Exclusion Guide for

Head Teachers 2023

# Overview

This is a guide for heads and SLT about how to manage, and what to expect within the exclusion process.

It deals with the whole process, it is based upon current law and guidance, but it will of course, have to be applied to each unique situation. It is not a substitute for advice, and should not be taken as such.

The critical issues when applying an exclusion to consider are:

* pre investigation issues
* following the relevant policies and DfE guidance
* thorough and prompt investigation
* considered decision making
* good record of reasons
* notification of current information to the relevant people
* demonstrable fairness
* procedural propriety
* effective preparation for the Governing Board Review (GBR)

**Note**: Only the headteacher of an academy can exclude a pupil, and this must be on disciplinary grounds - in the headteacher’s absence, a deputy can exclude.

## Key Elements of the Process

To demonstrate compliance with the law and statutory guidance To ensure procedural compliance

To ensure that timescales are met

To undertake an effective, fair investigation

To send relevant correspondence within the timescales with sufficient detail

To be aware of the key principles of compliance with Exclusions Law and Guidance:- The basis for a permanent exclusion (PEx)

The difference between suspension and PEx The two stage test for PEx

1. Serious breach of the behaviour policy
2. Significant risk of harm to the pupil or others in the school if the pupil remained on site or returned to site

The need to offer the right to reply before a decision to PEx is made (if possible)

Where is the pupil’s voice in this? What effort has been made to record this?

A clear, objective investigation process is demonstrated with a decision that is based on the facts

If the facts are in dispute, the decision making process and balance of probabilities assessment must be demonstrable

Is there any suggestion of SEND, medical needs or some other protected characteristic? If so, what interventions have been tried?

Is there is an EHCP or disability? If so, is there evidence of what reasonable adjustments have been made?

What third party/experts have been approached for guidance? Is there have been suspensions, what evidence is there of the:-

* + Reasons for the suspension
	+ Relevant correspondence to explain the suspension
	+ Reintegration meetings – including plans, reviews and actions Was an off site direction to improve behaviour considered? If not what not? Was a managed move considered? If not, why not?

Does the evidence show that this really was the last resort?

# The Aims of the School

Being clear about the aims of the school – the importance of securing a suitable, safe and secure learning environment is necessary. Otherwise, what is the threshold that must be crossed to trigger a sanction under the behaviour policy?

If not explicitly stated in a policy, it must be set out in the exclusions correspondence.

# Trigger event

When considering to suspend or permanently exclude (PEx), there will be a trigger event. In the case of a single, one off serious breach, the event will be a single incident in time.

If a the disruptive behaviour is the trigger event, then this must be clearly stated also.

NB – in many cases whilst a single one off event may be sufficient to trigger a PEx, be wary of relying on that event alone. If there have been previous sanctions, suspensions or disruption, then consider relying on the grounds that

‘Whilst the most recent incident alone could trigger a Permanent Exclusion, this is the culmination of previous disruptive behaviour.’

By using the combination approach, it is possible to include previous behaviour logs, sanctions and details of attempted interventions. If you rely on one incident, then it all stands and falls by that single incident alone.

‘Standard of Proof’ – Headteacher’s must investigate the incident and make decisions on a

‘balance of probabilities test’, i.e. it is more likely than not that an incident occurred.

# Pre-Investigation Considerations

The September 2022 Guidance obliges heads to look carefully at how to approach suspensions and PEx.

If there is to be an investigation, does the pupil need to leave the school site?

## Use of Isolation

Unless there is a need to protect others in the school, to preserve evidence or for another compelling reason, internal isolation or AP should be used to contain a student whilst an investigation takes place to determine the most appropriate sanction.

## Suspending a student

Suspension should only be considered during an investigation if it is needed to protect others in school, the investigation, or the pupil under investigation.

Can they be placed in internal isolation / Alt Provision in school whilst the investigation is undertaken?

Has consideration been given to an off site direction to improve behaviour? (which does not require parental consent)

Are there measures that can be taken to prevent the use of suspension and then further review of the evidence?

Whilst it is forbidden to CONVERT a suspension to a longer suspension or PEx, on some occasions it is essential to remove a pupil from site to conduct an investigation. There is specific wording to be used if this is the case in the letter home to parents.

Having a clear process to follow when dealing with disciplinary matters is a critical element of ensuring that the school environment is safe and that the behaviour and exclusion policies are correctly implemented.

# Investigating the Behaviour Policy Breach

Individual situations are unique, however it is necessary to ensure that there are general principles that should be followed on each occasion. This will help ensure consistency, and ensure that decisions are robust and can be defended if challenged.

This guide sets out the process and actions that senior leaders of all schools should follow when carrying out an investigation following a significant breach of the school behaviour policy.

## What is a behaviour breach investigation?

It is fact-finding exercises that collect all the pertinent information and evidence relating to an alleged breach of the Behaviour Policy. Making decisions without completing and recording a reasonable investigation risks making decisions or actions taken unfairly or unlawfully, which can expose the school and/or trust to the risk of significant challenge.

## Have a fair process ready to deploy

Schools must ensure they follow a fair procedure for everyone involved following an incident. Decisions made must follow a reasonable investigation, and if it does not, then the process can be challenged.

If the matter concludes with an Independent Review Panel the process followed will be scrutinised. If the IRP considers that the process is flawed, the decision to exclude can be quashed and set aside. This process may include looking again at previous fixed term suspensions.

## Stage 1 – Are there other sanctions?

Before beginning an investigation, you should be certain that this is a necessary course of action. On the immediate information available, is a suspension or permanent exclusion a likely outcome? Depending on the circumstances, some issues can be resolved quickly without full investigation.

If a likely outcome is suspension or PEx then act promptly as any unnecessary delay may give the perception of unfairness. However, if there is any point along the way where a different sanction can be applied, it should always be considered and, if implemented, the reason recorded.

## What is being investigated?

Determine at the outset the nature of the investigation process. What is the purpose and scope of the investigation? What will the email say that is sent to staff? How will this look if there is a SAR? – use it to your advantage.

Set out what the allegation is (or was) and how this has been followed up.

## Key Issues

1. Although the head makes the ultimate decision, do not ‘go it alone’ if you can avoid it.

Having an opportunity to consider issues with others can be very helpful.

1. Take a moment to plan the order of the investigation. Time may be pressing, but being clear about what needs to happen first, who will be involved, who will contact the parents and others. Gather your thoughts. Decide who will undertake the various necessary tasks.
2. Identify who will be responsible for gathering and collating the information that you will need for to base your decision upon. If this is yourself, then set up a simple but effective system for storing and keeping it safe so that your job is made easier.
3. Have a plan for how to gather statements from pupils that stops or limits discussion between them. Make sure that all evidence ais gathered in the same way if possible.
4. Do you need to consider any referrals or engagement with any outside agency before making any final decision? This may be parent of the review and re-consideration process about how to proceed.
5. Arrange a meeting with the parents and pupil prior to making a final decision after the evidence has been gathered. Ask for their comments about the evidence. Take note of any comments and weigh them in the balance.
6. If there is any matter where there is a dispute about what happened, make a clear determination on the balance of probabilities about the facts.
7. Consider any external factors such as home life, SEN or health issues and add into the balance before making a decision.
8. If there has been fault or any issue with the process, address as part of the decision making. If it is discovered after the decision making, then flag it up in the report to the GBR panel.

## Nominate the investigator

This sounds very formal and may feel over the top. However, having a clear line of account protects the process.

An investigator should be appointed to lead the investigation, it is crucial that they are not associated or involved with the allegations being investigated, and that they acted both fairly and objectively to establish the facts and allow for a conclusion to be reached based on what is determined to have happened.

This can be achieved by collecting evidence supporting the allegation, and evidence refuting it. The investigator’s role is not to prove the guilt of one party, but to see if there is a case to answer.

If the head is to investigate, then keep a record of the plan and ensure rationality in the paper trail. Avoid duplications where possible.

## How long should an investigation take?

In many ways, the sooner the better. If no timescale is specified, the employer should give the employee a provisional timeframe within which the investigation is expected to be completed. Whilst investigations should really be completed as quickly as possible, it also needs to be fair. If a new matter comes to light when investigating, the investigator (if not the head) will need to raise this and possibly confirm that a secondary investigation will take place. Although it is preferable to merge the new issue into an existing investigation, this should be avoided if it will become unduly complicated.

## Keeping the matter confidential

All staff who may be involved in investigating incidents must be reminded of the importance of maintaining confidentiality.

## Step 2: Preparing for the investigation

If the matter is straightforward, the preparation may be as simple as sitting down with pupils and staff and giving them statement templates and asking them to complete them.

If it is more complicated the investigator will need to think about what evidence should be gathered and who can provide balanced and good witness testimony.

Types of physical evidence may include: witness statements, emails, paperwork, CCTV footage or computer data. The investigator must consider how they are going to obtain the information and ensure they follow the law on data protection and other legal obligations. This will only be required for more complicated matters.

## Step 3: Take accounts from alleged perpetrator(s)

It is imperative that the alleged perpetrator(s) account is (are) taken – where possible as soon as is practical after the incident. Where this is not been possible – explain this to the parents when you meet with them and ask the child to write a statement. If for any reason it is not possible to do immediately, record why. Ask the pupil to provide a statement the next day or if suspended, that the request is made via the parents or direct to the pupil. –

## Warning any delay should be questioned by the exclusion committee.

**Step 4: Dealing with witnesses**

Individuals may need to be interviewed or asked to provide a more formal accounts of what occurred. If several people witnessed the same incident, and the accounts are consistent, then the investigator may not need to interview other witnesses unless they require further information or clarification on the matter.

Once the investigator has identified any witnesses, they should ask them to write it down whilst it is fresh in their mind using standard templates.

The investigator can also meet with any witnesses to ask them about the allegation and take notes. At the end of the meeting, the witness should read the notes thoroughly and sign them if they are an accurate reflection of events. This should only be done if there is good reason for a statement not to be provided.

If not everyone who may have witnessed an event is asked to provide a statement, it needs to be explained how witnesses were selected to avoid an allegation of bias.

## Gathering witness statements

If individuals are asked to write their own statements, by hand or types, it is important to make sure that expectations are clear. That the template form is used. If handwritten it may be necessary to get these typed up for consistency and clarity.

## Interviewing pupils/students and taking individual statements

* Conduct the interview in a private area so that the student is not seen by others whilst giving their statement
* Explain that their statement is their knowledge of events, if they have been told that something happened by someone else, they must be clear about that.
* Use open questions “TED”: Tell, Explain, Describe.
* Avoid questions which require a “yes” or “no” response.
* Avoid asking leading questions or multiple questions at the same time
* Do not introduce information that is not already known to the interviewee.
* Interviewers should remain neutral and avoid showing anger, disgust, judgement and coercion.
* Interviewers should stress how important it is to mention only things that have happened and not to try to guess any details.
* Make clear from the very outset regarding the confidentiality of their statement and that what they say may be disclosed unless there are exceptional circumstances not to.

## Reluctant witnesses

Some pupils may be unwilling or reluctant to provide evidence for an investigation. In such instances, the investigator should explore the reasons behind their reticence and reassure them. In some cases it may be possible to have confidential statements if there is genuine fear of reprisals, although anonymising witness statements should be avoided where possible.

It is most unusual for staff statements to be anonymous.

## Step 5: Concluding the investigation

After the investigator has submitted their opinion and/or report, they will usually not be involved in the final decision (unless the head is the investigator), other than perhaps discussing the report or attending a [hearing](https://www.davidsonmorris.com/disciplinary-hearing/) to explain their findings.

It is the head as relevant decision maker rather than the investigator who makes the final decision on what action should be taken, on the basis of the investigation.

## Step 6: Decision Making

**Try to meet with the Pupil and Parents to share the evidence - BEFORE A DECISION IS MADE**

The investigator may also need to obtain information from the pupil themselves. This is particularly important if an immediate suspension has taken place.

A meeting should be offered to the pupil and parents/carers after the investigator has gathered all of the material. The pupil should have an opportunity to comment and address matters before any final decision has been made.

If the pupil and parents/carers choose not to attend that meeting, that is a matter for them.

# Review

Revisit all evidence:

* test the ‘Standard of Proof’ are other sanctions applicable?

Challenging behaviour:

* are the actions a direct (or indirect) result of a disability or other protected characteristic?
* what strategies have been used, how much consultation with parents?
* is this documented? Have you explored all options?
* what alternatives have been considered?
* what discussions have been held with other agencies?
* what about parents/carers?
* Has statutory assessment been considered?

Before making a decision, you should weigh up what information is available and how it has been obtained:

* Are there any potential procedural issues?
* Any opportunity for collusion?
* Bias or prejudice?
* Any changes to pupil statements

**Note:** the guidance suggests that some groups of pupils are more vulnerable and ‘The headteacher should, as far as possible, avoid permanently excluding any child with an EHCP or a looked after child’

Be mindful that - a decision to exclude a pupil permanently should only be taken:

* In response to a serious breach, or persistent breaches, of the school’s behaviour

policy; and

* Where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

**Note**: Where a pupil has received multiple suspension or is approaching the legal limit of 45 school days of fixed-period exclusion in an academic year. An exclusion committee or Independent Review Panel (IRP) are likely to explore through their questioning whether exclusion was an effective sanction.

## Administrative Law test

Administrative Law Principles

Lawful? Were policies and Statutory Guidance followed?

Fair? Was the investigation and decision making unbiased? Was it based on the evidence available?

Rational? Does the decision follow the evidence?

Reasonable? On the evidence provided, and effect and impact on the school community, was this a decision that a reasonable decision maker could have made?

Proportionate? Was the outcome proportionate to the incident – this is in particular reference to how it will affect the excluded pupil in the long run

Are the actions consistent with the schools objectives?

## How does this work for persistent disruptive behaviour?

If an incident is likely to lead to a suspension or PEx evidence is needed. The evidence is not necessarily lengthy, it may be that a single teacher, TA or LSA can give the necessary evidence.

For some suspensions and PEx the statements may need to be written up afterwards. This is not good practice, but it may be necessary if time is a challenge and it is at the end of the day.

## Is this a waste of time?

No. Not at all, Failure to do this and keep the right records puts the decision maker at risk. It can lead to complaints, challenges and decisions being overturned. That can have a very damaging impact on staff morale and effective behaviour management in a school.

# Decision

Make sure you review the investigator’s report and also consider the child’s CPOMS/MyConcern records, behaviour support plan, external agencies reviews, meetings with parents, medical logs, if applicable reintegration agreements etc.

You should take into account any contributing factors, e.g. the pupil has suffered a bereavement, has mental health issues or has been subject to bullying.

## If there are any facts that are disputed, be clear about why your favour a particular account of events over others.

Contact the CEO (if in a trust) – make sure they are fully updated and have sight of your proposed decision letter.

Share your thoughts with chair of governors (if the Chair will not be on the GBR) if you want to have a more objective view of the possible outcome.

Make your decision.

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| **At- glance - guidelines** |
| **ILLEGAL/NO GROUNDS** | **REASONABLE GROUNDS** | **STRONG GROUNDS** |
| **Minor incidents, for example:*** **Failure to do**
 | **Breach of the behaviour policy (see possible examples below):** | **Serious breach of the behaviour policy (see possible examples below)** |

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| **At- glance - guidelines** |
| **ILLEGAL/NO GROUNDS** | **REASONABLE GROUNDS** | **STRONG GROUNDS** |
| * Failure to bring dinner money
* Poor academic performance
* Lateness or truancy
* Pregnancy
* Parental behaviour
* Breaches of school uniform or rules on appearance, for example:

- wearing jewellery or displaying body-piercing* Failing to meet the requirements of the Equality Act e.g. by excluding disabled pupils without due regard to their disability or treating them less favourably than others because
* Or excluding pupils or discriminating unfavourably on the grounds of race
* homework
 | * Serious harm to the education or welfare of the pupil or others
* Persistently leaving school premises without authorisation
* Bringing adults or other young people onto school premises with malicious intent
* Bringing the school into disrepute at a public event
* Persistent refusal to co-operate with school staff, verbal aggression towards staff, pupils or other members of the school community
* Bullying, racial, sexual or other harassment of staff, pupils or other members of the school community
 | * Bringing the school into disrepute through inappropriate or dangerous behaviour or seriously endangering the safety of others
* Supplying or using an illegal drug on academy premises
* Carrying, threatening to use and or using an offensive weapon (including fireworks)
* Attempted arson on academy grounds, destruction or serious damage of academy property or buildings
* Repeated threats and highly offensive and abusive language towards academy staff, pupils or other members of the academy community
* Repeated bullying, racial, sexual or other harassment of staff, pupils or other members of the academy community
 |

# Obtain extra evidence if needed. If time is needed apply a further period of isolation or suspension but state investigation continues and why the extra time is needed in all cases.

DO NOT RUSH your decision – i.e. if the incident occurs in the last hour of the school day or is very complex then apply internal isolation or AP, or consider a suspension and state your investigation continues in the letter! See appendix A.

The letter MUST explain that the suspension relates to the information available at the time. Additional information may warrant additional sanctions.

If the further investigation does not find any additional evidence, you must not apply a permanent exclusion as this would be explored by the exclusion panel and they could agree not to uphold your decision.

DO NOT make any decision:

* in haste
* in anger

Do ensure the decision is based on

* the balance the evidence
* and you have given a right to present their case!

## Policies

* getting it right at every stage matters
* exclusion and behaviour policies must be compliant
* how do they interact with other policies such as attendance, SEND and inclusion, anti-bullying and complaints
* if you have a policy you **MUST** follow it and be able to demonstrate that it has been applied consistently and fairly!

# Additional options

What other options, i.e. managed move, have these been considered and why have they been discounted, e.g. not supported by parents.

# Meeting or contact with pupil and parents (POST DECISION)

Encourage them to get into contact with the LA.

Make sure the pupil has work to take home and continue to liaise with parents on this obligation – make sure all work is marked and given back.

## The PEx letter

The letter setting out the nature of the sanction must be clear about:-

* **The school’s** objectives
* The actions that gave rise to the sanction
* (If a PEx – why would allowing the pupil to remain on site or return to site) cause a risk of harm for the pupil or others.
* Decision Making
* The decision should be made on the basis of the evidence collected and reviewed.
* It should be very clear about what material has been gathered.
* Why is this a breach of the behaviour policy?
* Why has this sanction been used?
* What factors have been applied in coming to the decision?
* If there are any facts that are in dispute, what are they and what was the evidence that led to your determination?

**Notify LA, parents, pupil, clerk** Write to parents with your decision. Notify social care or VSH is relevant. Inform the LA and clerk.

# Preparing for the GBR

Taking time to prepare for the GBR, working with your clerk or whoever provides this administrative support, is critical to protecting and explaining your decision making.

The GBR has the power to consider, and in many instances, remedy any procedural issues. The IRP cannot do that so flagging any issues to the GBR is incredibly important. If they are not put right at this stage you could risk the whole process being quashed.

The GBR should be forensic, challenging and even handed to the school and the parents.

The role of the GBR is to consider if your decision is within the scope of a ‘reasonable

decision maker’. It is not whether they would make the same decision themselves on the facts.

The GBR can only rely on material provided to it.

The bundle of documents provided should include the following as a minimum.

# Head Teacher’s Report for the GBR

Preparing the report for the GBR is an extremely important element of the process. It is analogous as to preparing a report following a decision to dismiss a member of staff for capability or other reasons. Evidence and clarity need to stand alone as the evidence for taking the final decision.

This report needs to be detailed, considered, and to tackle the legal obligations set out in statute and guidance from the Department for Education. There must be a focus on

compliance with the school’s own behaviour and/or exclusion policy. Any other policies that are relevant to the exclusion, which are likely to be special educational needs, bullying or similar, need to be referred to.

It is critical that the pupil’s voice is included in the Head Teacher’s report. Attempts which have been made to speak to the pupil and all parents/carers without success should also be recorded.

It should be clear that a permanent exclusion must be for either a single serious breach, or persistent disruptive behaviour that breaches school behaviour policies. If the single serious breach is the straw that breaks the camel’s back, be clear that this one off incident alone could have led to a permanent exclusion, but this is in fact as a flow of persistent disruptive behaviour.

The report must explain why permitting the student’s return to the site would be harmful for the student or others in the school community, including school staff as well as pupils.

The template supplied with this guidance enables a comprehensive document to be prepared that fulfils the requirements.

# Chronologies

Effective chronologies of previous poor behaviour and interventions and actions taken by school to change the behaviour are very helpful.

The chronology should highlight the key issues, dates and actions. You may need one for behaviour and one for attempted interventions.

A chronology is not a dump of the whole behaviour log – though providing a copy for completeness is recommended to avoid any suggestion of cherry-picking material that the parents would not usually have access to.

**Relevant Correspondence** Suspension or PEx decision letter Letters for previous suspensions

Correspondence between home and school that is relevant to suspensions or exclusions

# Interventions Chronology – if relevant

**Statements from witnesses (unless serious risk of harm or retribution) Reintegration meeting records**

Minutes Meeting records

Agreements or similar about next steps

**Complete Behaviour Log** (if PEx is based on persistent, disruptive behaviour)

# Relevant Correspondence with 3rd parties, external agencies Relevant reports from external agencies

**Representations from parents Relevant Policies**

# Clerk will arrange exclusion hearing

Clerk will coordinate an exclusion hearing within fifteen working days. You will need to submit ALL evidence within five days of the hearing. The exclusion committee in their decision-making must:

When establishing the facts in relation to an exclusion decision, exclusion committee 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, rather than the criminal standard of ‘beyond reasonable doubt’.

In the light of their consideration, the exclusion committee can either:

* decline to reinstate the pupil; or
* direct reinstatement of the pupil immediately or on a particular date.

# Independent Review Panels

If the parents (or pupil) choose to seek a review of the GBR outcome, they must do so within 15 school days of receiving the decision letter. Any request over the 15 days must be refused.

It is important that as soon as notice is given of the request that the process of arranging the IRP is begun, and responsibility for this is clear.

The pack of papers, plus GBR outcome letter, minutes and parental request for an IRP are to be included in the pack. As head, you can add to your submissions, but you cannot introduce any new grounds for the exclusion.

The IRP must review the GBR decision, and it must follow the relevant guidance. Extracts are included here as this is the test that will be applied. It also helps to understand why the GBR must be so thorough in the review of the original decision and decision making process.

198. The role of the panel is to review the governing board’s decision not to reinstate a permanently excluded pupil. In reviewing the decision, the panel **must** consider the interests and circumstances of the permanently excluded pupil, including the circumstances in which the pupil was permanently excluded, and have regard to the interests of other pupils and people working at the school.

1. The panel **may only quash a governing board’s decision not to reinstate if it considers that the decision was flawed when considered in the light of the principles applicable to an application for judicial review** (statutory guidance on this consideration is provided in paragraphs 223 to 227).
2. New evidence may be presented to the panel, though **the school may not introduce new reasons for the permanent exclusion or the decision not to reinstate the pupil** and the panel must disregard any new reasons that are introduced.
3. In deciding whether the governing board’s decision was flawed, and therefore whether to quash the decision not to reinstate, **the panel must only take account of the evidence that was available to the governing board at the time of making its decision not to**

**reinstate. This includes any evidence that the panel considers would, or should, have been available to the governing board and that it ought to have considered if it had been acting reasonably**.

1. If evidence is presented that the panel considers it is unreasonable to expect the governing board to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the governing board reconsider reinstatement.
2. When considering the governing body’s decision in light of the principles applicable in an application for judicial review, the panel should apply the following tests:
	1. Illegality – did the governing body act outside the scope of its legal powers in deciding that the pupil should not be reinstated? Was there compliance with the published policies and government Guidance?
	2. Irrationality – did the governing body rely on irrelevant points, fail to take account of all relevant points, or make a decision so unreasonable that no governing body acting reasonably in such circumstances could have made it?
	3. Procedural impropriety – was the governing body’s consideration so procedurally unfair or flawed that justice was clearly not done? What was the basis for making the decision, and was that reasonable?
3. Procedural impropriety means not simply a breach of minor points of procedure but something more substantive, that has a significant impact on the quality of the decision- making process. **This will be a judgement for the panel to make but the following are examples of the types of things that could give rise to procedural impropriety: bias; failing to notify parents of their right to make representations; the governing body making a decision without having given parents an opportunity to make representations; failing to give reasons for a decision**; or being a judge in your own cause (for example, if the headteacher who took the decision to exclude were also to vote on whether the pupil should be reinstated).

So to prepare for an IRP the whole process is reviewed, including an obligation to take account of Equality issues, notes of interventions, correspondence and compliance with policies.

## SEN Experts

Parents have the right to request an SEN expert attend the IRP, even if there are no indicators of SEN. The SEN expert does not assess the pupil, they review the school policies and procedures and consider if they are law, reasonable and have been duly applied in the current situation.

This does not mean that the SEN expert would have used the same interventions or approach, but that what the school has done is within the scope of reasonableness.

## Decisions the IRP can make

The IRP has the power to; uphold the decision, send it back to the GBR for a reconsideration or to quash the decision.

If the IRP believe that the GBR did not take into account evidence that they should have done, or failed to scrutinise the process, or if new material has become available, they can direct a reconsideration.

If the IRP believe that there are procedural flaws that are so significant that the process is not compliant with the principles of Judicial Review, then they can quash the decision. If they decide to quash the decision it is a though it had never been made by the GBR.

If there is either a reconsideration or quashing, the GBR must meet again within 10 school days of notification.

The IRP can order a financial readjustment of £4,000 to be paid to the LA in cases were the pupil is not reinstated after the matter is quashed.

## Second GBR

Following the IRP meeting that required a reconsideration or decided to quash the original permanent exclusion, a new panel of governors will be convened to reconsider the decision to permanently exclude.

This should include one governor who was on the original panel. The new panel is required to meet within 10 school days of the decision letter being received. It is recommended that a different clerk is appointed for this panel.

The guidance states that it is not a requirement for parties to attend. The points raised by the IRP are to be addressed specifically. The school and parents can prepare a written submission for the panel if it is on the papers only.