

Exclusion Policy COVID-19 addendum (Updated 10th September 2021)

<https://www.gov.uk/government/publications/school-exclusion/changes-to-the-school-exclusion-process-during-the-coronavirus-outbreak>

This statutory guidance describes the temporary changes we have made to the school suspensions and permanent exclusions process due to COVID-19. It focuses on arrangements that apply to suspensions and permanent exclusions that occur from 25 September up until 24 March 2022, though the arrangements relating to remote meetings also apply to those that occurred during the period 25 September 2020 to 24 September 2021.

The changes apply to suspensions and permanent exclusions from:

- maintained schools
- academies (including alternative provision academies but excluding 16 to 19 academies)
- pupil referral units (PRUs)

The statutory guidance on suspensions and permanent exclusions from maintained schools, academies and pupil referral units in England describes the normal procedures that must follow a decision to suspend or permanently exclude on disciplinary grounds. They are unchanged except as noted in this guidance.

The term ‘governing board’ used throughout this guidance means:

- the governing body of a maintained school
- the management committee of a PRU
- an academy trust

Temporary arrangements applying to suspensions and permanent exclusions occurring between 25 September 2021 and 24 March 2022

All suspensions and permanent exclusions occurring between 25 September 2021 and 24 March 2022 (inclusive of those dates) are subject to temporary arrangements with regards to the use of remote access technology (for example, videoconferencing or telephone conferencing software) for meetings of governing boards or independent review panels. This is a contingency measure should there be any further public health restrictions to limit the spread of COVID-19 that might make it difficult for meetings to be held in person within the normal statutory timescales.

Governing boards and independent review panels (IRPs) who have a duty to meet to discuss a suspension or permanent exclusion that occurs between 25 September 2021 and 24 March 2022 (inclusive), must ensure that any such meeting takes place within the normal statutory timescales described in the statutory guidance Suspensions and permanent exclusions from maintained schools, academies and pupil referral units in England.

If the deadlines are missed because of COVID-19, the meeting must be held as soon as it becomes reasonably practicable to meet either in person or via remote access (respecting the conditions for such a meeting).

Governing boards and IRPs should:

Facilitate remote access meetings where it is not reasonably practicable to meet in person consider the actions for schools during the coronavirus (COVID-19) outbreak.

A permanent exclusion should be taken as having ‘occurred’ on the first day of the permanent exclusion.

Any permanent exclusion covered by these arrangements will continue to be subject to them until the procedures for scrutiny of the permanent exclusion have been exhausted.

For any suspension or permanent exclusion that occurred between 25 September 2020 and 24 September 2021, the above also applies.

Conducting remote meetings

For suspensions and permanent exclusions occurring between 25 September 2021 and 24 March 2022 (inclusive of those dates), meetings of governing boards or IRPs should be held via remote access if:

It is not reasonably practicable for the meeting to take place in person, within the usual timescales, due to COVID-19 and the governing board, or arranging authority for IRPs, is satisfied that:

- all the participants agree to the use of remote access
- all the participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, if a live video link is used
- all the participants will be able to put across their point of view or fulfil their function
- the meeting can be held fairly and transparently via remote access
- The governing board, or arranging authority for IRPs, is responsible for ensuring that these conditions are met before a meeting takes place.

Those who have no intention of taking part in the meeting should not be treated as ‘participants’ for the purposes of the conditions.

When determining if it is practicable to meet in person, the governing board or arranging authority should assess:

- the facts of the case
- the circumstances in which a meeting in person could be expected to take place
- the needs of the intended participants, as far as this is possible
- the latest public health guidance, including the actions for schools during the coronavirus outbreak

Arranging a remote access meeting

The governing board or arranging authority should explain the technology they propose to use and make sure that the participants, particularly pupils and their families, know that they do not have to agree to a meeting to be held via remote access.

Where a parent or pupil has given their agreement for a meeting to be held via remote access, the other participants should accommodate that preference except in exceptional circumstances.

Governing boards, arranging authorities and panel members must:

- comply with relevant equalities legislation
- recognise that some participants may find it difficult to participate in a remote access meeting, for example if they have a disability or if English is not their first language

The governing board or arranging authority should take reasonable steps to facilitate a parent, child or young person's access to the technology required. For example, governing boards and arranging authorities may wish to run a 'test meeting' to trial if technology that is going to be used is suitable.

If a Director, trustee, panel member or other participant requires support to access or use remote access technology, the governing board or arranging authority should facilitate this to ensure the meeting can be held promptly.

Fairness and transparency

The governing board or arranging authority must assess whether a meeting can be held fairly and transparently via remote access with reference to the facts of each case. It cannot be decided by following a general policy.

If a governing board or arranging authority is not satisfied that a meeting can be held fairly and transparently via remote access, they should consider using reasonable adjustments to overcome this. They should consult with parents and pupils to take account of their wishes.

Running the meeting

If a meeting is held via remote access, the chair must make every effort to check the participants understand the proceedings and can engage with them. This is to ensure the meeting is conducted fairly.

If, once the meeting starts, the meeting cannot proceed fairly, for example because a participant cannot access the meeting, the governing board or IRP should adjourn the meeting.

The use of remote access does not alter other procedural requirements that may apply to governing boards, arranging authorities or IRPs. For example, if a parent requests the appointment of a special educational needs (SEN) expert to advise a review panel, the arranging authority must appoint one and cover the cost as normal. Parents may be joined by a friend or representative as normal.

Though governing boards and IRPs must consider written representations if they are made, the law does not allow for solely paper-based ‘meetings’, conducted in writing.

As long as the conditions for a remote access meeting are met, it is possible for some participants to be present in person and for others to join the meeting via remote access. All the participants must have access to technology which will allow them to hear and be heard by others throughout (and to see and be seen throughout, if a live video link is used).

To help meetings run smoothly and ensure they are accessible for participants, governing boards and IRPs must:

- provide clear instructions about how to join the meeting virtually, and distribute the relevant papers in a timely manner ahead of the meeting
- indicate a named person who participants can contact with any questions they may have beforehand
- consider holding a pre-meeting with attendees to check that the available technology is suitable, and all participants understand how to access the meeting
- ensure the chair is prepared to explain the agenda at the start and to provide clear guidance on how the meeting will be run, for example:
 - how participants should indicate they wish to speak
 - how any ‘chat’ functions should be used
 - whether there will be any breaks in proceedings
 - how participants can access advocacy services during the meeting

Applications for an independent review

The deadline for applications for an independent review has been reinstated to normal statutory timescales (15 days) in relation to permanent exclusions occurring from 25 September 2021. Applications for an independent review must be made within 15 school days from the date on which notice of the governing board’s decision is given in writing to parents, or directly to the pupil if they are 18 or above.

Schools must allow 15 school days to pass without an application having been made before deleting the name of a permanently excluded pupil from their admissions register. This is in accordance with the Education (Pupil Registration) (England) Regulations 2006 (as amended).

The deadline for applications for an independent review in relation to permanent exclusions occurring between 25 September 2020 and 24 September 2021 remains 25 school days from the date on which notice of the governing board’s decision is given in writing to parents, or directly to the pupil if they are 18 or above.