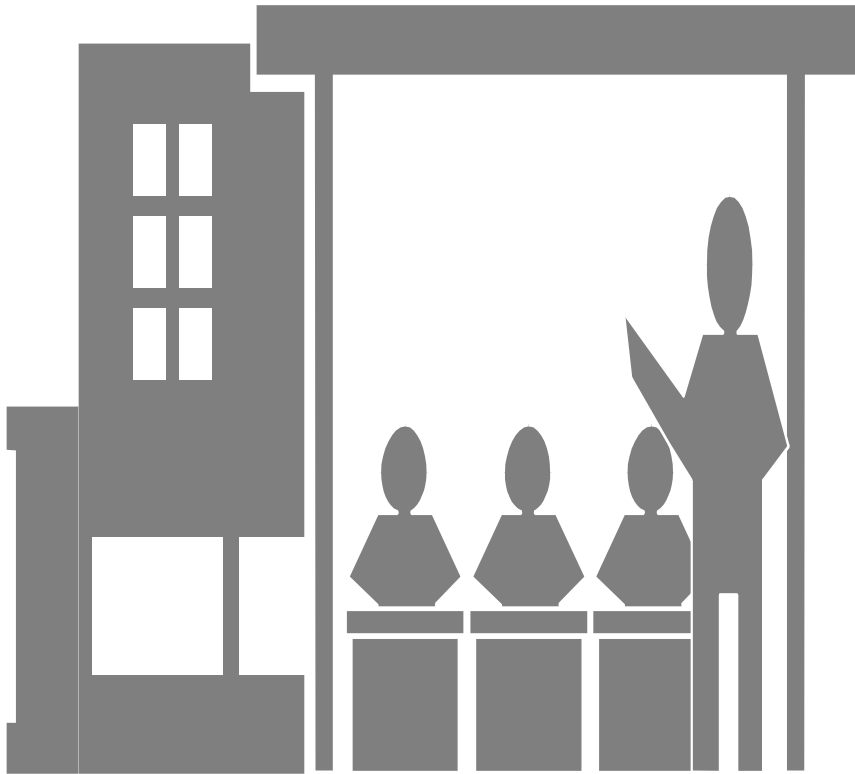


PERMANENT EXCLUSION FROM SCHOOL



Advice for Parents/Guardians

Information for Headteachers/Teacher in Charge of the PRU/Governors

VALE OF GLAMORGAN COUNCIL

INTRODUCTION

This booklet contains advice for parents/Guardians and information for Headteachers, Teacher in Charge of the PRU and Governors, for pupils who have been excluded from Local Authority County, Controlled, Voluntary Aided, Foundation and Special Schools.

References in this booklet to school and Headteacher should also be read to mean the PRU and the Teacher in Charge of the PRU.

It is important to note that the Education Act 2002 states that all professional parties must by law have regard to the guidance contained in Circular 1/2004.

Procedures apply to all schools and the PRU in the Vale of Glamorgan and include pupils above and below compulsory school age.

This guide is not exhaustive and it is recommended that circular 1/2004 is consulted.

Independent advice can be sought from:-

The Advisory Centre for Education (ACE) ~ Telephone Number 020 7704 9822
Special Needs Advisory Project (SNAP) ~ Telephone Number 01446 747681

Throughout this booklet there is reference to the Education Welfare Service; an Education Welfare Officer is able to assist by offering further information and practical advice. If you wish more information about this service or if you have any queries please contact:-

Mrs J Werrett 01446 709147

EXCLUSION

Only the Headteacher has the right to exclude your child. If the Headteacher is absent, then the most senior teacher may exercise this power.

The Governing Body or its Discipline Committee must not be involved in the decision to exclude ~ it has to remain impartial in order to discharge its duty to fairly review the use of exclusion and to exercise its power to reinstate pupils when appropriate.

Your child should only be excluded:-

- in response to serious breaches of the school's behaviour policy;
and
- if allowing your child to remain in school would seriously harm the education or welfare of your child or others in the school.

Your child should not be excluded for:-

- minor incidents;
- poor academic performance;
- lateness or truancy;
- pregnancy;
- breaches of school uniform rules or rules on appearance (including jewellery and hairstyle), except when your child persistently defies such rules and where all other avenues for resolving disputes have been exhausted;
- your behaviour e.g. should you refuse or are unable to attend a meeting.

The Headteacher can:

EXCLUDE A PUPIL FOR A FIXED PERIOD

This can be up to 45 days in 1 academic year.

OR

EXCLUDE A PUPIL AT LUNCHTIME ~ each lunchtime exclusion counts as a ¼ of a school day

OR

EXCLUDE A PUPIL PERMANENTLY

The Headteacher must report exclusions to the Governing Body and the LEA.

The Education Welfare Officer will be informed and, if you wish, can contact you to discuss the situation in more detail.

The information in this booklet relates to:-

PERMANENT EXCLUSION

There is a separate booklet for Fixed Period/Lunchtime Exclusions.

THE ROLE OF THE HEADTEACHER

The decision to exclude your child permanently is a serious one and is usually used as a last resort. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with your child. However, there can be exceptional circumstances where, in the Headteacher's judgement, it is appropriate to permanently exclude your child for a first or one-off offence, e.g:-

- serious actual or threatened violence against another pupil or member of staff
- sexual abuse or assault
- supplying an illegal drug
- use or threatened use of an offensive weapon

Before imposing an exclusion the Headteacher should:-

- not exclude in the heat of the moment;
- ensure that an appropriate investigation has been carried out;
- consider all the evidence taking account of the school's behaviour policy/equal opportunities policy and where appropriate the Race Relations Act and the Disability Discrimination Act;
- allow your child to give his/her version of events;
- check if the incident may have been provoked, for example by bullying or by racial or sexual harassment;
- consult others if necessary but not a member of the Governing Body's Discipline Committee;
- consider if allowing your child to remain in school would be seriously detrimental to the education or welfare of your child or others in the school;
- have exhausted all strategies available to the school e.g use of:-
 - a Pastoral Support programme (PSPs) ~ this is a plan drawn up using a multi-agency approach to assist your child to better manage their behaviour;
 - a restorative justice process ~ this would provide the opportunity, if appropriate, for your child to redress the harm that has been done to a victim;
 - internal exclusion ~ your child may be removed from lessons in order to diffuse a situation ~ this should be short term measure;
 - a managed move ~ consideration may be given to moving your child to another school ~ this would only be done with your agreement and the assistance of the LEA. It should be noted that this strategy would rarely be used in the Vale of Glamorgan as it is extremely difficult to arrange transfers particularly at secondary level. **You should never be pressured into removing your child from school.**

OTHER RELEVANT ISSUES

Behaviour Outside School

- On school business ~ your child's behaviour will be subject to the school's behaviour policy and treated as though it had happened on school premises;
- Not on school business ~ your child could be excluded if there is a clear link between his/her behaviour and maintaining good behaviour and discipline in the school.

Alleged Criminal offences, Police involvement and Parallel Criminal Proceedings

- In cases of school related incidents also being the subject of a police investigation the Headteacher is still able to exclude your child despite evidence being limited. The Headteacher must make a judgement on the evidence available;
- The Discipline Committee cannot postpone its meeting to wait an outcome of police investigations. It has to consider the case on the evidence available;
- However an Independent Appeal Panel, if appropriate, can adjourn until the outcome of police investigation;
- If adjourned the LEA should ensure continuing education for your child.

Voluntary Withdrawals

- The National Assembly does not believe that influencing or encouraging parents to voluntarily withdraw their child is an appropriate response to deal with troublesome behaviour;
- Being asked to keep your child at home pending an appointment with the Headteacher is an exclusion and should follow the exclusion procedures;
- Unofficial exclusions are illegal.

Setting and Marking of work

- The school should provide work while your child remains on school roll;
- Your child will remain on school roll until the appeals procedure is completed, or until the time for an appeal has expired without an appeal being lodged. He/she may be removed from the roll earlier if you and/or your child give notice in writing that an appeal will not be made.
- The LEA within 15 school days from the date of the Discipline Committee meeting will assist the school in making educational provision, normally offering home tuition. This provision will continue until such time that either an Independent Appeal panel direct reinstatement or until alternative provision is secured.
- The Governing Body is responsible for ensuring that the school complies with these requirements.

WHEN YOUR CHILD HAS BEEN EXCLUDED

The Headteacher has to make contact with the relevant person which means:-

- yourself if your child is aged 10 or below;
- yourself and your child if your child is 11 or above;
- your child if over compulsory school age.

The Headteacher will make contact with you (by phone if possible) and will also write to you and/or your child within 1 school day; letters must confirm:-

- the fact that the exclusion is permanent;
- the reasons for his/her exclusion;
- yours and/or your child's rights to make representations to the Governing Body's Discipline Committee, in the case of exclusions from the PRU the right to appeal to an independent appeal panel;
- the person to be contacted to make representations.

Letters should also confirm:-

- the latest date by which the Discipline Committee (Independent Appeal Panel for the PRU) must meet to consider representations;
- that you have the right to see and have a copy of your child's educational record upon written request to the school;
- the date the exclusion takes effect and any relevant previous history;
- the arrangements for enabling your child to continue their education, including the setting and marking of work;
- details of a contact at the LEA who can provide advice;
- the telephone number for the Advisory Centre for Education (ACE) helpline (020 7704 9822).

DISCIPLINE COMMITTEE RESPONSIBILITIES

The Governing Body should establish a Discipline Committee of at least 3 Governors. The role of the Committee is to review the use of exclusions within the school. **For permanent exclusions from the PRU you and/or your child will be given immediate right of appeal to an Independent Appeal Panel. However the PRU Management Committee has a duty to meet to review the exclusion but this will not involve inviting you and/or your child to attend. (Please go straight to the section headed Appeals to the Independent Appeal Panel)**

The Discipline Committee **must meet** between the 6th and 15th school day from the date of exclusion. You and/or your child will be invited to attend. The Discipline Committee may direct reinstatement.

If an exclusion would result in the pupil missing a public examination the Discipline Committee should try to meet before the examination.

THE MEETING WITH GOVERNORS

The Clerk to the Discipline Committee will invite you and/or your child to the meeting, circulate any written statements and provide a list of those who will be present at the meeting.

The panel will hear the reasons for the Headteacher's decision and then listen to your views and/or your child's views.

To help you put forward your views, you and/or your child may bring a friend or a legal representative.

WHAT HAPPENS AT THE MEETING

The Discipline Committee is not a court of law but serves as a structured approach to ensure fairness and consistency.

The Discipline Committee should consider:-

- any representations made by you and/or your child;
- whether the Headteacher has complied with the exclusion procedure and has had regard to the National Assembly's guidance (Circular 1/2004) before excluding your child;
- appropriate school policies, including the school's published behaviour policy, equal opportunities policy, anti-bullying policy, special educational needs policy and race equality policy.

and should also satisfy itself

- that all other strategies to improve your child's behaviour have been tried and have not been successful. Particular consideration should be given to the use of the Pastoral Support Programme.

The Chairman will:-

- introduce her/himself and explain the reason for the meeting and the basic procedures;
- offer to stop at any time to clarify any points;
- ask the Headteacher to outline the reasons for the exclusion decision;
- offer you and/or your child (or a representative) an opportunity to ask questions of the Headteacher;
- offer Governors the opportunity to ask questions of the Headteacher;
- ask you and/or your child (or a representative) to make any representations you may wish to offer;
- offer the Headteacher the opportunity to ask questions of you and/or your child (or representative);
- offer all Governors the opportunity to ask questions of you and/or your child (or representative);
- ask the LEA, if in attendance, for any observations or comments;
- offer both parties the opportunity to sum up.

WHAT HAPPENS AFTER THE MEETING

The Discipline Committee must notify you and/or your child and the LEA of their decision within one school day of the date of the hearing and the following information should be included:-

- the reason for the decision
- the right to appeal to an independent appeal panel, together with details of the person to whom an appeal should be sent
- the date by which any notice of appeal should be lodged
- that the notice of appeal must set out the grounds on which the appeal is made

Where reinstatement is directed the Committee may not attach conditions to the reinstatement.

A note of the Discipline Committee's views on the exclusion should be placed on your child's record along with a copy of the Headteacher's exclusion letter and other relevant papers.

APPEALS TO THE INDEPENDENT APPEALS COMMITTEE

LEA responsibility

- To make arrangements to hear the appeal and constituting the appeal panel. This is done via the Council's Chief Executive's department whose representative acts as clerk to the appeal panel.
- To arrange a meeting within 15 school days of the date you and/or your child lodge a notice of appeal. In exceptional circumstances the LEA has discretion to extend this period at your request if you are able to provide valid reasons.

Composition of the appeal panel

The appeal panel will consist of 3 - 5 members and must include the following:-

- Lay person ~ who will be the Chair. A 'lay person' is someone without personal experience in the management of a school or the provision of education.
- Education Practitioner. This will be a Headteacher or other person currently working in education management.
- School governor.

The following persons are disqualified from serving as a member of an appeal panel:-

- Any member of the authority or of the Governing Body of your child's school,
- Teachers of your child's school,
- Any person employed by the authority, other than as a teacher,
- Any person who has had, at any time, any connection with the authority or your child that might reasonably raise doubts about their ability to act impartially.

Appeal panel powers

An appeal panel may:-

- Uphold the decision to exclude
- Overturn the decision to exclude and direct reinstatement
- Decide that because of exceptional circumstances or other reasons it is not practical to give a direction requiring reinstatement, but that it would otherwise have been appropriate to give such a direction

Responsibilities of the clerk

To invite, as well as the appeal panel members:-

- You and/or your child
- The Headteacher
- A nominated governor
- A nominated LEA officer
- Any witnesses
- To advise that all parties can be represented by a legal or other representative
- To provide an independent source of advice on procedure for all parties to the appeal
- To circulate details of those attending and their roles, the order of the hearing

Evidence/Witnesses

- If appropriate physical evidence should be retained by the school and made available to the panel.
- All parties may put forward new relevant evidence but the school may not introduce new reasons for the exclusion.
- It is likely that the panel will wish to hear from witnesses directly or indirectly involved.
- The panel is required to consider the view of your child, which may be in person, in writing or any other practical form.
- If witnesses are unwilling or are unable to attend the hearing the panel will rely on their written statements, which will have previously been circulated.
- Pupils may appear as witnesses if they do so voluntarily and with their parent's permission.
- The calling of character witnesses is at the discretion of the panel but should be allowed unless there is good reason to refuse.
- It is possible that the alleged victim (for example in the case of bullying) may attend, send a representative or make a written statement available for the panel's consideration.

WHAT HAPPENS AT THE MEETING

The proceedings will be similar to that of the Governing Body's Discipline Committee's appeal hearing and should also be reasonably informal. This should help all parties to present their cases effectively.

It is likely that the following format will be used:-

1. the Chair or Clerk will welcome the parties and introduce those present;
2. the Headteacher and a nominated representative from the Governing Body will present their case;
3. if appropriate their witness/es will be called;
4. opportunity for anyone to ask questions;
5. you and/or your child or representative will present your case;
6. if appropriate your witness/es will be called;
7. opportunity for anyone to ask questions;
8. opportunity for the LEA to make representations;
9. opportunity for anyone to ask questions;
10. the school/Governing Body sum up their case;
11. you and/or your child or representative sum up the case;
12. the appeal hearing ends.

Reaching a decision

Consideration will be given to the following:-

- on the balance of probabilities whether your child did what he/she is alleged to have done;
- whether the use of permanent exclusion was in line with guidance contained in Circular 1/2004;
- whether the Headteacher had taken all the appropriate steps before resorting to permanent exclusion, including in most cases the implementation of an appropriate PSP;
- Appropriate school policies including the school's published behaviour policy, equal opportunities policy, anti-bullying policy, special educational needs policy, and race equality policy and any other relevant policy;
- The fairness of the exclusion in relation to the treatment of any other pupils involved in the same incident;
- balancing the interests of your child against the interests of all the other members of the school community.

AFTER THE HEARING OF THE INDEPENDENT APPEAL

- The decision of the Independent Appeal Committee is binding on all parties.
- The appeal panel must inform you in writing of its decision by the end of the second school day after the appeal hearing.
- If a direction to reinstate your child is made the appeal panel must inform both yourself and the Headteacher of the date of return.
- If the appeal panel upholds the exclusion and:-
 - You reside within the Vale of Glamorgan you will be advised in the letter to contact the Vale LEA to discuss your child's continued education. You will be asked to nominate an alternative school. If your child had been permanently excluded more than once your parental right to nominate an alternative school is lost. It will be for the LEA to determine appropriate educational provision. Should you wish an Education Welfare Officer can discuss the matter with you.
 - You reside outside the Vale of Glamorgan your home LEA will be notified and you will need to make contact to discuss your child's continued education.

It should also be noted that the remit of the appeal panel does not include 'clearing the pupil's name', details of an exclusion may not lawfully be deleted from the pupil record. The Governing Body must, however, comply with any parental request to append their appeal statement to the pupil record. It will be for the Governing Body to decide what details of the exclusion are included in the pupil's school record.

FURTHER REMEDIES AVAILABLE TO YOU

Complaint to the Local Ombudsman

- You and/or your child can complain and the grounds would have to be maladministration by the appeal panel.
- The Ombudsman has no powers to direct reinstatement or to order a fresh appeal hearing, though a fresh appeal hearing could be recommended. The LEA is normally expected to comply.

Judicial Review

- Any party may appeal
- The party appealing must consider that the decision of the appeal panel is legally flawed
- If judicial review is granted, the Court considers the lawfulness of the panel's decision
- If it finds the panel's decision to be unlawful or unreasonable it could quash the decision and, if it were expedient, order the LEA to set a fresh appeal hearing before a newly constituted panel

National Assembly

- Has no power of intervention but could provide guidance on the use of exclusions to any party.

RELEVANT LEGISLATION

Education Act 2002

National Assembly Circular 1/2004 ~ Exclusion from Schools and PRUs

The Education (Pupil Exclusions and Appeals) (Maintained Schools) (Wales) Regulations 2003

The Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003

Race Relations Act 1976 (amended 2000)

Sex Discrimination Act 1976

Disability Discrimination Act 2001

Human Rights Act 1998

Education (Pupil Records) (Wales) Regulations 2001