

COVID-19 – Exclusions Policy

Temporary Operational Annex



Background

This temporary operational annex to our Exclusion Policy sets out the procedures relating to the COVID-19 period and is fully inline with DfE guidance on [exclusions](#).

In response to COVID-19 the way that we are currently operating in schools is different than usual. However, important behaviour, discipline and exclusion principles remain the same (see the COVID-19 operational annex to the Behaviour and Discipline Policy)

The normal arrangements and procedures that must follow a decision to exclude on disciplinary grounds are described in the 2017 statutory guidance '[Exclusion from maintained schools, academies and pupil referral units in England](#)' and the WAT Exclusions Policy. They are unchanged except as noted in DfE guidance and set out in this WAT COVID-19 operational annex to the WAT Exclusions Policy.

Important dates

These temporary arrangements came into force on 1 June 2020 and apply to all exclusions occurring from then until 24 September 2020 (inclusive of those dates). The arrangements also apply to:

- permanent and fixed term exclusions occurring before 1 June which have not yet been considered by the LAB
- permanent exclusions occurring before 1 June which have been considered by the LAB, if they have chosen not to reinstate the pupil and the time limit to apply for a review of this decision has not passed
- permanent exclusions occurring before 1 June where a parent (or pupil aged 18) has requested a review of a LAB's decision, but this has not yet happened

Any exclusions covered by the arrangements will continue to be subject to them after 24 September 2020, until the procedures for scrutiny of the exclusion have been exhausted.

Some of the changes also apply to exclusions that occur from 25 September 2020 to 24 March 2021.

An exclusion should be taken as having 'occurred' on the first day of the exclusion (not the date when the decision to exclude was made or communicated).

Remote access meetings

When LAB's or independent review panels (IRPs) have to meet to consider an exclusion, they can do so via remote access as long as certain conditions are met;

- that it is not reasonably practicable for the meeting to take place in person, within the usual timescales, because of coronavirus (COVID-19), and that the LAB (or the WAT Board, if the meeting is an IRP) is satisfied that:
 - all the participants agree to the use of remote access
 - all the participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, if a live video link is used
 - all the participants will be able to put across their point of view or fulfil their function
 - the meeting can be held fairly and transparently via remote access

It is the responsibility of the LAB (or WAT Board in the case of an IRP) to make sure these conditions are met before a meeting takes place.

When determining if it is practicable to meet in person the LAB or WAT Board (in the case of an IRP) will:

- assess the facts of the case
- the circumstances in which a meeting in person could be expected to take place
- the needs of the intended participants (as far as this is possible)
- the latest public health guidance when determining whether it is reasonably practicable to meet in person.

Arranging a remote access meeting

The LAB or WAT Board (in the case of the IRP) will explain the technology they propose to use to participants and ensure that the participants, particularly pupils and their families know that they do not have to agree to a meeting to be held via remote access if they do not want to. They will make families aware that if they do not consent to a remote access meeting then the meeting is likely to be delayed.

Though all participants must have agreed to the use of remote access, where a parent or pupil has given their agreement for a meeting to be held via remote access, the other participants should make reasonable efforts to accommodate that preference except in exceptional circumstances.

The LAB, WAT Board and panel members will comply with relevant equalities legislation and recognise that some participants may find it difficult to participate in a remote access meeting (for example, if someone has a disability or if English is not their first language).

The LAB/WAT Board should take reasonable steps to facilitate a parent, child or young person's access to the technology required.

If a LAM member, trustee, panel member or other participant requires support to access or use remote access technology, the LAB/WAT Board should facilitate this to ensure the meeting can be held promptly.

Fairness and Transparency

The assessment of whether a meeting can be held fairly and transparently via remote access must be made with reference to the facts of each case. If the LAB/WAT Board is not satisfied that a

meeting can be held fairly and transparently via remote access, they should consider what reasonable adjustments could be made to surmount this, consulting with parents and pupils to take account of their wishes.

Running the meeting

If a meeting is held via remote access, every effort should be made by the chair to check the participants understand the proceedings and can engage with them, to ensure the meeting is conducted fairly. If, once the meeting starts, the meeting cannot proceed fairly for example because a participant cannot access the meeting, the LAB or IRP will adjourn the meeting.

The use of remote access does not alter other procedural requirements that may apply to LAB's, arranging authorities or IRPs. For example, if a parent requests the appointment of a special educational needs (SEN) expert to advise a review panel, the local authority/academy trust must appoint one and cover the cost as normal. Parents may bring a friend or representative, as normal.

Though LAB's and IRPs must consider written representations if they are made, the law does not allow for solely paper-based 'meetings', conducted in writing.

As long as the conditions for a remote access meeting are met, it is possible for some participants to be present in person and for others to join the meeting via remote access. All the participants must have access to technology which will allow them to hear and be heard by others throughout (and to see and be seen throughout, if a live video link is used).

Timescales for meetings of Local Advisory Board (LAB)

If it has not been reasonably practicable for the LAB to meet in person within the original time limit for a reason related to coronavirus (COVID-19) or remotely for a reason relating to the other conditions for a remote access meeting, the time limit for the meeting will be extended.

If a time limit for a meeting has been extended, the LAB should reassess at regular intervals whether it is reasonably practicable to meet in person and, if it is, should arrange to do so without delay.

There are different timescales for exclusions occurring from 25 September 2020 to 24 March 2021.

Meetings to consider permanent exclusions, and fixed period exclusions resulting in the pupil missing more than 15 school days in a term

If a pupil is permanently excluded or receives a fixed period exclusion which results in them having been excluded for 16 or more school days in a term, then the LAB will try to meet to discuss reinstatement within 15 school days. If it has not been reasonably practicable for the LAB to meet face to face within 15 school days for reasons relating to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting, the limit will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).

This extension does not apply to exclusions that occur after 24 September 2020.

Meetings to consider fixed period exclusions resulting in the pupil missing between 6 and 15 school days in a term

If a pupil receives a fixed period exclusion which results in them having been excluded for at least 6 school days in a term but not more than 15 school days in that term, and the parent (or pupil, if aged 18 or above) chooses to make representations about the exclusion, then the LAB will meet to discuss reinstatement within 50 school days. If it has not been reasonably practicable for the LAB to meet face to face within 50 school days for reasons relating to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting, the limit will be extended to 60 days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).

This extension does not apply to exclusions that occur after 24 September 2020.

Timescales for application for independent reviews of exclusions

Where the LAB declines to reinstate a pupil who has been permanently excluded, parents (or the excluded pupil, if they are 18 years old or above) can apply for a review of the LAB's decision.

For exclusions covered under these arrangements, the deadline for applications has increased to 25 school days from the date on which notice in writing of the LAB's decision is given to parents, or directly to the pupil if they are 18 or above. *This change applies to all exclusions which occur between 1 June 2020 and 24 March 2021 (inclusive of those dates).*

Schools must wait for the extended period of 25 school days to pass without an application having been made before deleting the name of a permanently excluded pupil from their admissions register, in accordance with the Education (Pupil Registration) (England) Regulations 2006 as amended.

Timescales for meetings of independent review panels to consider permanent exclusions

If it has not been reasonably practicable for a review panel to meet in person within the original time limit of 15 school days for reasons related to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the other conditions for a remote access meeting, the timescale for the meeting will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).

This extension does not apply to exclusions that occur after 24 September 2020.

Exclusions occurring between 25 September 2020 and 24 March 2021

For exclusions occurring between 25 September 2020 and 24 March 2021 (inclusive of those dates), meetings of the LAB or independent review panels should be held via remote access if it is not reasonably practicable to meet in person due to coronavirus (COVID-19) and the other conditions for a remote access meeting are met.

The deadline for applications for an independent review in relation to exclusions occurring between 25 September 2020 and 24 March 2021 will be 25 school days from the date on which notice in writing of the LAB's decision is given to parents, or directly to the pupil if they are 18 or above.

Returning to normal timescales

It is important that LAB meetings and independent review panel meetings, relating to exclusions occurring between 25 September 2020 and 24 March 2021, take place within the normal timescales set out in the guidance on exclusion from maintained schools, academies and pupil referral units in England.

LAB's and arranging authorities for independent review panels should take all reasonable steps to meet the normal deadlines for exclusions occurring after 24 September. We will consider the guidance on protective measures for the full opening of schools and facilitate remote access meetings where it is not reasonably practicable to meet in person.

If the deadlines are missed because of coronavirus (COVID-19), the meeting will be held as soon as it becomes either reasonably practicable to meet in person or via remote access (respecting the conditions for such a meeting).

Usual sanctions will be in place, including exclusion from school and links to our Behaviour and Discipline Policy and its updated annex.