



# Education Act 2002

## 2002 CHAPTER 32

### PART 3

#### MAINTAINED SCHOOLS

### CHAPTER 3

#### ADMISSIONS, EXCLUSIONS AND ATTENDANCE

#### *Exclusion of pupils*

#### **[<sup>F1</sup>51A Exclusion of pupils: England**

- (1) The head teacher of a maintained school in England may exclude a pupil from the school for a fixed period or permanently.
- (2) The teacher in charge of a pupil referral unit in England may exclude a pupil from the unit for a fixed period or permanently.
- (3) Regulations must make provision—
  - (a) requiring prescribed persons to be given prescribed information relating to any exclusion under subsection (1) or (2);
  - (b) requiring the responsible body, in prescribed cases, to consider whether the pupil should be reinstated;
  - (c) requiring the local authority to make arrangements enabling a prescribed person to apply to a review panel for a review, in any prescribed case, of a decision of the responsible body not to reinstate a pupil;
  - (d) about the constitution of a review panel;
  - (e) about the procedure to be followed on a review under paragraph (c).
- (4) On an application by virtue of subsection (3)(c), the review panel may—
  - (a) uphold the decision of the responsible body,

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- (b) recommend that the responsible body reconsiders the matter, or
  - (c) if it considers that the decision of the responsible body was flawed when considered in the light of the principles applicable on an application for judicial review, quash the decision of the responsible body and direct the responsible body to reconsider the matter.
- (5) Regulations may provide for the panel to have supplementary powers, and in particular may provide that the panel has the power to make a direction about the effect on an excluded pupil of a recommendation under subsection (4)(b) or a direction under subsection (4)(c).
- (6) In a case where the panel gives a direction under subsection (4)(c) to the governing body of a maintained school, the panel may, in prescribed circumstances, order an adjustment of the school's budget share for a funding period.
- (7) Regulations must make provision about—
- (a) how the amount of the adjustment is to be determined;
  - (b) the effect of the adjustment on the budget shares of other maintained schools for the funding period.
- (8) Regulations under this section may also make provision—
- (a) for the payment by the local authority of allowances to members of the review panel;
  - (b) requiring a person or body exercising functions under subsection (1) or (2) or under the regulations to have regard to any guidance given from time to time by the Secretary of State;
  - (c) requiring local authorities to give prescribed information to the Secretary of State;
  - (d) in relation to any other matter relating to the exercise of the powers conferred by subsections (1) and (2).
- (9) Regulations made by virtue of subsection (8)(a) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of a review panel.
- (10) In this section—
- “budget share” and “funding period” have the same meaning as in Part 2 of the School Standards and Framework Act 1998;
  - “exclude”, in relation to the exclusion of a pupil from a school or pupil referral unit, means exclude on disciplinary grounds (and “exclusion” is to be construed accordingly);
  - “maintained school” has the same meaning as in Chapter 1;
  - “the responsible body” means—
- (a) in relation to exclusion from a maintained school, the governing body of the school;
  - (b) in relation to exclusion from a pupil referral unit, such person as may be prescribed.
- (11) In relation to any time when no responsible body is prescribed in relation to permanent exclusion from a pupil referral unit, subsection (3) has effect in relation to such an exclusion as if—
- (a) paragraph (b) were omitted, and

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- (b) the decision referred to in paragraph (c) were the decision of the teacher in charge of the unit permanently to exclude the pupil.
- (12) Regulations may make provision for this section and regulations made under it to apply, with prescribed modifications, in relation to Academies or a description of Academy.]

#### Textual Amendments

**F1** S. 51A inserted (1.9.2012) by [Education Act 2011 \(c. 21\), ss. 4\(2\), 82\(3\)](#); [S.I. 2012/1087, art. 3](#) (with [art. 4](#))

#### Modifications etc. (not altering text)

**C1** S. 51A applied (with modifications) (1.9.2012) by [The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012 \(S.I. 2012/1033\), regs. 1\(1\), 21](#) (with [reg. 1\(2\)](#))

## 52 Exclusion of pupils<sup>[F2]</sup>: Wales]

- (1) The head teacher of a maintained school <sup>[F3]</sup>in Wales] may exclude a pupil from the school for a fixed period or permanently.
- (2) The teacher in charge of a pupil referral unit <sup>[F4]</sup>in Wales] may exclude a pupil from the unit for a fixed period or permanently.
- (3) Regulations shall make provision—
- requiring prescribed persons to be given prescribed information relating to any exclusion under subsection (1) or (2),
  - requiring the responsible body, in prescribed cases, to consider whether the pupil should be reinstated,
  - requiring the <sup>[F5]</sup>local authority] to make arrangements for enabling a prescribed person to appeal, in any prescribed case, to a panel constituted in accordance with the regulations against any decision of the responsible body not to reinstate a pupil, and
  - as to the procedure on appeals.
- (4) Regulations under this section may also make provision—
- for the payment by the <sup>[F5]</sup>local authority] of allowances to members of a panel constituted in accordance with the regulations,
  - requiring a person or body exercising functions under subsection (1) or (2) or under the regulations to have regard to any guidance given from time to time <sup>F6</sup>... by the National Assembly for Wales,
  - requiring <sup>[F7]</sup>local authorities] to give prescribed information to <sup>F8</sup>... the Assembly, <sup>F8</sup>... and
  - in relation to any other matter relating to the exercise of the powers conferred by subsections (1) and (2).
- (5) In subsection (3), “the responsible body” means—
- in relation to exclusion from a maintained school, the governing body of the school, and
  - in relation to exclusion from a pupil referral unit, such person as may be prescribed;

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and, in relation to any time when no responsible body is prescribed in relation to permanent exclusion from a pupil referral unit, subsection (3) shall have effect in relation to such an exclusion with the omission of paragraph (b) and as if the decision referred to in paragraph (c) were the decision of the teacher in charge of the unit permanently to exclude the pupil.

- (6) Regulations made by virtue of subsection (4)(a) may provide for any of the provisions of sections 173 to 174 of the Local Government Act 1972 (c. 70) [F9 or (in relation to Wales) Part 8 of the Local Government (Wales) Measure 2011] (allowances to members of local authorities and other bodies) to apply with prescribed modifications in relation to members of a panel constituted in accordance with regulations under this section.
- (7) Regulations shall make provision enabling a prescribed person, in any prescribed case, to appeal to a panel constituted in accordance with the regulations against any decision made after 31st August 1994 under paragraph 7 of Schedule 1 to the Education Act 1996 (c. 56), or any enactment repealed by that Act, in relation to the permanent exclusion of a pupil from a pupil referral unit; and the provision that may be made by regulations made by virtue of this subsection in relation to any such decision includes any provision that could after the commencement of subsections (2) to (4) be made in relation to a decision falling within subsection (3)(c).
- (8) Regulations under this section which—
- (a) relate to exclusions from pupil referral units (whether before or after the passing of this Act), and
  - (b) are made before the repeal by this Act of the existing enactments is fully in force,
- may provide for any provision made by or under the existing enactments to have effect in relation to exclusions from pupil referral units with such modifications as may be prescribed.
- (9) In subsection (8) “the existing enactments” means sections 64(2) and (3) and 65 to 67 of, and Schedule 18 to, the School Standards and Framework Act 1998 (c. 31).
- (10) In this section “exclude”, in relation to the exclusion of a child from a school or pupil referral unit, means exclude on disciplinary grounds (and “exclusion” shall be construed accordingly).
- (11) In this section “maintained school” has the same meaning as in Chapter 1.

#### Textual Amendments

- F2** Word in s. 52 heading and colon inserted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 4(3)(d)**, 82(3); [S.I. 2012/1087](#), **art. 3** (with **art. 4**)
- F3** Words in s. 52(1) inserted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 4(3)(a)**, 82(3); [S.I. 2012/1087](#), **art. 3** (with **art. 4**)
- F4** Words in s. 52(2) inserted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), **ss. 4(3)(b)**, 82(3); [S.I. 2012/1087](#), **art. 3** (with **art. 4**)
- F5** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **art. 1**, **Sch. 2 para. 11(2)**
- F6** Words in s. 52(4)(b) omitted (1.9.2012) by virtue of [Education Act 2011 \(c. 21\)](#), **ss. 4(3)(c)(i)**, 82(3); [S.I. 2012/1087](#), **art. 3** (with **art. 4**)
- F7** Words in Act substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), **art. 1**, **Sch. 2 para. 11(3)**

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- F8** Words in s. 52(4)(c) omitted (1.9.2012) by virtue of Education Act 2011 (c. 21), **ss. 4(3)(c)(ii)**, 82(3); S.I. 2012/1087, art. 3 (with art. 4)
- F9** Words in s. 52(6) inserted (30.4.2012) by Local Government (Wales) Measure 2011 (nawm 4), s. 178(3), **Sch. 3 para. 6**; S.I. 2012/1187, art. 2(1)(q)

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**Modifications etc. (not altering text)**

- C2** S. 52 modified (E.) (temp. from 20.1.2003) by The Education Act 2002 (Modification of Provisions) (No. 2) (England) Regulations 2002 (S.I. 2002/2953), **reg. 5**
- C3** S. 52 modified (19.11.2003) by The Education Act 2002 (Transitional Provisions and Consequential Amendments) (No.2) (Wales) Regulations 2003 (S.I. 2003/2959), regs. 1(1), **6**
- C4** S. 52 modified (W.) (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), **8(b)**
- C5** S. 52(2) restricted (9.1.2004) by The Education (Pupil Exclusions and Appeals) (Pupil Referral Units) (Wales) Regulations 2003 (S.I. 2003/3246), regs. 1(1), **4**
- C6** S. 52(5)(a) modified (31.3.2004) by The Blackburn with Darwen (Maintained Nursery School Governance) Order 2004 (S.I. 2004/657), arts. 1(1), **3(h)**

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**Commencement Information**

- I1** S. 52(7)-(10) in force at Royal Assent, see s. 216(1)
- I2** S. 52(1)-(6) in force at 20.1.2003 except in relation to W. by S.I. 2002/2952, **art. 2** (with Sch. para. 4)
- I3** S. 52(1)-(6) in force at 9.1.2004 for W. by S.I. 2003/2961, art. 7, **Sch. Pt. IV**
- I4** S. 52(11) in force at 1.9.2003 except in relation to W. by S.I. 2003/1667, **art. 4**
- I5** S. 52(11) in force at 31.10.2005 for W. by S.I. 2005/2910, art. 4, **Sch.**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1 by [S.I. 2004/571 Sch.](#)
- specified provision(s) amendment to earlier commencing SI 2003/1667 Sch. para. 1A and 2 by [S.I. 2005/2570 art. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 27(1A) inserted by [2010 c. 26 s. 4\(1\)](#)
- s. 29(2A)-(2D) inserted by [2009 c. 22 s. 260\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 250 omitted (1.9.2012) by virtue of 2011 c. 21, s. 29(9)(d); S.I. 2012/1087, art. 3)
- s. 29B inserted by [2008 c. 25 s. 157](#)
- s. 8585A substituted for s. 85 by [2006 c. 40 s. 74\(1\)](#)
- s. 85A amendment to earlier affecting provision 2006 c. 40 s. 74(1) by [2011 c. 21 s. 31\(2\)](#)
- s. 85A(5) words substituted by [2009 c. 22 Sch. 12 para. 34](#)
- s. 86(1) s. 86 renumbered as s. 86(1) by [2006 c. 40 s. 74\(2\)\(c\)](#)
- s. 86(2) inserted by [2006 c. 40 s. 74\(2\)\(c\)](#)
- s. 88(2)-(7) inserted by [2006 c. 40 s. 74\(3\)](#)
- s. 88(7) repealed by [S.I. 2010/1080 Sch. 1 para. 45Sch. 2 Pt. 1](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of s. 88(2)-(7) by 2006 c. 40, s 74(3) was repealed without ever being brought into force.)
- s. 142(9)(b) words substituted by [S.I. 2010/1158 Sch. 2 para. 11\(10\)\(b\)](#)
- s. 210A inserted by [2008 c. 25 Sch. 1 para. 79](#)