

Can an OSCAR programme exclude children if they are really disruptive or hurting other children?



Schools are regulated by the Education Act and as education is compulsory schools must do their very best to manage behaviour and safety. OSCAR services may have a close relationship with schools but OSCAR is not part of the education sector and they are not bound by the same legislation. For this reason you could say that "OSCAR services have the right to exclude children." Equally though, children and their families have a right to fair treatment by any operator of an OSCAR service.

OSCAR services are expected to operate a safe environment and if a child's behaviour is causing safety issues for themselves or others, programmes will need to act. OSCAR services must operate in accordance with Health and Safety legislation, to provide a safe environment for *everyone* in the workplace. This includes staff and must also take account of children's emotional safety as well as their physical safety. The [MSD Standards for OSCAR](#) also require that there are procedures in place for managing disruptive behaviour and, if necessary, the exclusion of children.

Excluding children is usually seen as a last resort and it would be expected that the service had made significant efforts to remedy the situation in other ways. You should consider the big picture around the behaviour that is causing problems. Children are learning and some may take longer to master social skills necessary for the OSCAR environment. Programmes should consider what they could do to make it easier for the child to "do the right thing" by looking at their environment, relationships, programme equipment, activities, and routines. Also how children of different abilities and interests can be accommodated at the programme.

An OSCAR service has the right and obligation to act if a child or other person is

- hurting other children or staff,
- threatening or intimidating,
- creating safety issues for themselves or others by refusing to comply with safety routines,
- having a significant impact on other children's participation and enjoyment
- causing damage to property or the facility,
- disruptive and taking up time of staff so that other children's safety or supervision is compromised.

You will need to have a documented procedure for dealing with severe or persistent disruptive behaviour. It is usual practice to have a number of steps to encourage and enable children to change the behaviour which is causing problems and this will usually involve parents/caregivers. It may require an individual plan with target behaviours, clear expectations, incentives and consequences, and regular communication with parents. It will also nearly always need the effort and commitment of all the programme staff.

Before a child is excluded permanently, you may negotiate a shorter 'stand down' period, from a few days to a school term, to allow things to cool off and an opportunity for the child and/or programme to make changes. In cases of extreme violent or dangerous behaviour you can have a procedure to exclude children immediately to ensure safety of others.

Behaviour associated with special needs or disability

The Human Rights Act protects individuals from discrimination. An OSCAR service cannot refuse entry or exclude a child because the child has special needs or a disability. However it can be difficult for OSCAR services and families to access assistance and resources to support children with a disability or special needs.

There are times, where a child's behaviour, which may be associated with a special need, is having a significant negative impact on the experiences and/or safety of other children and the OSCAR service has exhausted its options to ensure adequate care or safety of children and staff. In this situation, Section 52a of the Human Rights Act may be relevant:

"It is not unlawful to refuse to provide facilities or services to a person with a disability if that person's disability requires the facility or services to be provided in a special manner and it is unreasonable to expect the provider to do so."

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