



Briefing for Westminster Hall Debate on 'Implementation of the recommendations of the Timpson Review of School Exclusions'

September 2021

About Just for Kids Law and the Children's Rights Alliance for England

Just for Kids Law is a UK charity that works with and for children and young people to hold those with power to account and fight for wider reform by providing legal representation and advice, direct advocacy and support, and campaigning to ensure children and young people in the UK have their legal rights and entitlements respected and promoted and their voices heard and valued.

The Children's Rights Alliance for England (CRAE), part of Just for Kids Law, promotes children's rights and monitors government implementation of the UN Convention on the Rights of the Child.

About this briefing

This briefing is based on our extensive work providing legal support and advice to children and young people challenging school exclusions. It also draws on insights from our School Exclusion campaign, a group of young people with experience of being excluded from school who are working to create change.

Beyond the Timpson Review

The Timpson Review was set up to address an urgent and pressing problem. We see every day how the current school exclusions process is failing too many children and young people. The majority of the pupils we work with have unmet special educational needs or are managing a mental health problem without support. Others have experienced criminal exploitation, domestic abuse and other adverse circumstances which have contributed to their behaviour. They tell us that they want schools to listen to them, treat them with respect, and give them the right support to learn. **Instead, we routinely see them pushed into a cycle of escalating sanctions, often ending in a permanent exclusion.**

While the Timpson Review was a helpful starting point, we need to go further if we are to address the injustices we see every day in our work with children. The forthcoming review of the exclusions statutory guidance is a key opportunity for the Department for Education (DfE) to take urgently needed action to reduce unnecessary exclusions, increase the fairness of the process, and address the well-known disparities in which children are excluded.

Reducing unfairness in the exclusions process

Too often the pupils and parents we work with are not given an opportunity to fully put their case across during exclusions hearings. We frequently see exclusions decisions where governing bodies have not fully considered a child's circumstances or provided a proper account of their reasons.

"The phone call came to collect her, they weren't able to give me much information as to what happened other than I would get a call later on but I needed to pick up my child. When I got there, there was a brief handover, again they said she was excluded temporarily while they investigate. I asked about school work, meetings, but they literally just wanted us out the building so we left and then I waited for the phone call which never came. I called and they said they would send me a letter. I never got the letter until she was due to go back to school." Parent

Even where an independent panel has recommended that a school reinstate a pupil as part of the review process, governing bodies are likely to uphold their original decision. In 2019/20 schools only offered to reinstate pupils in 20% of the cases where an IRP recommended reinstatement. Prior to 2012, those reviewing an exclusion decision would have the power to direct a school to reinstate a pupil. There is an urgent need to strengthen the rights of children and parents throughout the exclusions process to ensure children are able to access their right to an education given the impact this will have on their future.

Suggested question for the Minister:

- **The current exclusions process has been in place for nearly ten years. What plans does their Department have to evaluate whether this process is achieving fair outcomes for young people, parents and schools as part of their forthcoming review into the statutory guidance?**
- **Data from their Department for 2019/20 show that in most exclusions cases schools are choosing not to follow the recommendations of the Independent Review Panel. Only 20% of pupils were offered reinstatement following a recommendation from an IRP. What assessment has his Department made of these figures and what action is it planning to take to make sure the review process is working fairly?**

Tackling racial disparities in school exclusions

The Timpson Review into school exclusions did not substantively explore the fact that children from Black Caribbean backgrounds are 2.5x more likely to be excluded, even though the review itself resulted from figures revealed by the Race Disparity Audit. We see the impact of race discrimination every day in our work with parents and children, which is often driven by stereotypes and assumptions about Black pupils and their behaviour.¹

- *"I got excluded for swearing at a teacher. A white girl swore at the teacher like I did, she got sent out. I got sent to the headteacher and got excluded for it."* Young person
- *"There are 6 children of colour in their classroom...when black children spoke loudly, they were shouted at, disciplined and given a sanction. Whilst when the white children were being loud they were not responded to in this way."* Parent

The DfE should put in place a co-ordinated strategy to tackle these disparities. This should include commitments to improve the way race is addressed in the forthcoming revised behaviour and exclusions guidance, to increase the diversity of school leadership teams, and to provide specialist funding for schools to provide support for young people at risk of exclusion. We also need to see more accessible routes to justice for children who are excluded because of racial discrimination. This should include exploring the possibility of allowing racial discrimination cases to be heard in the First-Tier Tribunal instead of requiring parents to go through the onerous and potentially costly, process of taking a case in the County Court.

Suggested questions for the Minister:

- **What action is their Department taking to tackle the well-known racial disparities in school exclusions?**
- **Currently, children who face racial discrimination in the school exclusions system have little access to effective recourse, unlike children with a disability discrimination claim. What consideration has their Department given to allowing racial discrimination cases relating to school exclusions to be heard in the First Tier-Tribunal in order to increase access to justice?**
- **Since the closure of the equality and diversity hubs programme in December 2020, what action has their Department taken to increase the representation of teachers from ethnic minority backgrounds in senior leadership roles?**

Improving support for children with special educational needs

A significant proportion of the children and young people we support have unmet special educational needs or disabilities (SEND). Schools have a legal requirement to investigate whether disruptive behaviour may be the result of an unmet need, and to act on what they find. Too often this does not happen. Instead, many children we work with end up caught up in an escalating series of sanctions, leading to permanent exclusion:

¹ For a fuller analysis and list of recommendations on tackling the links between race and exclusions, see JfKL (2020) *Race, poverty and school exclusions in London* <https://justforkidslaw.org/news/new-research-reveals-children-poverty-and-black-children-london-are-more-likely-be-excluded-school>

JfKL/CRAE briefing on implementation of the recommendations of the Timpson Review of School Exclusion¹

"Someone like me who has Asperger's syndrome can get really overwhelmed. People have meltdowns. They can be screaming or throwing stuff, but they're not doing that to be horrible people. For me I usually shut down - and people didn't understand that. When people kept pressuring me, that's when I have outbursts. And I'm not trying to be bad but you're trying to convince me that I am without understanding what's going on." Young person

One of the biggest drivers of these experiences is a lack of funding for specialist SEND support. This leaves schools unequipped to provide the kind of early help which would mean that many more children and young people could thrive in mainstream school. It also drives up costs elsewhere in the system both through the significantly higher costs of providing alternative provision, and through the costs local authorities incur fighting unwinnable SEND appeals.

Suggested questions for the Minister:

- **When will their Department bring forward its proposals as part of its promised review into SEND to ensure the system is adequately funded?**
- **As part of their Department's forthcoming review of the exclusions statutory guidance, will they commit to including a stronger focus on the need for schools to both recognise where SEND can be a factor in a child's behaviour and take action to ensure that children are not excluded as a result?**

Protecting victims of child criminal exploitation

Many of the children we work with have been excluded from school because of circumstances beyond their control. This includes children who are victims of child criminal exploitation (CCE), and whose behaviour is directly connected to that exploitation. For example, we often work with children who are automatically excluded for carrying drugs into school, even in circumstances where the police have recognised that they were doing so because they were victims of exploitation. In these cases, the pupil's school have simply not taken the time to understand the reasons behind the child's behaviour or the ways in which those children are themselves at risk. Excluding these pupils often makes them even more vulnerable to those who are exploiting them.²

"When someone gets kicked out of school [they are] pushed right into the groomers' hands. There's people out there looking to make a fast buck off someone's child. If you're not in school, what else are you doing? You're going to be on the street with other people, other kids, that was my situation. When you push a child outside of school straight away someone's going to find him. The groomer is going to buy them new trainers and other [gifts]. But it all comes at a price. They buy you things, then you owe them." Young person

A child who commits an offence because they are a victim of exploitation is rightly able to have those circumstances recognised as part of their defence in the criminal courts. There is no equivalent protection for children who face being excluded from school in the same circumstances. The DfE has committed to consulting on revised statutory exclusions guidance before the end of this year. This is a crucial opportunity to make sure schools are equipped to spot the signs that a child is being exploited and better protect these pupils.

Suggested question for the Minister:

- **Will they commit to making sure that the new exclusions statutory guidance provides specific protections for children whose behaviour is a result of child criminal exploitation?**

For further information on this briefing, please don't hesitate to get in touch with Ayaz Manji, Policy Officer (School Exclusions) on 07597 583629 or ayazmanji@justforkidslaw.org.uk

² For more detail on this recommendation and links to existing resources on spotting the signs of child criminal exploitation, see JfKL (2020) *Excluded, exploited, forgotten: Childhood criminal exploitation and school exclusions* https://www.justforkidslaw.org/sites/default/files/fields/download/JfKL%20school%20exclusion%20and%20CCE_2.pdf