonably practicable," consider the pupil's reinstatement before the date of the exam.

If a pupil would be excluded from school for between 5 and 15 school days in a single term, and the parents have requested a reinstatement, the governing board must consider reinstatement within 50 school days of the notice of the exclusion.

If a pupil is excluded for a period exceeding a total of five consecutive days, by way of a fixed term exclusion or more than one fixed-term exclusion, then the governing board has a duty to ensure education is arranged for the pupil from the sixth day of the period of exclusion.

For fixed-term exclusions where a pupil would be excluded for more than five days but less than 15 days in a term, if the parents make representations, the governing board must consider whether the pupil should be reinstated within 50 school days of receiving the notice of exclusion. If no representation is made by the parents, the governing board is not required to meet and cannot direct the reinstatement of the pupil.

If the pupil has already returned to school following a fixed-period exclusion, or their parents have made it clear they do not want their child reinstated, then the governing board must still consider if the pupil should be officially reinstated.

Consideration meeting

In a maintained school, the governing board may appoint a sub-committee to take on the responsibility of carrying out considerations of exclusions.

A maintained school's committee must be made up of at least three governors, all of which have not had any previous dealings with the pupil facing exclusion. Provided that this criterion is satisfied, the governing board may choose for the same three individuals to take on the function permanently; however, this is not a statutory requirement.

The governing board must invite the pupil's parents and, if requested by them, a representative or friend, the headteacher and a representative from the LA to make representations at the consideration meeting.

The governing board should identify how they will ensure the excluded pupil attends the meeting and encourage them to speak; governors should take into account the pupil's age and understanding when providing this opportunity. If the pupil is unable to attend, then the governing board should consider alternative ways for the pupil to share their views with the committee.

If the committee wishes to request the attendance of a witness who is under 18-years-old, parental consent should be sought and the parents invited to accompany their child to the meeting.

Fixed-term exclusion not exceeding five days

In the case of a fixed-term exclusion which does not exceed five days in a single term, the committee will review information regarding the exclusion and consider representations from the pupil's parents; however, they cannot direct reinstatement of the pupil and are not required to arrange a meeting with their parents. They must only seek to understand whether the proper processes have been followed and that the headteacher's decision to exclude is legal within the parameters of DfE guidance.

Outcomes

After considering the reinstatement of a pupil following permanent exclusion or a fixed-term exclusion exceeding five days in a single term, the committee can either:

- Decline to reinstate the pupil.
- Direct immediate reinstatement of the pupil.
- Direct reinstatement on a particular date, for example provided that the pupil meets certain conditions, e.g. complete a behaviour management course.

If the pupil's parents disagree with the outcome of the meeting, they have the right to request for the LA to arrange an independent review of the governing board's decision.

If a fixed-term exclusion exceeding five days is upheld, the governing board must ensure that suitable full-time education for the pupil is sourced and begins no later than six days into the exclusion. The actual arrangement of the alternative provision may be delegated by the governing board, but they must be provided with assurances that this has been done.

If a permanent exclusion is upheld, the LA must arrange suitable full-time education for the pupil beginning no later than six days into the exclusion.

Preparing for the meeting

Governors on the exclusion committee must be provided with accurate information, at least five school days ahead of the meeting, to allow them sufficient time to prepare.

Parents should also be provided with the same information, at least five school days ahead of the meeting.

The information that should be provided via the Headteacher's Report is attached as Appendix 7.

If the governing board chooses to have a permanent exclusion committee with the same three governors every time, the committee may be presented with copies of the Behavioural Policy at the beginning of each school year and then updated copies following any review or changes.

If information or evidence is submitted after this report has been distributed, it must be agreed, prior to or at the meeting, by the committee, in order for it to be submitted and used as evidence in the consideration.

Prior to the meeting, the committee should decide who will chair the meeting and ensure that everyone has a clear understanding of the processes in the exclusions guidance. Going into the meeting, the committee should ensure that everyone is able to make representations, to make their case and to have the opportunity to question each other's case.

In making their decision, the governing board must consider the circumstances and interests of the excluded pupil, the circumstances of their exclusion, as well as the interests of other pupils and people working in the school.

Chairing a meeting

Emotions are often running high when a pupil is facing exclusion and it can be a difficult and challenging time for the pupil and their family; so, it is important that the chair of the panel is skilled and equipped to deal with sensitive and complex situations.

To avoid the escalation of any difficult situations, it is important that the committee is **impartial** and that this is successfully communicated to parents; otherwise, parents may feel that the committee is unfairly biased towards the headteacher's decision. It is imperative to ensure all communications with parents emphasise that no decision has been made prior to the meeting, and that everyone's representations will be heard and considered before any decision is made.

It is the chair's responsibility to create a non-judgemental atmosphere; this can be achieved by ensuring the committee remains professional and sensitive at all times and by setting the tone in any previous communications with the involved parties.

The chair of the committee should ensure that the venue is set out in a way that is conducive to the potentially tense and sensitive atmosphere, and should make all parties feel safe and secure. When arranging the venue, consider:

- Is the room set up in a way that gives everyone an easy exit or is it blocking people in?
- Can other people see into the room? This may make pupils and their parents uncomfortable.
- Are there tissues available?
- Is there plenty of drinking water available?
- Are there separate rooms available in case parties need to have meetings in private or where they can retire to in the case of an adjournment?
- Is the room health and safety sound? For instance, is there anything present that could become a hazard if tensions become high, such as glasses.

The key to being a good chair is to make the difficult decisions but remain kind – you must consider that, no matter the outcome or circumstances surrounding the exclusion, people are emotionally invested in the result and that needs to be respected.

A good chair:

- Ensures that everyone is listened to.
- Ensures that no one is interrupted while making representations.
- Ensures that all parties leave at the same time, so that it does not appear the committee is having a private conversation with either party.
- Allows time for people to ask questions.
- Hears everybody's representations.
- Properly explains the process of the meeting to the parties.

If it is evident that parties are causing the above standards to be unattainable during a meeting, for example by continually interrupting, the chair may call for an adjournment, then continue after re-explaining the process.

The governing board must notify parents, the headteacher and the LA of their decision, in writing and without delay. If the governing board has decided not to reinstate the pupil, the written notification must also include clarification that the exclusion is permanent, the parents' right to request a review of the decision by an independent review panel, the date for a request for a review to be submitted, who to submit the request to, and that any application for review must include the grounds on which it is being made.

The notification must also include that, regardless of whether the excluded pupil has recognised SEND, parents have the right to request a SEND expert to be appointed to advise the independent review panel.

Parents should also be informed of their right to appoint someone to make representations to the independent review panel on their behalf, at their own expense, and of their right to make a claim under the Equality Act 2010 if they consider discrimination has taken place. Any claim must be made within six months of the alleged discrimination taking place.

Sometimes governing boards decide to share the outcome of the meeting with the pupil and their family on the same day, in person. This can save the family any unnecessary anxiety following the meeting and whilst awaiting the result – but written notification is still required.

Delivering the result in person is preferable to some governing boards as it is another way of ensuring that the committee is transparent, sensitive and personable. This is, however, something the panel should risk assess on a case-by-case basis – if tensions are running too high, the committee may not feel it is safe to do so.

Removing a permanently excluded pupil's name from the school register

The governing board must ensure that the pupil's name is removed from the school register once 15 days have passed since the parents were notified of the board's decision and no request for an independent review has been made. The pupils name can also be removed from the school register if written notification has been received stating the parents do not intend to apply for an independent review of the governing board's decision.