



## Exclusion Policy

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**Contents**

Policy Statement .....3

Aims of the Policy .....3

Introduction.....3

Roles and responsibilities .....4

Grounds for exclusion .....5

The Headteacher’s power to exclude.....6

The Exclusion Process and considerations .....6

Duty to inform the governing board and LA .....7

Arranging education for excluded pupils .....8

Permanent Exclusion .....8

Lunchtime Exclusions.....9

Considering Exclusions .....9

Reaching a decision .....10

Notification of considered exclusions .....10

Removing permanently excluded pupils from the school register .....11

Independent review panel.....11

Appointing a SEND expert.....12

The role of a SEND expert.....12

Appointing a clerk .....13

The role of a clerk .....13

The duties of the independent review panel .....13

Reconsidering reinstatement following a review .....13

Criminal investigations.....14

Training requirements.....14

Equality .....14

Training.....14

Monitoring and Review.....14

Appendix A.....14

## **Parbold Douglas CE Academy**

Exclusion Policy [Updated: Dec 2024] [Review: July 2026]

### **Policy Statement**

This policy is an appendix to the Behaviour Policy; it deals with the policy and practice which informs Parbold Douglas Church of England Academy's use of exclusion. We recognise that pupils who display unacceptable behaviours do not just damage their own education and life chances, they disrupt the life of the school and make it harder for teachers to teach and for other pupils to learn. We also recognise that every behaviour is a communication of need – and this should always be sought to be understood, however, in certain instances, sanctions and consequences are still required. There may be circumstances in which it is necessary to exclude a pupil formally from the school, either for a fixed period or permanently. It is essential for the good of the whole school community that pupils can be excluded for serious and/or persistent unacceptable behaviour.

We acknowledge that by law we must have regard to the guidance contained in the [DfE's 'Suspension and Permanent Exclusion Guidance'](#) when making decisions on exclusions and administering exclusion procedures to ensure that our actions are legally sound.

### **Aims of the Policy**

This policy also aims to secure a pupil's right to an education despite having been excluded, by ensuring that appropriate arrangements are in place.

### **Introduction**

This policy has due regard to all relevant legislation including, but not limited to, the following:

- Education Act 2002
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012
- Education and Inspections Act 2006
- Education Act 1996
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007
- The European Convention on Human Rights (ECHR)
- Equality Act 2010

This policy also has due regard to statutory and non-statutory guidance, including, but not limited to, the following:

- DfE (2024) 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England'
- DfE (2024) 'Behaviour and discipline in schools'
- DfE (2015) 'Special educational needs and disability code of practice: 0 to 25 years'
- DfE (2018) 'Mental health and behaviour in schools'

This policy operates in conjunction with the following school policies:

- Behavioural Policy
- Anti-Bullying Policy
- Special Educational Needs and Disabilities (SEND) Policy
- Child Protection and Safeguarding Policy

The decision to exclude a pupil will be taken in the following circumstances:

- In response to a serious breach of the school's Behaviour Policy
- If allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

## **Roles and responsibilities**

### **The LA is responsible for:**

- Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of Looked After Children.
- Arranging suitable full-time education for any pupil of compulsory school age excluded permanently, in coordination with the school.
- Reviewing and reassessing pupils' needs in consultation with their parents where they have an EHCP (Education and Healthcare Plan) and are excluded permanently, with a view to identifying a new placement.
- Arranging for an independent review panel hearing to review the decision of the governing board not to reinstate a permanently excluded pupil where required.
- Arranging the hearing without delay at a time, date and venue convenient for all parties.
- Ensuring the independent review panel consists of three or five members as appropriate, which represent the required categories.
- Ensuring all panel members and the clerk have received training within the two years prior to the date of the review.
- If requested by parents, appointing a SEND expert to attend the panel and covering the associated costs of this appointment.

### **The governing board is responsible for:**

- Providing information to the Secretary of State and LA about any exclusions within the last 12 months.
- Arranging suitable full-time education for any pupil of compulsory school age excluded on a fixed-term basis.
- Considering parents' representations about exclusions within 15 school days of receiving notice if the appropriate requirements are met.
- Where an exclusion would result in a pupil missing a public examination or test, considering the exclusion before this date.
- Considering whether it would be appropriate for a pupil to be permitted onto the school premises to sit the public examination or test.
- Arranging the representation meeting at a time and date convenient to all parties, but in compliance with the statutory time limits.
- Adhering to its responsibilities to consider the reinstatement of pupils.
- Considering the interests and circumstances of the excluded pupil, including the circumstances in which they were excluded, and have due regard to the interests of others at the school.
- Using the civil standard of proof (based on the 'balance of probabilities', it is more than likely that the fact is true) when establishing the facts relating to an exclusion.
- Ensuring clear minutes are taken of the representation meeting.
- Noting the outcome of the representation meeting on the pupil's education record, along with copies of relevant papers for future reference.
- Notifying the pupil's parents, the headteacher and LA of its decision and the reasons for it, without delay.
- Where appropriate, informing parents of where to apply for an independent review panel.
- Informing parents of relevant sources of information.
- Ensuring a pupil's name is removed from the school admissions register, where appropriate.
- Reconvening within 10 school days to reconsider reinstatement of a pupil where directed to do so by the exclusions review panel.
- Making reasonable efforts to inform the appropriate individuals that they are entitled to:
  - Make written representations to the panel.
  - Attend the hearing and make oral representations to the panel.
  - Be represented.

- Making reasonable efforts to circulate copies of relevant papers at least five school days before the review to all parties.
- Giving all parties details of those attending and their role, once the position is clear.
- Attending the review and ensuring that minutes are produced in accordance with instructions from the panel.

**The headteacher is responsible for:**

- Implementing good levels of discipline to ensure all pupils can benefit from the opportunities provided by education and to minimise potential exclusions.
- Applying the civil standard of proof when establishing the facts in relation to an exclusion.
- Complying with their statutory duties in relation to pupils with SEND when administering the exclusion process, as outlined in the Special Educational Needs and Disabilities (SEND) Policy.
- Recognising that all behaviour is a form of communication.
- Considering any contributing factors that are identified after an incident of poor behaviour has occurred, e.g. if a pupil has suffered bereavement, bullying or has a mental health issue.
- Considering the use of a multi-agency assessment for a pupil who demonstrates persistent disruptive behaviour.
- Reviewing the effectiveness of exclusions as a sanction, e.g. if a pupil has received multiple exclusions or is approaching the legal limit of 45 days of exclusions in an academic year.
- Considering what extra support may be needed to identify and address the needs of individual pupils, particularly those with SEND, eligible for FSM, LAC and those from certain ethnic groups.
- Engaging effectively with parents in supporting the behaviour of pupils with additional needs.
- Determining whether a pupil will be excluded on disciplinary grounds.
- Withdrawing any exclusions that have not been reviewed by the governing board, where appropriate.
- Ensuring any decision to exclude is lawful, rational, reasonable, fair and proportionate.
- Complying with the requirements of the Equality Act 2010 when deciding whether to exclude a pupil.
- Ensuring they have considered their legal duty of care when sending a pupil home following an exclusion.
- Making the decision to exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.
- Notifying a pupil's parents without delay where the decision is taken to exclude the pupil, including the days on which the parents must ensure the pupil is not present in a public place at any time during school hours, as well as any other necessary information statutorily required.
- Ensuring that all information provided to parents is clear and easily understood.
- Notifying the governing board and LA of their decision to exclude a pupil where appropriate, as well as the pupil's home authority if required.
- Notifying the governing board once per term of any exclusions not already notified.
- Organising suitable work for excluded pupils where alternative provision cannot be arranged.

**Grounds for exclusion**

Exclusion is an extreme sanction and is only administered by the Headteacher (or, in the absence of the Headteacher, the member of the Senior Leadership Team who is acting in that role). Exclusion, whether fixed-term or permanent, may be used for any of the following, all of which constitute examples of unacceptable conduct and are infringements of the Behaviour Policy:

The following examples of behaviour may underline the school's decision to exclude a pupil:

- Any incident which poses a risk to other pupils or members of staff, e.g. bringing a weapon onto the premises
- Any incident which breaches the law
- Persistent and severe bullying

- Verbal and physical abuse
- Constant disruption
- A single, serious and major incident, e.g. serious assault on another individual leading to injury
- Indecent behaviour.
- Aggression towards other pupils leading to the possibility of physical or emotional harm;

This is not an exhaustive list and there may be other situations where the Headteacher makes the judgment that exclusion is an appropriate sanction.

Permanent exclusion is normally the sanction of last resort and is usually the final step in a process of dealing with disciplinary offences. It is our acknowledgment that as a school we have exhausted all available strategies for dealing with the child. Pupils can be excluded on a fixed-period basis, i.e. up to 45 school days within a year, or permanently.

Similarly, pupils can be permanently excluded following a fixed-period exclusion, where further evidence is presented. In all cases, the headteacher will decide which exclusion period a pupil will be subject to, depending on what the circumstances warrant.

### **The Headteacher's power to exclude**

Only the Headteacher has the power to exclude a pupil from the school, and is able to decide whether this is on a fixed-period or permanent basis. Where there is the absence of the Headteacher and they are uncontactable, the Assistant Headteacher's may act as Headteacher in this circumstance. All exclusions will only be issued on disciplinary grounds. When sending a pupil home following any exclusion, the Headteacher will ensure that they exercise their duty of care at all times and will always inform the parents.

Any decision made to exclude a pupil will be lawful, proportionate and fair, with respect to legislation relating directly to exclusions and the school's wider legal duties. At all times, the Headteacher will take into account their legal duties under the Equality Act 2010 and the 'Special educational needs and disability code of practice: 0 to 25 years', ensuring that they do not discriminate on any grounds and will not increase the severity of a pupil's exclusion on these grounds.

The Headteacher will apply the civil standard of proof when responding to the facts relating to an exclusion, i.e. that 'on the balance of probabilities' it is more likely than not that the facts are true. The Headteacher may withdraw any exclusion that has not already been reviewed by the governing board. The Headteacher will not issue any 'informal' or 'unofficial' exclusions, e.g. sending a pupil home to 'cool-off', regardless of whether or not the parents have agreed to this. The Headteacher will not use the threat of exclusion as a means of instructing parents to remove their child from the premises. All exclusions will be formally recorded on Arbor (pupil information management system) and on CPOMS.

### **The Exclusion Process and considerations**

When considering the exclusion of a pupil, the Headteacher will:

- Allow the pupil the opportunity to present their case. In younger circumstances, the class teacher may be able to support the child.
- Take into account any contributing factors that are identified after a case of poor behaviour has occurred, e.g. if the pupil's wellbeing has been compromised, or they have been subjected to bullying.
- Take into consideration whether the pupil has received multiple exclusions or is approaching the legal limit of 45 excluded days per school year, and whether exclusion is serving as an effective sanction.
- Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess pupils who demonstrate consistently poor behaviour.

## **Parbold Douglas CE Academy**

Exclusion Policy [Updated: Dec 2024] [Review: July 2026]

The Headteacher will consider what extra support may be available for vulnerable pupil groups whose exclusion rates are higher, to reduce their risk of exclusion, including the following:

- Looked After Children or Post Looked After Children
- Pupils eligible for Free School Meals/ Pupil Premium
- Pupils with SEND
- Certain ethnic groups

The Headteacher will consider avoiding permanently excluding Looked After Children, those with SEMH issues or pupils with an EHC plan. Where any member of staff has concerns about vulnerable pupil groups and their behaviour, they will report this to the Headteacher, who will instigate a multi-agency assessment to determine whether the behavioural issues might be a result of educational, mental health or other needs and vulnerabilities.

Where SEND or SEMH issues are identified, an individual behaviour plan will be created using the graduated response outlined in the school's Behaviour and SEND Policy. If the pupil continues to endanger the physical or emotional wellbeing of themselves and/or other pupils or staff, despite exhausting the graduated response process, then exclusion may be considered. In accordance with the Equality Act 2010, under no circumstances will a pupil with identified SEND or SEMH issues be excluded before the graduated response process has been completed.

Where a pupil with SEND or SEMH issues is permanently excluded because of a SEND- or SEMH-related need that could not be met at the school, detailed records will be kept highlighting that these pupils are closely tracked and showing that the school has a close relationship with the pupil's next destination.

The Headteacher will work in conjunction with the parents of any pupil with additional needs to establish the most effective support mechanisms.

Following exclusion, parents are contacted immediately where possible. A letter will be sent home (on the same day if possible) giving details of:

- The reason(s) for the exclusion
- The length of the fixed-period exclusion or, for a permanent exclusion, the fact that it is permanent
- Their right to raise any representations about the exclusion to the governing board, including how the pupil will be involved in this and how the representations will be made
- Their right to attend a meeting where there is a legal requirement for the governing board to consider the exclusion, and the fact that they are able to bring an accompanying individual
- The arrangements that have been made for the pupil to continue their education prior to the organisation of any alternative provision, or the pupil's return to school
- Relevant sources of free, impartial information

Parents have a right to make representations to the Governing Body as directed in the letter. A return to school meeting may be held following the expiry of the fixed term exclusion and this will involve a member of the Senior Leadership Team and other staff where appropriate.

During the course of a fixed term exclusion where the pupil is to be at home, parents are advised that the pupil is not allowed on school premises, and that daytime supervision is their responsibility, as parents/guardians. Parents will also be informed of the risk of prosecution if their child is found in public place during the school day.

### **Duty to inform the governing board and LA**

The Headteacher will inform the governing board and LA, without delay, of the following:

- Any permanent exclusions (including where a fixed-period exclusion is followed by a decision to permanently exclude the pupil)
- Any exclusions which would result in the pupil being excluded for more than five school days in a term
- Any exclusions which would result in the pupil being absent from an examination or national curriculum test

For any exclusions, other than those above, the Headteacher will notify the governing board and LA once per term. All notifications to the governing board and LA will include the reasons for exclusion and the duration of any fixed-period exclusion. If the pupil who is excluded lives outside the LA in which the school is located, the Headteacher will notify the pupil's 'home authority'.

### **Arranging education for excluded pupils**

For any fixed-period exclusions of more than five school days, the governing board will arrange suitable full-time education for the pupil, which will begin no later than the sixth day of exclusion. Where a pupil receives consecutive fixed-period exclusions, these will be regarded as cumulative, and full-time education will still have to be provided from the sixth day of exclusion. For permanent exclusions, full-time education will also be provided for the pupil from the sixth day of exclusion.

The governing board is aware that it is beneficial to excluded pupils to begin their alternative education arrangements before the sixth day of exclusion; therefore, the governing board will always attempt to arrange alternative provision before the sixth day of exclusion. Where it is not possible to arrange alternative provision during the first five days of exclusion, the school will ensure that they take reasonable steps to set and mark work for the excluded pupil.

If a pupil with SEND has been excluded, the governing board will ensure that:

- Any alternative provision is arranged in consultation with the pupil's parents, who are able to request preferences.
- When identifying alternative provision, any EHC plan is reviewed or the pupil's needs are reassessed, in consultation with the pupil's parents.
- Pressures on school places, in particular for those children with SEND may mean that the Local Authority is unable to place the child in the given time frame. The Governing Board will work with the Local Authority to secure a place as soon as possible.

### **Permanent Exclusion**

The decision to exclude a pupil permanently is a serious one and is not taken lightly. There are two main types of situation in which permanent exclusion may be considered:

1. The final, formal step in a concerted process for dealing with disciplinary offences following the use of a wide range of other strategies, which have been used without success. It is an acknowledgement that all available strategies have been exhausted and is used as a last resort. This would include persistent and defiant misbehaviour including bullying (which would include racist or homophobic bullying).
2. When a serious criminal act has been committed, the school will involve the police in any such offence e.g. bringing in an offensive weapon.

As with fixed term exclusions, parents will be informed in writing of the decision to exclude and their right of representation and appeal at a disciplinary committee meeting, to be arranged within 15 school days. Work will be sent home and marked when returned for the first 5 days. From day 6 the Local Authority are responsible for providing full time alternative educational provision.

Where parents dispute the decision of the Governors not to reinstate a permanently excluded pupil, they can ask for this decision to be reviewed by an independent review panel. Where there is an allegation of discrimination (under the Equality Act 2010) in relation to a fixed-period or permanent exclusion, parents can also make a claim to the First-tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination). An independent review panel does not have the power to direct the Governors to reinstate an excluded pupil.

### **Lunchtime Exclusions**

A pupil whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. A lunchtime exclusion is a fixed period exclusion equivalent to one half of a school day and will be treated as such. As in fixed period exclusions, parents/carers have the right to be given information and to take their case to the Discipline Committee. Arrangements should be made for pupils who are entitled to free school meals. This may mean providing a packed lunch. The lunchtime exclusion, as in the case of all fixed term exclusions, should be for a specific period of time and must not be for an indefinite period. The school undertakes a regular review of all lunchtime exclusions in excess of 5 sessions.

### **Considering Exclusions**

The governing board will consider any representations made by parents regarding exclusions. Parents and, where requested, a friend or representative, the Headteacher, and a member of the Local Authority/Governing Board will be invited to attend any consideration of exclusions and will be able to make representations. Any meeting to consider reinstatement of a pupil will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits.

The governing board will consider the reinstatement of an excluded pupil, where:

- The exclusion is permanent.
- The exclusion is fixed-period and would bring the pupil's total number of excluded school days to more than 15 in any given term.
- The exclusion would result in the pupil missing a public examination.

In the case of a fixed-period exclusion where the pupil's total number of excluded days is more than 5 but less than 15 school days within a term, if requested by the parents, the governing board will consider exclusions within 50 school days of receiving notification.

In the case of a fixed period exclusion, where the pupil's total number of excluded school days does not amount to more than five, in the absence of any such representations, the governing board is not required to meet and cannot direct the reinstatement of the pupil. Where exclusion would result in a pupil missing a public examination, the governing board will consider the exclusion before the test to decide whether the pupil should be reinstated in time to take the examination.

If it is not practicable for a sufficient number of governors to consider the decision before the examination, a smaller sub-committee will consider the exclusion and decide whether or not to reinstate the pupil. In light of the above, the governing board will also consider whether it would be appropriate to allow the excluded pupil to enter the premises to take the examination.

When considering the reinstatement of an excluded pupil, the governing board will:

- Only discuss the exclusion with the parties present at the meeting.
- Ask for any written evidence prior to the meeting.
- Circulate any written evidence and information to all parties, at least five school days in advance of the meeting.
- Allow pupils and parents to be accompanied by a person of their choice to the meeting.

- Consider what reasonable adjustments need to be made to support the attendance and contribution of parties at the meeting.
- Identify the steps needed to enable and encourage the excluded pupil to attend the meeting and speak on their behalf, or how they may contribute personal views by other means if attendance is not possible.
- Consider the interests and circumstances of the excluded pupil, including the grounds for exclusion.

### **Reaching a decision**

After considering exclusions, the governing board will either:

- Decline to reinstate the pupil.
- Direct the reinstatement of the pupil immediately, or on a specified date.

If reinstatement would make no practical difference, e.g. if the pupil has already returned to school following a fixed-period exclusion or the parents make clear they do not want their child reinstated, the governing board will still consider whether the pupil should be officially reinstated, and whether the Headteacher's decision to exclude the pupil was fair, lawful and proportionate, based on the evidence presented.

The governing board will apply the civil standard of proof when responding to the acts relating to an exclusion, i.e. that on the 'balance of probabilities' it is more likely than not that the facts are true. To reach a decision, the governing board will:

- Identify the steps they intend to take to ensure that all parties involved will have the opportunity to participate and present their views.
- Ensure that minutes are taken of the meeting as a record of the evidence that was considered.
- Ask all parties to withdraw from the meeting before concluding their decision.
- Consider whether the exclusion of the pupil was lawful, proportionate and fair, taking into account the Headteacher's legal duties and any evidence that was presented to the governing board in relation to the decision to exclude.
- Record the outcome of the decision on the pupil's educational records, along with copies, which will be kept for at least six months.
- Make a note of their findings, where they have considered an exclusion but cannot reinstate the pupil.

### **Notification of considered exclusions**

The governing board will notify the parents of the excluded pupil, the Headteacher and the LA of their decision following the consideration of an exclusion, in writing and without delay. In the case of a permanent exclusion, where the governing board decides not to reinstate the pupil, they will notify the parents:

- That it is permanent, and their right for it to be reviewed by an independent review panel.
- Of the date by which an application for review must be made.
- Of the name and address of whom the review application should be submitted to.
- That any application should set out the grounds on which it is being made and that, where appropriate, this should include reference to how a pupil's SEND is considered relevant to the exclusion.
- That, regardless of whether a pupil has been identified as having SEND, the parents have a right to require the governing board to ensure a SEND expert attends the review.
- Of the role of the SEND expert that will attend the review, and that the parents will not be charged for this.
- That they are required to make it clear if they wish for a SEND expert to attend the review.
- That they may appoint someone at their own expense to make representations to the panel.

The governing board will also notify parents that, if they believe an exclusion has been issued as a result of discrimination, then they are required to make a claim under the Equality Act 2010 to the First-tier Tribunal (SEND), and that this should be within six months of when the discrimination allegedly took place. After any

conclusion, the governing board will notify the parents, and all other parties involved, of the decision that was made and the reasoning for this, in sufficient detail.

### **Removing permanently excluded pupils from the school register**

The Headteacher will remove pupils from the school register if:

- 15 school days have passed since the parents were notified of the governing board's decision not to reinstate the pupil and no application for an independent panel review has been received.
- The parents have stated in writing that they will not be applying for an independent panel review following a permanent exclusion.

If an application for an independent panel review has been made within 15 school days, the Headteacher will wait until the review has been determined, or abandoned, and until the governing board has completed any reconsideration that the panel recommended or directed it to carry out, before removing the pupil from the school register.

If a pupil's name is to be removed from the register, the Headteacher will make a return to the LA, which will include:

- All the particulars which were entered in the register.
- The address of any parent with whom the pupil normally resides.
- The grounds upon which the pupil's name is to be removed from the register.

Any return to the LA will be made as soon as the grounds for removal are met and no later than the date in which the pupil's name was removed. If a pupil's name has been removed from the register and a discrimination claim is made, the pupil may be reinstated following a decision made by the First-tier Tribunal (SEND) or County Court. Whilst a pupil's name remains on the admissions register, the appropriate code will be used to mark the pupil's attendance:

- Code B: Education off-site
- Code D: Dual registration
- Code E: Absent and not attending alternative provision

### **Independent review panel**

The LA will review the governing board's decision not to reinstate a permanently excluded pupil if the parents submit their application for this within the required time frame. The LA will constitute an independent review panel of three or five members that represent the following categories:

- A lay member to chair the panel. This individual will not have worked in any school in a paid capacity.
- A current or former school governor who has served for at least 12 consecutive months in the last 5 years.
- A headteacher or individual who has been a headteacher within the last 5 years.

Parents are required to submit their applications within:

- 15 school days of the governing board's notification of their decision.
- 15 school days of the final determination of a discriminatory claim made under the Equality Act 2010.

Any application made outside of the above timeframe will not be reviewed. Parents are able to request an independent panel review even if they did not make a case to, or attend, the governing board's initial consideration of the exclusion.

The LA will adhere to all statutory guidelines when conducting an independent panel review, as outlined in the DfE's statutory guidance document 'Exclusion from maintained schools, academies and pupil referral units in England'.

### **Appointing a SEND expert**

If requested by parents in their application for an independent review panel, the LA will appoint a SEND expert to attend the panel and cover the associated costs of this appointment. Parents have a right to request the attendance of a SEND expert at a review, regardless of whether the school recognises that their child has SEND. The LA will make arrangements to indemnify the SEND expert against any legal costs and expenses reasonably incurred as a result of any decisions or actions connected to the review and which are taken in good faith.

An individual will not serve as a SEND expert if they have, or at any time have had, any connection with the LA, school, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their ability to act impartially; however, an individual is not taken to have such a connection solely because they are an employee of the LA. The SEND expert will be a professional with first-hand experience of the assessment and support of SEND, as well as an understanding of the legal requirements on schools in relation to SEND. Examples of suitable individuals might include educational psychologists, specialist SEND teachers, SENCOs and behaviour support teachers.

Recently retired individuals are not precluded from fulfilling this role; however, during interview, the LA will assess the knowledge of such individuals in order to ensure that they have a good understanding of current practice and the legal requirements on schools in relation to SEND.

Whilst individuals are not automatically taken to be partial simply because they are an employee of, or contracted by, the LA, they will not have had any previous involvement in the assessment or support of SEND for the excluded pupil, or siblings of the excluded pupil. The LA will request that prospective SEND experts declare any conflict of interest at the earliest opportunity.

The final decision on the appointment of a SEND expert is for the LA to make, but it will take reasonable steps to ensure that parents have confidence in the impartiality and capability of the SEND expert. Where possible, this will include offering parents a choice of SEND expert. In order to meet its duties within the statutory time frame, the LA will consider maintaining a list of individuals capable of performing the role of SEND expert in advance of a request.

The LA will determine the amount of any payment in relation to the appointment of the SEND expert, such as financial loss, travel and subsistence allowances.

### **The role of a SEND expert**

The SEND expert's role is analogous to an expert witness, providing (orally and/or written) impartial advice to the panel on how SEND might be relevant to the exclusion. The SEND expert will base their advice on the evidence provided to the panel. The SEND expert's role does not include making an assessment of the pupil's SEND.

The focus of the SEND expert's advice will be on whether the school's policies which relate to SEND, or the application of these policies in relation to the excluded pupil, were legal, reasonable and procedurally fair. If the SEND expert believes that this was not the case, they will, where possible, advise the panel on the possible contribution this could have made to the circumstances of the pupil's exclusion.

Where the school does not recognise that a pupil has SEND, the SEND expert will advise the panel on whether they believe the school acted in a legal, reasonable and procedurally fair way with respect to the identification of any SEND that the pupil may potentially have, and any contribution that this could have made to the circumstances of the pupil's exclusion. The SEND expert will not criticise a school's policies or actions simply

because they believe a different approach should have been followed or because another school might have taken a different approach.

### **Appointing a clerk**

The LA will decide whether to appoint a clerk to the independent review panel, or to make alternative arrangements to administer the panel. Where a clerk is appointed, the LA will ensure that the clerk did not serve as clerk to the governing board when the decision was made not to reinstate the pupil.

### **The role of a clerk**

The clerk's role is to provide advice to the panel and parties to the review on procedure, law and statutory guidance on exclusions.

#### The clerk will:

- Identify, in advance of the meeting, whether the excluded pupil wishes to attend the panel hearing, taking reasonable steps to enable the pupil to feedback their views, irrespective of their attendance.
- Identify, in advance of the meeting, whether any alleged victims of the incident(s) leading up to the exclusion wish to attend the panel hearing, taking reasonable steps to enable them to feedback their views, irrespective of their attendance.
- Ensure that the panel is able to hear from any witnesses to the incident(s) leading to the exclusion, taking into account the fact that some of these people may be pupils at the school. Pupils under 18 will not be allowed to appear in person without parental consent.
- Inform the parents, Headteacher, governing board that they are entitled to make oral and written representations to the panel, attend the hearing, and be represented.
- Ensure that all parties are:
  - Provided with copies of relevant papers at least five school days before the review, notifying the panel if any requested documents have not been provided in case the panel wishes to adjourn until a later date.
  - Informed about who is attending the meeting, and what their roles are.
- Attend the review and ensure that minutes are produced in accordance with instructions from the independent review panel.
- Where a clerk is not appointed, the LA will undertake the functions outlined above.

### **The duties of the independent review panel**

The role of the panel is to review the governing board's decision not to reinstate a permanently excluded pupil. In reviewing the decision, the panel will consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school. The panel will apply the civil standard of proof, rather than the criminal standard of 'beyond reasonable doubt'.

Following the review, the panel will do one of the following:

- Uphold the decision
- Recommend that the governing board reconsiders reinstatement
- Quash the decision and direct that the governing board reconsiders reinstatement
- The panel's decision does not have to be unanimous and can be decided by a majority vote. It is binding on the pupil, parents, the governing board, Headteacher and the LA.

### **Reconsidering reinstatement following a review**

Where the independent review panel **instructs** the governing board to reconsider their decision not to reinstate a pupil, they will do so within 10 school days of being given notice of the review panel's decision. The school is

## Parbold Douglas CE Academy

Exclusion Policy [Updated: Dec 2024] [Review: July 2026]

aware that if, following an instruction to reconsider, the governing board does not offer to reinstate the pupil, costs may be incurred.

Where the independent review panel **recommends** that the governing board should reconsider their decision not to reinstate a pupil, they will do so within 10 school days of being given notice of the review panel's decision. The school is aware that if, following a recommendation to reconsider, the governing board does not offer to reinstate the pupil, it will not be subject to a financial adjustment. If, following reconsideration, the governing board offers to reinstate the pupil, but the parents decline, no adjustment will be made to the school's budget. Following reconsideration, the governing board will notify the parents, the Headteacher and the LA of their reconsidered decision and the reasons for this.

### Criminal investigations

The Headteacher will not postpone taking a decision to exclude a pupil due to a police investigation being underway, or any criminal proceedings that are in place. Particular consideration will be given by the Headteacher when deciding to exclude a pupil where evidence is limited by a police investigation, to ensure that any decision made is fair and reasonable.

If the governing board is required to consider the Headteacher's decision in these circumstances, they will not postpone the meeting and will make a decision based on the evidence available.

### Training requirements

The LA will ensure that all independent review panel members and clerks have received training within the two years prior to the date of the review. Training will cover:

- The requirements of the legislation, regulations and statutory guidance governing exclusions.
- The need for the panel to observe procedural fairness and the rules of natural justice.
- The role of the chair of a review panel.
- The role of the clerk to a review panel.
- The duties of headteachers, governing boards and the panel under the Equality Act 2010.
- The effect of section 6 of the Human Rights Act 1998 and the need to act in a manner compatible with human rights protected by that Act.

Clerks will also have an up-to-date understanding on developments in case law which are relevant to exclusion.

### Equality

All children will be treated equally and fairly throughout the implementation of this policy. The Headteacher will monitor incident logs and ensure that any apparent inequality of incidents is entirely attributed to the behaviours of those children e.g.: if more boys/SEND/minority ethnic group are represented in the records.

### Training

Whole staff and individual training needs will be identified through the Academy's self-evaluation process and staff appraisal.

### Monitoring and Review

This policy will be reviewed **every two years** and approved by the Education and Welfare Committee.

All members of staff will be required to familiarise themselves with this policy as part of their induction programme. The impact of the policy will be reviewed regularly through careful monitoring of incidents. Termly reports will be made to Governors by the Headteacher.

## Appendix A

**Exclusion Checklist**

<b>Question/Evidence</b>	<b>✓ or ✗</b>
Would allowing the pupil to remain in school seriously harm the education or welfare of the pupil or others in the school?	
Is there evidence that the exclusion is in response to a serious breach, or persistent breaches, of the school behaviour policy?	
Does that pupil have a disability?	
Does the pupil hold a statement of SEN?	
Is the pupil a Looked After Child?	
Is the pupil eligible for Free School Meals?	
Has the pupil suffered bereavement, bullying, mental health issues?	
Have referrals been made related to the above?	
<i>Please give details and evidence of early intervention:</i>	
Multi-agency assessment	
Engagement of professionals	
Statement of SEN	
Evidence of early review	
PEP	
ISP	
PSP	
CAF / Details of Lead Behaviour Professional	
Summary/evidence of repeatedly disobeying school Behaviour Policy	
Behaviour Plans	
Evidence of engagement with parent/carer	
Mentor interventions/evaluations	
Chronology of intervention	
Chronology of inclusions	
Chronology of fixed term exclusions	
Chronology of Record of Harms	
Risk Management Plan	
Chronology of incidents (include witness statements)	
Relevant Policies including Behaviour Policy and Exclusion Policy	

Prior to an exclusion meeting the Headteacher will need to use the above evidence to put together a written submission. Private and confidential data/information pertaining to the child's family should not be included.