

Covid-19 Exclusions Temporary Changes

The Department for Education has published supplementary statutory guidance and amended the Regulations on exclusions for all state schools in England due to Covid-19.

05 June 2020

Please note: the information contained in this legal update is correct as at 8 February 2021

The Department for Education has published supplementary statutory guidance and amended the Regulations on exclusions for all state schools in England due to Covid-19. The temporary amendments, which are in place from 1st June until 24th September, introduce more flexibilities to the exclusion process in the following ways:

- Allowing remote meetings (for both governing board and Independent Review Panels (IRPs)) in situations where prescribed requirements are fulfilled. Remote meetings (which include both audio and video meetings) are permitted for any meeting which has not occurred by 1st June or where the exclusion takes place on or after 1st June, and a physical meeting cannot take place due to Covid-19. The requirements are:
 - All participants consent. Parents should be informed that if they do not consent there will be a delay to the exclusion being heard;
 - Everyone has access to the technology required to access the virtual meeting;
 - All participants will be able to make their representations or discharge their respective functions; and
 - The meeting can be held in a fair and transparent way.
- Amending Governing Board meeting timescales. The amendment only applies to exclusions where the timescales for meeting had not expired before 1st June or for new exclusions from 1st June, where it is not reasonably practicable to meet by way of remote meetings. In those circumstances the time limit for meeting is extended by 10 school days or such longer period as reasonably necessary. This means that for permanent exclusions and fixed term exclusions that take the term total to more than 15, the board would have 25 school days to arrange a hearing. For fixed term exclusions that take the total to between 6 and 15 school days the board would have 60 school days to hold a meeting. For exclusions where the time limit has expired before 1st June, the meeting should be arranged for as soon as it is safe and practicable to do so.
- Extending the period parents have to request an IRP to 25 school days. This applies to all permanent exclusions on or after 1st June or where the exclusion took place before 1st June but the time limit to request a review has not expired.
- Amends the time limit for arranging an IRP. This applies where it is not possible to meet in person and a remote meeting cannot be arranged. In these circumstances, the time limit is extended from 15 school days from the parental request to 25 school days or as long as reasonably necessary. Much like with the governing board time limit, the time limit will not be extended where the 15 school days has already passed. In these circumstances arranging authorities should seek to arrange a remote hearing or an in-person hearing as soon as reasonably practicable.

In all other respects, including the procedure of meetings and the factors to consider, the existing law and statutory guidance continues to apply in the usual way. If you need any advice in relation to exclusion hearings or want to know how we can assist your board or our IRP services, please do get in contact.

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