



Department  
for Education

# **Independent Review Panel and First-tier Tribunal Exclusion Appeals systems**

**Research brief**

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## Introduction

September 2012 brought changes to the way parents are able to challenge their child's permanent exclusion from school. There are now two new routes to do this; the Independent Review Panel (IRP) which replaces the previous Independent Appeals Panel, and the First-tier Tribunal (Special Educational Needs and Disability) which is specifically for parents of pupils who feel the exclusion was based on discrimination against their child's disability<sup>1</sup>. Sheffield Hallam University's Centre for Education and Inclusion Research (CEIR) was commissioned by the Department for Education to undertake a research study to compare the processes of these routes to challenging a permanent exclusion. During the course of the study it became apparent that numbers of parents opting for a First-tier Tribunal (FTT) were too low to be able to make any meaningful comparisons, so the study was redesigned primarily to look at the processes of the IRP.

The main aims of the research were to:

- explore the motivations and experiences of parents and pupils prior to, and during the IRP / FTT process;
- investigate the experiences and perceptions of the different parties (parents, pupils and schools – including academies) involved in IRPs and the FTTs;
- explore the consideration of Special Educational Needs and Disabilities (SEND) under the different routes, including the use of the SEN expert<sup>2</sup> in relation to IRPs; and
- investigate the (real or perceived) financial costs involved in holding IRPs and FTTs.

## Key Findings

### Motivations to appeal

- In around two thirds of cases parents' decisions to challenge their child's permanent exclusion were not due to a desire to have their child reinstated into the school, but were based on their feeling that the permanent exclusion was

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<sup>1</sup> Pupils with SEND have higher levels of permanent exclusion than their peers. In 2011/12, pupils with a statement of SEN were eight times more likely to receive a permanent exclusion than pupils with no identified SEN. For those with SEN *but without statements* (those on School Action and School Action Plus), this rises to 11 times more likely. DfE (2013) [Permanent and fixed period exclusions from schools and exclusion appeals in England, 2011/12](#), SFR 29/13

<sup>2</sup> The SEN expert's role is to provide impartial advice to the panel about how SEN could be relevant to the exclusion, for example, whether the school acted reasonably in relation to its legal duties when excluding the pupil.

unfair in some way. Parents were more interested in having the exclusion removed from their child's record or simply for their child to be vindicated through the appeal process.

- Around a third of headteachers felt that parents were misguided or ill advised in making appeals and felt that the process was unnecessary and unhelpful.
- Parents were self-motivated to appeal but often looked for support and guidance in going through the process. This support typically came from the parent partnership service,<sup>3</sup> the local authority, or Coram<sup>4</sup>, as well as local parent organisations in a small number of cases. Some parents found the support invaluable whilst others felt that they had not been provided with as much help as they needed. Around a quarter of parents complained of a lack of any support which they felt had made the process far more difficult.
- When deciding which appeal route to use, parents had chosen the IRP over the FTT for a number of different reasons. Six of the 21 parents stated they did not know that the FTT was a possible route, and in five cases it was not appropriate since SEND were not apparent. Of the remaining parents, six said they would have considered following up with a FTT if the IRP was unsuccessful.

## Preparation for the appeal

- Making an appeal request was said to be straightforward by 16 out of the 21 parents.
- Extensive preparation was made in some cases, and all participants had prepared in some way. For parents, this had sometimes taken up a great deal of their time, with some stating they had taken time off work to prepare. For schools, this often involved a number of staff members spending time preparing, sometimes to the detriment of their other school work. For example, in one school a day and a half was taken by the headteacher, two days by the SENCO and a day by the governor.
- Financial costs to parents and schools were relatively low in most cases. Academy schools had higher costs due to having to pay for the IRP (although the funding for academies reflects such responsibilities).

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<sup>3</sup> Parent partnership services are statutory services set up to provide information, advice and support to parents and carers of children and young people with SEN.

<sup>4</sup> Coram Children's Legal Centre is a charity that "provides free legal information, advice and representation to children, young people, their families, carers and professionals, as well as international consultancy on child law and children's rights" ([CCLC website](#)).

## Experience of the appeal

- On the whole the IRPs were described as fair in terms of the process on the day. Where parents raised issues about unfairness or potential bias this was because they felt that the process did not allow them their desired outcome. Conversely, school participants felt processes were fair, but the school was much more harshly scrutinised than the family.
- In the main, participants felt they were given the opportunity to have their say and to fully put their case across. However a minority of participants (mainly parents) said they felt they were not as free to speak as they would have liked, being told that they must stick to the grounds of the case and not make comments on what had been said.
- Panel members were said by most to have been professional and suitable individuals, again with a small number of exceptions.
- The role of some key local authority members of staff were called into question by some parents and headteachers in relation to their impartiality and involvement in IRPs.

## Special educational needs and disabilities

- Parents are given the opportunity to request an SEN expert to be present at an IRP regardless of whether or not their child has identified SEND. Most parents had an SEN expert present at the IRP.
- Opinions were mixed as to the extent to which SEN experts had been helpful in the IRP but parents were more likely than headteachers or governors to have found them to play a significant part in the IRP.
- Where SEND had been seen to be relevant to the exclusion or the appeal, half of parents felt that SEND issues had not been discussed as fully as they would have liked during the appeal.

## Methods

Interviews were used to gather data, both face to face for parents and pupils and telephone interviews for headteachers and governors. Initial intentions were for a sample size of 30 parents, (and their child in up to eight cases), 20 headteachers and 10 governors. These were to be split with roughly half the participants having undertaken an IRP and half who had been through a FTT. However, by the end of the data gathering stage of the research, only five FTTs had taken place throughout the country. The low numbers had become apparent earlier in the fieldwork period, so IRP participants were oversampled. The interviews conducted therefore were: 21 with parents (with one being a FTT parent), six with young people, 16 with headteachers (with one being FTT), and seven with governors.

## Conclusions and Recommendations

Consideration of the issues raised in the report leads to a set of recommendations.

For schools (including academies):

- to review their processes and documentation to ensure they make clear reference to the two routes, and signpost support available to parents; and
- to consider providing training and guidance for members of the governing bodies on the IRP route.

For IRP panels:

- to ensure schools and parents are aware of the role and responsibilities of the SEN expert; and
- to ensure that parents' wishes in relation to reinstatement of their child do not influence the decision on whether or not to quash an appeal.

For government:

- to provide guidance on the role of the local authority (LA) representative in relation to the IRP;
- to consider further evidence gathering on the extent to which guidance on exclusion notifications is followed;
- to examine how best to ensure that parents are provided with information on the potential outcomes of each route; and
- to consider reviewing guidance on the location of IRPs.



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