

Applying for an Independent Review Panel (IRP) to review your child's permanent exclusion from school

A guide for parents

For further information about Independent Review Panels and other available remedies, please contact

AppealsTeam@northamptonshire.gov.uk

Contents

- [Introduction](#)
- [Who has the right to apply for a review?](#)
- [Who are the independent review panel?](#)
- [What do the panel do?](#)
- [Are there circumstances where I do not have the right to a review hearing?](#)
- [How do I apply for a review?](#)
- [What other options are available to me?](#)
- [When will my review be held?](#)
- [Who will be at the review hearing?](#)
- [Who is the SEN expert?](#)
- [What powers does the panel have?](#)
- [What happens if I need help at the panel?](#)
- [Is the panel review binding?](#)
- [When will I hear the outcome?](#)
- [What if I'm unhappy with the result?](#)

Introduction

The Education Act 2002 (as amended by the Education Act 2011), requires all Local Authorities (LAs) and Academies to make arrangements for enabling parents to request that an Independent Review Panel reviews the Governors decision to uphold permanent exclusion.

This guide will help you decide whether or not to apply for a review of the decision to permanently exclude your son/daughter

This guide will help you decide whether or not to apply for a review of the decision to permanently exclude your son/daughter.

Who has the right to apply for a review?

The relevant person:

- (i) Where a pupil has reached the age of 18 it is the pupil him/herself; or
- (ii) Where a pupil is under 18, it is his/her parent.

Note

Under the Education Act, the definition of “parent” is broad. In addition to a child’s birth parents, it includes any person who has parental responsibility (which includes the local authority where it has a care order in respect of the child) and any person with whom the child lives e.g. a foster carer.

You also have the right to lodge a Disability Discrimination claim with the First Tier Tribunal, or any other types of Discrimination claim with the County Court. See section 15 for contact details. If you lodge either of these or both, and Independent Review will take place after the outcome is known. Alternatively, you can request the IRP to consider these claims.

You may request an independent review:

- even if you do not want your son/daughter to return to the school.
- even if you did not attend the meeting at which the Governors/Proprietor considered your child’s permanent exclusion.
- If you believe that the decision to exclude your child was unreasonable, unfair or unlawful. You will need to explain your reasons.

Who are the Independent Review Panel?

An Independent Review Panel (IRP) consists of three people who have no connection with the school / Academy/ PRU. The panel are volunteers who are recruited and trained for their role. Each panel will include:

- a headteacher (current or retired in the last 5 years)
- a governor (must be or have been a governor within the last 6 years)
- a lay member who will chair the hearing.

What can an Independent Review Panel do?

The IRP will carefully consider submissions from you and the school, in writing and in person at the hearing. The panel can consider:

- whether the school adhered to DFE guidance and relevant legislation such as the Special Educational Needs Code of Practice and The Equality Act 2012.
- Whether permanent exclusion was justifiable and in accordance with school policy;
- Whether procedures had been carried out fairly and without flaws which may have caused injustice;
- Whether permanent exclusion was in accordance with DFE guidance and demonstrates consistent and fair application of school policy.

Are there circumstances where I do not have a right to a review hearing?

Yes. There are 2:

- i. You lose your right to a review hearing if your application is after the deadline for lodging a request. This is the 15th school day after you received, in writing, notice of the Governors'/Proprietors' decision not to reinstate your child.
 - ii. If you have stated that you do not wish to have a review, or if you withdraw your application for a review part way through the process, you will lose your right to a hearing.
- 1 Make sure you send your application for review as soon as possible after you receive the letter from the Governors/Proprietor telling you your son/daughter has not been reinstated.
 - 2 Give the matter careful consideration before you withdraw your application.

How do I apply for a review?

A request for independent review must be made in writing. You can either complete the enclosed form, or go to the Council's website - Education

Entitlement Services – and complete the on-line form. You must state your reasons for requesting a review, i.e. what you think the school did not properly consider or why you believe permanent exclusion was not an appropriate course of action.

IMPORTANT: Whether or not your child has recognised special educational needs, you have a right to require that the Local Authority / Academy appoint a SEN expert to attend the review hearing. You must request an SEN expert at the time you apply for a review of the Governors'/Proprietors' decision.

If you decide to make the request by post, send it to:

West Northamptonshire Council:

Clerk to the Review Panel
Leadership Support and Democracy
West Northamptonshire Council
One Angel Square
Angel Street
Northampton
NN1 1ED

[What other remedies are available to me?](#)

a) Disability Discrimination

If your child has a disability, (physically or otherwise e.g. Aspergers, Autism, Tourette's Syndrome etc.), and you believe discrimination has occurred, you also have the right to lodge a disability discrimination claim to the First-tier Tribunal (Special Educational Needs and Disability). You must lodge your claim within 6 months of the date your child was permanently excluded.

Important

If your claim is successful, the First-tier Tribunal can direct the school/ academy / PRU to reinstate your son / daughter.

You can make a claim of discrimination to the First-tier Tribunal (see heading 15 for contact details) before deciding to apply for an Independent Review. If you decide to lodge a discrimination claim, you can apply for an Independent Review Panel within 15 school days of the date the discrimination claim is finally determined.

If you apply for an IRP to review the decision to permanently exclude your child, the arrangements for the review hearing must not be delayed or postponed. Alternatively, you can choose to make this claim to the IRP, but the IRP does not have the power to direct reinstatement.

If you make a claim to the IRP, you should put the reasons for claiming disability discrimination in writing on the application form (or letter). You may also wish to contact the Equality & Human Rights Commission (EHRC) for further help and advice (see section 15 for contact details).

b) Other types of discrimination claims, e.g. Race, Gender, sexual orientation etc.

If you believe that your child suffered discrimination, other than disability, you have the right to lodge a discrimination claim with the County Court – see section 15 for contact details of Northampton Combined Court.

When will my review be heard?

The IRP must meet to consider your application for review no later than the 15th school day after the day on which your application was received. However, an IRP may adjourn the hearing if there is good reason e.g. SEN expert unavailable to attend or there are parallel criminal proceedings.

Please note

Two or more reviews may be combined and dealt with in the same hearing if the IRP considers that it would be fair and expedient to do so because the issues raised by the reviews are (a) the same or connected and (b) the parties to each review agree.

Who will be at the Review Hearing?

- You and your partner; where requested, a friend; representative or legal adviser; and, if you wish, your son/daughter. (NB If you have any special requirements e.g. interpreter, please contact state this when preparing your request).
- The Independent Review Panel (3 members).
- The Clerk to the Review Panel.
- The Head Teacher / Principal of your son's/daughter's school/ academy/PRU and their representative, if there is one.
- Any witnesses called by either the school / academy / PRU or by you.
- If school/PRU is maintained by the Local Authority (LA), an LA representative may attend.

- If school/alternative provision has academy status, an LA representative may attend at your request but may only make representations with the consent of the Academy.
- An SEN expert, but only if you had requested one at the time you lodged your application for review.
- Possibly, and where relevant, the alleged victim or his/her representative may be present for part of the review hearing.

Sometimes there is also an observer. This may be someone who is training to be an Independent Review Panel member or Clerk to Panel.

You and the school will be asked for your consent for an observer being present for any part of your review hearing. You are free to object.

Who is the SEN expert?

The SEN expert will be someone with appropriate expertise and experience of special educational needs (SEN). It may be possible to offer you a choice of SEN experts. He or she will not have, or at any time have had, any connection with the School / Academy / PRU, or the incident leading to the exclusion, or you or your child (or his/her sibling), which might raise doubts about their ability to act impartially.

Important

The SEN expert's role will not include making an assessment of your child's special educational needs. He/she can only make objective and impartial statements to the panel relating to SEN.

What powers does the Independent Review Panel have?

The IRP can decide to:

- uphold the exclusion;
- recommend that the governing body/proprietor reconsiders their decision;
or
- quash the decision and direct that the governing body/proprietor considers the exclusion again.

Important

The IRP may only quash the decision on the principles applicable to judicial review. Therefore, the IRP will apply the following tests:

- **Illegality** – did the Head Teacher / Principal and/or Governors / Proprietor act outside the scope of their legal powers in taking the decision to exclude?
- **Irrationality** – was the decision of the Governors / Proprietor not to reinstate your child so unreasonable that it was not one a sensible person could have made?
- **Procedural Impropriety** - was the process of exclusion and the Governors' / Proprietors' consideration so unfair or flawed that justice was clearly not done?

Note

Procedural impropriety means not simply a breach of minor points of procedure but something that has a significant impact on the quality of the decision making process. The Department for Education's Guidance (paragraph 149) gives the following examples:

- Bias;
- Failing to notify parents of their right to make representations;
- Governors/Proprietor 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 e.g. if the Head Teacher who took the decision to exclude were also to vote on whether to uphold the exclusion.

The IRP may also:

- (a) direct the governing body / proprietor to place a note on your child's educational record;
- (b) in the case of a governing body's decision, order that a readjustment be made to the school's budget or, in the case of an Academy, order that the Academy must make a payment directly to the local authority in which the Academy is located, in the sum of £4,000 if, following a decision by the IRP to quash the original decision, the governing body / proprietor:
 - (i) reconsiders the exclusion and decides not to reinstate your child (where you want your child to be reinstated), or
 - (ii) fails to reconsider the exclusion within 10 school days after notification of the IRP's decision.

What happens if I need an interpreter/signer or other help?

You may have an interpreter or signer at your review hearing. If you would like the Clerk to arrange this for you (free of charge), please ask the Clerk well before the hearing. Alternatively, if you would prefer, you may arrange for your own interpreter/signer to come with you.

Is the Review Panel's decision binding on anybody?

Yes. The relevant person (see Question 1), the Governors / Proprietor, the Head Teacher / Principal and the LA are bound by the IRP's decision.

However, where you or the school / academy / PRU apply for a judicial review of the IRP's decision and are successful in that application, the High Court may order a re-hearing of the review.

When will I hear the outcome of my review?

The Clerk will send a letter to you, the Headteacher/Principal and the Governor/Proprietor as soon as possible after the IRP has decided on your case. Please allow 2 to 5 working days for receipt of the decision letter.

What can I do if I'm unhappy with the conduct of the Review or the panel's decision?

In the first instance, please contact the Appeals Manager who can help you with any queries or concerns you may have. S/he may be contacted on AppealsTeam@northamptonshire.gov.uk

If the excluding school is a Local Authority maintained school, you can make a complaint to The Local Government Ombudsman within 3 months following the panel's decision. The Ombudsman is not able to overturn the panel's decision, but you have the right to make a complaint about maladministration. You can do so via their advice line at 0300 061 0614, visit [their website](#) e-mail advice@lgo.org.uk or write to:

The Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH

For Academies, you can make a complaint to the Secretary of State by using the [online complaint form](#) at or by writing to:

The Department for Education
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

If you disagree with the panel's decision, you can challenge this by applying, through your own solicitor and at your own expense, for permission to seek

Judicial Review. This must be done within 3 months following the panel's decision.

Other sources of advice and contact details

- If you would like further advice or information, the **Advisory Centre for Education (ACE)** is an independent national education advice centre which provides information on the education system. You can obtain information [from their website](#)
- [The DfE has produced guidance](#), which the Head Teachers, Governing Bodies/Proprietors and Review Panels must have regard to. It can be obtained on:

If you do not have access to a computer, your local library may be able to help you. Alternatively you can request a copy of the guidance from the Clerk to the Review Panel at 01604 367490.

- If your son/daughter has a Statement of Special Educational Needs or Education, Health and Care Plan, free, impartial advice and support can be obtained from [Information and Advice Service](#) or telephone their advice line at 08452415552 (10am - 4pm Mon, Weds and Fri) or office number 01604 636111.
- [IPSEA](#)
Provides free legally based advice on SEN/Disability issues (Tel: 0800 018 4016)
- [Coram Children's Legal Centre](#)

