



Writing Effective Exclusion Letters

Sending high quality suspension/permanent exclusion (PEX) letters to parents is the best way of ensuring that a Headteacher's decision can withstand scrutiny and/or legal challenge by parents.

We have prepared a suite of template exclusion letters to assist you with this. These letters and this briefing note are not intended to be legal advice or a checklist for Headteachers, because every case is different and must be decided on its facts and relevant law. Legal advice can be sought from us on request.

Each letter takes account of the length/type of the suspension/PEX as well as the total school days suspended in the current term, and can then be tailored to the individual circumstances of the case. The letters cover the process from suspension/PEX through to a final decision by a Governors' Discipline Committee (GDC) following reconsideration, where recommended or directed by an Independent Review Panel (IRP). In the majority of cases, the letters will be sent to parents, however where the pupil is 18 years or over, the letter must be sent to the them instead.

We have set out below some matters you should consider before preparing a letter. Where we refer solely to 'exclusion', this means suspension and PEX.

- The notification letter must be from the Headteacher, as the only person with power to impose a suspension or PEX. Where the post is vacant or they are on long-term leave, a formally appointed 'Acting Head' has this power. Other staff do **not** have this power, even when the Headteacher is off-site.
- For suspensions, you need to establish

the total number of school days the pupil has been suspended in the current school term to establish which letter to use, as this directly informs how decisions can be challenged by parents, in addition to the information that must be included. Our suite includes an indexed reference table to assist with letter selection.

- Where a suspension pending further investigation or enquiries is imposed, you **must** still have sufficient evidence to establish a *prima facie* case for a suspension of that length (ie there must be at least some factual investigation before it is imposed). It is still a suspension like any other, and must meet statutory requirements. There must be no gap between the initial suspension and any subsequent suspension or PEX. A notification letter must be sent parents, and this should signpost that a further suspension/PEX may subsequently be imposed for the same misbehaviour (our suite contains letters for this purpose). A second notification letter must be sent where a subsequent consecutive suspension or PEX is imposed.
- PEX may only be imposed as a last resort, in response to a serious breach and/or persistent breaches of the Behaviour Policy, and where allowing the pupil to remain in school would seriously harm the education and/or welfare of the pupil and/or other pupils/staff in the school.



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You should confirm how this test is met in the letter (our template letter provides for this).

- The pupil's education must continue during the suspension/PEX. Suitable full-time education **must** be arranged as soon as possible, but in any event from the sixth cumulative day. This is the school's responsibility during a suspension, and the Local Authority (LA)'s from the sixth day of a PEX. Where a PEX is imposed consecutively to a suspension, the LA will only be responsible from the sixth day of the PEX itself, with the school being responsible from the sixth day of the suspension through to that date.
- The DfE's statutory guidance **Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement (Statutory Guidance)** sets out all of the factors that must be considered by Headteachers and GDCs when making/reviewing decisions. Ideally, the letter should confirm that each relevant factor was considered and what the outcome was, which will then reduce the risk of challenge on the basis that these obligations were not met (our template letters provide for this).
- In the case of a looked after or previously looked after pupil, or a pupil who has a social worker for another reason, the letter should confirm that the Virtual School Head (VSH) and/or pupil's Social Worker were involved before the decision was made, and what the outcome of this was, as well as them being notified of the decision itself. The Designated Teacher for Looked After Children, Designated Safeguarding Lead (DSL) and/or Special Educational Needs Co-ordinator (SENCo) and external professionals should also be involved, where applicable.
- In the case of pupils with special educational needs (SEN) and/or a disability, the letter should confirm that the school met its duties in the run up to the suspension/PEX by putting in place all measures/strategies and making all reasonable adjustments that were appropriate to avoid or reduce the risk, in order to justify the decision to suspend or PEX as reasonable and a proportionate means of achieving a legitimate aim. Legal advice, along with a review of the decision letter, should be sought in appropriate cases.
- Headteachers have the power to cancel a suspension or PEX before or after it has begun, as long as a Governors' Discipline Meeting (GDM) has not yet commenced, and the pupil will not have been suspended from school for more than 45 days when the cancellation takes effect. In the case of the latter, the GDM would need to proceed and the GDC would

need to consider reinstatement. The Statutory Guidance sets out who must be notified of the cancellation, and requires the Headteacher to offer the parents a meeting (our suite contains a cancellation letter for this purpose).

- In respect of a GDM or Independent Review Panel Hearing (IRPH) taking place on or after 1 September 2023, amended regulations now provide for these to take place by 'remote access' (i.e. connection via video or, if that is not possible, audio) **if the parent requests this**. The default position is that the GDM or IRPH must take place in person. The Statutory Guidance sets out the very limited extraordinary events or unforeseen circumstances (e.g. flood, fire, pandemic, etc.) in which the school can make this decision. The VSH and/or pupil's Social Worker are always permitted to attend by 'remote access', even if the GDM or IRPH is taking place in person for all other attendees.
- In a maintained school, a representative of the school's LA (and pupil's home LA, where applicable) must be invited to attend a GDM and IRPH, and be permitted to make representations. In an academy, they must only be invited **where this is requested by the parents**, and may only make representations (verbally or in writing) where the GDC or IRP gives them express or implied permission to do so (e.g. by asking them a question).
- Letters sent to parents by Headteachers and GDCs (and indeed IRPs) **must** include the reasons for the findings of fact and the decision itself. These reasons should be in sufficient detail for parents to properly understand what happened and when, why the findings of fact and decision were made, and the evidence on which it was based, so that they can make an informed decision as to whether and how to challenge the decision. Bullet points and generic short descriptions (e.g. "defiance" or "persistent disruption") should be avoided.
- Once a suspension has ended, or a suspension or PEX has been cancelled, the parents and pupil must be invited to attend a reintegration meeting so that a reintegration strategy can be discussed and agreed, in accordance with the statutory guidance. However, the pupil cannot be prevented from returning to school because the parents have not attended this meeting.

If you need advice or support with a suspension or permanent exclusion, or would like us to review a letter before it is sent, please contact Yvonne Spencer on 0207 665 0870 or Joanna Goddard on 0207 665 0805 who would be pleased to assist.