

# School Exclusions – A Parent’s guide

## Introduction

This document provides information about when a child can be excluded and the obligations of the school to review an exclusion and the right to appeal an exclusion.

The rules governing exclusions from Schools, Academies and Student Referral Units in England are contained in the **s52 of the Education Act 2002**.

If your child has been excluded, the applicable Government Guidance is **Exclusions from maintained schools, Academies and student referral units. A guide for those with legal responsibilities in relation to exclusion**.

*Note: A 2014 version of the Exclusions Guidance was issued by the Department for Education earlier this year before being withdrawn to address issues with process. The current guidance to be followed is the above Guidance which commenced 1 September 2012.*

Please also note that this Parents’ Guide is only applicable to those students who are attending school in England and applies to all children attending a school including those below or above compulsory school age, such as those attending nursery classes or sixth forms.

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## What are the different types of exclusion?

A **fixed term exclusion** is for a specific period of time. A student may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year). In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to a permanent exclusion.

Students whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. An exclusion that takes place over a lunchtime would be counted as half a school day.

A **permanent exclusion** involves the child being removed from the school roll. However, the head teacher must not remove a student's name from the school admissions register until the outcome of the Independent Review Panel (if this route is followed by parents).

## In what circumstances can a child be excluded?

A student must only be excluded on disciplinary grounds. The decision to exclude must be:

- Lawful
- Rational
- Reasonable
- Fair; and
- Proportionate

The behaviour of students outside of school can be considered as grounds for exclusion. The school's behaviour policy will set out when a student's behaviour outside of school premises may lead to disciplinary sanctions.

A decision to exclude a student **permanently** should only be taken:

*"in response to a serious breach, or persistent breaches, of the school's behaviour policy; **and** where allowing the student to remain in school would **seriously harm** the education or welfare of the student or others in the school".*

When reaching the decision to exclude a child, the head teacher must apply the civil standard of proof, i.e. 'on the balance of probabilities' which means it is more likely than not that a fact is true.

Under the **Equality Act 2010** schools must not discriminate against, harass or victimise students because of their:

- sex
- race
- disability
- religion or belief
- sexual orientation
- because of a pregnancy / maternity; or
- because of a gender reassignment.

For disabled children, this includes a duty to make reasonable adjustments to policies and practices.

It is unlawful to exclude or to increase the severity of an exclusion for a non-disciplinary reason. For example, it would be unlawful to exclude a student simply because they have additional needs or a disability that the school feels it is unable to meet. It would also be unlawful to exclude for a reason such as:

- academic attainment / ability
- the action of a student's parents
- the failure of a student to meet specific conditions before they are reinstated such as attend a reintegration meeting.

However the Head Teacher could lawfully and would normally exclude a child for:

- Repeated failure to follow academic instruction
- Failure to complete a behavioural sanction, e.g. a detention, a decision to change the sanction to exclusion would not automatically be unlawful
- Repeated and persistent breaches of the schools behavioural policy. Even if the offence that has immediately led to the exclusion would not have normally constituted a serious enough breach on its own a child can still be excluded if it is part of wider pattern of behaviour. These duties need to be taken into account when deciding whether to exclude a student
- Formally arranged part-time timetables may be necessary as a temporary measure in exceptional circumstances to meet a student's needs but must not be used as a disciplinary sanction and is not a long term solution.

### **What are the factors a head teacher should consider before deciding to exclude?**

The decision on whether to exclude is for a head teacher to take. Students should be given an opportunity to present their case before the decision to exclude. When considering whether to exclude, head teachers should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that a student has suffered bereavement, has mental health issues or has been subject to bullying.

The guidance is clear that early intervention should be used to address underlying causes of disruptive behaviour. This should include:

- an assessment of whether appropriate support is in place to support any Special Educational Needs or disability that a student may have
- the use of a multi-agency assessment for students who demonstrate persistent disruptive behaviour.

Where a student has received multiple exclusions or is approaching the legal limit of 45 school days of fixed period exclusion in an academic year, head teachers should consider whether exclusion is providing an effective sanction.

Schools have the power to direct a student off-site for education to improve his or her behaviour (**section 29A of the Education Act 2002**). If the school decide to use this power, under the **Education (Educational Provision for Improving Behaviour) (Amendment) Regulations 2012** they must:

- Ensure that parents (and the local authority where the student has a Statement of Special Educational Needs or an Educational Healthcare Plan—EHCP) are given clear information about the placement: why, when, where, and how it will be reviewed;
- Keep the placement under review and involve parents in the review. The regulations specify regular reviews but do not specify how often reviews must take place (that should be decided on a case-by-case basis). Reviews should be frequent enough to provide assurance that the off-site education is achieving its objectives and that the student is benefitting from it; and

- Have regard to guidance from the **Secretary of State** on the use of this power - new statutory guidance on this issue can be found at *paragraph 41 of the Alternative Provision - Statutory guidance for local authorities - January 2013*.

A student can also be transferred to another school as part of a 'managed move.' This is to allow the student to have a fresh start in a new school and is an alternative to an exclusion.

Managed moves must only be arranged with the consent of the parties involved, including the parents. The threat of exclusion must never be used to influence parents to remove their child from the school. Managed moves are usually subject to a trial period in the new school.

Students can be returned to the original school if the placement fails.  
It is unlawful for a child to be informally excluded from school

### **What are the school's obligations when a child has Special Educational Needs (SEN) or is looked after?**

There are certain groups of students with additional needs who are particularly vulnerable to exclusion. This includes students with Statements of Special Educational Needs (SEN) or an Education Health Care Plan (EHCP) and looked after children.

Head teachers should, as far as possible, avoid excluding permanently any student with parents in supporting the behaviour of students with additional needs. In relation to looked after children, schools should co-operate proactively with foster carers or children's home workers and the local authority that looks after the child.

Where a school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a student with a statement of SEN, an EHCP or a looked after child it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of support for a student's SEN.

Where a student has a statement of SEN or EHCP, schools should consider requesting an early annual review or interim / emergency review.

### **What is the procedure for excluding a student?**

When a head teacher or teacher in charge decides to exclude a student, the parent /s or carer/s should be notified immediately, usually by telephone, followed by a letter without delay.

The letter must state:

- If the exclusion is permanent
- If the exclusion is fixed-term, the precise period of the exclusion
- The reasons for the exclusion

- The parent's right to make representations to the governing body, and how the student can be involved in this;
- Who to contact about making such representations
- The right on written request to see copies of a child's school record
- The arrangements made by the school / Student Referral Unit for the student to continue their education during the first five days of the exclusion, including setting and marking of work. It is the parents' responsibility to ensure that work sent home is completed by the student and returned to school
- The school days (or school day from) which the student will be provided with alternative suitable education.

### **Model letter to be used**

***From head teacher notifying parent of a fixed period exclusion of 5 school days or fewer in one term, and where a public examination is not missed.***

Dear **[Parent's Name]**

**[Child's name] [date of birth]**

*I am writing to inform you of my decision to exclude **[Child's Name]** for a fixed period of **[specify period]**. This means that he/she will not be allowed in school for this period. The exclusion begins/began on **[date]** and ends on **[date]**.*

*I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[Child's Name]** has not been taken lightly. **[Child's Name]** has been excluded for this fixed period because **[reason for exclusion]**.*

**[for pupils of compulsory school age]**

*You have a duty to ensure that your child is not present in a public place in school hours during this exclusion on **[specify dates]** unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the local authority if your child is present in a public place during school hours on the specified dates. If so, it will be for you to show reasonable justification.*

*We will set work for **[Child's Name]** to be completed on the days specified in the previous paragraph as school days during the period of his/her exclusion when you must ensure that he/she is not present in a public place without reasonable justification. **[detail the arrangements for this]**. Please ensure that work set by the school is completed and returned to us promptly for marking at the re-integration meeting.*

*You have the right to make representations about this decision to the governing body/management committee. If you wish to make representations please contact **[Name of Contact]** on/at **[contact details — address, phone number, email]**, as soon as possible. Whilst the governing body/management committee has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's school record.*

*You should also be aware that if you think the exclusion has occurred as a result of discrimination then you may make a claim to the First- tier Tribunal (Special Educational Needs and Disability) in the case of disability discrimination, or the County Court, in the case of other forms of discrimination. Such a claim must be lodged within 6 months of the date **[Child's Name]** was excluded. <https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability>*

You and **[child's name]** are requested to attend a reintegration meeting with me at **[time]** on **[date]** at **[place]**. The purpose of the meeting is to discuss how best your child's return to school can be managed and to review the work completed during the exclusion period. Failure to complete the work set may result in your child not being allowed to return to School.

You also have the right to see a copy of **[Child's Name]**'s school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of **[Child's Name]**'s school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

You may also find it useful to contact the Coram Children's Legal Centre. They aim to provide free legal advice and information to parents on state education matters. They can be contacted on 0300 3305485 or on <http://www.childlawadvice.org.uk/>. The advice line is open from 8am to 8pm Monday to Friday, except Bank Holidays and 24<sup>th</sup> December to the 1<sup>st</sup> January.

Other alternative links to relevant services which you may find useful are:

**Statutory guidance on exclusions** can be found by visiting <http://www.education.gov.uk/schools/pupilsupport/behaviour/exclusion>

**Information Advice and Support Service:**  
(formerly known as the Parent Partnership Service)  
<http://www.westcheshirelocaloffer.co.uk/>  
Telephone: 0300 1237001  
Email: [iasservice@cheshirewestandchester.gov.uk](mailto:iasservice@cheshirewestandchester.gov.uk)

If you require further guidance on any of the advice mentioned in our letters please contact: Mrs Wendy Williams at Tarvin Meadow Professional Centre, Meadow Close, Tarvin, Cheshire, CH3 8LY, telephone 01244 972825 or email [Exclusions@cheshirewestandchester.gov.uk](mailto:Exclusions@cheshirewestandchester.gov.uk)

**[Child's Name]**'s exclusion expires on **[date]** and we expect **[Child's Name]** to be back in school on **[date]** at **[time]**.

Yours sincerely  
**[Name]**  
Head teacher

cc. Child's school file  
CWAC exclusions inbox [exclusions@cheshirewestandchester.gov.uk](mailto:exclusions@cheshirewestandchester.gov.uk)

### **What are the obligations of parents during a period of exclusion?**

During the first five days of a period of exclusion (whether fixed-term or permanent), the parents of an excluded student, who is of compulsory school age, must make sure that he or she is not present in a public place during school hours, unless there is a reasonable justification.

Failing to ensure this is an offence, and parents may be given a fixed fine of £60. If the school or Local Authority thinks that parents could better influence the behaviour of the student, a parenting contract may be offered. A parenting contract is an agreement between the school and parents that they will both support the child in improving their behaviour.

For a fixed period exclusion of more than five school days, the governing body (or Local Authority in relation to a student excluded from a student referral unit) must arrange suitable full-time education for any student of compulsory school age (for example; home tutoring, a student referral unit or online studies). This provision must begin no later than the sixth day of the exclusion. This duty is set out in **section 100 of the Education and Inspections Act 2006**.

For permanent exclusions, the Local Authority must arrange suitable full-time education for the student, again of compulsory school age, to begin no later than the sixth day of the exclusion. This duty is set out in **section 19 of the Education Act 1996**.

In addition, where a student has a Statement of Special Educational Needs or Education Health Care Plan the Local Authority must ensure that an appropriate full-time placement is identified in consultation with the parents.

### **Does the school have to provide education during the first 5 school days of an exclusion?**

It is important for schools to help minimise the disruption that exclusion can cause to an excluded student's education. Whilst the statutory duty on governing bodies or Local Authorities is to provide full-time education from the sixth day of an exclusion, there is an obvious benefit in starting this provision as soon as possible.

Where it is not possible, or appropriate, to arrange alternative provision during the first five school days of an exclusion, schools should take reasonable steps to set and mark work for students. Work that is provided should be accessible and achievable by students outside of school.

### **When will a Governing Body review an exclusion?**

The governing body has a duty to consider parents' representations about an exclusion. The extent of this duty and how it is exercised depend on the length and nature of the exclusion.

The governing body **must** consider the reinstatement of an excluded student within 15 school days of receiving notice of the exclusion if:

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

Where an exclusion would result in a student missing a public examination or national curriculum test there is a further requirement for a governing body to consider exclusion before the date of the examination or test. If this is not possible, the chair of governors may consider the exclusion independently and decide whether or not to reinstate the student.

These are the only circumstances in which the chair can review an exclusion decision alone. In such cases parents still have the right to make representations to the governing body and must be made aware of this right.

If a child has been excluded for a period of more than 5 school days, but not more than 15, in a single term then the parents can request that the Governing Body consider the reinstatement of the child. In these circumstances the Governing Body must consider the reinstatement within 50 school days of receiving notice of the exclusion. This may not affect the actual exclusion as the child is likely to have completed their exclusion prior to the Governing Body considering reinstatement, but if the Governing Body did decide to overturn the exclusion and direct reinstatement a record to this effect would be added to the child's school records.


In the case of a fixed period exclusion which does not bring the student's total number of days of exclusion to more than five in a term, the Governing Body must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.

### **What will happen at a Governing Body meeting?**

The following parties must be invited to a meeting of the Governing Body and allowed to make representations:

- parents;
- the head teacher; and
- a representative of the local authority (in the case of a maintained school or Student Referral Unit)

The Governing Body must:

- 
- ask for any written evidence in advance of the meeting (including witness statements and other relevant information held by the school, such as those relating to a student's Special Educational Needs).
  - circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting.
  - allow parents and students to be accompanied by a friend or representative.
  - identify the steps they will take to enable and encourage the excluded student to attend the meeting and speak on his / her own behalf, taking into account the student's age and understanding; or by other means if attending the exclusion meeting is not possible.

When considering the exclusion, the Governing Body must consider:

- the interests and circumstances of the excluded student
- the circumstances in which the student was excluded, and
- have regard to the interests of other students and people working at the school.

When establishing the facts in relation to an exclusion decision the Governing Body must apply the civil standard of proof; i.e. 'on the balance of probabilities' it is more likely than not that a fact is true.



In reaching a decision on whether or not to reinstate a student, the Governing Body should consider whether the decision to exclude the student was lawful, reasonable and procedurally fair, taking account of the head teacher's legal duties.

In the light of their consideration, the Governing Body can either:

- uphold an exclusion; or
- direct reinstatement of the student immediately or on a particular date.

Where reinstatement is not practical because for example, the student has already returned to school following the expiry of a fixed period exclusion or the parents make clear they do not want their child reinstated, the Governing Body must, in any event, consider whether the head teacher's decision to exclude the child was justified based on the evidence.

The Governing Body must notify parents, the head teacher and the local authority of their decision, and the reasons for their decision, in writing and without delay.

The Governing Body should set out the reasons for their decision in sufficient detail to enable all parties to understand why the decision was made.

In the case of a permanent exclusion the governing body's notification must also include the information below.

- The fact that it is permanent.
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel and the following information:
  - the date by which an application for a review must be made
  - the name and address to whom an application for a review (and any written evidence) should be submitted;
  - that any application should set out the grounds on which it is being made and that, where appropriate, this should include a reference to how the student's special educational needs are considered to be relevant to the exclusion;
  - that parents have a right to require the local authority / Academy Trust to appoint an Special Educational Needs (SEN) expert to attend the review;
  - details of the role of the SEN expert and that there would be no cost to parents for this appointment;
- that parents must make clear if they wish for a SEN expert to be appointed in any application for a review; and
- that parents may, at their own expense, appoint someone to make written and / or oral representations to the panel and that parents may also bring a friend to the review.



- That, in addition to the right to apply for an Independent Review Panel, if parents believe that the exclusion has occurred as a result of discrimination then they may make a claim under the **Equality Act 2010** to the **First-Tier Tribunal** (Special Educational Needs and Disability), in the case of disability discrimination, or the County Court, in the case of other forms of discrimination.
- That a claim of discrimination made under these routes should be lodged within six months of the date on which the discrimination is alleged to have taken place, e.g. the day on which the student was excluded.

### **What will happen at an Independent Review Panel?**

If the Governing Body uphold a permanent exclusion, parents have the right to request that their decision is reviewed by an Independent Review Panel (IRP).

Parents must lodge their application for a review:

- within 15 school days of notice being given to the parents by the Governing Body of their decision to uphold a permanent exclusion; or
- where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the **Equality Act 2010** in relation to the exclusion.

These are strict deadlines and any application made outside of the legal time frame must be rejected by the local authority / Academy Trust.

Parents may request an Independent Review Panel even if they did not make a case to, or attend, the meeting at which the Governing Body considered the exclusion. Parents must submit written representations and, if applicable, supporting evidence, when lodging their application.

▶ The local authority / Academy Trust must constitute the panel with either three or five members:

- a lay member to chair the panel
- one (or two for a 5 member panel) school governor who have served as a governor for at least 12 consecutive months in the last five years, provided they have not been teachers or head teachers during this time, and
- one (or two for a 5 member panel) head teachers or individual who has been a head teacher within the last five years.

A clerk will also be present to provide advice to the panel and parties to the review on procedure, legislation and statutory guidance on exclusions. The clerk does not take part in the decision making process.

The role of the panel is to review the Governing Body's decision not to reinstate a permanently excluded student. In reviewing the decision the panel must consider the interests and circumstances of the excluded student, including the circumstances in which the student was excluded, and have regard to the interests of other students and people working at the school.

The panel can decide to:

- uphold the exclusion decision;
- recommend that the governing body reconsiders their decision, or
- quash the decision and direct that the governing body considers the exclusion again.

When considering the Governing Body's decision, the panel should apply the following tests which need to be satisfied to quash the decision:

- **Illegality** - did the head teacher and / or governing body act outside the scope of their legal powers in taking the decision to exclude?
- **Irrationality** - was the decision of the governing body not to reinstate the student so unreasonable that it was not one a sensible person could have made?
- **Procedural impropriety** - was the process of exclusion and the governing body's consideration so unfair or flawed that justice was clearly not done?

If any of these criteria are met then the panel can quash the decision of the governing body and direct that they consider the exclusion again.

Where the criteria for quashing a decision have not been met the panel should consider whether it would be appropriate to recommend that a governing body reconsiders their decision not to reinstate the student.

This should be used where evidence or procedural flaws have been identified that do not meet the criteria for quashing the decision but which the panel believe justify a reconsideration of the governing body's decision.

In all other cases the panel should uphold the exclusion.

There is no further right of appeal against the decision of an Independent Review Panel. However there are two ways that the decision may be challenged:

If you feel that the review panel process was unfairly run, you may be able to take this further by complaining about maladministration by the IRP. A successful complaint may result in a recommendation that a new IRP should be arranged, but the decision to uphold the exclusion cannot be overturned. The body this complaint should be made to will depend on the type of school involved:

For academies

A complaint should be made to the Secretary of State who will pass the complaint to the **Education Funding Agency (EFA)**. They can be contacted on **0370 000 2288**.

## **Can I request a Special Educational Needs expert attend the Independent Review panel?**

Parents have a right to request the attendance of a SEN expert at the review panel, regardless of whether or not the school recognises that their child has SEN.

The SEN expert should be a professional with first-hand experience of the assessment and support of SEN, as well as an understanding of the legal requirements on schools in relation to SEN and disability.

SEN experts must be impartial. The SEN expert can be employed by another local authority or Academy Trust but they should not have had any previous involvement in the assessment or support of SEN for the excluded student, or siblings of the excluded student. The purpose of this is to avoid a conflict of interest.

The appointment of an SEN expert is for the local authority / Academy Trust to make but it should take reasonable steps to ensure that parents have confidence in the impartiality and capability of the SEN expert. Where possible, this may include offering parents a choice of SEN expert.

The Special Educational Needs (SEN) expert's role is similar to an expert witness.

They should provide impartial advice to the panel on how special educational needs might be relevant to the exclusion. The SEN expert should base their advice on the evidence provided to the panel. The SEN expert's role does not include making an assessment of the student's special educational needs.

The focus of the SEN expert's advice should be on whether the school's policies which relate to SEN, or the application of these policies in relation to the excluded student, were legal, reasonable and procedurally fair.

If the SEN expert believes that this was not the case he / she should advise the panel on the possible contribution that this could have made to the circumstances of the student's exclusion.

Where the school does not recognise that a student has SEN, the SEN expert should advise the panel on whether he / she believes the school acted in a legal, reasonable and procedurally fair way with respect to the identification of any special educational needs that the student may potentially have, and any contribution that this could have made to the circumstances of the student's exclusion.

## **What happens when the Independent Review Panel recommends the Governing Body reconsiders the exclusion?**

Where the Independent Review Panel directs or recommends that the Governing Body reconsiders their decision, the Governing Body must reconvene within 10 school days of being given notice of the IRP's decision.

If, following a direction to reconsider, the Governing Body does not offer to reinstate the student within 10 school days of being notified of the panel's decision, an adjustment may be made to the schools budget in the sum of £4,000.

In the case of an Academy, the school would be required to make an equivalent payment directly to the local authority in which the school is located. This payment will be in addition to any funding that would normally follow an excluded student.

In the case of either a recommended or directed reconsideration, the Governing Body must notify the following people of their reconsidered decision, and the reasons for it, in writing and without delay:

- the parents
- the head teacher
- the local authority and, where relevant, the 'home authority'.

If the Governing Body upholds the exclusion again, there is no further right to refer the matter to the IRP.

However the decision may be challenged by an application for Judicial Review. In order to bring an action for judicial review, this would have required the governing body to have made an error in law/ acted unreasonably/ in breach of natural justice. The application for judicial review should be made promptly but at least within three months of the date of the decision. You would need legal representation should you decide to pursue this course of action.

### **When can I bring a judicial review claim against the decision of the Independent Review Panel?**

As noted above, there is no appeal from the decision of an appeal panel. However, the decision may be subject to judicial review, and the judge could quash the original decision and order that a fresh hearing is arranged.

In order to bring an action for judicial review, this would have required the IRP to have made an error in law/ acted unreasonably/ in breach of natural justice. The **application for judicial review** should be made promptly but at least within three months of the date of the decision. You would need legal representation should you decide to pursue this course of action.

Examples of potential maladministration that could lead to a complaint include the following:

- The panel was not properly constituted, e.g. a member of the panel was not truly independent and had links to the school
- The panel relied on information provided by the school that has subsequently been shown to be false
- A parent was not allowed to properly participate in the proceedings
- A parent did not receive proper notice of the panel hearing.

Parents have a right to request the attendance of a SEN expert at the review panel

## **What can I do if the exclusion involved disability discrimination?**

If parents believe that the exclusion has occurred as a result of discrimination then they may make a claim under the **Equality Act 2010** to the **First-tier Tribunal (Special Educational Needs and Disability)**, in the case of disability discrimination.

In order to fall under the protection of the *Equality Act 2010*, a student needs to be classed a 'disabled' for the purposes of the Act. A person is disabled if they have a physical/mental impairment which is long term (has lasted or will last for more than 12 months) and has a substantial effect on their ability to carry out normal day to day activities. The school is under a duty not to discriminate against a person who is classed as disabled for the purposes of the act.

The *Equality Act 2010* requires that educational establishments must take reasonable steps to ensure that disabled students are not substantially disadvantaged compared with students who are not disabled. Educational establishments have a duty to avoid the substantial disadvantage caused by a provision criterion or practice. The duty applies to the provision of education and access to any benefit, service or facility. When the duty arises, the issue to be considered is whether the adjustment is reasonable.

When deciding whether the adjustment is reasonable a number of factors will be taken into account including the financial resources available, the cost of taking a particular step and the extent to which it is practicable to take a particular step. Discrimination will only occur if the failure to make reasonable adjustments has put the student at a substantial disadvantage compared to their non-disabled peers.

In addition, schools have a duty to ensure that a disabled student is not treated unfavourably because of something connected with his/her disability. This is called discrimination arising from disability.

This will occur when the school treats a disabled student unfavourably, this treatment is because of something connected with the disabled student's disability and the school cannot justify the treatment by showing that it is a proportionate means of meeting a legitimate aim.

Claims for Disability Discrimination would be lodged with the First-Tier Tribunal. There is strict time limit of 6 months from the date of the alleged discrimination for lodging a claim.

A successful claim may result in a declaration that the school has discriminated against the student, an apology for this discrimination and a change in school policy. Parents can make a claim to the Tribunal for any type of exclusion, fixed term or permanent.

For permanent exclusions, this right is in addition to the right to request a review by an Independent Review Panel.