

**Post 16 - Exclusion from College or University**

Exclusion is when a student is told they can no longer attend college or university:

* for a fixed period of time, for example two weeks (also known as suspension)
* permanently – this means they cannot return (also known as expulsion).

If this happens, you have certain rights. These rights come from a law called the [*Equality Act 2010*](http://www.legislation.gov.uk/ukpga/2010/15/contents). It makes sure that all people in Great Britain are treated fairly, especially those who are sometimes treated unfairly (often called discrimination).

This includes people who may need extra help to get the same chances, such as people who have a disability.

 **What does the law say about disability?**

The law says someone has a disability if they have a physical or mental impairment which has a long term and substantial adverse effect on their ability to carry out normal day-to-day activities.

‘Mental impairments’ include autism, even though you may not like to be known as disabled.

You do not necessarily need a diagnosis of autism to be considered disabled under the law. If you would like to know more about the meaning of disability you can read:

* [Disability: Equality Act 2010 - Guidance on matters to be taken into account in determining questions relating to the definition of disability](https://www.gov.uk/government/publications/equality-act-guidance)
* [What equality law means for you as a student in Further or Higher education](https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-guidance#h6), and/or
* [The Equality Act, making equality real. Easy Read Document](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/85039/easy-read.pdf)

 **What parts of my education are covered by the law?**

If you’re disabled, the law says your college or university must do things to make sure you’re not discriminated against. These are called ‘duties’ and apply to every part of your education, including:

* admissions
* exclusions
* teaching methods
* assessments and exams
* facilities, including lecture halls, libraries and IT
* leisure, recreation, entertainment and sports facilities
* physical environment
* disciplinary procedures.

 **What is discrimination?**

The law says that discrimination can happen in different ways. It can be helpful to know about these so you can consider whether you’ve been discriminated against and to help you discuss it with your college or university. You may be discriminated against in more than one way. If you’re excluded from college or university, the law says this may be:

* direct disability discrimination
* indirect disability discrimination
* discrimination arising from disability
* a failure to make reasonable adjustments
* harassment and victimisation.

We’ll now look at each of those, one by one, in a bit more detail.

Direct disability discrimination

Direct disability discrimination is when you’re treated less fairly than other students as a result of your condition or disability.

**Example:**

If a college or university excludes a student or refuses to allow them to take a course because they’re autistic, this would be direct disability discrimination.

The law says that your college or university can treat you more favourably than other, non-disabled students.

**Example:**

Indirect disability discrimination

Indirect disability discrimination is when you, or other disabled students, are treated unfairly because of the way your college or university applies a policy or practice. For example, when an exclusions policy is applied in the same way to all students. This is sometimes called a ‘blanket’ or ‘zero-tolerance’ policy.

**Example:**

If your college or university has a policy that if a student breaks the rules three times, they’re automatically excluded from their course, this could be indirect disability discrimination. This is because they need to consider that an autistic student may break rules without realising it, or because they’re anxious or stressed if their needs aren’t being met.

Discrimination arising from disability

**Example:**

A failure to make reasonable adjustments

Reasonable adjustments are changes that your college or university must make so that you can fully benefit from your education and enjoy the other facilities the college or university offers.

The law says that your college or university must make these changes. If they don’t, they may be discriminating against you. The changes can be made to any part of your education. These include:

* The way your college or university operates on a daily basis, including any decisions and actions they take. An example would be an exclusion or discipline policy. The law calls these provisions, criteria and practices.
* The physical features of your college or university, such as entrances and exits, toilets, lighting, flooring and furniture.
* Any equipment or support from a member of staff that may help your studies. The law calls these auxiliary aids and services.

Your college or university must not ask you to pay for these.

The law says that your college or university can make changes to help you with your exams, such as giving you extra time, help with writing or a separate room to take your exam.

They cannot change the exam itself or lower the pass mark as this is how they test a student’s ability. This is called a competence standard. If you would like to know more about the help you can get when preparing for and sitting exams or assessments, please read our [exam guidance](https://www.autism.org.uk/advice-and-guidance/topics/education/exams).

When thinking about what changes can be made for you, your college or university should consider:

* are you falling behind with your education or missing out on education?
* could this be avoided with help, such as equipment or a member of staff?
* is it reasonable to make these changes?

The law doesn’t say what is and isn’t reasonable, but when making the decision they must take into account your needs, their resources, health and safety, and costs. You can read more about the reasonable adjustments that can be made for disabled students from [Disability Rights UK](https://www.disabilityrightsuk.org/adjustments-disabled-students), a charity that helps disabled people with their rights.

Harassment and victimisation

According to the law:

* harassment is behaviour that can be offensive and could be bullying
* victimisation is when someone is treated unfairly because they’ve made, or are believed to have made (or helped with), a complaint under the Equality Act.

The law says that a college or university cannot treat a student unfairly if they think the student has made a complaint about discrimination. The student’s parent, or anyone else who the college or university thinks may have helped with the complaint, must also not be treated unfairly.

 **Can my college or university defend of justify discrimination?**

Your college or university cannot defend or justify direct discrimination. It is always against the law. The law says that there may be times when your college or university can defend actions which might be considered indirect discrimination or discrimination arising from disability. For example, they may claim that their decision to exclude you was to protect the health and safety of other students, staff or you. Or they may say they have academic and behaviour standards to uphold. This means they’re claiming that the way they treated you is fair, all things considered. The law calls this ‘a proportionate means of achieving a legitimate aim’. However, you could argue that the way you’ve been treated cannot be defended or justified. For example, rather than excluding you, the college or university could have had a more proportionate or fair response, such as:

* making reasonable adjustments and providing extra support for you
* helping you to manage and reduce anxiety and stress
* being understanding and listening to your feelings and concerns
* encouraging good relationships between you and other students
* making sure that your learning and wellbeing needs are met.

 **What can I do if I've been discriminated against?**

The information above is designed to help you consider whether you’ve been treated unfairly by your college or university. If you think this has happened, there is action you can take. First of all, you may want to seek support from a friend, family member, student support service or advocacy service. Your college or university can tell you about student services available to you. Our [Autism Services Directory](https://www.autism.org.uk/directory) may also help you find advocacy or other support services in your area.

It can be helpful to meet with your tutor or disability advisor to discuss your situation. You may want to share this guide and other information on the law with them. You’ll find these in the Useful Reading section below. If you’re not happy with their response to your concerns, you can make a complaint. There are resources and organisations that may be able to help you with this:

1. Disability Rights UK is a charity that helps disabled people with their rights. They have a project called [Right to Participate](https://righttoparticipate.org/resources/) that has created a template letter for students who want to complain to their college or university about discrimination.
2. The Government Equalities Office has [guidance that helps students decide if they can complain](https://www.gov.uk/government/publications/asking-and-responding-to-questions-of-discrimination-in-the-provision-of-goods-and-services-and-public-functions) and explains how to do it.

Organisations that can offer you advice and support on the law and how to make a complaint or take legal action are listed below.

**Further help**

The [Equality Advisory and Support Service](https://www.equalityadvisoryservice.com/) has a helpline that advises and assists individuals on issues relating to equality and human rights.

 **Useful reading**

Read our information on [Disability discrimination in further and higher education](https://www.autism.org.uk/advice-and-guidance/topics/education/resolving-differences/disability-discrimination-in-further-and-higher-ed)

[The Equality Act, making equality real. Easy Read Document.](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/85039/easy-read.pdf) Government Equalities Office.

[What equality law means for you as a student in Further or Higher education, 2014.](https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-guidance#h6) Equality and Human Rights Commission.

[Equality Act 2010 Technical Guidance on Further and Higher Education, 2014.](https://www.equalityhumanrights.com/sites/default/files/equalityact2010-technicalguidance-feandhe-2015.pdf) Equality and Human Rights Commission.

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**Appendix 1**



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| **Social worker points of consideration for suspensions and permanent exclusion review meetings (GDC and IRP)** |
| **When did social care involvement begin and what were the reasons for this?** |  |
| **Has the pupil been given an opportunity to give their views/version on incident? What is the evidence of this?**  | *Social workers can support a child to give a statement/their views*  |
| **Have you been advised of any previous suspensions or risk of permanent exclusion?**  | *Consider the following –* * *Have you been invited to any reintegration meetings?*
* *if pupil directed off site or on a part time timetable were you consulted in decision/invited to meetings/reviews?*
* *Any concerns shared/intervention and support put into place through individual pupil support plan?*
* *have school engaged with CSC processes – attended meetings and completed actions?*
* *Have they taken into consideration child’s lived experiences when making decision to exclude?*
* *For one off serious incident are there any mitigating circumstances/contributory factors to be aware of?*
* *Do you have a chronology that would be useful to share – that reflects pupils lived experience over time?*
 |
| **Are you aware of any factors contributing to suspensions/permeant exclusion and do you feel they have been given consideration by school?**  | *Has something significant happened in lead up to exclusion – placement change/instability at home/in community/bereavement/loss/friendships etc* |
| **Consider pupils needs in the following areas and how they were considered/contributed to the suspension/permanent exclusion** |
| **Pupil experiences** | *Consider the following –* * *Have lived experiences contributed to certain triggers/behaviours?*
* *Has the child and their family experienced any trauma you are aware of? How is this impacting on their social, emotional behaviour needs*
* *Parental engagement – does parent support positive access to education? Parental experiences of school?*
* *Are there differences between presentation at home and at school?*
* *Is domestic abuse experienced and interaction with adults in school a relevant factor?*
 |
| **Pupil needs** |  *Do you feel that school have acted in a timely manner with regards to -* * *Evidence that support and interventions have been offered by school – including their impact? Pastoral support plans/interventions for behaviour/support for learning*
* *Evidence of assessment, plan, do, review – graduated approach (SEND) – have steps been taken to understand underlying causal factors of presenting behaviour?*
* *Childs/parents voice*
* *Parental needs – have these been understood and considered*
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| **Pupil safeguarding risks** | *Consider the following -* * *PT timetables/direction off site – was process followed*
* *Attendance – what has been done to support this – individual attendance support plan?*
* *Have school been part of multi-agency forum at CiN/CP? Have they shared concerns are they aware of the child’s lived experiences?*
* *Have the school considered safeguarding risks of the child not being in school following exclusion?*
* *Any CSE risks identified and supported*
* *Are you aware of any unofficial exclusions taking place*
 |
| **Pupil welfare/well being** | *Consider the following –* * *Emotional and mental health concerns – schools should consider a range of reasonable adjustments including - designated safe space, access to additional educational support and tutoring to address gaps in learning, referrals to in-school/external professional support, e.g., Counselling services, EP, MHST, school/CLA nurse providing health advice or information to pupils*
* *CAMHS/service input*
* *Have mental health service been consulted*
* *Impact f suspensions/permanent exclusion on pupils on mental health*
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| **Impact of suspensions/permanent exclusions** | *Consider any impact on pupil wellbeing, access to curriculum and exams, additional pressure on family* |
| **Pupil Voice**  | *Consider how you can support the pupil to be part of the exclusions review process – are you able to obtain pupil voice (exclusions guidance allows for this)* |