

This step-by-step guide has been produced to help parents/carers understand the process of an Independent Review Panel (IRP). This stage comes after a governor meeting decision not to allow your child back into school at the pupil disciplinary committee (PDC) meeting that took place after the permanent exclusion decision, where parents do not agree with the governor's decision.

What is the role of an Independent Review Panel?

The role of the IRP is to review the decision of a school's governing body following their decision on the matter of your child's permanent exclusion from school. The IRP must consider the interest and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded. Regard must be taken to the interests of other pupils and the people working at the school.

How do I request an independent review?

Details of how to request an IRP will be in the letter you received from the Governors with their reasons for the decision to uphold the exclusion. You have 15 school days from receiving this letter to lodge your request for an IRP. These are strict deadlines and any application made outside of the legal time frame must be rejected by the Local Authority / Academy Trust.

Parents may request an IRP even if they did not make a case to, or attend, the meeting at which the governing body first considered the exclusion.

Parents must submit written representations (a letter with your reasons for requesting a review) and, if applicable, supporting evidence, when lodging your

application. New evidence can be submitted, however, when deciding whether to quash the decision, the panel should only take account of evidence available to the governing body at the time of making its decision not to reinstate. The IRP is able to take account of evidence that they consider would, or should have been available to the governing body, and that the governing body ought to have considered if they had been acting reasonably.

What is the role of a Special educational needs (SEN) expert at an IRP?

Parents have a right to request the attendance of a SEN expert at the IRP, regardless of whether or not the school recognises that your child has SEN. This is paid for by the local authority/academy trust not by parents.

The SEN expert should be a professional with first-hand experience of the assessment and support of SEN, as well as an understanding of the legal requirements on schools in relation to SEN and disability.

SEN experts must be impartial, they can be employed by another Local Authority or Academy Trust but they should not have had any previous involvement in the assessment or support of SEN for the excluded pupil, or siblings of the excluded pupil. The purpose of this is to avoid a conflict of interest.

They should provide impartial advice to the Panel on how SEN might be relevant to the exclusion. The SEN expert should base their advice on the evidence provided to the panel. The SEN expert's role does not include making an assessment of the pupil's SEN.

The focus of the SEN expert's advice should be on whether the school's policies which relate to SEN, or the application of these policies in relation to the excluded pupil, were legal, reasonable and procedurally fair. If the SEN expert believes that this was not the case, they should advise the Panel on the possible contribution that this could have made to the circumstances of the pupil's exclusion. Where the school does not recognise that a pupil has SEN, the SEN expert should advise the Panel on whether they believe the school acted in a legal, reasonable and procedurally fair way with respect to the identification of any SEN that the pupil may potentially have, and any contribution that this could have made to the circumstances of the pupil's exclusion.

The IRP and what they can they decide.

An IRP consists of either 3 or 5 members appointed by the local authority/academy trust. An IRP is made up of a lay member who chairs the Panel, a head teacher or former head teacher within the last five years, and a current or former Governor who was in post for at least 12 months within the last five years (having not been a head teacher in this time). None of the members may be directly involved with the relevant excluding school. There will also be a clerk to the panel who will be able to advise the parties on the relevant law and procedure for review. The local authority/academy trust must ensure that all panel members and clerks have received training within the two years prior to the date of the review.

The panel can decide to:

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

When considering the governing body's decision, the Panel should apply the following tests which need to be satisfied to **quash** the decision:

- **Illegality** – Did the head teacher and / or governing body act outside the scope of their legal powers in taking the decision to exclude?
- **Irrationality** – Did the governing board rely on irrelevant points, fail to take account of all relevant points or make a decision so unreasonable that no governing board acting reasonably in such circumstances could have made it?
- **Procedural impropriety** – Was the process of exclusion and the governing body's consideration so unfair or flawed that justice was clearly not done?

If any of these criteria are met, the Panel can quash the decision of the governing body and direct that they consider the exclusion again.

Where the criteria for quashing a decision have not been met, the Panel considers whether it would be appropriate to recommend that a governing body reconsiders their decision not to reinstate the pupil. This should be used where evidence or procedural flaws have been identified that do not meet the criteria for quashing the decision but which the Panel believe justify a reconsideration of the governing body's decision.

In all other cases the panel should uphold the exclusion.

What happens if the IRP recommends the governors reconsider the exclusion?

Where the IRP directs or recommends that the governing body reconsiders its decision, the governing body must meet again within 10 school days of being given notice of the IRP's decision to reconsider the exclusion and their decision, once again writing to you with their decision following this.

Where can I go for further advice?

If you believe that there has been unlawful discrimination in relation to the exclusion then you 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, or the County Court, in the case of other forms of discrimination. The Equality Act 2010 defines discrimination as treating someone less favourably than you would treat others due to a protected characteristic.

Coram Children's Legal Centre [0808 802 0008](tel:08088020008)
www.childrenslegalcentre.com

ACE Education 03000 115 142 www.ace-ed.org.uk

Advice for special education needs and disability or a claim of discrimination to the First-tier Tribunal:
www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability or the County Court.

Bradford Council's Exclusions Team can also offer impartial advice. [01274 439333](tel:01274439333)
exclusionsteam@bradford.gov.uk



GUIDANCE AND INFORMATION FOR PARENTS & CARERS