

SENlegal

NEWSLETTER



Issue 26 for Schools and Professionals working in the SEND Sector.

We're exhibiting at



Autism & ADHD Show

19 – 20 June 2026
Business Design Centre London

SENlegal

Find us at
Stand E12

In this Newsletter:

SEND Tribunal Update: Where are we at the moment?

Schools training packages - clear guidance on legal responsibilities, best practice and risk reduction

New Exclusion Guidance 2026: Important changes to be aware of

Want to find out more about the topics covered in our Newsletter?



01284 723952



customerservices@senlegal.co.uk



www.senlegal.co.uk





One of the most common questions currently being asked by SEND professionals is: what is happening at the SEND Tribunal? You may well remember the days where we were able to conclude a Hearing 12-16 weeks from registration but those days are long gone now.

Over the past few years, the time from when an Appeal is registered by the SEND Tribunal to the hearing date has been getting longer and longer. Since the announcement of the SEND Reforms, the Tribunal is (understandably) busier than ever. Cases registered today are waiting, on average, more than a year for a hearing date. At the time of writing, cases being registered in June 2026 were being given hearing dates in October 2027. This is problematic for many reasons; not least because the child/young person at the centre of the appeal must wait such a long time for an outcome. Schools and expert witnesses are also having to adapt their practices to deal with the delays between registration and Hearing.

For expert witnesses, a year is a very long time in a child's life and the child/young person's needs could change in this period, which may require updated assessments and evidence. Expert witnesses need to consider whether the assessments they may have administered at the beginning of the appeal are still accurate, whether any of the support the child/young person is receiving has changed, and perhaps whether they need to see the child/young person again so they can ensure that they have the most up-to-date evidence, as at the date of the Hearing.

By Hayley Mason-Seager, Principal Solicitor & CEO

Schools also need to be mindful of these delays. Historically it worked to offer a place from the next school term, but due to the length of the delays, schools need to be mindful that if their offer of place is subject to a tribunal appeal they may not know whether the space is filled for over a year. Schools need to be mindful of how they manage that timeframe.

At the SEND User Group meeting on 17th November 2025, the Tribunal made us aware of a key change for phase transfer cases which was due to be implemented from January 2026 to shorten the time that families are waiting for their hearing date. We were forewarned that Appeals would no longer receive a hearing date on registration, instead once the bundle has been received, the Tribunal will carry out a 'case review', to determine whether the case is ready to proceed to hearing. If so, a Hearing date would be allocated at this point, expected to have approximately 4 weeks notice – although this does not appear to have come to fruition.

What we have instead seen is phase-transfer appeals for school places to start in September 2026 being listed approximately six weeks after the start of term, in October 2026, and judges unable to move hearing dates any earlier due to lack of capacity. The system doesn't seem to be speeding up any time soon.

continued on next page...

Another important point to highlight for experts is the updated Practice Direction that came into force in July 2025. We are increasingly seeing stricter enforcement of the 15-page limit for expert reports, which can result in experts having to revise reports months after they were originally prepared.

While parties may apply for permission to rely on a longer report, there is no guarantee that such an application will be granted. The decision ultimately rests with the judge considering the application. Experts should therefore be mindful that, if their report exceeds the 15-page limit, they should assume it will not be permitted unless and until approval has been confirmed. To avoid the risk of a report being excluded or given limited weight, experts should familiarise themselves with the updated guidance and ensure their reports comply with the Practice Direction wherever possible. Schools should also ensure they are aware of the requirements relating to witness statements in these cases.

We're thinking of holding a couple of training sessions on SEND Tribunal Work, with one targeted specifically on EOTIS/EOTAS cases. If you think these would be helpful for you, please email us at customerservices@senlegal.co.uk with your name, profession, email address and what specifically you'd like the training to cover, and we'll be in touch.

I'm speaking at Autism & ADHD Show

19 - 20 June 2026
Business Design Centre London



Richard Nettleton
Associate Solicitor & Director

Schools training packages

Our SEN Legal schools training packages offer a tiered, fixed-fee service designed specifically for educational settings, providing clear, actionable guidance on legal responsibilities, best practice, and risk reduction.

SENlegal

SILVER training package £700 (+VAT)

One two-hour training session covering:

- ✓ The EHCP process*



GOLD training package £1950 (+VAT)

Three two-hour training sessions covering:

- ✓ The EHCP process*
- ✓ Annual reviews
- ✓ Statutory consultations



PLATINUM training package £3000 (+VAT)

Five two-hour training sessions covering:

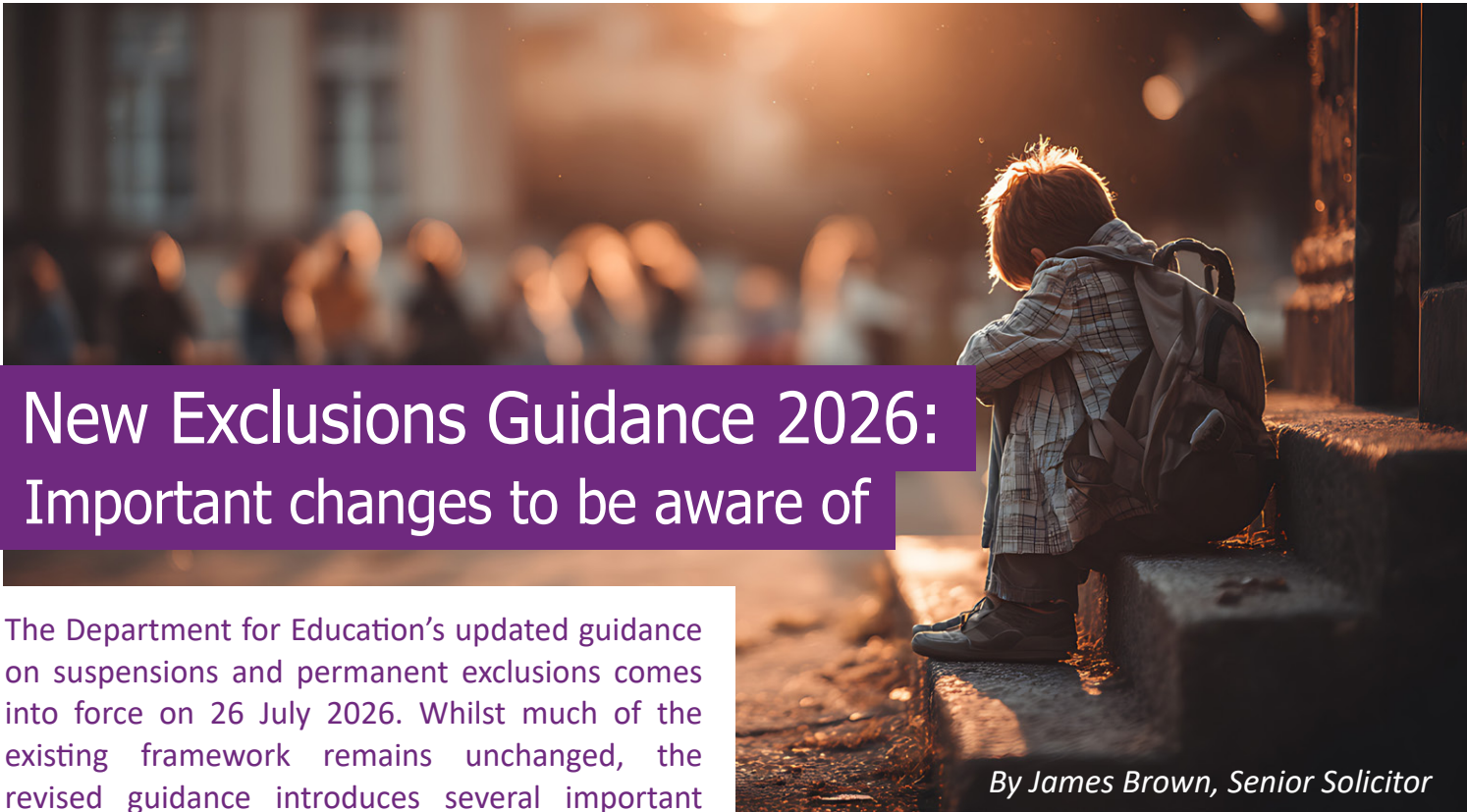
- ✓ The EHCP process*
- ✓ Annual reviews
- ✓ Statutory consultations
- ✓ Reasonable adjustments, disability discrimination and exclusions
- ✓ Independent review panels



*including EHC needs assessment, the EHCP itself and an overview of the SEN Tribunal.

Bespoke packages are also available on request. For more information, please call us on 01284 723952.

SENlegal



New Exclusions Guidance 2026: Important changes to be aware of

The Department for Education's updated guidance on suspensions and permanent exclusions comes into force on 26 July 2026. Whilst much of the existing framework remains unchanged, the revised guidance introduces several important developments that schools, academy trusts and governing boards should understand.

Many of the changes seek to address issues that have become increasingly common in practice, including informal exclusions, off-rolling, managed moves and the use of alternative provision. The revised guidance also introduces a new safeguarding separation framework that schools may utilise in limited circumstances.

This article highlights three of the most significant changes and the practical implications for schools.

1 - New Safeguarding Separation Protocol

One of the most notable additions to the guidance is the introduction of a formal framework permitting schools to temporarily prevent a pupil from attending school where safeguarding concerns require pupils to be separated.

The guidance envisages situations where allegations have been made between pupils and an investigation is required. In such circumstances, a school may determine that separation is necessary whilst the investigation is ongoing and that this cannot reasonably be achieved whilst allowing all pupils to remain on site. Importantly, the guidance makes clear that this is not a suspension or exclusion on disciplinary grounds.

By James Brown, Senior Solicitor

Whilst the introduction of this power will be welcomed by many schools, it should be approached with caution. The guidance emphasises that it should only be used in exceptional circumstances and where no practical alternative exists.

Before relying on this provision, schools should carefully consider:

- Whether separation can be achieved whilst maintaining attendance
- The proportionality, reasonableness and rationality of the decision (judicial review principles are directly referenced in the guidance)
- Equality Act 2010 obligations
- The impact on pupils with SEND
- Whether appropriate records have been maintained

Schools should also remember that this power is not intended to provide an alternative route for removing pupils whose behaviour is challenging or whose needs are difficult to accommodate. Where a pupil has SEND, careful consideration should be given to reasonable adjustments and the contents of any EHC Plan.

Given the likelihood of increased scrutiny in this area, clear documentation of the decision-making process will be essential.

continued on next page...



2 - The End of Trial Managed Moves

The revised guidance provides welcome clarification regarding managed moves. Paragraph 60 expressly states:

“The law does not allow for a ‘trial admission’ or ‘trial managed move’. If a temporary move needs to occur to improve a pupil’s behaviour, then off-site direction should be used.”

This clarification is likely to have significant implications for schools that have historically utilised informal trial arrangements.

Many schools have understandably viewed trial periods as a sensible way of assessing whether a proposed move is likely to succeed before making permanent arrangements. However, the guidance now confirms that such arrangements are not permissible in law.

Going forward, schools should ensure that:

- Managed moves are genuinely voluntary
- Expectations are clearly documented
- Parents understand the implications of the move
- Appropriate information is shared between settings
- Any required EHCP amendment process is followed

For pupils with EHCPs, schools should be particularly mindful that a managed move will require involvement from the local authority and amendments to Section I of the EHCP.

Whilst this change may create additional administrative burdens, it should also provide greater certainty for schools, pupils and parents regarding the legal status of any move. Further, the existing power of off-site direction to a different school still exists and may be an option to consider as an alternative to any trial period where there are such concerns in respect of behaviour of pupils.

In relation to off-site direction, the guidance now reflects the updated legislation of Education (Educational Provision for Improving Behaviour) (Application to Academies and Pupil Referral Units and Minor Amendments) Regulations 2026 which puts academies on the same statutory footing as maintained schools. The guidance therefore requires academies at paragraphs 55 to 57 to ensure all existing off-site directions comply with the requirement to provide a valid written notice as set out in paragraph 45.

continued on next page...

3 - Expanded Guidance on Off-Rolling

The previous guidance addressed unlawful exclusion practices, but the 2026 version goes further by providing specific examples of conduct that may amount to off-rolling.

Examples include:

- Encouraging parents to remove a child under the threat of permanent exclusion
- Moving pupils into alternative provision where this is not in their best interests
- Encouraging post-16 students to leave courses that are suitable for them
- Sending pupils home without a formal suspension.
- Using part-time timetables for behavioural reasons
- Removing pupils from the school roll without following the appropriate statutory process

Most school leaders will recognise that these situations often arise from genuine attempts to find solutions for complex pupils. However, the updated guidance serves as a reminder that good intentions do not remove the need to comply with statutory requirements.

Particular care should be taken regarding reduced timetables. Whilst these arrangements may occasionally be appropriate for medical reasons or as part of a carefully planned reintegration programme, the guidance makes clear that behavioural concerns alone will not justify a part-time timetable, as is already set out within guidance relating to part-time timetables.

Schools should review current practices to ensure that any arrangements reducing attendance are lawful, properly documented and regularly reviewed.

What should schools be doing now?

With the revised guidance now in force, schools should take the opportunity to review their behaviour and exclusion procedures.

Key actions include:

- Reviewing behaviour, suspension and exclusion policies.
- Academies will need to review their existing off-site directions and ensure compliance with the guidance.
- Updating managed move procedures.
- Auditing the use of alternative provision and reduced timetables.
- Reviewing record-keeping processes for safeguarding separation decisions.



**Free legal advice
webinars for Parents,
Schools & Professionals**

Now available to
watch back on... **YouTube**

20,000+
online views

www.youtube.com/senlegal

Governors and trustees should also ensure that they understand the revised expectations regarding oversight of exclusions, pupil movement and alternative provision arrangements.

Final thoughts

The 2026 guidance does not represent a wholesale change to the exclusions framework. However, it does provide greater clarity in several areas that have historically generated uncertainty and dispute.

Schools that review their policies, train staff and strengthen decision-making processes now will be best placed to demonstrate compliance with the new guidance and minimise the risk of challenge from parents, local authorities or tribunals in the future.