

# Children's Services

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# School exclusions update

*Information for  
governors*

*Updated January 2016*



# PURPOSE

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- ◆ To highlight key changes to the exclusion regulations implemented on 1/9/12
- ◆ To inform governors regarding the new guidance from the DfE and HCC in relation to exclusions
- ◆ To provide a forum for discussion and questions



# Guidance and legislation (1)

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- ◆ DfE guidance: “**Exclusion from schools, Academies and pupil referral units in England. A guide for those with legal responsibilities in relation to exclusion**”
- ◆ *Available at*  
<http://www.education.gov.uk/schools/pupilsupport/behaviour/exclusions>
- ◆ Replaces: “**Improving behaviour and attendance: guidance on exclusion from schools and Pupil Referral Units**”
- ◆ New guidance much slimmer
- ◆ Paragraph 5: “**Any decision of a school, including exclusion, must be made in line with the principles of administrative law, i.e. that it is lawful; rational, reasonable, fair and proportionate**”



# Guidance and legislation (2)

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- ◆ HCC guidance: “**Exclusion guidance supplement. September 2012**”
- ◆ Available at <http://www.thegrid.org.uk/info/welfare/exclusions.shtml>
- ◆ Replaces: “**Exclusion guidance supplement. October 2011**”
- ◆ The “missing manual”
- ◆ DfE guidance in normal typeface; HCC guidance in italics
- ◆ Must have regard to statutory DfE guidance
- ◆ HCC guidance highly recommended; IRP members aware of this and may use it as a guide themselves.



# Small changes

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- ◆ Governors may review Head Teacher's decision to exclude sooner than the 6<sup>th</sup> day after notification – **not recommended by HCC**
- ◆ Minutes of GDC hearings should be made available to all parties on request
- ◆ Standard letter no longer provided by DfE – **suitable templates in appendix 7 of HCC guidance (downloadable on SIMS exclusion module)**



# The Independent Review Panel (1)

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- ◆ Independent Appeal Panel (IAP) replaced by Independent Review Panel (IRP), which has different powers
- ◆ IRP cannot reinstate a child
- ◆ IRP has three options
  - Uphold original decision
  - Recommend governors reconsider their decision
  - Quash governor's decision and direct them to reconsider



# The Independent Review Panel (2)

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- ◆ If, having received a direction to reconsider its decision, the governing body does not reinstate within 10 school days the school/academy is liable to pay £4,000 to the LA towards the cost of alternative provision (referred to as a “readjustment” payment)
- ◆ In addition to the AWPU
- ◆ A penalty payment by any other name...
- ◆ Applies equally to primary as to secondary!
- ◆ Could this lead to more judicial reviews?

# **SEN expert at IRP hearings**

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- ◆ Parents have the right to request the presence of an SEN expert at an IRP hearing
- ◆ Applies whether or not the school/academy recognises the child has SEN
- ◆ SEN expert's role is to provide impartial advice as to how SEN could be relevant to the exclusion
- ◆ Will not involve the SEN expert assessing the child!
- ◆ LA/academy trust pay for expenses and indemnifies the SEN expert.



# Who may sit on an IRP panel?

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- ◆ A lay member, who acts as chair who has not worked in a school in a paid capacity
- ◆ A school governor from a different area to the excluding school who has served as a governor for at least 12 consecutive months in the last five years (and who also not served as a Head Teacher during the last five years)
- ◆ A Head Teacher or a person who has been a Head Teacher within the last five years from a different area to the excluding school



# The role of the Local Authority (1)

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- ◆ For maintained schools the governing body must invite the LA to GDC meetings and consider any representations made.
- ◆ The nature of these representations is not specified in the new guidance
- ◆ However, the LA will continue to act from a position of neutrality and not give a view on the merits of the exclusion as the representative would see the case



# The role of the Local Authority (2)

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## The LA representative

- ◆ may make a statement in general terms, for example about how other schools in the area have dealt with similar incidents\*
- ◆ may draw the panel's attention to issues where there is a lack of clarity, or where more information may be needed, or where guidance appears to have been ignored.
- ◆ may assist the clerk in providing advice on procedure and on legal matters

\*HCC policy is that the LA representative will not venture such statement unless asked by either the panel or the parent(s)/carer(s)



# The role of the Local Authority (3)

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For academies...

- ◆ **No automatic right to attend GDC hearings**
- ◆ **LA may attend if parent requests this but only as an observer. The LA may only make representations with the governing body's consent**
- ◆ **All secondary phase academies in Hertfordshire have indicated that they would wish the LA to be present at GDC hearings and to make representations**
- ◆ **The LA will adopt a position of neutrality as already described**
- ◆ **Position likely to be the same at IRP meetings**



# Training for governors (1)

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- ◆ It is essential that all governors who review a Head Teacher's decision to exclude a child have received adequate training within the previous two years to discharge this duty.
- ◆ Paragraph 116 of the DfE exclusion guidance stipulates this for IRP members and legal advice is that what applies to the IRP also applies to governing bodies



# Training for governors (2)

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- ◆ Be prepared! Don't wait until there is an absolute need to have your governors exclusion trained because a child has been excluded.
  - must be able to act impartially
  - tight time scales
  - have as many governors exclusion trained as possible
- ◆ You may not “borrow” trained governors from another school



# What training is available?

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- ◆ “Exclusions”
  - covers the essentials
  - qualifies a governor for two years to review a Head Teacher’s decision to exclude
  - lasts two hours
- ◆ “Exclusions in Practice”
  - need to have done the “Exclusions” course first
  - an opportunity to rehearse
  - role play and other activities
  - lasts three hours
- ◆ Further details from Governance or Malcolm Leigh (Integration Manager), telephone number 01438 – 843375, e-mail [malcolm.leigh@hertfordshire.gov.uk](mailto:malcolm.leigh@hertfordshire.gov.uk)



# Arranging training

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## ◆ Contact Governance

- **Hannah Stewart – telephone number  
01438 – 844426, e-mail  
[hannah.stewart@hertsforlearning.co.uk](mailto:hannah.stewart@hertsforlearning.co.uk)**



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*Thank you*

