



## North Northamptonshire Schools Forum: 14<sup>th</sup> December 2023

### Agenda Item 15

#### Outcome of the Schools Forum Consultation Permanent Exclusion Clawback Policy 2024-25

## 1 Background

- 1.1 It is the responsibility of the LA to clawback funding from schools and academies that permanently exclude pupils
- 1.2 The permanent exclusion clawback policy was brought to Schools Forum in October 2023 to ask for schools views and to raise awareness of the issue.
- 1.3 This paper shares the outcome of the consultation but ultimately as a LA we are constrained to follow the legislation discussed and agreed to consulted on in October 2023
- 1.4 To agree in line with the outcome of the consultation and the legislation to continue with the permanent exclusion clawback policy as discussed at the NNC Schools Forum on October 23 until such time as the legislation changes.

## 2 Main report section or sections

### 2.1 Legislation

[The School and Early Years Finance \(England\) Regulations 2023 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

#### ***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**

37.—(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 £4,542 in respect of the period within the funding period up to and including 31st July 2023 or £4,642 in respect of the period within the funding period beginning on 1st August 2023.

(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.

(11) Where a pupil in respect of whom a pupil premium is payable has been permanently excluded from a school maintained by a local authority and admitted to another school maintained by a local authority (“the admitting school”) in the funding period, the authority must redetermine the budget share of the admitting school in accordance with paragraph (12).

(12) The admitting school’s budget share must be increased by an amount which is not less than  $L \times (M / N)$  where—

(a)  $L$  is the amount by which the authority reduced the budget share of the excluding school or would have reduced the budget share had that school been maintained by the authority;

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

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

(13) Where a permanently excluded pupil in respect of whom a pupil premium is payable 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  $O \times (P / Q)$  where—

(a)  $O$  is the amount by which the authority reduced the school’s budget share under paragraph (10);

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

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

(14) Paragraphs (9) and (10) also apply where a pupil in respect of whom a pupil premium is payable leaves a maintained school 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.

(15) For the purposes of this regulation—

(a) “the relevant date” is the sixth school day following the date on which the pupil has been permanently excluded; and

(b)“a financial adjustment order” means an order for the adjustment of a school’s budget share made under regulation 25(5)(b) of the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012<sup>(1)</sup> in respect of the exclusion of the pupil from the excluding school.

### **3. Outcome of the Consultation**

- In response to the question of “Do you agree to the permanent exclusion clawback policy 24-25” Schools voted 15 to 3 in favour.

#### **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 agree to the policy in line with the outcome of the consultation and the requirements of the legislation.

### **5. Next steps**

- To implement the policy.

### **6. Financial implications**

The money the local clawback is used to support pupils in Alternative Provision. The cost of Alternative Provision in 2022-23 was £1,411,487

### **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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