



Defence  
Children  
Services

# DCS Directive 3.2.9

## Pupil Exclusion

DCS Apr 2020 v2.2

## General

<b>Authorisation</b>	Director DCS
<b>Senior Responsible Owner</b>	Chief Education Officer MOD Schools Assitant Head Global Education Team (Non-MOD school locations)
<b>Point of Contact</b>	MOD Schools SO1 Policy and Assurance 01980 61 5143 DCS SO1 Policy 01980 61 8838
<b>Review Date</b>	Apr 2022
<b>Related Policy/Guidance</b>	
Department for Education (DfE)	Exclusion from maintained schools, academies and pupil referral unit in England
	Keeping Children Safe in Education
JSP 834	Safeguarding
JSP 770	Chapter 2a: Supportability Overseas
Annex A	Model letter: Fixed Term Exclusion
Annex B	Model letter: Permanent Exclusion

## Introduction

**1. Policy and procedures for the management of children at risk of exclusion/ excluded from school are dependent on the education provision being accessed overseas. Where a child attends a MOD school overseas, the direction and guidance laid out in this document applies. Where a child attends a local independent school overseas, that school's policy and procedures will apply in concert with the below:**

- a. Where a child is permanently excluded overseas this presents a change in the status of the child's supportability. Commanders/Commands will use the MOD's Assessment of Supportability as directed through JSP 770, to consider whether a child can continue to be supported overseas.
- b. Local Standing Orders (SO) may apply to exclusions; failure to comply with these will be treated as an offence under the Armed Forces Act (2006) Where the Commander/Command decides to retain a child overseas, they will maintain responsibility for the welfare of the child.

- c. Where parents wish to access support from DCS, including its Educational Psychology and Advisory Specialists, they will need to provide consent.

## Scope

2. This policy applies to the exclusion of compulsory school age pupils from a MOD school overseas and directs DCS employees only.
3. The Queen Victoria School (QVS), Dunblane will follow Scottish National statutory requirements for pupil exclusion and will apply the independent review process chaired by the Chief Education Officer MOD Schools (or designated deputy) for appeals that reach beyond the HMC level<sup>1</sup>.

## MOD Schools Locations

4. All MOD schools overseas will embed the principal recommendations of the Timpson Review in their management strategies and teaching practice as follows:
  - a. Address the underlying causes of behaviours that place a child at risk of exclusion and;
  - b. Apply early interventions for children at risk of exclusion;
  - c. Ensure that exclusions are lawful, reasonable, fair and proportionate;
  - d. Ensure the most effective provision for those who are excluded;
  - e. Inform improvements to practice through analysis of exclusion data.
5. Unless otherwise directed, schools are to follow statutory guidance contained in:
  - a. Keeping Children Safe in Education (2019) and the MOD's policy for Safeguarding (JSP 834).
  - b. Guidance on behaviour and attendance in schools detailed on DfE's GOV.UK site and
  - c. Complementary DCS direction and guidance on managing behaviours for learning.
6. MOD schools overseas will mirror, where reasonably practicable, the statutory duty placed on schools in England, not to discriminate against pupils on the basis of protected characteristics, such as disability or race. Schools should give particular consideration to the fair treatment of pupils from groups who are vulnerable to exclusion and have due regard to the SEND Code of Practice.

## Procedures

7. Only the head teacher can exclude a pupil, and this must be on disciplinary grounds. Informal or unofficial exclusions, such as sending a pupil home to 'cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion, even

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<sup>1</sup> DCS represents the SofS for Defence for appeals that are escalated above HMC level.

for a short period of time, must be formally recorded. Exclusions may be for a fixed period of no more than 45 days in one school year or permanent. Informal exclusions, including 'off-rolling' are not acceptable.

8. **Fixed Term Exclusion.** A pupil cannot be excluded for more than 45 school days in one school year. This means they cannot have one fixed-period exclusion of 45 school days or more; and that they cannot have lots of shorter fixed-period exclusions that add up to more than 45 school days. Detail of actions to be taken for fixed period exclusion is at Table 1.

Period of Exclusion	Action	Responsibility
1-5 days	School work sent home and marked	Class teacher
	Consideration of reintegration	School in partnership with Educational Psychologist
6+ days	School work sent home and marked	Class teacher
	Consideration of reintegration	School, in partnership with local Assistant Chief Education Officer MOD Schools, and Educational Psychologist as required
	SGC Chair to be informed.	Head teacher (designated deputy)
15+ days	School work sent home and marked	Class teacher
	Consideration of reintegration	School, in partnership with local Assistant Chief Education Officer MOD Schools, and Educational Psychologist as required
	SGC Chair to be informed and involved as required.	Head teacher (designated deputy)

**Table 1.**

9. Mirroring UK statutory guidance, parents will be informed of the days on which they must ensure that the pupil is not present in a public place at any time during school hours.

10. When a child returns to school following a period of exclusion, the school will hold a 'return meeting' which may be supported by DCS's Educational Psychology function.

11. **Permanent Exclusion.** A decision to exclude a pupil permanently should only be taken:

- a. in response to a serious breach or persistent breaches of the school's behaviour policy.
- b. where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

12. A child who is permanently excluded from a MOD school is no longer able to access DCS services. In this scenario, the overseas Command/Commander will need to lead an assessment of supportability overseas as directed in JSP 770.

## Roles and Responsibilities

13. Those involved in ensuring that exclusions are appropriately managed and can support a child's education have a number of responsibilities.

14. **The head teacher.** When establishing the facts in relation to an exclusion decision the head teacher must apply the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt.' This means that the head teacher should accept that something happened if it is more likely that it happened than that it did not happen.

15. Whilst an exclusion may still be an appropriate sanction, the head teacher should take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that the pupil has suffered bereavement, has mental health issues or has been subject to bullying.

16. Where a pupil has received multiple exclusions or is approaching the legal limit of 45 school days of fixed-period exclusion in an academic year, the head teacher should consider whether exclusion is providing an effective sanction.

17. The head teacher must provide notification of exclusion to the pupil's parents or carers without delay. Ideally, notification should be in person or by telephone in the first instance and followed by written notification. Where parents have agreed to the use of email for correspondence, notice may be given via email.

18. A model letter for Fixed Term Exclusions is at Annex A and for Permanent Exclusions at Annex B. Notices must provide the following:

- a. The reason(s) for the exclusion.
- b. The period of the exclusion or for permanent exclusion, the fact that it is permanent.
- c. Parents' right to make representations and how these should be made.
- d. Information on how to appeal against the exclusion and such other requirements as set out in the DfE statutory guidance.
- e. Arrangements for the education of excluded pupils.
- f. Signposting to relevant sources of free and impartial information.

19. The letter confirming the exclusion must be copied to the Chief Education Officer MOD Schools (or designated deputy); HQ DCS Assistant Head Specialist Support Services, the local overseas Commander/Command and to the Chair of the SGC.

20. The head teacher must consult with the Chief Education Officer MOD Schools or designated deputy, by telephone prior to deciding on:

- a. any permanent exclusion (including where a fixed-period exclusion is followed by a decision to permanently exclude the pupil).
- b. any exclusion which would result in the pupil being excluded for a total of more than five school days in a term.
- c. any exclusion which would result in the pupil missing a public examination or national curriculum assessment.

21. Consultation with the district Assistant Chief Education Officer MOD Schools goes beyond the DfE guidance and is necessitated by the impact that permanent, repeated or extended exclusions can have on the pupil and family and the challenges of securing alternative education overseas. Following this consultation, the head teacher will need to inform the chair of their SGC and overseas Commander/Command of the exclusion and arrangements for the education of excluded pupils.

22. **The class teacher.** The class teacher is responsible for arranging appropriate work to be sent home for children on fixed period exclusions and for supporting return to school strategies in the class room.

23. **DCS Educational Psychologists.** DCS's Educational Psychologists will provide advice to MOD schools/settings on return to school strategies where reintegration of a child is under consideration.

24. **Parents/Carers** are responsible for:

- (1) Arranging for their child to get to/from a designated place of learning.
- (2) Providing a suitable learning environment where home tutoring is to be used.
- (3) Being present during home tutoring sessions.
- (4) Ensuring that their child is supervised and is not present in a public place at any time during school hours on any of the days to which the exclusion relates.
- (5) Working with designated school staff.

25. **The school**, working in partnership with their district Assistant Chief Education Officer and the SGC Chair are responsible for:

- a. considering the reinstatement of an excluded pupil within 15 school days of receiving notice of the exclusion if:
  - (1) the exclusion is permanent.
  - (2) it is a fixed-period exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term.
  - (3) it would result in a pupil missing a public examination or national curriculum assessment.
- b. reinstatement of a pupil within ten school days of being given notice of the independent review panel decision.

- c. informing parents and local overseas Commands of its decision.
- d. ensuring that a pupil's name is removed from the school admissions register if:
  - (1) 15 school days have passed since the parents were notified of the decision to not reinstate the pupil and no application has been made for an independent review panel.
  - (2) or the parents have stated in writing that they will not be applying for an independent review panel.

## Education for Excluded Pupils

26. **Fixed Term Exclusion.** For a fixed term exclusion of any length, the pupil's current school remains responsible for arranging suitable homework for the excluded pupil from the first day of exclusion. This provision is not a substitute for full time, mainstream education and carries significant risks for effective and sufficient education and socialisation of children.

27. The MOD does not have access to the range of provision normally available in England. Consequently, children who are excluded from a MOD school are not able to access alternative school-based provision. Provision may therefore be in the form of set work to be undertaken at home. MOD schools will work in partnership with parents and children to minimise disruption brought about by extended periods of exclusion'. To enable this:

- a. An Individual Learning Plan (ILP) will be agreed with parents, school and pupil. The ILP will set out the provision of learning – objectives and outcomes, where the learning will take place, learning method and media. The ILP will be reviewed by parents and school and new objectives will be agreed during the exclusion period.
- b. Pupils should receive a minimum of five and a maximum of twenty-five hours provision per week, depending on personal circumstances and available resources.

28. MOD schools are to take reasonable steps to ensure that work is set and marked for pupils during the fixed period exclusion. Work should be accessible and achievable by the pupil outside the school.

29. **Permanent Exclusion.** For a permanent exclusion, MOD schools and DCS Educational Psychology and Advisory Specialists will work in partnership with pupil and parents and the overseas Commander/Command to identify an appropriate pathway for the child. Permanent exclusion constitutes a significant change in need for a child overseas and the MOD's Assessment of Supportability (MASO) will be undertaken, as directed in JSP 770, to enable the overseas Commander/Command, to decide whether a child can continue to be supported. A number of options may be available, and these may include repatriation to the UK. Where it is assessed that a child may remain overseas, the Commander/Command will maintain responsibility for welfare. Elective home education is not recommended as an alternative provision.

30. Any discussion on availability of alternative education pathways and implications for the posting of a parent of a permanently excluded pupil should be undertaken in a way that is transparent to all stakeholders, including reference to any relevant Command-level structures.

## Representations

31. For fixed term exclusions there is no right of appeal, but parents may make representations. For fixed term exclusions that do not take the pupil's total days of exclusion above five for the term, parents may make representations to the head teacher.

32. Where a pupil would be excluded for more than five but less than 15 school days in the term, parents may make representations which must be considered by the SGC working with the local MOD Schools Assistant Chief Education Officer within 15 school days of receiving the notice of exclusion whether the excluded pupil should be reinstated. In the absence of any representations from the parents, the governing committee is not required to meet and cannot direct the reinstatement of the pupil.

## Independent Review Panel (IRP)

33. The IRP provides independent scrutiny of the head teacher's exclusion decision, bringing together the views of the SGC, DCS and MOD Schools. An IRP meeting should be arranged within 15 school days of receiving a parental request. Clear minutes of the meeting should be taken as a record of the evidence that was considered. The administration of the meeting will be arranged by the MOD school and should be conducted in the location in which the MOD school is situated.

34. An IRP meeting must be arranged where:

- a. Exclusion is permanent.
- b. Fixed period exclusion would bring the pupil's total days of exclusion above 15 for the term.
- c. The pupil will miss a public examination or national curriculum assessment.

35. In addition to the requirement for IRP meetings to be held in the above circumstances, parents can request an IRP meeting for a fixed period exclusion of more than five school days in a single term.

36. An IRP should comprise:

- a. chairmanship by the SGC representative.
- b. one member of the SGC, either the SGC chair or the nominee thereof.
- c. the district Assistant Chief Education Officer for the location.
- d. one head teacher from another MOD school in a different area.
- e. the EP, where a child has SEND.

37. If parents wish to request an IRP meeting to consider a fixed term exclusion of more than five days, this must be notified to the chair of the SGC within ten school days of receiving the exclusion letter and copied to the district Assistant Chief Education Officer and the DCS Assistant Head Specialist Support Services.

38. The IRP must consider:



- a. the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interest of other pupils and people working at the school.
- b. any representations made by the parents.
- c. any representations made by the head teacher.

39. When establishing the facts in relation to an exclusion decision, the IRP must apply the civil standard of proof, i.e., 'on the balance of probabilities' rather than 'beyond reasonable doubt'.

40. The parents and head teacher have the right to make representations to the IRP in person or in writing, or both. If attending in person, the IRP should ask all parties to withdraw before making a decision. The IRP should aim to reach a unanimous decision. Where this is not possible, the decision will be taken by simple majority.

41. The IRP has the right either to uphold the exclusion or to direct the pupil's reinstatement. If the latter, this may be immediately or earlier than the last date set for the fixed term exclusion. Where reinstatement is not practical because for example, the pupil has already returned to school or the parents make clear they do not want their child reinstated, the IRP must, in any event, consider whether the head teacher's decision to exclude the pupil was justified based on the evidence. The IRP does not have the right to increase the length of an exclusion.

42. The IRP decision must be notified to the parents and head teacher in writing without delay.

43. If an IRP upholds the head teacher's decision to exclude a pupil permanently, parents can appeal to a Permanent Exclusion Appeal Panel (PEAP).

### **Permanent Exclusion Appeal Panel (PEAP)**

44. If the IRP upholds the decision that a pupil should be excluded permanently, parents have a right of appeal to a PEAP. If parents wish to exercise this right, the appeal must be notified to the Chief Education Officer MOD Schools within ten school days of receiving the IRP decision.

45. The PEAP will be chaired by the Chief Education Officer MOD Schools, or designated deputy. The other member of the PEAP will be a representative from the staff of the relevant Comd HQ at Lt Col (equivalent) or above. If requested by the parents or considered necessary by the chair of the PEAP, an independent Special Educational Needs (SEN) expert, may be appointed to advise the panel.

46. The PEAP meeting should be arranged within 15 school days of receiving an appeal. The meeting should ideally take place in the same area as that in which the school is situated. If this is not practical, the chair will determine how the meeting will be conducted, including the possibility of PEAP members and other parties to the meeting attending via VTC. The administration of the meeting will be carried out by MOD school staff.

47. The PEAP must consider:

- a. the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interest of other pupils and people working at the school.
- b. any representations made by the parents.
- c. any representations made by the head teacher.
- d. if present, the advice given by the independent SEN expert.

48. The PEAP should aim to reach a unanimous decision. Where this is not possible, the chair will have the casting vote.

49. The PEAP has the right either to uphold the exclusion or to direct the pupil's reinstatement. The PEAP decision must be notified to the parents and head teacher in writing without delay.

### **Model Letters**

50. A model letter confirming a head teacher's decision to exclude a pupil for a fixed period is at Annex A and for permanent exclusion, at Annex B.

## **Non-MOD School Locations**

### **Fixed Term Exclusions**

1. Children who are excluded for a fixed term from independent or local schools in locations not serviced by a MOD school, will be managed in accordance with the school's policy.
2. Where parents seek advice from DCS they should be advised to work with the school to ensure that school work is provided.

### **Permanent Exclusions**

3. There may be limited access to alternative provision for children who are permanently excluded. In this scenario, DCS employees are to advise parents to engage in the MOD's Assessment of Supportability Overseas which will be led by their Overseas Command as directed through JSP 770: Tri-Service Operational and Non-Operational Welfare Policy.
4. DCS can provide advice and guidance to parents and Commanders/Commands but consent must be sought from parents before any DCS service is employed.

## **ANNEX A - MODEL LETTER FOR FIXED TERM EXCLUSION**

Dear **[parent's name]**

I am writing to inform you of my decision to exclude **[pupil's name]** for a fixed period of **[specify period]** school days. This means that he/she will not be allowed back into school until **[date]**.

**[Pupil's name]** has been excluded because **[reason for exclusion]**.

**[For pupils of compulsory school age]**

While s/he is excluded, you have a duty to ensure that **[pupil's name]** is not present in a public place during school time unless there is reasonable justification for this. We will set work to be completed during the period of **[pupil's name]** exclusion. **[Specify the arrangements for this]**. Please ensure that work set by the school is completed and returned to us promptly for marking.

**[For exclusions not exceeding five school days]**

If you disagree with my decision to exclude **[pupil's name]**, you have the right to make representations to me, but there is no right of appeal.

**[For exclusions which would bring the pupil's total days of exclusion above 15 in a term, or which would result in the pupil missing a public examination or national curriculum assessment]**

Because the exclusion means that **[pupil's name]** will have been excluded for more than 15 days this term, an Independent Review Panel meeting will be arranged to review my decision. You will have the opportunity to make representations to the Independent Review Panel if you wish. Further information about the meeting will be provided by your school.

**OR**

Because the exclusion would result in **[pupil's name]** missing a public examination/national curriculum assessment **[delete as appropriate]**, an Independent Review Panel meeting will be arranged to review my decision. You will have the opportunity to make representations to the Independent Review Panel if you wish. Further information about the meeting will be provided by your school.

**[For exclusions which bring the pupil's total days of exclusion in that term to more than five but less than 16]**

If you choose to request it, an Independent Review Panel meeting will be arranged to review my decision. The panel would comprise one member from the School Governance Committee (SGC), the district Assistant Chief Education Officer, and the head teacher of a different MOD school. You would have the right to make representations to the Independent Review Panel, in writing, in person or both. If you wish to request an Independent Review Panel meeting, you should confirm this in writing to the chair of the SGC, copied to the district Assistant Chief Education Officer MOD Schools **[put district ACEO's name and contact details here]** within ten school days of receiving this letter. The chair of the SGC is **[put chair's name and contact details]**.

**[Optional paragraph]**

You and **[pupil's name]** are requested to attend a reintegration meeting with me **[alternatively, specify the name of another staff member]** at **[place]** on **[date]** at **[time]**. If that is not convenient please contact the school as soon as possible to arrange an alternative date and time. The purpose of the meeting is to discuss how best to manage your child's return to school and to avoid any further exclusions.

To reiterate, **[pupil's name]**'s exclusion expires on **[date]** and I expect him/her to be back in school as usual on **[date]** at **[time]**.

Yours sincerely

**[Name]**

Head teacher

Copies:

SGC Chair

District Assistant Chief Education Officer MOD Schools

DCS Assistant Head Specialist Support Services

## **ANNEX B – MODEL LETTER FOR PERMANENT EXCLUSION**

Dear **[parent's name]**

I am writing to inform you of my decision to exclude **[pupil's name]** permanently with effect from **[date]**. This means that **[pupil's name]** will not be allowed back to this school unless he/she is reinstated by an Independent Review Panel or a Permanent Exclusion Appeal Panel.

I realise that this exclusion may be upsetting for you and your family, but the decision to exclude **[pupil's name]** permanently has been taken only after very serious consideration. S/he has

been excluded because **[reasons for the exclusion, including why this amounts to a serious and/or persistent breach of the school's behaviour policy and why it is believed that allowing the pupil to remain would seriously harm the education or welfare of pupils or others]**.

Because this is a permanent exclusion, an Independent Review Panel meeting must be arranged to review my decision. The panel will comprise one member from the School Governance Committee, the district Assistant Chief Education Officer, and the head teacher of a different MOD school. The panel has the power either to reinstate **[pupil's name]** or to uphold the permanent exclusion. You have the right to attend the panel meeting to state your views about the exclusion and whether **[pupil's name]** should be reinstated.

You will be notified separately of the date for the Independent Review Panel meeting, which should be within 15 school days of the date of exclusion. You can be accompanied at the meeting by a friend or representative if you wish.

If the Independent Review Panel upholds the permanent exclusion decision you have the right of appeal to a Permanent Exclusion Appeal Panel.

While **[pupil's name]** is excluded, the school will continue to set and mark work for him/her to do at home. However, this is only a temporary arrangement, pending a decision about an alternative school placement. I would ask you to ensure that the work set by the school is completed and returned promptly for marking.

Yours sincerely

**[Name]**

Head teacher

Copies:

SGC Chair

Chief Education Officer MOD Schools

District Assistant Chief Education Officer

DCS Assistant Head Specialist Support Services