

Checklist for Clerk to Governors Disciplinary Committee

This check list is **not** a replacement for the guidance; it is a good practice guide which references the guidance where appropriate. The guidance "*Exclusion from maintained schools, academies and pupil referral units in England - September 2012*" is available at www.gov.uk/government/publications/school-exclusion

Where the governing body has established a designated sub-committee (*para.51*) i.e. Governors Disciplinary Committee (GDC), they should appoint a Clerk to the GDC. This may not be a member of the governing body and, ideally, should not be someone who works for the school. The Clerk should arrange and attend all GDC meetings. The Clerk is the person who makes all arrangements for a GDC - the head teacher should not make direct contact with governors before the meeting. Clerks should:

- agree, as far as possible within the time limits, with governor members, the head teacher and parents, a convenient date and time for the GDC meeting (*para.56*) (if parent/carer is unable to attend within this timescale but wants to be at the meeting an extension may be considered within reason);
- in advance of the meeting, ask all parties to provide any written information for governors to consider (including witness statements and other relevant information) (*para.58*);
- where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least 5 school days before the meeting (*para.58*). Suggested information might include:
 - the head teacher's decision letter to parents;
 - a brief report from the head teacher giving any relevant background issues, details of the incident which led to the exclusion, the link with and text of relevant school policies, details of any support given to the pupil or strategies used to address behavioural issues;
 - any incident reports from staff involved in the critical incident;
 - the excluded pupil's written account of the incident;
 - any other witness statements (all statements/accounts should be signed, attributed and dated unless the school has good reason to protect the anonymity of the witness, in which case the statement should at least be dated and labelled in a way to distinguish it from other statements) (*para.111*);
 - the PSP, IEP or formal Statement if any of these apply;
 - any written representations from the parents;
 - a list of those attending the meeting and an outline of the procedure to be followed at the meeting.

Immediately before the meeting the Clerk should:

- check the room layout to make sure there are tables for everyone (if at all possible try to avoid low coffee tables, which do not allow for easy handling of papers) and, if water is provided for governors then it should be provided for all parties to the hearing - parents in particular should not be made to feel at a disadvantage, either physically or psychologically, at what is a difficult meeting for them - which is why it is good practice not to use the head teacher's room for a GDC;
- meet with GDC to ensure a chairperson is appointed and procedures are understood;

The Clerk starts the meeting by inviting all other parties to enter the room at the same time - none of the other parties should be alone with the governors before or after the meeting, to avoid even the appearance of any bias. The Clerk may make the introductions and outline the procedure which will be followed, although sometimes the Chair of the GDC may wish to do this.

The clerk is responsible for taking clear minutes as a record of the evidence that was considered by the GDC. These minutes should be made available to all parties on request. (*para.65*)

When all parties have had the chance to present their case and ask questions, the Clerk asks everyone but governors to leave the room (it is not necessary to ask the other parties to wait for a decision). The Clerk remains in the room to record the governors' decision(s) and give any necessary advice to the GDC (*para.66*).

The Clerk (on behalf of the governing body) must write to parents and the LA with the governors' decision without delay. Where a pupil resides in a different local authority from the one that maintains the school, the clerk must also inform the pupil's "home authority" (*para.71*). This letter may be delivered directly to parents; be left at their last known address; or be posted to their last known address (*para.73*).

Where the exclusion is permanent the letter **must** include the following information (*para.72*):

- The fact that it is permanent.
- Notice of the parents' right to ask for the decision to be reviewed by an independent review panel and the following information:
 - a) The date by which an application for a review must be made (this date must be 15 school days from the date parents are notified in writing of the GDC decision. Notice is deemed to have been given on the same day if it is delivered directly or on the second working day after posting if it is sent by first class mail);
 - b) The name and address to whom an application for a review (and any written evidence) should be submitted;
 - c) That any application should set out grounds on which it is being made and that, where appropriate, this should include a reference to how the pupil's special educational needs are considered relevant to the exclusion;
 - d) That regardless of whether the excluded pupil has recognised special educational needs, parents have a right to require the local authority/Academy Trust to appoint a SEN expert to attend the review;
 - e) Details of the role of the SEN expert and that there would be no cost to parents for this appointment;
 - f) That parents must make it clear if they wish for a SEN expert to be appointed in any application for a review; and
 - g) That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel and that parents may also bring a friend to the review.
- That, in addition to the right to reply for an independent review panel, if parents believe that the exclusion has occurred as a result of discrimination then they may make a claim under the Equality Act 2010 to the First-tier Tribunal (Special Educational Needs and Disability), in the case of disability discrimination, the County Court, in the case of other forms of discrimination.

- That a claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place e.g. the day on which the pupil was excluded.

Where an exclusion is upheld by the governors, the letter should also include relevant sources of free impartial information:

- A link to the statutory guidance: www.gov.uk/government/publications/school-exclusion
- a link to guidance on making a claim of discrimination to the First-tier Tribunal: www.justice.gov.uk/tribunals/send/appeals;
- a link to the Coram Children's Legal Centre: www.childlawadvice.org.uk

Model exclusion letters are available as Word documents at www.warwickshire.gov.uk/exclusionletters , with local information (such as the name of the Schools Appeals Officer) already completed.

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