

## Exclusion

This HPCI position statement covers exclusions from education in all the forms that it takes. These include permanent exclusion, fixed term exclusions, unlawful exclusions, part time timetables and off-rolling.

### **The right to an education for everyone**

The right to education in the United Kingdom is provided for in the Human Rights Act 1998, which mirrors the European Convention on Human Rights and states:

'No person shall be denied the right to education.'

<https://www.loc.gov/.../constitutional-ri.../englandandwales.php>

### **Principal UK legislation**

Education Act 1996

Education Act 2002, (amended by the Education Act 2011)

Education and Inspections Act 2006

Equality Act 2010

School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012

Education (Provision of Full-Time Education for Excluded Pupils) (England) Amended Regulations 2014

Hertfordshire County Council, head teachers and governing bodies of maintained schools, academies and pupil referral units **must** have regard to the [Statutory Exclusions guidance](#). Every school is required to have and to publish an Exclusion policy. You can also find links to further statutory and other guidance plus national statistics of exclusions at:

<https://www.gov.uk/education/school-discipline-and-exclusions>

You can find HCC guidance and documents relating to exclusion, part time timetables etc at Herts Grid for Learning <http://www.thegrid.org.uk> or on the documents and policies section of HCC's [SEND Local Offer](#)

In the summer of 2018 a land mark case regarding exclusions and SEND was made in relation to a teenager with autism you can find further information on that here: [Case Law](#) .

At present across England, including Hertfordshire, all types of exclusion from education are on the increase and are affecting thousands of children and young people across England with those with SEND being disproportionately affected. In 2017 - Ofsted observed "Children and young people who have SEND were found to be excluded, absent or missing from school much more frequently than other pupils nationally," <https://www.gov.uk/government/publications/local-area-send-inspections-one-year-on> .

It has become clear that the cuts in funding to public services, including education, are a key factor along with other more specific pressures in the education system such as a lack of appropriate provision and insufficient places to meet the needs of CYP with SEND.

As the result of overwhelming evidence and concerns about the long term implications a Department of Education review of school exclusions (<https://www.gov.uk/government/publications/school-exclusions-review-terms-of-reference>) led by former Children's Minister, Edward Timpson, is underway and his report (delayed from 2018) is now due in early 2019. HPCI looks forward to the publication of the report and examining what government and local proposals result.

HPCI has been very concerned about the lack of accessible information for parents along with misinformation which often leads to them accepting types of exclusion which they should in fact be questioning and challenging. As a result, we have produced our own information for parents and carers which can be downloaded at: [LINK](#) The information covers all types of exclusions and clear information and links about where to go to find out more and get support.

The problem of disproportionate exclusions of children and young people with SEND is exacerbated by ongoing lack of suitable specialist school places in Hertfordshire, leaving children stuck in inappropriate settings, increasing the risk of exclusion when needs are not met and resources are tight. Exclusions for children with SEND is increasing pressure for support from the 0-25 Together Service creating funding pressures and affecting availability of support for other families.

HPCI believes:

- A child/young person should never be excluded just because of their special educational need or disability but recognises that there are legal grounds for exclusion
- HCC should publish, annually, figures on all types of exclusions – permanent, fixed term, part time timetables etc. Without accurate recording of exclusions intervention is delayed and HCC cannot measure its successful reduction of exclusions as required by the SEND Strategy.
- HCC should work with HPCI, SENDIASS and other organisations to improve the access to information and support for parents and carers on all types of exclusions affecting CYP with SEND
- HCC should work with settings and HPCI to examine how exclusions can be reported, responded to and resolved in the most effective way
- Part time timetables result from a poor understanding of children's needs, ineffective provision or a lack of reasonable adjustments being put in place. Lack of funding due to HCC's Exceptional Needs Funding (ENF) system along with increasingly stretched funding in schools and settings is also a significant contributory factor. Improving the quality of EHCPs should have a positive impact

- All part time timetable arrangements need to be recorded and reported to HCC to ensure they are justified, have a clear acceptable time frame and are agreed and shared with parents and other parties, in writing.
- Senior leaders and governors in settings need clear guidance on all types of exclusion and access to quality training including an improved understanding of the Equality Act 2010.

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