

# SCHOOL EXCLUSIONS: AN ESCALATING CRISIS

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# SCHOOL EXCLUSIONS: FACTS AND FIGURES – ENGLAND

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- School Exclusions firmly part of the English educational fabric - Described by Lord Bingham of Cornhill as the “most severe sanction available to a head teacher” [See *In Re L (a minor by his father and litigation friend) (Appellant)* [2003] UKHL 9 at para 11.]
- DfE 19<sup>th</sup> July 2018 - 7, 720 permanent exclusions in English state-funded primary, secondary and special schools in 2016/7 – over 40 per day - (6,695 in 2015/6)
- 381, 865 fixed term exclusions om 2016/7 – 2,010 per day – (339,360 in 2016/6)
- Institute for Public Policy Research (2017 – Kiran Gill et.al.) – numbers ‘only tip of ice-berg – more children educated in Alternative Provision than exclusion numbers reveal

# WHO GETS EXCLUDED?

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- Figures symptomatic of persistent and ingrained patterns of over representation:

1. Boys over three times more likely to be permanently excluded than girls

2. Pupils in receipt of Free School Meals (FSM) around four times more likely to be excluded than their peers

3. Pupils with SEN around seven times more likely to get excluded than non-SEN children (They also account for about half of all exclusions)

4. Black Caribbean Boys over three times more likely to be excluded.



# School exclusions data in England only 'the tip of the iceberg'

Five times more children being educated in schools for excluded pupils than official figures show, say researchers



▲ Critics say exclusions are rising partly because schools are under pressure to compete in league tables. Photograph: Getty/iStockphoto

Government figures for the number of children permanently excluded from school are “the tip of the iceberg”, with five times more children being educated in schools for excluded pupils than official data suggests, according to research.

National figures from the Department for Education show that 6,685 pupils were **permanently excluded** from schools in England in 2015-16 - the majority of them in the run-up to their GCSEs - marking a 40% increase over the past three years.

A study by the Institute for Public Policy Research (IPPR) thinktank claims these figures mask the true scale of the problem, with pupils forced out of

Sally Weale Education correspondent

Tue 10 Oct 2017 00.01 BST



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School exclusion

Wales

Wales Politics

Wales Business

North West

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Mid

South West

South East

## School exclusions: Mother had 'no help' for son

By Bethan Lewis and Steve Duffy  
BBC Wales News

1 April 2019



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Liz talks about the moment her son was permanently excluded from school

A mother has called for more help for parents of children removed from schools, saying she was left “bewildered” when her son was excluded.

Liz's son was out of school for six months and later diagnosed with attention deficit hyperactivity disorder (ADHD).

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# FACTS & FIGURES

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- Education Committee (2018) *Forgotten Children* – Exclusion process weighted in favour of schools – no accountability – no appropriate information imparted to parents/guardians re alternative provision
- National Children’s Bureau (NCB) (2018) – 49, 187 children reported as missing from education in 2016/7
- Children’s Commissioner “*They go the Extra Mile*” – Highlights likelihood of certain children to being subject to exclusion
- Children’s Commissioner (2019) *Skipping School – Invisible Children* – Highlighted children’s needs not being met in schools – rise in home education – rise in ‘off-rolling’/ ‘illegal schools’
- Edward Timpson Review – Repeats the above – a missed opportunity

# EXCLUSION: A CREATURE OF STATUTE

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- s52 Education Act 2002 & Statutory Guidance 2017
- Head Teacher sole authority to exercise power >>> quasi-judicial power
- Decision to exclude must be fair, rational, reasonable, proportionate and lawful
- Permanent exclusion: For serious/persistent breach of school behavioural policy and/or safety/welfare concerns
- Decision to exclude: Parents must be notified (what type of exclusion/duration/ reasons/parents right to make representation to governing body/ information pertaining to representation etc?)



# SCHOOL EXCLUSIONS: INCONSISTENT WITH CHILDREN'S RIGHTS

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- Children right to education – Arts 28 & 29 UNCRC – broad purposive view of education
- Article 2 Protocol 1 ECHR – Domestic hook for education litigation

## Some Anomalies

- Right to be heard dubiously protected
- Best Interests Principle absent from legislation and accompanying guidance
- No need for head teacher to make a best interest determination regarding exclusion
- Striking given that such determinations govern other children's rights issues (Family Law, Health care etc)

# HEALTH CARE & MEDICAL MATTERS

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- General Medical Council Guidelines - Assessing Best Interests
  - best interest should be 'guiding principle'
  - Children's views should be considered
  - views of parents /other people close to the child
  - Religious / cultural beliefs of child
  - Views of other health care professionals
  - ***What choice, if more than one, will least restrict the child's future options***



# RIGHTS RESPECTING DEFICIT IN SCHOOLS – EMPIRICAL EVIDENCE

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Evidence from research indicative of rights respecting deficit in schools

*“The young people think that they should have their say and think that the teachers should respect and listen to them more. Another thing they said was that they should have their own opinions and there should be different levels of discipline. By thus they mean that instead of excluding pupils, they should find different levels of punishment and explain it to the students”*

(Caitlin & Jasmin, Spennymoor Report)



# CHILDREN'S VIEWS ON EXCLUSION

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- “The young people think that the schools are too harsh on the punishments and are too strict on the exclusion policy code. The students think that they have a little opportunity to discuss their opinions with teachers as they think they are only seen for their behaviour and not what they are capable of” (Caitlin & Jasmin, Spennymoor Report)

## Post exclusion

“You’re labelled and watched all the time – don’t forget what you’ve done”

“The students that we talked to said that they do not have a return from exclusion meetings, therefore they do not get to talk about their rights when they get back”

# CONTINUED

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- “Get treated differently in school if you have been excluded”
- “After exclusion you have no incentives. Get to go on no trips or get last weeks”
- “After exclusion – you get no opportunities”
- “Rights aren’t allowed – Get excluded for very poor reasons”

(Leah & Ali, Room 14 Report)



# MOVING FORWARD?

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- Legislate for Best Interest Determinations to form part of exclusion framework
- Legislate for right to be heard and/or appellate rights for children
- Fundamental rethinking of how education is conceptualised and delivered
- Remove the explicit parental dominance re education in all human rights treaties or insert provision that they do not over-ride or supersede the child's right to education.

THANK YOU

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