



Agenda Item 8

Permanent Exclusion Clawback Policy 2022-23

1 Background

- 1.1 To continue with the permanent exclusion clawback policy agreed at the NNC Schools Forum on Dec 16 2021. This policy is in line with current legislation and guidance in calculating clawback
- 1.2 It is the responsibility of the LA to clawback funding from schools and academies that permanently exclude pupils
- 1.3. This paper is brought to schools consultation to ask for schools views and to raise awareness of the issue but ultimately as an LA we are constrained to follow the legislation

2 Main report section or sections

2.1 Legislation

Exclusion from maintained schools, academies and pupil referral units in England Statutory guidance for those with legal responsibilities in relation to exclusion, DFE, 2017

The Government have produced a summary of the legislation for permanent exclusions which is available on gov.uk the following are extracts from that document:

181. The local authority cannot require a maintained school or academy to make any additional payments following a permanent exclusion, other than the budget share deductions set out in regulations, or the payments which an academy has to make under its funding agreement.
183. A local authority may ask an academy trust to enter into an arrangement for the transfer of funding for a pupil who has been permanently excluded, on the same basis as if the academy were a maintained school. The academy trust may be obliged under its funding agreement to comply with such a request.

Pupils permanently excluded from, or leaving, maintained schools

[The School and Early Years Finance \(England\) Regulations 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

29.—(1) Where a pupil is permanently excluded from a school maintained by a local authority (other than a special school, a pupil referral unit, or a place which the authority has reserved for children with special educational needs) (“the excluding school”) the authority must redetermine the excluding school’s budget share in accordance with paragraph (2).

(2) The excluding school’s budget share must be reduced by $A \times (B / 52) + C$ where—

(a) *A* is the amount determined by the authority in accordance with this Part that would be attributable to a pupil of the same age and personal circumstances as the pupil in question at primary or secondary schools maintained by the authority for the full funding period;

(b) *B* is either—

(i) the number of complete weeks remaining in the funding period calculated from the relevant date; or

(ii) where the permanent exclusion takes effect on or after 1st April in a school year at the end of which pupils of the same age, or age group, as the pupil in question normally leave that school before being admitted to another school with a different pupil age range, the number of complete weeks remaining in that school year calculated from the relevant date; and

(c) *C* is the amount of the adjustment made to the school's budget share under a financial adjustment order.

(3) Where a pupil has been permanently excluded from the excluding school and is admitted to another school maintained by a local authority (other than a special school, a pupil referral unit, or to a place which the authority has reserved for children with special educational needs) ("the admitting school") in the funding period, the authority must redetermine the admitting school's budget share in accordance with paragraphs (4) and (5).

(4) The admitting school's budget share must be increased by an amount which is not less than $D \times (E / F)$ where—

(a) *D* is the amount by which the authority reduced the budget share of the excluding school, or would have reduced the budget share if that school had been maintained by the authority, except that any reduction in the excluding school's budget share made under a financial adjustment order must not be taken into account for these purposes;

(b) *E* is the number of complete weeks remaining in the funding period during which the pupil is a pupil at the admitting school; and

(c) *F* is the number of complete weeks remaining in the funding period calculated from the relevant date.

(5) In redetermining the admitting school's budget share, the authority may increase it by any amount up to the amount of the adjustment made to the excluding school's budget share under a financial adjustment order.

(6) Where a permanently excluded pupil is subsequently reinstated by the governing body of the school, the school's budget share must be increased by an amount which is no less than $G \times (H / I)$ where—

(a) *G* is the amount by which the authority reduced the school's budget share under paragraph (2);

(b) *H* is the number of complete weeks remaining in the funding period during which the pupil is reinstated; and

(c) *I* is the number of complete weeks remaining in the funding period calculated from the relevant date.

(7) Paragraphs (1) and (2) also apply where a pupil leaves a maintained school (other than a special school, a pupil referral unit, or a place which the authority has reserved for children with special educational needs) for reasons other than permanent exclusion and is receiving education funded by a local authority other than at a school which is maintained by that authority.

(8) For the purposes of paragraph (2)(a), the amount attributable to a pupil is the sum of the amounts determined in accordance with the authority's formula, by reference to pupil numbers rather than by reference to any other factor or criterion not dependent on pupil numbers except that where a sixth form grant is payable in respect of the pupil in question, the amount attributable to that pupil in the funding period is £4,188 in respect of the period within the funding period up to and including 31st July 2022 or £4,542 in respect of the period within the funding period beginning on 1st August 2022.

(9) Where a pupil in respect of whom a pupil premium is payable has been permanently excluded from a school maintained by a local authority (“the excluding school”), the local authority must redetermine the excluding school’s budget share in accordance with paragraph (10).

(10) The excluding school’s budget share must be reduced by $J \times (K / 52)$ where—

(a) J is the amount of the pupil premium allocated to the excluding school for the funding period in respect of that child; and

(b) K is either—

(i) the number of complete weeks remaining in the funding period calculated from the relevant date; or

(ii) where the permanent exclusion takes effect on or after 1st April in a school year at the end of which pupils of the same age, or age group, as the pupil in question normally leave that school before being admitted to another school with a different pupil age range, the number of complete weeks remaining in that school year calculated from the relevant date.

3. Future options

Proposed Policy

- To continue to align the LA policy with current legislation and government guidance with respect to funding clawback for pupils who are permanently excluded..

4. Recommendations for Schools Forum

For Schools forum to approve the policy as stated in this paper.

5. Next steps

- To include in schools consultation and to be considered in the schools forum in December with responses from schools.
- For schools forum to vote on the continuation of the current policy

6. Financial implications

6.1 Table 1 shows the value of each formula factor that can be clawed back

Table 1: Formula Factors that have to be included in the calculation of the clawback based on latest modelling for 2023-24 schools formula budgets (subject to change). Pupil Premium Grant gives 2022-23 rate.

	Primary	Secondary KS3	Secondary KS4
AWPU	3,405	4,801	5,410
FSM	482	482	482
FSMe6	707	1033	1033
IDACI band A	672	933	933
EAL 3	582	1570	1570
Mobility	948	1364	1364
Low Prior Attainment	1,159	1,756	1,756
Pupil Premium FSM	1,385	985	985
Total	9,340	12,924	13,533

(figures for 23-24 NNC Rates from the report that went to school forum in Oct 2022)

7 Legal implications

7.1 Legal implications are discussed above as the paper is about aligning practices with the legislation for permanent exclusion budget clawbacks from schools and academies.

8 Risks

8.1 If schools forum not agreed with the proposed changes to the policy LA is not adhering with legislation

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