

---

## STATUTORY INSTRUMENTS

---

# 2012 No. 1033

## The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012

### PART 1 **E+W**

#### General

#### Citation, commencement and application **E+W**

1.—(1) These Regulations may be cited as the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 and come into force on 1st September 2012.

(2) These Regulations apply only in relation to exclusions of pupils from maintained schools, pupil referral units, Academy schools and alternative provision Academies, in England, occurring on or after 1st September 2012.

#### Interpretation **E+W**

2.—(1) In these Regulations—

“the Act” means the Education Act 2002;

“Academy” means an Academy school or an alternative provision Academy;

[<sup>F1</sup>“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-Cov-2);]

“home local authority” means the local authority responsible for the area in which the pupil resides where this differs from the local authority in which the pupil's school is located;

“National Curriculum test” means any test specified in, or by virtue of, an order under section 87(3)(c) of the Act;

“principal” means the head teacher of an Academy;

“reference date” means 31st December, Easter Monday or 31st July;

[<sup>F1</sup>“relevant exclusion” means an exclusion occurring—

(a) on or after 1st June 2020 but before 25th September 2020; or

(b) before 1st June 2020 but where, in respect of the exclusion, on that date—

(i) in the case of a permanent exclusion—

(aa) there has not been a concluded review of a decision not to reinstate the pupil, and

(bb) the time to apply for a review (in accordance with paragraph 2 of Schedule 1, disregarding sub-paragraph (1A) of that paragraph) has not expired or an application for review has been made;

(ii) in the case of an exclusion for a fixed period, a decision in accordance with regulation 6(2), 15(2) or 24(2) (as the case may be) has not been made;]

“relevant person” means—

**Status:** Point in time view as at 01/06/2020.

**Changes to legislation:** The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) in relation to a pupil under the age of 18, a parent of the pupil; or
- (b) in relation to a pupil who has attained that age, the pupil;

[<sup>F1</sup>“remote access” means access to a meeting to enable those who are not all present together at the same place to attend and participate simultaneously by electronic means, including by live audio and live video link;]

“review” means a review of a decision not to reinstate a pupil;

“review panel” means a review panel constituted in accordance with Schedule 1;

“SEN expert” means an individual who—

- (a) has expertise and experience of special educational needs <sup>M1</sup> considered by the local authority (or, in relation to an Academy, the proprietor <sup>M2</sup>) as appropriate to perform the functions specified in paragraph 18 of Schedule 1; and
- (b) is not disqualified from appointment under paragraph 3(7) of Schedule 1;

“term” means—

- (a) in a school which has 3 terms or fewer in a school year <sup>M3</sup>, one of those terms; or
- (b) in a school which has more than 3 terms in a school year, any period which falls between 2 reference dates;

“unit” means a pupil referral unit; and

“working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971 <sup>M4</sup>.

(2) For the purpose of these Regulations, any exclusion for a fixed period consisting of the period between the morning and afternoon school sessions is taken to be half a school day.

#### Textual Amendments

**F1** Words in reg. 2(1) inserted (1.6.2020) by [The School Discipline \(England\) \(Coronavirus\) \(Pupil Exclusions and Reviews\) \(Amendment\) Regulations 2020 \(S.I. 2020/543\)](#), regs. 1, 4

#### Marginal Citations

**M1** “Special educational needs” has the same meaning as in section 312 of the 1996 Act.  
**M2** See section 579(1) of the 1996 Act for the definition of “proprietor”.  
**M3** See section 579(1) of the 1996 Act for the meaning of “school year”.  
**M4** [1971 c.80](#).

## Schedules **E+W**

**3.—(1)** Schedule 1 has effect in relation to the constitution of review panels and the procedure of reviews.

(2) Schedule 2 has effect.

(3) The instruments listed in column (1) of the table in Schedule 3 (which have the references listed in column (2)) are revoked to the extent indicated in column (3).

(4) The instruments listed in Schedules 2 and 3 continue in force in relation to an exclusion occurring before 1st September 2012 as if the amendments in Schedule 2 and the revocations in Schedule 3 were not made.

## PART 2 E+W

### Maintained schools

#### The power of a head teacher to exclude pupils E+W

4. A head teacher may not exercise the power under section 51A(1) of the Act so as to exclude a pupil for one or more fixed periods if, as a result, the pupil would be excluded for more than 45 school days in any school year.

#### Exclusion of pupils: head teacher's duty to inform relevant person, governing body and local authority E+W

5.—(1) Where the head teacher decides to exclude a pupil for a fixed period, the head teacher must, without delay—

- (a) inform the relevant person of the period of the exclusion and the reasons for it; and
- (b) give the relevant person notice in writing stating the following matters—
  - (i) the period of the exclusion and the reasons for it;
  - (ii) that the relevant person may make representations about the decision to the governing body and that, where the pupil is not the relevant person, the pupil may also be involved in the process of making representations, and an explanation as to how the pupil may be involved;
  - (iii) the means by which representations may be made; and
  - (iv) where and to whom representations should be sent.

(2) Paragraph (3) applies where the head teacher decides—

- (a) to exclude a pupil permanently; or
- (b) to exclude a pupil and, as a result of the exclusion, the pupil would—
  - (i) be excluded for a total of more than 5 school days in any term; or
  - (ii) lose an opportunity to take a public examination or a National Curriculum test.

(3) The head teacher must, without delay—

- (a) inform the relevant person, the governing body and the local authority (and, in the case of a permanent exclusion, if applicable, the home local authority) of the period of the exclusion and the reasons for it; and
- (b) give the relevant person notice in writing stating the following matters—
  - (i) the period of the exclusion and the reasons for it;
  - (ii) that the relevant person may make representations about the decision to the governing body and that, where the pupil is not the relevant person, the pupil may also be involved in the process of making representations, and an explanation as to how the pupil may be involved;
  - (iii) the means by which representations may be made;
  - (iv) where and to whom representations should be sent; and
  - (v) where a meeting of the governing body is to consider the exclusion, that the relevant person may attend and be represented at the meeting (at their own expense), and may be accompanied by a friend.

(4) Any expense in connection with the representation of the relevant person is to be an expense of the relevant person.

**Status:** Point in time view as at 01/06/2020.

**Changes to legislation:** The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(5) In each term the head teacher must inform the governing body and the local authority of the following—

- (a) all exclusions that have occurred in that term to which paragraph (3) does not apply;
- (b) unless the head teacher has already done so, any such exclusions occurring during previous terms in that school year; and
- (c) the period of each exclusion and the reasons for it.

### Functions of the governing body in relation to excluded pupils **E+W**

6.—(1) Paragraphs (2) to (6) apply where the governing body are informed under regulation 5(3) (a) of—

- (a) the permanent exclusion of a pupil;
  - (b) the exclusion of a pupil where, as a result of the exclusion, the pupil would—
    - (i) be excluded for a total of more than 15 school days in any term; or
    - (ii) lose an opportunity to take a public examination or a National Curriculum test; or
  - (c) the exclusion of a pupil where—
    - (i) the pupil would as a result of the exclusion be excluded for a total of more than 5 school days in any term; and
    - (ii) the relevant person makes representations under regulation 5(3)(b).
- (2) The governing body must decide—
- (a) whether or not the pupil should be reinstated; and
  - (b) where they consider that the pupil should be reinstated, whether the pupil should be reinstated immediately or by a particular date.
- (3) In order to decide whether or not a pupil should be reinstated, the governing body must—
- (a) consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and persons working at the school (including persons working at the school voluntarily);
  - (b) consider any representations about the exclusion made to the governing body by or on behalf of the relevant person, the head teacher or the local authority;
  - (c) take reasonable steps to arrange a meeting at which the exclusion is to be considered for a time and date when each of the following persons is able to attend—
    - (i) the head teacher;
    - (ii) the relevant person (and, where requested by the relevant person, a representative or friend of the relevant person); and
    - (iii) a representative of the local authority; and
  - (d) allow each of the persons described in sub-paragraph (c) to attend the meeting and to make representations about the exclusion.

[<sup>F2</sup>(3A) Paragraph (3B) applies if—

- (a) for a reason related to the incidence or transmission of coronavirus, it is not reasonably practicable for the meeting referred to in paragraph (3)(c) to be held in person; and
- (b) the exclusion to be considered at the meeting is a relevant exclusion.

(3B) Where this paragraph applies, the meeting referred to in paragraph (3)(c) may be held using remote access, provided the governing body are satisfied that the following conditions are met—

**Changes to legislation:** The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the participants will be able fully to make representations or discharge their functions (as the case may be);
  - (b) the participants agree to the meeting being held using remote access;
  - (c) each participant has access to the electronic means to allow them to hear and be heard and (where using a live video link) see and be seen, throughout the meeting; and
  - (d) the meeting is capable of being held fairly and transparently.]
- (4) If the governing body decide that the pupil should be reinstated, they must without delay—
- (a) direct the head teacher accordingly; and
  - (b) inform the relevant person and the local authority (and, if applicable, the home local authority) of their decision and the reasons for it in writing.
- (5) The head teacher must comply with a direction of the governing body to reinstate the pupil.
- (6) If the governing body decide not to reinstate the pupil they must without delay—
- (a) inform the relevant person, the head teacher and the local authority (and, if applicable, the home local authority) of their decision and the reasons for it in writing; and
  - (b) in the case of a pupil who is permanently excluded, give the relevant person notice in writing stating the following—
    - (i) that the exclusion is permanent;
    - (ii) that the relevant person may apply for the governing body's decision to be reviewed by a review panel;
    - (iii) where the relevant person applies for a review, that the relevant person may require the local authority to appoint a SEN expert to advise the review panel;
    - (iv) the role of the SEN expert in relation to a review;
    - (v) how an application for a review may be made and what the application must contain;
    - (vi) where and to whom to send the application and the date by which the application must be received;
    - (vii) that the relevant person may, at their own expense, appoint someone to make representations for the purpose of the review; and
    - (viii) that the relevant person may issue a claim under the Equality Act 2010 <sup>M5</sup> where the relevant person believes that unlawful discrimination has occurred, and the time within which such a claim should be made.
- (7) [<sup>F3</sup>Subject to paragraphs (7A), (7B) and] (8), after being informed of the matters in regulation 5(3)(a), the governing body must take the steps referred to in paragraphs (2) and (3) within—
- (a) 15 school days in the case of—
    - (i) a permanent exclusion;
    - (ii) an exclusion for a fixed period which would cause the pupil's total number of days of exclusion to exceed 15 school days in any term; or
    - (iii) an exclusion where the pupil would, as a result of the exclusion, lose an opportunity to take a public examination or a National Curriculum test; or
  - (b) 50 school days in the case of an exclusion for a fixed period where—
    - (i) the pupil would, as a result of the exclusion, be excluded for a total of more than 5 school days but not more than 15 school days in any term; and
    - (ii) the relevant person has made representations under regulation 5(3)(b).

**Status:** Point in time view as at 01/06/2020.

**Changes to legislation:** The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[<sup>F4</sup>(7A) Paragraph (7B) applies where, in relation to a relevant exclusion—

- (a) immediately before the applicable time limit referred to in paragraph (7)(a) or (b) expires, the meeting referred to in paragraph (3)(c) has not been held because—
  - (i) it has not been reasonably practicable to do so in person for a reason related to the incidence or transmission of coronavirus; and
  - (ii) it has not been reasonably practicable to do so by way of remote access for a reason related to the satisfaction of the conditions in paragraph (3B)(a) to (d); and
- (b) that time limit expires on or after the 1st June 2020.

(7B) Where this paragraph applies, the time limit referred to in paragraph (7)(a) or, as the case may be, (7)(b), within which the governing body must take steps is extended by 10 school days, or such longer period as is reasonably necessary for a reason related to the incidence and transmission of coronavirus.]

(8) Where a pupil has been excluded in circumstances in which the pupil would, as a result of the exclusion, lose an opportunity to take a public examination or a National Curriculum test, the governing body must (so far as it is reasonably practicable) take the steps referred to in paragraphs (2) and (3) before the date on which the pupil is due to take the examination or test.

(9) Where—

- (a) a pupil has been excluded in circumstances where paragraphs (2) to (6) do not apply; and
- (b) the governing body receive representations made under regulation 5(1)(b) from the relevant person about the exclusion,

the governing body must consider those representations.

(10) The governing body will not be relieved of the duty to take any step referred to in paragraph (2) or (3) because it has not been taken within the period specified in paragraph (7) or (8).

(11) The notice in writing referred to in paragraph (6)(b)—

- (a) may be given by—
  - (i) delivering it directly to the relevant person;
  - (ii) delivering it to the relevant person's last known address; or
  - (iii) sending it by first class post to the relevant person's last known address; and
- (b) unless the contrary is shown, will be taken to have been given—
  - (i) where first class post is used, on the second working day after the date of posting; or
  - (ii) where the notice is delivered, on the date of delivery.

#### Textual Amendments

- F2** Reg. 6(3A)(3B) inserted (1.6.2020) by [The School Discipline \(England\) \(Coronavirus\) \(Pupil Exclusions and Reviews\) \(Amendment\) Regulations 2020 \(S.I. 2020/543\)](#), regs. 1, **5(a)**
- F3** Words in reg. 6(7) substituted (1.6.2020) by [The School Discipline \(England\) \(Coronavirus\) \(Pupil Exclusions and Reviews\) \(Amendment\) Regulations 2020 \(S.I. 2020/543\)](#), regs. 1, **5(b)**
- F4** Reg. 6(7A)(7B) inserted (1.6.2020) by [The School Discipline \(England\) \(Coronavirus\) \(Pupil Exclusions and Reviews\) \(Amendment\) Regulations 2020 \(S.I. 2020/543\)](#), regs. 1, **5(c)**

#### Marginal Citations

- M5** 2010 c.15.

## Review of permanent exclusion of a pupil **E+W**

7.—(1) Where the relevant person applies for a review, the local authority must, at their expense—

- (a) make arrangements for the review of the governing body's decision not to reinstate a pupil who has been permanently excluded; and
- (b) if requested by the relevant person, appoint, for the purpose of that review, a SEN expert to provide impartial advice on how special educational needs may be relevant to the decision to exclude the pupil permanently.

(2) The local authority are not to take the steps in paragraph (1) where the relevant person has not applied for a review within the time limit specified in Schedule 1.

(3) Where the relevant person wishes that a SEN expert be appointed for a review, the request must be made in writing to the local authority with, and at the same time as, the application for a review.

(4) In exercising its functions under these Regulations, the review panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and persons working at the school (including persons working at the school voluntarily).

(5) In addition to the powers of the review panel under section 51A(4) of the Act, the panel may—

- (a) direct the governing body to place a note on the pupil's educational record;
- (b) order that the local authority are to make an adjustment to the school's budget share for the funding period during which the exclusion occurs in the sum of £4,000 if, following a decision by the panel to quash the governing body's original decision, the governing body—
  - (i) reconsider the exclusion and decide not to reinstate the pupil; or
  - (ii) fail to reconsider the exclusion within the time limit specified in regulation 8(1).

(6) The review panel's decision is binding on the relevant person, the governing body, the head teacher and the local authority.

## Reconsideration by governing body following a review **E+W**

8.—(1) Where the review panel—

- (a) recommends that the governing body reconsider a decision not to reinstate a pupil who has been permanently excluded; or
- (b) quashes the governing body's decision and directs the governing body to reconsider the matter,

the governing body, within 10 school days after notification under paragraph 19 of Schedule 1 of the review panel's decision, must reconvene in order to reconsider the exclusion.

(2) When the governing body have reconsidered their decision they must inform the relevant person, the head teacher and the local authority (and, if applicable, the home local authority) of their reconsidered decision and the reasons for it without delay.

(3) Notification of the review panel's decision is taken to be given—

- (a) where first class post is used, on the second working day after the date of posting; or
- (b) where the notice is delivered, on the date of delivery.

**Status:** Point in time view as at 01/06/2020.

**Changes to legislation:** The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Exclusions of pupils: guidance **E+W**

9. In exercising their functions under section 51A(1) of the Act or under these Regulations, the following persons and bodies must have regard to any guidance given from time to time by the Secretary of State—

- (a) the head teacher;
- (b) the governing body;
- (c) the local authority;
- (d) the review panel; and
- (e) the SEN expert.

### Exclusions: standard of proof **E+W**

10. Where it falls to—

- (a) the head teacher, in exercise of the power conferred by section 51A(1) of the Act;
- (b) the governing body, in exercise of their functions for the purposes of regulations 6 and 8; or
- (c) the review panel, in exercise of its functions for the purposes of regulation 7,

to establish any fact, any question as to whether that fact is established is to be decided on a balance of probabilities.

### Information **E+W**

11. The local authority must, on request, forward to the Secretary of State any information they have received from a head teacher, a governing body or a review panel under this Part or Schedule 1.

## PART 3 **E+W**

### Pupil referral units

#### Responsible body **E+W**

12. The management committee of a pupil referral unit is prescribed as the responsible body for the purposes of section 51A(10)(b) of the Act.

#### The power of a teacher in charge to exclude pupils **E+W**

13. A teacher in charge may not exercise the power under section 51A(2) of the Act so as to exclude a pupil for one or more fixed periods if, as a result, the pupil would be excluded for more than 45 school days in any school year.

#### Exclusion of pupils: teacher in charge's duty to inform relevant person, management committee and local authority **E+W**

14.—(1) Where the teacher in charge decides to exclude a pupil for a fixed period, the teacher in charge must, without delay—

- (a) inform the relevant person of the period of the exclusion and the reasons for it; and
- (b) give the relevant person notice in writing stating the following matters—
  - (i) the period of the exclusion and the reasons for it;

- (ii) that the relevant person may make representations about the decision to the management committee and that, where the pupil is not the relevant person, the pupil may also be involved in the process of making representations, and an explanation as to how the pupil may be involved;
  - (iii) the means by which representations may be made; and
  - (iv) where and to whom representations should be sent.
- (2) Paragraph (3) applies where the teacher in charge decides—
  - (a) to exclude a pupil permanently; or
  - (b) to exclude a pupil and, as a result of the exclusion, the pupil would—
    - (i) be excluded for a total of more than 5 school days in any term; or
    - (ii) lose an opportunity to take a public examination or a National Curriculum test.
- (3) The teacher in charge must, without delay—
  - (a) inform the relevant person, the management committee and the local authority (and, in the case of a permanent exclusion, if applicable, the home local authority) of the period of the exclusion and the reasons for it; and
  - (b) give the relevant person notice in writing stating the following matters—
    - (i) the period of the exclusion and the reasons for it;
    - (ii) that the relevant person may make representations about the decision to the management committee and that, where the pupil is not the relevant person, the pupil may also be involved in the process of making representations, and an explanation as to how the pupil may be involved;
    - (iii) the means by which representations may be made;
    - (iv) where and to whom representations should be sent; and
    - (v) where a meeting of the management committee is to consider the exclusion, that the relevant person may attend and be represented at the meeting (at their own expense), and may be accompanied by a friend.
- (4) Any expense in connection with the representation of the relevant person is to be an expense of the relevant person.
- (5) In each term the teacher in charge must inform the management committee and the local authority of the following—
  - (a) all exclusions that have occurred in that term to which paragraph (3) does not apply;
  - (b) unless the teacher in charge has already done so, any such exclusions occurring during previous terms in that school year; and
  - (c) the period of each exclusion and the reasons for it.

### **Functions of the management committee in relation to excluded pupils** E+W

- 15.**—(1) Paragraphs (2) to (6) apply where the management committee is informed under regulation 14(3)(a) of—
- (a) the permanent exclusion of a pupil;
  - (b) the exclusion of a pupil where, as a result of the exclusion, the pupil would—
    - (i) be excluded for a total of more than 15 school days in any term; or
    - (ii) lose an opportunity to take a public examination or a National Curriculum test; or
  - (c) the exclusion of a pupil where—

**Status:** Point in time view as at 01/06/2020.

**Changes to legislation:** The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) the pupil would as a result of the exclusion be excluded for a total of more than 5 school days in any term; and
  - (ii) the relevant person makes representations under regulation 14(3)(b).
- (2) The management committee must decide—
- (a) whether or not the pupil should be reinstated; and
  - (b) where it considers that the pupil should be reinstated, whether the pupil should be reinstated immediately or by a particular date.
- (3) In order to decide whether or not a pupil should be reinstated, the management committee must—
- (a) consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and persons working at the unit (including persons working at the unit voluntarily);
  - (b) consider any representations about the exclusion made to the management committee by or on behalf of the relevant person, the teacher in charge or the local authority;
  - (c) take reasonable steps to arrange a meeting at which the exclusion is to be considered for a time and date when each of the following persons is able to attend—
    - (i) the teacher in charge;
    - (ii) the relevant person (and, where requested by the relevant person, a representative or friend of the relevant person); and
    - (iii) a representative of the local authority; and
  - (d) allow each of the persons described in sub-paragraph (c) to attend the meeting and to make representations about the exclusion.
- [<sup>F5</sup>(3A) Paragraph (3B) applies if—
- (a) for a reason related to the incidence or transmission of coronavirus, it is not reasonably practicable for the meeting referred to in paragraph (3)(c) to be held in person; and
  - (b) the exclusion to be considered at the meeting is a relevant exclusion.
- (3B) Where this paragraph applies, the meeting referred to in paragraph (3)(c) may be held using remote access, provided the management committee is satisfied that the following conditions are met—
- (a) the participants will be able fully to make representations or discharge their functions (as the case may be);
  - (b) the participants agree to the meeting being held using remote access;
  - (c) each participant has access to the electronic means to allow them to hear and be heard and (where using a live video link) see and be seen, throughout the meeting; and
  - (d) the meeting is capable of being held fairly and transparently.]
- (4) If the management committee decides that the pupil should be reinstated, it must without delay—
- (a) direct the teacher in charge accordingly; and
  - (b) inform the relevant person and the local authority (and, if applicable, the home local authority) of its decision and the reasons for it in writing.
- (5) The teacher in charge must comply with a direction of the management committee to reinstate the pupil.
- (6) If the management committee decides not to reinstate the pupil it must without delay—

- (a) inform the relevant person, the teacher in charge and the local authority (and, if applicable, the home local authority) of its decision and the reasons for it in writing; and
  - (b) in the case of a pupil who is permanently excluded, give the relevant person notice in writing stating the following—
    - (i) that the exclusion is permanent;
    - (ii) that the relevant person may apply for the management committee's decision to be reviewed by a review panel;
    - (iii) where the relevant person applies for a review, that the relevant person may require the local authority to appoint a SEN expert to advise the review panel;
    - (iv) the role of the SEN expert in relation to a review;
    - (v) how an application for a review may be made and what the application must contain;
    - (vi) where and to whom to send the application and the date by which the application must be received;
    - (vii) that the relevant person may, at their own expense, appoint someone to make representations for the purpose of the review; and
    - (viii) that the relevant person may issue a claim under the Equality Act 2010 where the relevant person believes that unlawful discrimination has occurred, and the time within which such a claim should be made.
- (7) [<sup>F6</sup>Subject to paragraphs (7A), (7B) and] (8), after being informed of the matters in regulation 14(3)(a), the management committee must take the steps referred to in paragraphs (2) and (3) within—
- (a) 15 school days in the case of—
    - (i) a permanent exclusion;
    - (ii) an exclusion for a fixed period which would cause the pupil's total number of days of exclusion to exceed 15 school days in any term; or
    - (iii) an exclusion where the pupil would, as a result of the exclusion, lose an opportunity to take a public examination or a National Curriculum test; or
  - (b) 50 school days in the case of an exclusion for a fixed period where—
    - (i) the pupil would, as a result of the exclusion, be excluded for a total of more than 5 school days but not more than 15 school days in any term; and
    - (ii) the relevant person has made representations under regulation 14(3)(b).
- [<sup>F7</sup>(7A) Paragraph (7B) applies where, in relation to a relevant exclusion—
- (a) immediately before the applicable time limit referred to in paragraph (7)(a) or (b) expires, the meeting referred to in paragraph (3)(c) has not been held because—
    - (i) it has not been reasonably practicable to do so in person for a reason related to the incidence or transmission of coronavirus; and
    - (ii) it has not been reasonably practicable to do so by way of remote access for a reason related to the satisfaction of the conditions in paragraph (3B)(a) to (d); and
  - (b) that time limit expires on or after the 1st June 2020.
- (7B) Where this paragraph applies, the time limit referred to in paragraph (7)(a) or, as the case may be, (7)(b), within which the management committee must take steps is extended by 10 school days, or such longer period as is reasonably necessary for a reason related to the incidence and transmission of coronavirus.]
- (8) Where a pupil has been excluded in circumstances in which the pupil would, as a result of the exclusion, lose an opportunity to take a public examination or a National Curriculum test, the

**Status:** Point in time view as at 01/06/2020.

**Changes to legislation:** The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

management committee must (so far as it is reasonably practicable) take the steps referred to in paragraphs (2) and (3) before the date on which the pupil is due to take the examination or test.

(9) Where—

- (a) a pupil has been excluded in circumstances where paragraphs (2) to (6) do not apply; and
- (b) the management committee receives representations made under regulation 14(1)(b) from the relevant person about the exclusion,

the management committee must consider those representations.

(10) The management committee will not be relieved of the duty to take any step referred to in paragraph (2) or (3) because it has not been taken within the period specified in paragraph (7) or (8).

(11) The notice in writing referred to in paragraph (6)(b)—

- (a) may be given by—
  - (i) delivering it directly to the relevant person;
  - (ii) delivering it to the relevant person's last known address; or
  - (iii) sending it by first class post to the relevant person's last known address; and
- (b) unless the contrary is shown, will be taken to have been given—
  - (i) where first class post is used, on the second working day after the date of posting; or
  - (ii) where the notice is delivered, on the date of delivery.

#### Textual Amendments

- F5** Reg. 15(3A)(3B) inserted (1.6.2020) by [The School Discipline \(England\) \(Coronavirus\) \(Pupil Exclusions and Reviews\) \(Amendment\) Regulations 2020 \(S.I. 2020/543\)](#), regs. 1, **6(a)**
- F6** Words in reg. 15(7) substituted (1.6.2020) by [The School Discipline \(England\) \(Coronavirus\) \(Pupil Exclusions and Reviews\) \(Amendment\) Regulations 2020 \(S.I. 2020/543\)](#), regs. 1, **6(b)**
- F7** Reg. 15(7A)(7B) inserted (1.6.2020) by [The School Discipline \(England\) \(Coronavirus\) \(Pupil Exclusions and Reviews\) \(Amendment\) Regulations 2020 \(S.I. 2020/543\)](#), regs. 1, **6(c)**

#### Review of permanent exclusion of a pupil **E+W**

**16.—(1)** Where the relevant person applies for a review, the local authority must, at their expense—

- (a) make arrangements for the review of the management committee's decision not to reinstate a pupil who has been permanently excluded; and
- (b) if requested by the relevant person, appoint, for the purpose of that review, a SEN expert to provide impartial advice on how special educational needs may be relevant to the decision to exclude the pupil permanently.

(2) The local authority are not to take the steps in paragraph (1) where the relevant person has not applied for a review within the time limit specified in Schedule 1.

(3) Where the relevant person wishes that a SEN expert be appointed for a review, the request must be made in writing to the local authority with, and at the same time as, the application for a review.

(4) In exercising its functions under these Regulations, the review panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and persons working at the unit (including persons working at the unit voluntarily).

(5) In addition to the powers of the review panel under section 51A(4) of the Act, the panel may—

**Changes to legislation:** The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) direct the management committee to place a note on the pupil's educational record;
- (b) after the coming into force of section 50 of the Education Act 2011, order that the local authority are to make an adjustment to the unit's budget share for the funding period during which the exclusion occurs in the sum of £4,000 if, following a decision by the panel to quash the management committee's original decision, the management committee—
  - (i) reconsiders the exclusion and decides not to reinstate the pupil; or
  - (ii) fails to reconsider the exclusion within the time limit specified in regulation 17(1).
- (6) The review panel's decision is binding on the relevant person, the management committee, the teacher in charge and the local authority.

#### **Reconsideration by management committee following a review** E+W

17.—(1) Where the review panel—

- (a) recommends that the management committee reconsiders a decision not to reinstate a pupil who has been permanently excluded; or
- (b) quashes the management committee's decision and directs the management committee to reconsider the matter,

the management committee, within 10 school days after notification under paragraph 19 of Schedule 1 of the review panel's decision, must reconvene in order to reconsider the exclusion.

(2) When the management committee has reconsidered its decision it must inform the relevant person, the teacher in charge and the local authority (and, if applicable, the home local authority) of its reconsidered decision and the reasons for it without delay.

(3) Notification of the review panel's decision is taken to be given—

- (a) where first class post is used, on the second working day after the date of posting; or
- (b) where the notice is delivered, on the date of delivery.

#### **Exclusions of pupils: guidance** E+W

18. In exercising their functions under section 51A(2) of the Act or under these Regulations, the following persons and bodies must have regard to any guidance given from time to time by the Secretary of State—

- (a) the teacher in charge;
- (b) the management committee;
- (c) the local authority;
- (d) the review panel; and
- (e) the SEN expert.

#### **Exclusions: standard of proof** E+W

19. Where it falls to—

- (a) the teacher in charge, in exercise of the power conferred by section 51A(2) of the Act;
- (b) the management committee, in exercise of its functions for the purposes of regulations 15 and 17; or
- (c) the review panel, in exercise of its functions for the purposes of regulation 16,

to establish any fact, any question as to whether that fact is established is to be decided on a balance of probabilities.

*Status: Point in time view as at 01/06/2020.*

*Changes to legislation: The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## Information **E+W**

20. The local authority must, on request, forward to the Secretary of State any information they have received from a teacher in charge, a management committee or a review panel under this Part or Schedule 1.

## PART 4 **E+W**

### Academies

#### Application and modification of Act and regulations **E+W**

- 21.—(1) Section 51A of the Act applies with the following modifications.
- (2) In subsection (1)—
- for “head teacher” substitute “principal”; and
  - for “a maintained school” substitute “an Academy”.
- (3) In subsection (4), after “subsection (3)(c),” insert “as it applies in relation to Academies,”.
- (4) For subsection (6) substitute—
- “(6) In a case where the panel gives a direction under subsection (4)(c) to the proprietor of an Academy, the panel may, in prescribed circumstances, order the proprietor to make a payment to the local authority.”.
- (5) For subsection (10) substitute—
- “(10) In this section—
- “Academy” means an Academy school or an alternative provision Academy;
- “exclude”, in relation to the exclusion of a pupil from an Academy, means exclude on disciplinary grounds (and “exclusion” is to be construed accordingly);
- “principal” means the head teacher of an Academy, and includes acting principal;
- “the responsible body” means, in relation to exclusion from an Academy, the proprietor of the Academy.”.
- (6) The regulations in Parts 2 and 3 apply to Academy schools and alternative provision Academies with the following modifications.

#### The power of a principal to exclude pupils **E+W**

22. A principal may not exercise the power under section 51A(1) of the Act (as modified) so as to exclude a pupil for one or more fixed periods if, as a result, the pupil would be excluded for more than 45 school days in any school year.

#### Exclusion of pupils: principal's duty to inform relevant person, proprietor and local authority **E+W**

- 23.—(1) Where the principal decides to exclude a pupil for a fixed period, the principal must, without delay—
- inform the relevant person of the period of the exclusion and the reasons for it; and
  - give the relevant person notice in writing stating the following matters—
    - the period of the exclusion and the reasons for it;

- (ii) that the relevant person may make representations about the decision to the proprietor and that, where the pupil is not the relevant person, the pupil may also be involved in the process of making representations, and an explanation as to how the pupil may be involved;
  - (iii) the means by which representations may be made; and
  - (iv) where and to whom representations should be sent.
- (2) Paragraph (3) applies where the principal decides—
  - (a) to exclude a pupil permanently; or
  - (b) to exclude a pupil and, as a result of the exclusion, the pupil would—
    - (i) be excluded for a total of more than 5 school days in any term; or
    - (ii) lose an opportunity to take a public examination or a National Curriculum test.
- (3) The principal must, without delay—
  - (a) inform the relevant person, the proprietor and the local authority (and, in the case of a permanent exclusion, if applicable, the home local authority) of the period of the exclusion and the reasons for it; and
  - (b) give the relevant person notice in writing stating the following matters—
    - (i) the period of the exclusion and the reasons for it;
    - (ii) that the relevant person may make representations about the decision to the proprietor and that, where the pupil is not the relevant person, the pupil may also be involved in the process of making representations, and an explanation as to how the pupil may be involved;
    - (iii) the means by which representations may be made;
    - (iv) where and to whom representations should be sent; and
    - (v) where a meeting of the proprietor is to consider the exclusion, that the relevant person may attend and be represented at the meeting (at their own expense), and may be accompanied by a friend.
- (4) Any expense in connection with the representation of the relevant person is to be an expense of the relevant person.
- (5) In each term the principal must inform the proprietor and the local authority of the following—
  - (a) all exclusions that have occurred in that term to which paragraph (3) does not apply;
  - (b) unless the principal has already done so, any such exclusions occurring during previous terms in that school year; and
  - (c) the period of each exclusion and the reasons for it.

### **Functions of the proprietor in relation to excluded pupils** **E+W**

- 24.**—(1) Paragraphs (2) to (6) apply where the proprietor is informed under regulation 23(3)
- (a) of—
    - (a) the permanent exclusion of a pupil;
    - (b) the exclusion of a pupil where, as a result of the exclusion, the pupil would—
      - (i) be excluded for a total of more than 15 school days in any term; or
      - (ii) lose an opportunity to take a public examination or a National Curriculum test; or
    - (c) the exclusion of a pupil where—

**Status:** Point in time view as at 01/06/2020.

**Changes to legislation:** The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) the pupil would as a result of the exclusion be excluded for a total of more than 5 school days in any term; and
  - (ii) the relevant person makes representations under regulation 23(3)(b).
- (2) The proprietor must decide—
- (a) whether or not the pupil should be reinstated; and
  - (b) where it considers that the pupil should be reinstated, whether the pupil should be reinstated immediately or by a particular date.
- (3) In order to decide whether or not a pupil should be reinstated, the proprietor must—
- (a) consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and persons working at the Academy (including persons working at the Academy voluntarily);
  - (b) consider any representations about the exclusion made to the proprietor by or on behalf of the relevant person or the principal;
  - (c) take reasonable steps to arrange a meeting at which the exclusion is to be considered for a time and date when each of the following persons is able to attend—
    - (i) the principal;
    - (ii) the relevant person (and, where requested by the relevant person, a representative or friend of the relevant person); and
    - (iii) where requested by the relevant person, a representative of the local authority (and, if applicable, the home local authority);
  - (d) allow each of the persons described in sub-paragraphs (c)(i) and (ii) to attend the meeting and to make representations about the exclusion; and
  - (e) allow the person described in sub-paragraph (c)(iii) to attend the meeting as an observer, unless the proprietor gives that person permission to make representations.
- [<sup>F8</sup>(3A) Paragraph (3B) applies if—
- (a) for a reason related to the incidence or transmission of coronavirus, it is not reasonably practicable for the meeting referred to in paragraph (3)(c) to be held in person; and
  - (b) the exclusion to be considered at the meeting is a relevant exclusion.
- (3B) Where this paragraph applies, the meeting referred to in paragraph (3)(c) may be held using remote access, provided the proprietor is satisfied that the following conditions are met—
- (a) the participants will be able fully to make representations or discharge their functions (as the case may be);
  - (b) the participants agree to the meeting being held using remote access;
  - (c) each participant has access to the electronic means to allow them to hear and be heard and (where using a live video link) see and be seen, throughout the meeting; and
  - (d) the meeting is capable of being held fairly and transparently.]
- (4) If the proprietor decides that the pupil should be reinstated, it must without delay—
- (a) direct the principal accordingly; and
  - (b) inform the relevant person and the local authority (and, if applicable, the home local authority) of its decision and the reasons for it in writing.
- (5) The principal must comply with a direction of the proprietor to reinstate the pupil.
- (6) If the proprietor decides not to reinstate the pupil it must without delay—

**Changes to legislation:** The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) inform the relevant person, the principal and the local authority (and, if applicable, the home local authority) of its decision and the reasons for it in writing; and
  - (b) in the case of a pupil who is permanently excluded, give the relevant person notice in writing stating the following—
    - (i) that the exclusion is permanent;
    - (ii) that the relevant person may apply for the proprietor's decision to be reviewed by a review panel;
    - (iii) where the relevant person applies for a review, that the relevant person may require the proprietor to appoint a SEN expert to advise the review panel;
    - (iv) the role of the SEN expert in relation to a review;
    - (v) how an application for a review may be made and what the application must contain;
    - (vi) where and to whom to send the application and the date by which the application must be received;
    - (vii) that the relevant person may, at their own expense, appoint someone to make representations for the purpose of the review; and
    - (viii) that the relevant person may issue a claim under the Equality Act 2010 where the relevant person believes that unlawful discrimination has occurred, and the time within which such a claim should be made.
- (7) [<sup>F9</sup>Subject to paragraphs (7A), (7B) and] (8), after being informed of the matters in regulation 23(3)(a), the proprietor must take the steps referred to in paragraphs (2) and (3) within—
- (a) 15 school days in the case of—
    - (i) a permanent exclusion;
    - (ii) an exclusion for a fixed period which would cause the pupil's total number of days of exclusion to exceed 15 school days in any term; or
    - (iii) an exclusion where the pupil would, as a result of the exclusion, lose an opportunity to take a public examination or a National Curriculum test; or
  - (b) 50 school days in the case of an exclusion for a fixed period where—
    - (i) the pupil would, as a result of the exclusion, be excluded for a total of more than 5 school days but not more than 15 school days in any term; and
    - (ii) the relevant person has made representations under regulation 23(3)(b).
- [<sup>F10</sup>(7A) Paragraph (7B) applies where, in relation to a relevant exclusion—
- (a) immediately before the applicable time limit referred to in paragraph (7)(a) or (b) expires, the meeting referred to in paragraph (3)(c) has not been held because—
    - (i) it has not been reasonably practicable to do so in person for a reason related to the incidence or transmission of coronavirus; and
    - (ii) it has not been reasonably practicable to do so by way of remote access for a reason related to the satisfaction of the conditions in paragraph (3B)(a) to (d); and
  - (b) that time limit expires on or after the 1st June 2020.
- (7B) Where this paragraph applies, the time limit referred to in paragraph (7)(a) or, as the case may be, (7)(b), within which the proprietor must take steps is extended by 10 school days, or such longer period as is reasonably necessary for a reason related to the incidence and transmission of coronavirus.]
- (8) Where a pupil has been excluded in circumstances in which the pupil would, as a result of the exclusion, lose an opportunity to take a public examination or a National Curriculum test, the

**Status:** Point in time view as at 01/06/2020.

**Changes to legislation:** The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

proprietor must (so far as it is reasonably practicable) take the steps referred to in paragraphs (2) and (3) before the date on which the pupil is due to take the examination or test.

(9) Where—

- (a) a pupil has been excluded in circumstances where paragraphs (2) to (6) do not apply; and
- (b) the proprietor receives representations made under regulation 23(1)(b) from the relevant person about the exclusion,

the proprietor must consider those representations.

(10) The proprietor will not be relieved of the duty to take any step referred to in paragraph (2) or (3) because it has not been taken within the period specified in paragraph (7) or (8).

(11) The notice in writing referred to in paragraph (6)(b)—

- (a) may be given by—
  - (i) delivering it directly to the relevant person;
  - (ii) delivering it to the relevant person's last known address; or
  - (iii) sending it by first class post to the relevant person's last known address; and
- (b) unless the contrary is shown, will be taken to have been given—
  - (i) where first class post is used, on the second working day after the date of posting; or
  - (ii) where the notice is delivered, on the date of delivery.

#### Textual Amendments

- F8** Reg. 24(3A)(3B) inserted (1.6.2020) by [The School Discipline \(England\) \(Coronavirus\) \(Pupil Exclusions and Reviews\) \(Amendment\) Regulations 2020 \(S.I. 2020/543\)](#), regs. 1, **7(a)**
- F9** Words in reg. 24(7) substituted (1.6.2020) by [The School Discipline \(England\) \(Coronavirus\) \(Pupil Exclusions and Reviews\) \(Amendment\) Regulations 2020 \(S.I. 2020/543\)](#), regs. 1, **7(b)**
- F10** Reg. 24(7A)(7B) inserted (1.6.2020) by [The School Discipline \(England\) \(Coronavirus\) \(Pupil Exclusions and Reviews\) \(Amendment\) Regulations 2020 \(S.I. 2020/543\)](#), regs. 1, **7(c)**

#### Review of permanent exclusion of a pupil **E+W**

**25.—**(1) Where the relevant person applies for a review, the proprietor must, at its expense—

- (a) make arrangements for the review of its decision not to reinstate a pupil who has been permanently excluded; and
- (b) if requested by the relevant person, appoint, for the purpose of that review, a SEN expert to provide impartial advice on how special educational needs may be relevant to the decision to exclude the pupil permanently.

(2) The proprietor is not to take the steps in paragraph (1) where the relevant person has not applied for a review within the time limit specified in Schedule 1.

(3) Where the relevant person wishes that a SEN expert be appointed for a review, the request must be made in writing to the proprietor with, and at the same time as, the application for a review.

(4) In exercising its functions under these Regulations, the review panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and persons working at the Academy (including persons working at the Academy voluntarily).

(5) In addition to the powers of the review panel under section 51A(4) of the Act (as modified), the panel may—

*Changes to legislation: The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) direct the proprietor to place a note on the pupil's educational record;
- (b) order that the proprietor is to make a payment to the local authority in the sum of £4,000 if, following a decision by the panel to quash the proprietor's original decision, the proprietor—
  - (i) reconsiders the exclusion and decides not to reinstate the pupil; or
  - (ii) fails to reconsider the exclusion within the time limit specified in regulation 26(1).
- (6) The review panel's decision is binding on the relevant person, the principal and the proprietor.

### **Reconsideration by proprietor following a review** E+W

26.—(1) Where the review panel—

- (a) recommends that the proprietor reconsiders a decision not to reinstate a pupil who has been permanently excluded; or
- (b) quashes the proprietor's decision and directs the proprietor to reconsider the matter,

the proprietor, within 10 school days after notification under paragraph 19 of Schedule 1 of the review panel's decision, must reconsider the exclusion.

(2) When the proprietor has reconsidered its decision it must inform the relevant person, the principal and the local authority (and, if applicable, the home local authority) of its reconsidered decision and the reasons for it without delay.

(3) Notification of the review panel's decision is taken to be given—

- (a) where first class post is used, on the second working day after the date of posting; or
- (b) where the notice is delivered, on the date of delivery.

### **Exclusions of pupils: guidance** E+W

27. In exercising their functions under section 51A(1) of the Act (as modified) or under these Regulations, the following persons and bodies must have regard to any guidance given from time to time by the Secretary of State—

- (a) the principal;
- (b) the proprietor;
- (c) the review panel; and
- (d) the SEN expert.

### **Exclusions: standard of proof** E+W

28. Where it falls to—

- (a) the principal, in exercise of the power conferred by section 51A(1) of the Act (as modified);
- (b) the proprietor, in exercise of its functions for the purposes of regulations 24 and 26; or
- (c) the review panel, in exercise of its functions for the purposes of regulation 25,

to establish any fact, any question as to whether that fact is established is to be decided on a balance of probabilities.

### **Information** E+W

29. The local authority must, on request, forward to the Secretary of State any information they have received from a principal, a proprietor or a review panel under this Part or Schedule 1.

---

**Status:** Point in time view as at 01/06/2020.

**Changes to legislation:** The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

---

Department for Education

*Nick Gibb*  
Minister of State for Schools

**Status:**

Point in time view as at 01/06/2020.

**Changes to legislation:**

The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.