



# Education Act 2011

## 2011 CHAPTER 21

### PART 2

#### DISCIPLINE

#### **4 Exclusion of pupils from schools in England: review**

- (1) Chapter 3 of Part 3 of EA 2002 (maintained schools: admissions, exclusions and attendance) is amended as follows.
- (2) Before section 52, insert—

##### **“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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*Status: This is the original version (as it was originally enacted).*

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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
  - (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.”
- (3) In section 52 (exclusion of pupils)—
  - (a) in subsection (1), after “maintained school” insert “in Wales”;
  - (b) in subsection (2), after “pupil referral unit” insert “in Wales”;
  - (c) in subsection (4)—
    - (i) in paragraph (b), omit from first “(in” to “Wales”;
    - (ii) in paragraph (c), omit “the Secretary of State or” and “as the case may be.”;
  - (d) in the heading, at the end insert “: Wales”.
- (4) Schedule 1 (consequential amendments) has effect.