

Guidance notes on submitting an Exclusions Review

A. YOUR RIGHT TO A REVIEW BY AN INDEPENDENT REVIEW PANEL

If your child is permanently excluded from any local authority maintained school (including special schools) or a Pupil Referral Unit and the governing body decides not to reinstate your child, by law you can request that the decision be reviewed by an Independent Review Panel. If you wish to apply for a review against the decision not to reinstate your child, please complete the enclosed form and return it to the Clerk to the Independent Review Panel, Democratic Services (contact details on page 5).

Any reviews against exclusions from non-maintained school, such as academies, are dealt with directly through those schools.

What is an 'Independent Review Panel' and what is its role?

Requests to review a decision not to reinstate a permanently excluded child are considered by an Independent Review Panel (IRP). The Lambeth Independent Education Appeals Service co-ordinates IRP hearings but members of the panel are wholly independent and must have no personal connections to Lambeth Council or the school in question.

The IRP does not have the power to direct a governing body to reinstate an excluded pupil. However, where a panel decides that a governing body's decision is flawed, it can recommend that the governing body reconsiders their decision, or quash the decision and direct that the governing body to consider the exclusion again.

The Panel Members

The panel has three members, one each from the following categories:

- The Chair, who must be someone that has never worked in a school in a paid capacity. They may have worked as a volunteer for a school or been a governor, but they must never have been a formal employee of a school.
- Someone who has served as a school governor for at least 12 months in the last 5 years.
- Someone who must be, or recently have been, a head teacher of a school (though not one that has been involved in the decision to permanently exclude your child).

All panel members have received training in the exclusion reviews and are aware of the primary legislation, regulations and statutory guidance governing exclusions.

B. LODGING AN REVIEW

Completing the Exclusion Review Form

You are required to complete the enclosed exclusion review form and should include as much written information as possible, particularly when explaining your reasons for requesting a review and why you think the decision to permanently exclude your child was wrong. Attach additional pages to the form if necessary.

If you have limited understanding of English, you may need an interpreter to assist you at the review hearing. If you are unable to bring a friend or family member to translate on your behalf, please state your

requirements in the form and we can arrange for an interpreter to attend. If you have any other special requirements, please make this clear within the form or contact us directly.

Please also indicate on the form if there are any dates in which you cannot attend a review hearing. We will try to ensure that the hearing is not held on any such day, however this cannot be guaranteed.

Finally, please make sure that you have enclosed all the supporting documentation for your review. This is important because if you cannot attend the hearing, the panel will consider the review in your absence based on your written submissions.

What happens next?

Once you have returned the form to us, we will confirm with you that we have received it. Please note, applications must be lodged within 15 school days of the date on which you received written notice of the governing body's decision not to reinstate your child to the school.

We will then organise the IRP hearing and notify you of the date, time and venue as soon as possible.

It is important that any information and supporting documentation you believe is relevant to your case is sent to us as soon as possible, preferably with your form. If possible, you should include official documentation such as doctor's letters and school reports etc.

Any supporting documentation should be sent to us as soon as practically possible and preferably alongside the appeal form. This will enable us to distribute the final pack to panel members well in advance of the review and allow them adequate time to consider your submissions carefully. You may submit information at any point in time up to the date of the hearing, though please bear in mind that if you submit lots of information on (or close to) the day of the hearing, the panel may need to adjourn and meet at a later time so that they can properly consider the late submissions.

At least five school days before the hearing, you will be sent a pack that includes all the papers you have submitted, along with all the papers the school and the local education authority have submitted and a letter reminding you of when and where the hearing will be held.

What should I do before the review?

If you need any advice on the hearing procedure or exclusion guidance, please contact the Clerk to the panel (details below). If you need any help or assistance putting together your review, the Community Empowerment Network or the Advisory Centre for Education may be able to assist you (contact details also included at the end of this guidance note).

A few days before the review hearing, you might wish to prepare yourself by:

- Plan what you would like to say when the panel invites you to explain your case against the decision to permanently exclude your child.
- Making sure you have looked at the school's case (which is included in the papers you will have received for the hearing) and noting down any questions you may have for the school.
- Reading your pack and ensuring that you have submitted all the paperwork to support your review.
- Deciding if you will bring anyone to the hearing for support. You may bring a member of your family, a friend or other representative with you to help you make your case or simply to give you support.

C. THE REVIEW HEARING

Who can attend the review?

Independent review hearings are held in private and all information presented to the IRP is strictly confidential.

You are encouraged to attend and we will try to ensure the hearing is organised on a date that you can attend. You may also bring along a friend or relative should you so wish. If you require an interpreter please let us know as soon as possible and we can arrange for one to attend. Please also let us know in advance if you are bringing someone with you.

The finalised list of attendees will be provided in the pack sent to you five days before the hearing. The following people are likely to be in attendance:

- Three panel members
- The clerk to the IRP
- The parent/guardian of the excluded child*.
- The Headteacher of the school
- A representative from the governing body (usually the Chair of Governors)
- A representative from the local education authority
- An SEN Expert (should you request one)
- A legal professional (to advise the panel on the legislation, regulations and statutory guidance governing exclusions)

*Please note that, should you wish, your child can attend the hearing. Alternatively, you may choose to represent your child's views or present a written statement on their behalf. If you intend to bring your child, please let us know in advance of the hearing.

You are entitled to ask for a Special Educational Needs (SEN) expert to attend the hearing regardless of whether the school recognises your child as having SEN. The SEN expert's role is to provide the panel with impartial advice on how SEN might be relevant to the exclusion. Their role does not include making an assessment of your child's special educational needs. If you wish for an SEN expert to attend the hearing please indicate so in the form.

What happens on the day?

The hearings are designed to be as informal and open as possible but a clear procedure will be followed. At the start of the hearing, the Chair will all introduce the people present and explain that the process of the hearing. The general procedure is as follows:

- 1) The representatives from the school and/or governing body will state their case of why they decided to permanently exclude your child.
- 2) You will then have the opportunity to ask them questions.
- 3) You will then state your case as to your child should not have been permanently excluded and why you feel the governing body was wrong to uphold the Headteacher's decision.
- 4) The school's representatives will then be allowed to ask you questions.
- 5) The school's representatives will be given the opportunity to sum up their arguments.
You will be given the opportunity to sum up your case if you wish.

Members of the panel may ask questions of anyone at any point during the hearing.

The Chair will close the hearing and all except the panel, the clerk and the legal advisor will be asked to leave the room. The clerk stays to record the decision and the legal advisor stays to provide legal advice if required. The panel will then make their decision.

D. THE INDEPENDENT REVIEW PANEL'S DECISION

The IRP does not have the power to direct a governing body to reinstate an excluded pupil. Following its review the panel can decide to:

- a) Uphold the exclusion decision;
- b) Recommend that the governing body reconsiders their decision, or
- c) Quash the decision and direct that the governing body considers the exclusion again.

As part of their review, the Panel will consider the guidance produced by the Department for Education and decide whether the school had followed this guidance when excluding your child. In doing this, the IRP will consider:

- The circumstances of the exclusion in relation to the school's behaviour policy and the actions of the Head Teacher.
- Whether the decision to permanently exclude was in line with the principles of administrative law. I.e. that it was lawful; rational; reasonable; fair and proportionate.
- Whether the Head Teacher correctly informed all relevant parties about the exclusion.
- Whether the governing body and local authority had arranged suitable full-time education for the excluded child.
- The governing body's consideration of the exclusion.

If your child has special educational needs, the IRP will consider the extra support provided by the school and assess whether it adhered with their published Special Educational Needs policy. They will also consider whether your child was discriminated against on the basis of protected characteristics, such as disability or race.

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:

- **Illegality** – did the Head Teacher and/or the governing body act outside the scope of their legal powers in taking the decision to exclude?
- **Irrationality** – was the decision of the governing body 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 governing body's consideration so unfair or flawed that justice was clearly not done? This will be something that is not a breach of minor points of procedure but, rather, something more substantive that had a significant impact on the quality of the decision making process.

If the criteria for quashing the decision has not been met, the panel may decide that it is appropriate to recommend that the governing body reconsiders their decision not to reinstate your child. In all other cases the panel will uphold the exclusion.

If the Panel directs or recommends that the governing body reconsiders their decision they must reconvene within 10 school days of being given notice of the panel's decision.

If the Panel directs that the governing body reconsider their decision and the governing body does not offer to reinstate your child within 10 school days an adjustment may be made to their budget. In that case the panel may direct the governing body to put a note on your child's educational record to that effect.

How do I find out about the decision?

The decision will be made by a majority vote. You will usually be informed of the decision of the panel by phone within 24 hours. You will receive a formal letter telling you of the decision within 3 working days of the hearing.

E. CONTACT DETAILS AND COMPLAINTS

This leaflet is intended as a guide for parents who find themselves involved in the exclusion review process. If you have any questions or queries which are not covered in this guide, you can telephone the Lambeth Independent Education Appeals Service on 020 7926 2170.

A copy of the School Exclusions Guidance can be downloaded free of charge from the Department for Education website via the following link:

<https://www.gov.uk/government/publications/school-exclusion>

Contacts

Please send your completed exclusion review for to the Clerk to the Independent Educational Review Panel at the following address. All other correspondence/papers should be sent to this address and you can also contact the Clerk for further advice on the review process.

(Clerk to the Independent Review Panel)

DEMOCRATIC SERVICES

London Borough of Lambeth

PO Box 734

Winchester SO23 5DG

Telephone: 020 7926 2170

Email: democracy@lambeth.gov.uk

Should you need any advice on preparing your submissions for your review, the following organisations may be able to assist you:

The Advisory Centre for Education (ACE)

Telephone: 0808 800 5793

Lambeth Community Empowerment Network (CEN)

c/o Lambeth Voluntary Action Council (LVAC)

95 Acre Lane

Brixton

London SW2 5TU

Telephone: 020 7737 9463

Email: LambethCENadmin@lambethvac.org.uk

Complaints***How do I make a complaint about the Independent Review Panel's decision?***

The IRP's decision is binding on the pupil, parents, governing body, head teacher, local authority and (in the case of an Academy) Academy Trust. However, if you wish to complain about the review process, you have the option to:

- A. Complain to the Secretary of State for Education, that the Local Education Authority has acted unreasonably;
- B. Make a complaint to the Local Ombudsman alleging maladministration of the review process, that because of bias or incompetence they ended up making the wrong decision;
- C. Go to the High Court for a judicial review of the panel's decision. In this event you will need to seek legal advice.

For complaints, the following may be contacted:

<p>Corporate Complaints London Borough of Lambeth PO Box 734 Winchester SO23 5DG Telephone: 020 7926 3047 Email: complaints@lambeth.gov.uk</p>	<p>The Secretary of State The Secretary of State Department for Education Castle View House East Lane Runcorn Cheshire WA7 2GJ Telephone: 0370 000 2288 Email: info@dfes.gov.uk</p>
<p>The Ombudsman : The Local Government and Social Care Ombudsman PO Box 4771 Coventry CV4 0EH Telephone: 0845 602 1983 Website: www.lgo.org.uk</p>	