
STATUTORY INSTRUMENTS

2012 No. 1033

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

PART 2

Maintained schools

Functions of the governing body in relation to excluded pupils

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 [^{F1}, the local authority, the social worker or the virtual school head];
 - (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;
 - [^{F2}(ia) the social worker;
 - (ib) the virtual school head;]
 - (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.

[^{F3}]^{F4}(3A) Paragraph (3B) applies if a remote meeting request has been made.]

(3B) Where this paragraph applies, the meeting referred to in paragraph (3)(c) [^{F5}must] be held using remote access, provided the governing body are 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);
- ^{F6}(b)
- (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.]

[^{F7}(3C) A social worker or virtual school head who has been invited to attend the meeting referred to in paragraph (3)(c) but is unable to do so may nominate another person as their representative to attend the meeting and make representations about the exclusion.]

[^{F8}(3D) Where—

- (a) a social worker or virtual school head; or
- (b) their nominated representative as referred to in paragraph (3C),

attends a meeting referred to in paragraph (3)(c) which is taking place in person, they may do so using remote access provided the governing body are satisfied that the conditions referred to in paragraph (3B)(a), (c) and (d) are met.

(3E) Paragraph (3F) applies if—

- (a) for a reason related to extraordinary events or unforeseen circumstances, it is not reasonably practicable for the meeting referred to in paragraph (3)(c) to be held in person; and
- (b) the meeting is not already required to take place using remote access pursuant to paragraph (3B).

(3F) 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 conditions referred to in paragraph (3B)(a), (c) and (d) are met.

(3G) Subject to the exception made for persons referred to in paragraph (3D), a meeting referred to in paragraph (3)(c) must be held in person unless—

- (a) a remote meeting request is made; or
- (b) for a reason related to extraordinary events or unforeseen circumstances, it is not reasonably practicable for the meeting to be held in person,

and the governing body are satisfied that the conditions in paragraph (3B)(a), (c) and (d) are met.]

(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 [^{F9}, the local authority] (and, if applicable, the home local authority) [^{F10}, the social worker and the virtual school head] 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 [^{F11}, the local authority] (and, if applicable, the home local authority) [^{F12}, the social worker and the virtual school head] 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;
 - [^{F13}(iva) where a meeting of the review panel is to review the governing body's decision, that a remote meeting request may be made, if the relevant person wishes to be able to attend the meeting using remote access;]
 - (v) how an application for a review [^{F14}or a remote meeting request] may be made [^{F15}, and what these] must contain;
 - (vi) where and to whom to send the application [^{F16}or remote meeting request][^{F17}, and the date by which these] 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 ^{M1} where the relevant person believes that unlawful discrimination has occurred, and the time within which such a claim should be made.
- (7) [^{F18}Subject to [^{F19}paragraphs (7E), (7F) 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).
- ^{F20}(7A)
- ^{F20}(7B)
- ^{F20}(7C)
- ^{F20}(7D)

[^{F21}(7E) Paragraph (7F) applies where, 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—

- (a) it has not been reasonably practicable to meet in person for a reason related to extraordinary events or unforeseen circumstances; and
- (b) it has not been reasonably practicable to meet by way of remote access for a reason related to the satisfaction of the conditions in paragraph (3B)(a), (c) and (d).

(7F) Where this paragraph applies, the time limit referred to in paragraph (7)(a) or (b) within which the governing body must take steps is extended by such period as is reasonably necessary for a reason related to the extraordinary events or unforeseen circumstances.]

(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

- F1** Words in reg. 6(3)(b) substituted (1.9.2022) by *The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment) Regulations 2022* (S.I. 2022/788), regs. 1(2), **6(2)** (with reg. 3(2))
- F2** Reg. 6(3)(c)(ia)(ib) inserted (1.9.2022) by *The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment) Regulations 2022* (S.I. 2022/788), regs. 1(2), **6(3)** (with reg. 3(2))
- F3** 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)**
- F4** Reg. 6(3A) substituted (1.9.2023) by *The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023* (S.I. 2023/571), regs. 1(1), **6(2)** (with regs. 1(3), 16) (as amended by S.I. 2023/882, regs. 1(2), 4, 8 (with reg. 1(4))
- F5** Word in reg. 6(3B) substituted (1.9.2023) by *The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023* (S.I. 2023/571), regs. 1(1), **6(3)(a)** (with regs. 1(3), 16) (as amended by S.I. 2023/882, regs. 1(2), 4, 8 (with reg. 1(4))
- F6** Reg. 6(3B)(b) omitted (1.9.2023) by virtue of *The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023* (S.I. 2023/571), regs. 1(1), **6(3)(b)** (with regs. 1(3), 16) (as amended by S.I. 2023/882, regs. 1(2), 4, 8 (with reg. 1(4))

- F7** Reg. 6(3C) inserted (1.9.2022) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment) Regulations 2022 (S.I. 2022/788), regs. 1(2), **6(4)** (with reg. 3(2))
- F8** Reg. 6(3D)-(3G) inserted (1.9.2023) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/571), regs. 1(1), **6(4)** (with regs. 1(3), 16) (as amended by S.I. 2023/882, regs. 1(2), 4, 8 (with reg. 1(4)))
- F9** Words in reg. 6(4)(b) substituted (1.9.2022) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment) Regulations 2022 (S.I. 2022/788), regs. 1(2), **6(5)(a)** (with reg. 3(2))
- F10** Words in reg. 6(4)(b) inserted (1.9.2022) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment) Regulations 2022 (S.I. 2022/788), regs. 1(2), **6(5)(b)** (with reg. 3(2))
- F11** Words in reg. 6(6)(a) substituted (1.9.2022) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment) Regulations 2022 (S.I. 2022/788), regs. 1(2), **6(5)(a)** (with reg. 3(2))
- F12** Words in reg. 6(6)(a) inserted (1.9.2022) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment) Regulations 2022 (S.I. 2022/788), regs. 1(2), **6(5)(b)** (with reg. 3(2))
- F13** Reg. 6(6)(b)(iva) inserted (1.9.2023) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/571), regs. 1(1), **6(5)(a)** (with regs. 1(3), 16) (as amended by S.I. 2023/882, regs. 1(2), 4, 8 (with reg. 1(4)))
- F14** Words in reg. 6(6)(b)(v) inserted (1.9.2023) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/571), regs. 1(1), **6(5)(b)(i)** (with regs. 1(3), 16) (as amended by S.I. 2023/882, regs. 1(2), 4, 8 (with reg. 1(4)))
- F15** Words in reg. 6(6)(b)(v) substituted (1.9.2023) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/571), regs. 1(1), **6(5)(b)(ii)** (with regs. 1(3), 16) (as amended by S.I. 2023/882, regs. 1(2), 4, 8 (with reg. 1(4)))
- F16** Words in reg. 6(6)(b)(vi) inserted (1.9.2023) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/571), regs. 1(1), **6(5)(c)(i)** (with regs. 1(3), 16) (as amended by S.I. 2023/882, regs. 1(2), 4, 8 (with reg. 1(4)))
- F17** Words in reg. 6(6)(b)(vi) substituted (1.9.2023) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/571), regs. 1(1), **6(5)(c)(ii)** (with regs. 1(3), 16) (as amended by S.I. 2023/882, regs. 1(2), 4, 8 (with reg. 1(4)))
- F18** Words in reg. 6(7) substituted (25.9.2020) by The School Discipline (England) (Coronavirus) (Pupil Exclusions and Reviews) (Amendment) (No. 2) Regulations 2020 (S.I. 2020/908), regs. 1, **6(a)**
- F19** Words in reg. 6(7) substituted (1.9.2023) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/571), regs. 1(1), **6(6)** (with regs. 1(3), 16) (as amended by S.I. 2023/882, regs. 1(2), 4, 8 (with reg. 1(4)))
- F20** Reg. 6(7A)-(7D) omitted (1.9.2023) by virtue of The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/571), regs. 1(1), **6(7)** (with regs. 1(3), 16) (as amended by S.I. 2023/882, regs. 1(2), 4, 8 (with reg. 1(4)))
- F21** Reg. 6(7E)(7F) inserted (1.9.2023) by The School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023 (S.I. 2023/571), regs. 1(1), **6(8)** (with regs. 1(3), 16) (as amended by S.I. 2023/882, regs. 1(2), 4, 8 (with reg. 1(4)))

Marginal Citations

- M1** 2010 c.15.

Changes to legislation:

There are currently no known outstanding effects for the The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012, Section 6.