



## Independent Review Panel (IRP)

When considering the governing board's decision in light of the principles applicable in an application for judicial review, the panel should apply the following tests:

- Illegality – did the governing board act outside the scope of its legal powers in deciding that the pupil should not be reinstated?
- 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 governing board's consideration so procedurally unfair or flawed that justice was clearly not done?

### Review panel reach their decision

Quash the decision and direct that the governing board reconsiders reinstatement

Recommend that the governing board reconsiders\*\* reinstatement

Uphold the governing board's decision

Child remains in suitable full-time education at alternative provision school (APS) and is removed from school roll

Permanent exclusion remains on the child's education record

Child enters the Fair Access Protocol (FAP) process to determine next steps

### Governing board meet to reconsider

Governing panel notify parents, headteacher and local authority of their decision in writing

Decline to reinstate child

Decide to reinstate child

Child remains in suitable full-time education at alternative provision school (APS) and is removed from school roll

Child leaves the APS and returns to the school on an agreed date

Permanent exclusion removed from the child's education record

An adjustment may be made to the school's budget in the sum of £4,000 if the panel has ordered this. In the case of an academy, the school would be required to make an equivalent payment directly to the local authority in which the school is located within 28 days of notification. This payment will be in addition to any funding that would normally follow an excluded pupil.

The clerk must also note, where a pupil is not reinstated following a direction to reconsider, the exclusion does not count towards the rule that an admission authority may refuse to admit a child who has been excluded twice.

Child enters the Fair Access Protocol (FAP) process to determine next steps

If a review panel has made a financial adjustment order and the excluded pupil is given a place at another school, including a PRU, ('the admitting school'), the local authority may, if it chooses, pass any or all of the amount of the financial adjustment (i.e. up to £4,000) to the admitting school.

\* Procedural impropriety means not simply a breach of minor points of procedure but something more substantive that has a significant impact on the quality of the decision-making process. This will be a judgement for the panel to make, but the following are examples of issues that could give rise to procedural impropriety: bias; failing to notify parents of their right to make representations; the governing board making a decision without having given parents an opportunity to make representations; failing to give reasons for a decision; or being a judge in your own case (for example, if the headteacher who took the decision to exclude were also to vote on whether the pupil should be reinstated).

\*\* Where the criteria for quashing a decision have not been met, the panel should consider whether it would be appropriate to recommend that a governing board reconsiders its decision not to reinstate the pupil. This should not be the default option, but 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 board's decision. This could include when new evidence presented at the review hearing was not available to the governing board at the time of its decision.

Further sources of advice and guidance can be found here-

Gloucestershire County Council- <https://www.goucestershire.gov.uk/education-and-learning/school-attendance-and-exclusions-and-welfare/what-to-do-if-your-child-is-excluded-from-school/>

SENDIASS Gloucestershire ([www.sendiassglos.org.uk](http://www.sendiassglos.org.uk)),

Coram Children's Legal Centre ([www.childrenslegalcentre.com](http://www.childrenslegalcentre.com))

National Autistic Society (NAS) School Exclusion Service (England) (0808 800 4002 or [schoolexclusions@nas.org.uk](mailto:schoolexclusions@nas.org.uk))

Independent Parental Special Education Advice