
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe limits on the powers of head teachers to exclude pupils from maintained schools under section 52(1) of the Education Act 2002, and the procedure which is to be followed by the head teacher, the school governing body and the local education authority following an exclusion from a maintained school.

Regulation 2 introduces a new definition of “relevant person” for the purposes of these Regulations and also provides that any fixed period exclusion during the lunchtime period is to be counted as an exclusion for a quarter of a school day.

Regulation 3 provides that a head teacher cannot exclude a pupil for one or more fixed periods which together amount to more than 45 school days in any school year.

Regulation 4 requires the head teacher to inform the relevant person of details of an exclusion. The head teacher must also inform the local education authority and governing body if the exclusion is permanent, will result in the pupil missing a public examination, or takes the total exclusions for that pupil over five days in a term.

Regulation 5 makes provision as to the range of information that the governing body must provide to the local education authority and the range of information the local education authority must provide to the National Assembly for Wales at its request.

Where the exclusion is permanent, will result in the pupil missing a public examination, or takes the total exclusions for that pupil over 15 days in a term, or the relevant person wishes to make representations and the pupil would be excluded for more than five days in a term,

Regulation 6 requires the governing body to consider the circumstances, listen to any representations from the relevant person, the excluded pupil where the pupil is not the relevant person or the local education authority, and to decide whether the pupil should be reinstated or not.

Regulation 7 requires the local education authority to make arrangements for the relevant person to appeal against a decision of the governing body not to reinstate a pupil who has been permanently excluded. A failure to follow procedural requirements is not of itself to lead to a decision to reinstate. The decision of the appeal panel is binding. If the appeal panel accepts that there are exceptional circumstances or other reasons which make it not practical to direct reinstatement, they may decide not to make a direction to reinstate the pupil but may indicate that a direction would otherwise have been appropriate.

Regulation 8 requires head teachers, governing bodies, local education authorities and appeal panels to have regard to guidance given by the National Assembly for Wales.

Regulations 9 and 10 make various consequential amendments, including amendments to the Education (School Government) (Wales) Regulations 1999 (S.I.1999/2242), to ensure that references in these Regulations to the governing body of a maintained school are to be construed as references to their pupil discipline committee, and amendments to the Education (Amount to Follow Permanently Excluded Pupil) Regulations 1999 (S.I. 1999/495).

The Schedule prescribes the constitution and procedure for appeal panels.