

Children's Commissioner's School Exclusions Inquiry

Call for evidence

July 2011

Contents

| | |
|---|-----------|
| Foreword from the Children’s Commissioner | 3 |
| About the Office of the Children’s Commissioner | 4 |
| About the United Nations Convention on the Rights of the Child | 5 |
| Background information on exclusions | 6 |
| Over-represented groups | 6 |
| The evidence on the likely consequences of exclusion | 7 |
| The Children’s Commissioner’s Inquiry | 8 |
| Consultation questions | 10 |
| How to respond | 11 |
| Confidentiality | 11 |
| Timeline and next steps | 12 |
| Further information | 12 |
| Annex A: School Exclusions Inquiry panel members | 13 |

Foreword from the Children's Commissioner

I am proud to be able to launch the first Inquiry under the Children Act 2004 powers. Time and time again children raise the issue of exclusion with me and the evidence suggests this is an area we should pay particular attention to.

The consequences of being permanently excluded from school are substantial for any child. Many never re-engage with formal education. Today, 40% of 16-18 year olds not in education, employment or training (NEETS) have been permanently excluded.

The School Exclusions Inquiry will examine whether the current system and proposed changes to it are consistent with the United Nations Convention on the Rights of the Child to which the UK is a signatory. From today we are calling on all interested people including children to play an active role in the School Exclusions Inquiry by downloading the consultation documentation and sending us their views and experience.

I urge you to respond by sending us your views (email: schoolexclusions.inquiry@childrenscommissioner.gsi.gov.uk), so we can all focus on children's rights – both those excluded, and those who remain in school and might have views that will challenge everybody's thinking.



Maggie Atkinson
Children's Commissioner for England

About the Office of the Children's Commissioner

The Office of the Children's Commissioner is a national organisation led by the Children's Commissioner for England, Dr Maggie Atkinson. The post of Children's Commissioner for England was established by the Children Act 2004. The United Nations Convention on the Rights of the Child (UNCRC) underpins and frames all of our work.

The Children's Commissioner has a duty to promote the views and interests of all children in England, in particular those whose voices are least likely to be heard, to the people who make decisions about their lives. She also has a duty to speak on behalf of all children in the UK on non-devolved issues which include immigration, for the whole of the UK, and youth justice, for England and Wales. One of the Children's Commissioner's key functions is encouraging organisations that provide services for children always to operate from the child's perspective.

Under the Children Act 2004 the Children's Commissioner is required both to publish what she finds from talking and listening to children and young people, and to draw national policymakers' and agencies' attention to the particular circumstances of a child or small group of children which should inform both policy and practice.

The Office of the Children's Commissioner has a statutory duty to highlight where we believe vulnerable children are not being treated appropriately in accordance with duties established under international and domestic legislation.

This Inquiry will be undertaken by the Children's Commissioner, using powers made available under Part 1, Section 3 of the Children Act 2004.

About the United Nations Convention on the Rights of the Child

The UK Government ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1991. This is the most widely ratified international human rights treaty, setting out what all children and young people need to be happy and healthy. While the Convention is not incorporated into UK law, it still has the status of a binding international treaty. By agreeing to the UNCRC the Government has committed itself to promoting and protecting children's rights by all means available to it.

The legislation governing the operation of the Office of the Children's Commissioner requires us to have regard to the Convention in all our activities.

In relation to school exclusions the articles of the Convention which are most relevant to this area of policy are:

- Article 2:** All rights apply to all children, whatever their circumstances
- Article 3:** The best interests of the child must be a top priority in all actions concerning children
- Article 4:** Governments have a responsibility to protect the rights of children
- Article 12:** Every child has the right to say what they think in all matters affecting them, and to have their views taken seriously
- Article 23:** Children with a disability have the right to special care and support.
- Article 28:** "Every child has the right to an education ... Discipline in schools must respect children's human dignity."
- Article 29:** "Children's education should develop each child's personality, talents and abilities to the fullest."

Background information on exclusions

In 2008-09 (the most recent year for which the Department for Education (DfE) validated data are available), the rate of permanent exclusions in England was 0.09% (ie nine pupils per 10,000 of the school population permanently excluded). Permanent exclusion is therefore happening to a small minority of children and young people. Both permanent and fixed term exclusions have fallen steadily over the past few years. However, given that there are several million children on schools' rolls at any given time, the percentages of the population who are excluded must be taken alongside the numbers they represent, in order to gain the fullest possible context. In 2008-09, 304,000 fixed term exclusions were issued, almost all (97%) for periods of less than a week. Some, inevitably, applied to the same children more than once.

Over-represented groups

The children who are statistically recorded as being more likely than others of the same age to be excluded from school are not evenly distributed among the pupil population. There are substantial differences between exclusion rates for different groups of children and young people. Two categories, counted by the DfE in detail and published in the Department's statistical returns on exclusions from school, are highlighted by the Equality and Human Rights Commission (EHRC) and in the 2010 Equality Act as Protected Characteristics. They are:

1. Gender

The permanent exclusion rate for boys in 2008-09 was approximately three and a half times higher than that for girls. Boys represented 78 per cent of the total number of permanent exclusions from school.

The fixed period exclusion rate for boys was almost three times higher than that for girls. Boys accounted for 75 per cent of all fixed period exclusions.

2. Ethnicity

The rate of permanent exclusion among members of particular ethnic groups is detailed in DfE statistical returns. In 2008-09, exclusions categorised by ethnic origin was highest for children from Gypsy/Roma heritage backgrounds, those who were Travellers of Irish Heritage, and Black Caribbean children.

Black Caribbean pupils were three times more likely to be permanently excluded from school in 2008-09 than the school population as a whole.

The rate of fixed period exclusion was also higher for these ethnic groups. Seventeen per cent of Travellers of Irish Heritage, 16 per cent of Gypsy/Roma children and 11 per cent of Black Caribbean children had received such an exclusion.

Differences in rates are marked if excluded pupils' gender and ethnicity are examined together. Black Caribbean boys, in the statistics available for 2008-09, were 11 times more likely to be excluded than White girls of the same ages and in similar schools and the same boys were 37 times more likely than were Indian girls, who had the lowest rate of exclusions. Roma Gypsy and Irish Traveller children in the same year were four times more likely to be permanently excluded than was the schools population as a whole.

3. Special Educational Needs

Pupils with Special Educational Needs (SEN) (both the approximately two per cent with, and the approximately additional 18 per cent without statements of SEN) are, from the same statistical analyses as are quoted above, just over eight times more likely to be permanently excluded than are their peers who do not have similar needs. In 2007-08, 33 out of every 10,000 pupils who had statements of SEN, and 38 out of every 10,000 pupils who had SEN but were part of the larger group who did not have statements, were permanently excluded from school. This compares with four in every 10,000 pupils of similar age and in similar schools who did not have these special needs. More than two-thirds of all permanently excluded children, according to the same statistical analyses, have some form of identified special educational need.

The evidence on the likely consequences of exclusion

There is a great deal of research available on this issue. The consequences of being permanently excluded from school have been shown to be very significant for the young person who is excluded. Many children who are excluded, especially if the exclusion is made permanent, do not re-engage with formal education before they reach school leaving age. This usually means they leave at a disadvantage compared with their peers, and their lack of qualifications can severely limit their future life chances in comparison with the population as a whole. Forty per cent of 16-18 year olds who are not in education, employment or training (NEETs,) when their circumstances were examined more closely, had previously been permanently excluded from school. Over half of young offenders in custody have at some time before they ended up there, been excluded from school. Indeed, in a recent report by HM Inspectorate of Prisons on Resettlement Provision for 15-18 year olds in custody, 86% of those interviewed said they had been excluded from school at some point.

The Children's Commissioner's Inquiry

The Children's Commissioner, Dr Maggie Atkinson, is aware that a great deal is already known about this difficult issue, not least that those who end up excluded from school can have a long history of low or higher level disruption of others' learning, and of the life of their school. Dr Atkinson is also aware both that for many schools, the sense of failure felt when a child must be excluded is keen, and that many schools consider an exclusion, even as a last resort, is often not a satisfactory conclusion for most parties, especially given that the child concerned is often deeply troubled as well as troublesome.

This School Exclusions Inquiry will examine as many as possible of the details of the processes in place for excluding children from school, and the factors which influence schools' decisions to exclude a child, however hard that decision has been to reach for all concerned. It will examine how far the current exclusions system, and proposed changes to it, are consistent with children's rights under the United Nations Convention on the Rights of the Child (UNCRC).

The School Exclusions Inquiry will be chaired by Dr Atkinson. The Inquiry panel members are:

- **Roy Blatchford** – Director of the National Education Trust
- **Janet Mokades** – A schools adjudicator and Her Majesty's Inspector of Schools
- **Robin Richardson** – Educationalist and former director of the Runnymede Trust
- **Ian St Rose** – Manager of a provider of alternative provision for excluded children
- **Simon Woolley** – Equality and Human Rights Commissioner

Please see Annex A on page 13 for further details about the members of the School Exclusions Inquiry panel. In addition to this small expert group, the Children's Commissioner intends to continue to refer regularly to a wider stakeholder and reference group, from a diverse range of organisations and interests.

In addition, the School Exclusions Inquiry team will be advised by a group of children and young people being put together for this project. The Children's Commissioner intends that this group will include those whose lives have been affected by the presence of disruptive children whose behaviour may have affected their learning; and those who have themselves been excluded, whether permanently, temporarily, or "informally".

The School Exclusions Inquiry will examine, from as many perspectives as possible, both permanent and fixed term exclusions.

The School Exclusions Inquiry will also examine other means whereby schools may request that children move school, or arrange the transfer of children for reasons of the child's behaviour.

In the course of its work, the School Exclusions Inquiry will examine:

- The factors which influence schools' decisions to exclude, including their interaction with other public services whose interventions in partnership with the school and the family might otherwise help to retain a child who would otherwise have been excluded.
- The effectiveness of the system of appeals against exclusions, including children and young people's access to and understanding of the processes and their rights within it; and the likely impact of planned changes to this system.
- The impact of legislation, government policy and regulation on practice on school exclusions in the field.
- The impact of the support, monitoring, challenge and intervention mechanisms available to both schools and pupils from local authorities in schools' practice in managing exclusions.
- The effectiveness of in and out of school provision and support aimed at preventing permanent exclusions, particularly any such provision which is actively targeted at helping those groups who are statistically most likely to be excluded.
- The characteristics of children who have been shown to be disproportionately likely to be excluded in comparison with their peer groups; the interaction between these characteristics where it can be ascertained; and if they can be ascertained and analysed, any proven reasons why these groups appear more likely to be excluded.
- The impact of the existing duties regarding equality and diversity on schools, and the imminent enactment through schools of their particular Public Sector Equality Duty in the exclusions system as outlined by the 2010 Equality Act.
- Examples of good practice in managing children identified as being at risk of exclusions, and equally good practice in reducing variation in exclusion rates between different groups of pupils. In particular, we will examine the potential for this good practice both to be spread more widely and to influence policy. This part of the School Exclusions Inquiry will explore, among other things, the work of emerging Exclusions Pilot areas in England, starting their work in 2011; and the efficacy of practice in several local areas where permanent exclusions stand at zero.

The School Exclusions Inquiry will examine the decision-making process up to the point of exclusion, and the work undertaken in the process of any subsequent appeal.

In the light of the findings of this School Exclusions Inquiry, the Children's Commissioner may decide to examine provision for excluded children at a later date. She will also return to monitor progress against any recommendations that arise and are published as a result of the findings of this School Exclusions Inquiry, as the system continues to evolve in the light of provisions in the 2011 Education Act currently passing through Parliament in Bill form.

Consultation questions

We welcome evidence from any interested parties. In particular, we are interested in gathering views on the following topics. Please support your answers with evidence as well as opinions wherever possible.

- Which factors do you consider influence schools' decisions to exclude?
- To what extent do you believe the threshold for exclusions is different between schools in your area, or in your experience?
- Do you believe there are reasons for any such differences?
- What influence – positive, or negative – do the interventions of other public services, and agencies including voluntary bodies, have on schools' decisions?
- To what extent is the system of appeals against exclusions fit for purpose?
- What would improve this system?
- What do you consider is the likely impact of planned changes to the exclusions system?
- What do you consider has been, and currently is, the impact of legislation, government policy and regulation on school exclusions?
- To what extent do you believe schools' decisions to exclude are influenced – positively, or negatively – by the support available from local authorities, Academy sponsors and other bodies, in managing exclusions?
- How effective do you consider provision aimed at preventing permanent exclusions is, particularly where any such provision is actively targeted at groups most likely to be excluded?
- What in your opinion are the key reasons why some children are more likely than others in their peer groups to be excluded?

- How in your view should the inequalities seen in the figures for exclusions be addressed?
- What impact have schools' existing Equality Duties had on the exclusions system?
- Do you understand the imminent Equality Duty under the 2010 Equality Act? If so, do you consider schools have been made sufficiently ready to implement the Duty?
- What more could be done to ensure schools are ready to implement this Duty?
- The Children's Commissioner is keen to receive information on, and examples of, schools', other services' and communities' good practice in managing children who may be at risk of exclusion from school, and in reducing the established variation seen so far in exclusion rates between different groups. You should feel free to send in this evidence, so that the School Exclusions Inquiry report can record and celebrate it.

How to respond

Evidence should be submitted electronically as a Microsoft Word or PDF document to schoolexclusions.inquiry@childrenscommissioner.gsi.gov.uk by noon on **Wednesday 5 October 2011**.

Confidentiality

If you would like your evidence to be treated in confidence, please make this clear at the time of submission. We will honour all requests for confidentiality. All other evidence submitted will be made available publicly through the Children's Commissioner's website at the end of the School Exclusions Inquiry process. Any evidence which could be used to identify the personal circumstances of individuals should therefore be anonymised before submission.

Timeline and next steps

We anticipate that the timetable for the School Exclusions Inquiry will be as follows:

- **July – 5 October 2011**
Call for Evidence is published. Research commissioned into relevant aspects of policy and practice.
- **September 2011 – December 2011**
Oral evidence sessions with key stakeholders (including children and young people), and School Exclusions Inquiry visits to exemplars of good practice.
- **March 2012**
Publication of final report
- **July 2012**
Response to report to be requested from affected bodies.
- **March 2013**
Follow-up report on progress in responding to recommendations.

Further information

For further information, please see www.childrenscommissioner.gov.uk, or contact John Connolly – Principal Policy Adviser
john.connolly@childrenscommissioner.gsi.gov.uk

Annex A: School Exclusions Inquiry panel members

Dr Maggie Atkinson

Dr Maggie Atkinson was appointed Children's Commissioner for England in 2009, taking up the post on 1 March 2010. She has a 30 year career working with and in the interests of children and young people.

Maggie graduated from Cambridge with a degree in History in 1978 and went on to get her PGCE from the University of Sheffield a year later. In 2008 she gained a Doctorate in Education from the University of Keele. In 2010 Maggie received a Honorary Doctorate of Civil Laws from Northumbria University.

Maggie began her career teaching English and taught in schools ranging from inner cities to shire counties for 11 years.

Most recently she was Director of Children's Services in Gateshead. This involved leading staff in various professions and disciplines, as well as 88 partner schools. She also headed revenue budgets for all council services for children and young people.

On the national stage Maggie has been:

- President of the Association of Directors of Children's Services
- Chair of the multi-agency Centre for Excellence in Outcomes
- Chair of the Children and Young People's Workforce National Partnership which included skills councils, unions, third sector stakeholders and public bodies.

In addition, Maggie held a range of positions in local government including County Manager (Education Standards) at Cheshire County Council, Assistant Director (Quality Assurance) at Warrington Council, Ofsted Inspector at Kirklees MBC, and Adviser, Schools Management Support at Birmingham City Council.

Roy Blatchford

Roy Blatchford is Director of the National Education Trust (www.national-educationtrust.net). Previously he was Her Majesty's Inspector of Schools in England, with lead responsibilities for school improvement and for the national inspection of good and outstanding schools. Roy has extensive experience of writing inspection frameworks, nationally and internationally, and has inspected and reviewed over 500 schools and colleges in the UK and Europe, USA, Middle East and India.

Roy was Principal (1999-2003) of Walton High & Walton Learning Centre in Milton Keynes, opened in September 1999 and described by Ofsted as “a first class centre of learning - innovative and inspiring”. He was Founding Director (1996-1998) of Reading Is Fundamental UK, a non-profit organisation developing children's reading and family literacy. From 1986-1996 he was Headteacher of Bicester Community College, an Oxfordshire comprehensive school serving more than 1,200 11-19 year old students.

He spent 12 years teaching in inner London schools, youth and adult services, and has for 30 years been a trainer and speaker with schools, parents, governors and local authorities on literacy, raising student achievement, curriculum development, school improvement, leadership and innovation. He has served as an adviser to various governments, and is currently vice-chair of the Department for Education's Teachers' Standards Review.

Roy has worked with HM Prison Service, the NHS and the Arts Council in a number of voluntary capacities. He is the author/editor of over 150 books and is a regular contributor to the national press. He is a Visiting Fellow at Oxford Brookes University.

Janet Mokades

Janet Mokades is a schools adjudicator and chairs a Local Safeguarding Children Board. Janet, a qualified mediator, was appointed as HMI (Her Majesty's Inspector of Schools) following a range of experience in teaching and management both in the UK and overseas. She worked across the UK as an inspector for many years, covering all sectors and phases of education. Her responsibilities included planning and managing many inspections of local authorities. She later led early pilot work on joint inspection of children's services. As Ofsted lead, Janet worked in the Cabinet Office on the development of national policy on inspection. She then moved to the Department for Children, Schools and Families (DCSF) where she worked as a senior education adviser and later a children's services adviser.

Robin Richardson

Robin Richardson is a director of the Insted educational consultancy (www.insted.co.uk), based in London. Previously he was director of the Runnymede Trust and before that was chief inspector for education in Brent and adviser for multicultural education in Berkshire. His publications over the years include *Daring to be a Teacher* (1990) and *In Praise of Teachers* (2003). In the period 2006-2010 he worked as a consultant for the Department for Education and several local authorities in relation to equalities legislation.

Ian St Rose

Ian St Rose is Service Manager of Leeds Reach, a provider of alternative provision for at risk pupils. The service also provides universal holiday provision for young people in the local area. He has over 15 years' experience of working within children's services. He began his career as a volunteer for 'Youth at risk' and then the Independent Visitor's scheme for Leeds Social care. He then moved on to work as a special needs assistant in a local primary school, and subsequently as an Integration Officer for Education in Leeds. He has also worked as a lead Learning Mentor in a large inner city secondary school and as an Education Officer for the Youth Offending Service.

Simon Woolley

Simon Woolley is a Commissioner for the Equality and Human Rights Commission. He is Founder and Director of Operation Black Vote, helping to guide the project from an idea into an influential national organisation. He writes and comments for the national and black press and media.

Simon is in his second year of a three-year term as a visiting lecturer at Nottingham University. He sits on two Government task forces: REACH, which is focused on higher educational attainment of Black boys, and The Black, Asian and Minority Ethnic Women's Councillors Task force to encourage more BME women become councillors.

Simon was on the Big Issue grassroots power list 2002, awarded the Men of Merit in 2003, and was awarded the annual community achievement in 2007 by Unison.



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