



ISLINGTON

The Exclusion Appeals Process

Scrutiny Committee: 18 October 2018

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Exclusion appeal process

Fixed Period and Permanent Exclusions



Fixed period exclusions

Single stage process...

- **Governors Hearing** to review the head teacher's decision if:
 - A pupil has fixed period exclusions that total 16 days or more *in one term*
 - A pupil will miss a public exam
 - Requested by a parent
- Governors can:
 - **Uphold** the head teacher's decision to exclude the pupil
 - **Reinstate** the pupil with immediate effect or by a particular date
- Exclusions of 5 days or less cannot be reinstated
- There is no recourse to appeal or further review by an independent panel.



Permanent exclusions

Two stage process...

- **First stage: Governors Hearing**

Must take place following the head teacher's decision to permanently exclude a pupil

- **Uphold** the head teacher's decision to exclude, declining to reinstate the pupil
- **Reinstate** the pupil with immediate effect or by a particular date

Where governors uphold the head teacher's decision...

- **Second stage: Independent Review Panel**

If a parent requests an independent review of the Governors' decision

- **Uphold** the Governors' decision to permanently exclude the pupil
- Recommend that Governors **reconsider** reinstating the pupil
- **Quash** the Governors' decision where Public Law principles are contravened (i.e. illegality, irrationality or procedural impropriety).
£4,000 penalty imposed by LA.

Permanent exclusion hearings

- Governors must meet within **15 school days**
- Quorum: **3 governors** who do not know the pupil or the case
- Head teacher's report
 - **reasons** for the decision with supporting **evidence**
 - circulated **five days before** the hearing takes place
- The family of the excluded pupil may submit written representations and be accompanied by an advocate or legal representative
- **New evidence** must be shared with **all** parties, preferably before the meeting but can be tabled at the hearing. The head teacher however, cannot introduce **new reasons** for the exclusion.

Head teacher's report

- An 'Exclusion Report Checklist' and a model report are available on Islington CS at <https://www.islingtoncs.org/node/306>
- The report should include:
 - Pupil Details
 - Support arrangements, including a copy of EHCP where relevant
 - Chronology of events
 - Investigation reports
 - **Pupil's version of events**
 - Witness statements (signed and dated)
 - Exclusion details – reason/s for the exclusion and exclusion letters
 - **School's behaviour policy**



The test for permanent exclusion

- **Last resort** – have all alternatives been explored?
- **Proportionate** – is permanent exclusion a reasonable response? Have any mitigating factors been taken into account?
- **Evidence** – Governors' decision is made using '*balance of probabilities*'
- **Two-limb test** (*Paragraph 16, DfE statutory guidance, 2017:*
A decision to exclude a pupil permanently should only be taken:
 - in response to a **serious breach or persistent breaches** of the school's behaviour policy**AND**
 - where allowing the pupil to remain in school would **seriously harm** the education or welfare of the pupil or others in the school

Independent Review Panel

- Panel appointment and constitution
 - Arranged by the Council's Democratic Services to ensure independence from the school and education services
 - Quorum of 3 panel members – Lay member as Chair, current or former head teacher and current or former school governor
- Where requested by the parent, the LA must appoint an SEN Expert, even if the school has not identified that the pupil has SEN
- Panel decisions:
 - **Uphold** the Governors' decision to permanently exclude the pupil
 - Recommend that Governors **reconsider** reinstating the pupil
 - **Quash** the Governors' decision where Public Law principles are contravened (i.e. illegality, irrationality or procedural impropriety).
£4,000 penalty imposed by LA
- Judicial Review of Independent Review Panel's decision

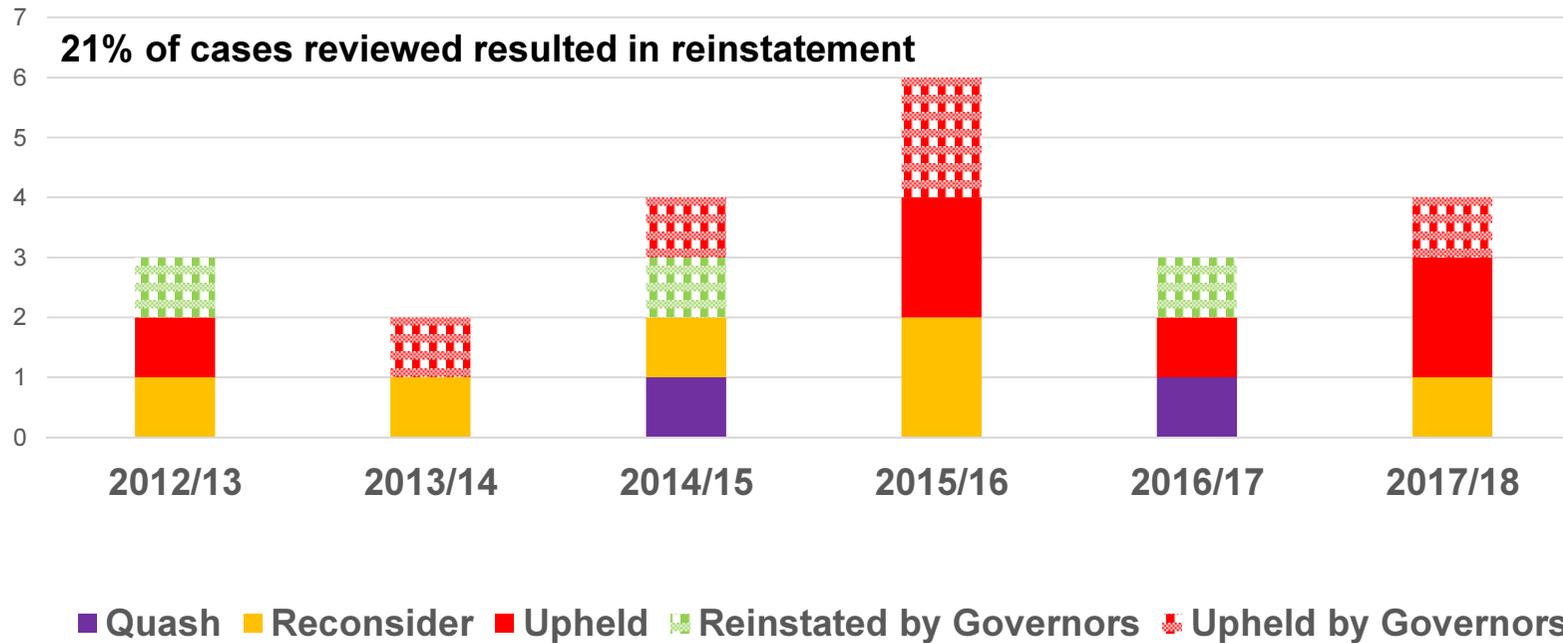
Exclusion appeal outcomes

Former and current statutory guidance



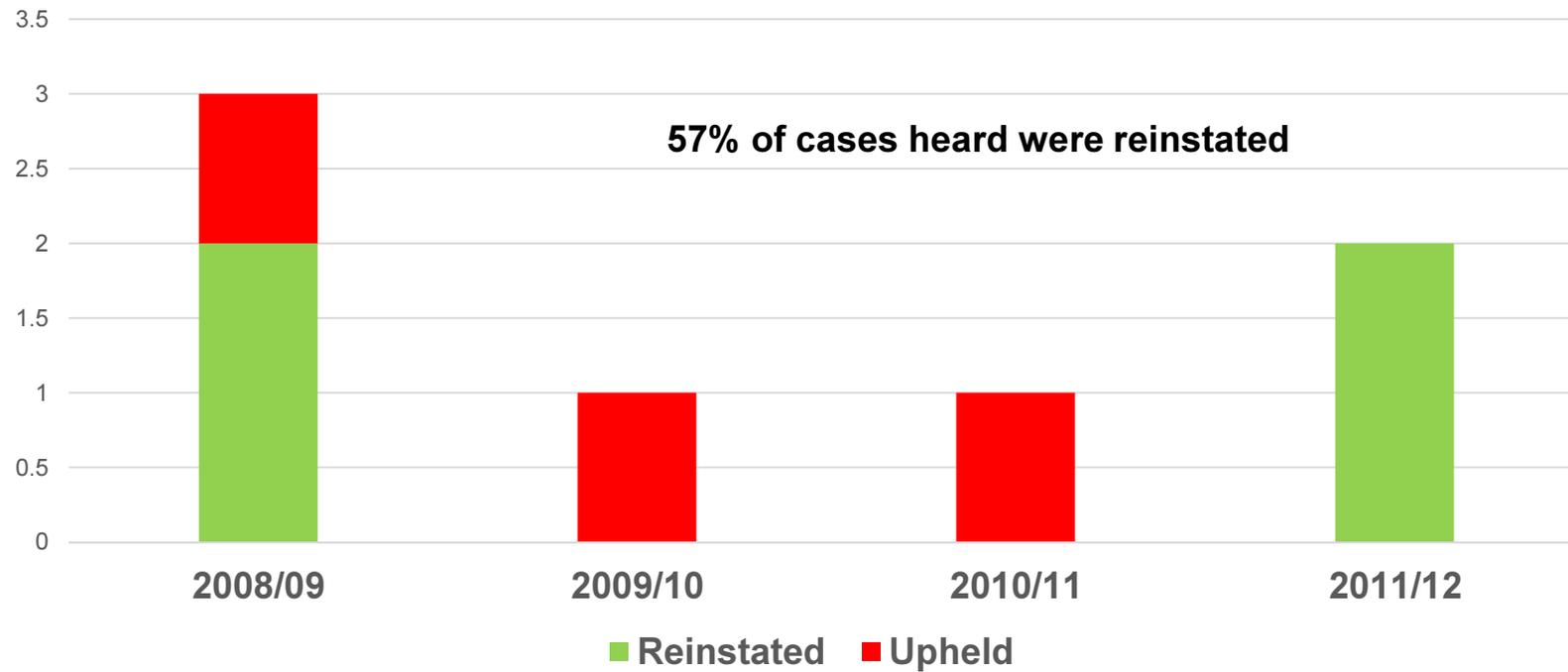
Current Statutory Guidance

Independent Review Panel Outcomes



Previous Statutory Guidance

Independent Appeal Panel Outcomes



What happens to excluded pupils?

Interim education arrangements and next steps



Education arrangements

Out of school but not out of education...

- **Days 1-5** (for both fixed period and permanent exclusions):
 - School **must** provide work suitable to the pupil's age and abilities
 - Parents must ensure the pupil is not in a public space during school hours (*without good reason*). Expectation that pupil is supervised and completes work set
- **Day 6 onwards:**
 - **Fixed period** exclusions: **schools** must arrange full-time education provision
 - **Permanent** exclusions: **Home LA** must arrange full-time education provision
- Following expiry of a fixed period exclusion:
 - **Reintegration meeting** for all primary-aged pupils. Recommended for secondary-aged pupils.
 - Cannot refuse readmission if the parent fails to attend meeting

Day 6 onwards – permanent exclusions

- **Home LA** makes interim arrangements for permanently excluded pupils (*including those excluded from out-of-borough schools*)
- Islington residents are placed at New River College, Pupil Referral Unit. On occasions, a pupil can be placed directly in mainstream
- Interim education arrangements continue until conclusion of exclusion appeal process.
- Pupils reinstated from permanent exclusion return to excluding school. For others, plans for next steps are agreed.
- Requests for reintegration to mainstream are considered by the Primary and Secondary Education Boards.



Reintegration to mainstream

Primary and Secondary Securing Education Boards



Fair Access Protocol (FAP)

- School Admissions Code requires LAs to agree local protocols for how permanently excluded pupils and other 'hard to place' pupils are reintegrated to mainstream schooling
 - Agreed with all schools (or the majority where all do not agree)
 - Applies to all schools in the local area
 - Based on 'Fair share' principles - no school to be asked to receive a disproportionate number of 'hard to place' pupils
 - Allocations to be made on a case by case basis (and not 'next on the list' approach)
 - Balancing 'Fair access' and 'Fair share'
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Islington's FAP mechanism

- Primary and Secondary multi-agency panels comprising representatives from Education central services (Admissions, Exclusions, SEN, Educational Psychology, Safeguarding), Children's social care / Early Help services, Targeted Youth / Youth Offending services, CAMHS, mainstream schools and PRUs
- Primary Securing Education Board (PSEB) chaired by serving head teacher with three further head teachers representative of community, faith and academy provision and New River College Primary
- Secondary Securing Education Board (SSEB) chaired by an Independent Chair with two head teachers who serve on the Board for two terms, rotating across all schools and New River College Secondary
- Cases for reintegration to mainstream presented in person
- Two part decision: *Is the pupil ready to be reintegrated? Which school should be allocated?*

Requests for reintegration

- **Primary** requests, since the Board first set up in 2011:
 - 19 requests for mainstream reintegration following permanent exclusion
 - 15 agreed; 0 not agreed; 4 withdrawn prior to meeting
- **Secondary** requests, since Independent Chair appointed in 2012:
 - 54 requests for mainstream reintegration following permanent exclusion
 - 42 agreed; 6 not agreed; 6 withdrawn prior to meeting
- **Reintegration support**
 - Funding (in line with statutory requirements)
 - Bespoke package of support from New River College



Reintegration to mainstream

Permanently Excluded Pupils Reintegrated to Mainstream

