Sheriffhales Primary School and Preschool

Suspensions and Permanent Exclusions Policy

Approved by:	Governing Body	Date adopted: 5th December 2022
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1. Aims

Our school aims to ensure that:

- The suspension and permanent exclusions process is applied fairly and consistently
- The suspension and permanent exclusions process is understood by governors, staff, parents and pupils
- Pupils in school are safe and happy
- Pupils do not become NEET (not in education, employment or training)

2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education:

It is based on the following legislation, which outline schools' powers to suspend or permanently exclude pupils:

- Suspension and Permanent Exclusion from maintained schools, academies, and pupil referral units in England, including pupil movement
- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- Sections 64-68 of the School Standards and Framework Act 1998

In addition, the policy is based on:

- Part 7, chapter 2 of the Education and Inspections Act 2006, which looks at parental responsibility for excluded pupils
- Section 579 of the Education Act 1996, which defines 'school day'
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, as amended by The Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014

3. The decision to suspend or permanently exclude

Only the headteacher, or acting headteacher, can suspend or permanently exclude a pupil from school. A permanent exclusion will be taken as a last resort.

Our school is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

> "…the practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil."

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

A decision to suspend or permanently exclude a pupil will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, **and**
- If allowing the pupil to remain in school would seriously harm the education or welfare of others

Before deciding whether to suspend or permanently exclude a pupil the headteacher will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the pupil to give their version of events
- Consider if the pupil has special educational needs or disabilities (SEND)

4. Definition

For the purposes of suspensions and permanent exclusions, school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

5. Roles and responsibilities

Before the PDC

79. The headteacher must, without delay, notify the governing board of:

• any permanent exclusion (including where a suspension is followed by a decision to permanently exclude the pupil);

• any suspension or permanent exclusion which would result in the pupil being suspended or permanently excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and

• any suspension or permanent exclusion which would result in the pupil missing a public examination or national curriculum test.

The Head teacher must inform Governors of the reason for the exclusion. There is a range of information that Governors may need when considering an exclusion. **The responsibility lies with the Governors to request the information they require.**

- **Information that should be provided to Governors' panel by the Head teacher before the PDC:**

Each Governor should receive a meeting pack from the school ahead of the PDC. The pack may contain the following documents;

- Behaviour chronology (chronologies are easier to follow than direct print outs from SIMs systems or similar)
- Minutes of any meetings held with parents or agencies relating to the student's behaviour or SEN which may be impacting on behaviour.
- Witness statements as well as statements from the student themselves and, if available, physical evidence of incidents such as redacted photographs, redacted CCTV screenshots or redacted screenshots from social media or text messages.
- Referrals, reports and assessments completed by relevant external agencies such as Sensory Inclusion Service, or internal specialists such as SENDCos. These can be redacted if needed to protect confidential information.
- Record of any intervention strategies put in place to support the student and their outcomes.
- Information pertaining to a student's SEND status and any other characteristics which may place them in a demographic group over-presented in exclusion data.
- Copies of the exclusion letter sent by school together with a timeline between the incident occurring and parents & LA being informed of the exclusion so Governors can be satisfied that everything falls within the timeframe set out by the DfE.
- Any policies or documents which the Governing Body are required to have regard for when making their decision such as; SEND Policy, Behaviour Policy, Exclusion Policy, Anti-Bullying Policy etc.

Governors are expected to make their own efforts to obtain the information they need in advance of the meeting:

Preparing for the consideration of a suspension or permanent exclusion

110. Where the governing board is legally required to consider the reinstatement of a suspended or permanently excluded pupil they should:

• not discuss the suspension or permanent exclusion with any party outside the meeting;

• ask for any written evidence in advance of the meeting, including witness statements and other relevant information held by the school such as those relating to a pupil's SEN and the pupil's school record;

• where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting;

• allow parents and the pupil to be accompanied by a friend or representative (where a pupil under 18 is to be invited as a witness, the governing board should first seek parental consent);

• invite the pupil's social worker, if they have one, and if the pupil is LAC, the VSH to attend;

• comply with their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or pupil has a disability with mobility or communication that has an impact upon their ability to attend the meeting or to make representations); and

• identify the steps they will take to enable and encourage the suspended or permanently excluded pupil to attend the meeting and speak on their behalf (such as providing accessible information or allowing them to bring a friend), taking into account the pupil's age and understanding; or how the suspended or permanently excluded pupil may feed in their views by other means if attending the meeting is not possible

- **Role of the student's view in the PDC**

When considering the exclusion Governors should identify ways to enable the excluded pupil's view to be heard at the meeting, whether or not the pupil is attending the meeting in person.

Please see the relevant section in the current Guidance – Part 7 paragraph 105.

Can the pupil attend for part of the meeting if they can't manage being in the whole of it? Can the pupil put their views in writing? Can the pupil attend with a friend or with a member of staff whom they trust?

- **Additional points to be considered**

102. The following parties must be invited to a meeting of the governing board and allowed to make representations or share information:

• parents (and, where requested, a representative or friend);

• the pupil if they are 18 years or over;

• the headteacher;

• a representative of the local authority (in the case of a maintained school or PRU)

• the child's social worker if the pupil has one; and

• the VSH if the child is LAC.

If a child has a social worker (whether this is through a Child in Need Plan or a Child Protection Plan) they should be informed of the exclusion by the school and invited to the Pupil Disciplinary Committee meeting.

If a child is looked after, the Head teacher from the Virtual School should be informed of the exclusion and invited to the Pupil Disciplinary Committee meeting.

Pupils with disabilities and Special Educational Needs (SEND) including those with Education, Health and Care plans (EHC plans)

53. The Equality Act 2010 requires schools to make reasonable adjustments for disabled pupils. This duty can, in principle, apply both to the suspensions and permanent exclusions process and to the disciplinary sanctions imposed. Under the Children and Families Act 2014, governing boards of relevant settings30 must use their 'best endeavours' to ensure the appropriate special educational provision is made for pupils with SEND, which will include any support in relation to behaviour management that they need because of their SEND.

54. Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs.

55. Where a school has concerns about the behaviour, or risk of suspension and permanent exclusion, of a pupil with SEND, a disability or an EHC plan it should, in partnership with others (including where relevant, the local authority), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEND or disability.

The head teacher and governing board must comply with their statutory duties in relation to SEND when administering the exclusion process. This includes having regard to the SEND Code of Practice.

Therefore, one of the key questions you must ask is whether the pupil is on the SEND Register. The Code of Practice is very clear about what process schools should follow to identify if a pupil has any special educational needs. There should be a process of monitoring and reviewing any additional support provided for the pupil. This should be documented in a clear plan demonstrating support being provided and evidence-based outcomes (what are the school trying to achieve by providing this extra help).

During the PDC

- **What questioning should take place within the PDC, and how do we satisfy ourselves as a panel that suitable interventions have been exhausted for this child?**

This question is paramount to the PDC process, and the answer is different for the case of every student who finds themselves excluded, however there are some points to consider which are relevant to every case:

- As well as the DfE guidance on exclusions, schools are also expected to uphold their own policies. School policies often feature clauses or statements which are much more prescriptive and specific than the Government guidance. It's important to be thorough in ensuring that any exclusion is compliant with school policy as well as the

DfE guidance. Schools must apply their own behaviour policies in a consistent, rigorous and non-discriminatory way with due regard to the Equality Act 2010. It is expected that Governors will challenge the Head Teacher on any breaches to policy and seek an explanation for why this may be during the PDC meeting.

- In the case of exclusions for persistent disruptive behaviour, Head Teachers should also provide evidence that early intervention measures have been used. It is appropriate to question any inconsistencies between accounts of an incident which leads to an exclusion, this will help to gain a greater understanding of the incident.
- The Governors should seek to understand the impact of interventions/support, to understand how relevant they were to the needs of the pupil and what the outcome was for the child. For example;
  The fact that a referral to the Educational Psychology Service was made does not provide enough information on what the outcome was for the child.
  Whereas a statement from the school which explains why the referral was made; the recommendations which were given by the Educational Psychologist; how the school implemented these recommendations and the impact which these had on the student's behaviour gives the Governors more information.
- When establishing the facts in relation to an exclusion the Headteacher must apply the civil standard of proof i.e. 'on the balance of probabilities' it is more likely than not that a fact is true. It is pertinent to properly explore any inconsistencies between student involved and witness accounts in light of this.
- The Headteacher should give the pupil the opportunity to present their case *before* taking the decision to exclude. It is appropriate to challenge the Headteacher if this hasn't been done by themselves or a senior member of staff.
- In making their decision, Governors should also refer to key legislation and guidance where exclusions are considered for example, the Equality Act and Special Educational Needs code of practice.
- In order to uphold an exclusion, the Governing body must be suitably convinced that that exclusion is lawful, rational, reasonable, fair and proportionate.

- **If the school have adhered to their behaviour policy, can a pupil be excluded?**

Schools must also ensure that their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion. Provisions within the Equality Act allow schools to take positive action to deal with disadvantages, needs, or low participation affecting one group, where this can be shown to be a proportionate way of dealing with such issues.

Ensure that you are familiar with the relevant school policies. Governors should satisfy themselves that applying a 'blanket policy' or 'zero tolerance' policy to all pupils does not unfairly disadvantage some pupils. For example, if a pupil with SEND (such as autism) may find it difficult to understand a sanction which takes place at a later date (e.g. detention the following week). Making reasonable adjustments should be considered. Equality does not mean treating everyone exactly the same.

- **What should the school do when a pupil who has SEND or is a looked after/previously looked after child displays disruptive behaviour, resulting in repeated exclusions?**

The head teacher should, as far as possible, avoid permanently excluding any pupil with an EHC plan or a looked after/ previously looked after child.

*Where a school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with an EHC plan or a looked after child, it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEND. Where a pupil has an EHC plan, schools should consider requesting an early annual review or interim/emergency review***.**

Governors need to question whether the school has worked in partnership with other agencies, such as Inclusion, Virtual School, Educational Psychology, SEND team or Early Help.

Guide to best practice

5.1 The headteacher

Informing parents

The headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- The reason(s) for the suspension or permanent exclusion
- The length of a suspension or for a permanent exclusion and the fact that it is permanent
- Information about parents' right to make representations about the exclusion to the governing board and how the pupil may be involved in this
- Where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The headteacher will also notify parents by the end of the afternoon session on the day their child is suspended or permanently excluded that for the first 5 school days of a suspension or permanent exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- The start date for any provision of full-time education that has been arranged
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place
- Any information required by the pupil to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

Informing the governing board and local authority

The headteacher will immediately notify the governing board and the local authority (LA) of:

A permanent exclusion, including when a suspension is made permanent

Suspensions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term

Suspensions or permanent exclusions which would result in the pupil missing a public examination

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other suspensions, the headteacher will notify the governing board and LA once a term.

5.2 The governing board

Responsibilities regarding suspensions and permanent exclusions is delegated to Pupil Discipline Governors consisting of at least 3 governors.

The Pupil Discipline (Appeals) governors have a duty to consider the reinstatement of an excluded pupil (see section 6).

Within 14 days of receipt of a request, the governing board will provide the secretary of state and the LA with information about any exclusions in the last 12 months.

For a suspension of more than 5 school days, the governors will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

5.3 The LA

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

6. Considering the reinstatement of a pupil

Governors will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

The exclusion is permanent
It is a suspension which would bring the pupil's total number of school days of exclusion to more than 15 in a term
It would result in a pupil missing a public examination

If requested to do so by parents, governors will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the suspension or permanent exclusion if the pupil would be suspended from school for more than 5 school days, but less than 15, in a single term.

Where an suspension or permanent exclusion would result in a pupil missing a public examination, governors will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the chair of the governing board (or the vice-chair where the chair is unable to make this consideration) will consider the suspension or permanent exclusion independently and decide whether or not to reinstate the pupil.

Governors can either:

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

In reaching a decision, governors will consider whether the suspension or permanent exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties. They will decide whether or not a fact is true ‘on the balance of probabilities’, which differs from the criminal standard of ‘beyond reasonable doubt’, as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the pupil’s educational record.

Governors will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, their decision will also include the following:

- The fact that it is permanent
- Notice of parents’ right to ask for the decision to be reviewed by an independent review panel, and:
    - The date by which an application for an independent review must be made
    - The name and address to whom an application for a review should be submitted
    - That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil’s SEN are considered to be relevant to the exclusion

- That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the LA to appoint an SEN expert to attend the review
- Details of the role of the SEN expert and that there would be no cost to parents for this appointment
- That parents must make clear if they wish for an SEN expert to be appointed in any application for a review
- That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review
- That if parents believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

7. An independent review

If parents apply for an independent review, the LA will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by governors of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governors category and 2 members will come from the headteacher category.

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time
- Headteachers or individuals who have been a headteacher within the last 5 years

A person may not serve as a member of a review panel if they:

- Are a member/director of the LA or governing board of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the LA or the governing board, of the excluding school (unless they are employed as a headteacher at another school)

- Have, or at any time have had, any connection with the LA, school, governing board, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartially
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the governing board's decision
- Recommend that the governing board reconsiders reinstatement
- Quash the governing board's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

8. School registers

A pupil's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made, the governing board will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

9. Returning from a suspension

Following a suspension, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a pupil returns from a suspension:

- Agreeing a behaviour contract
- Putting a pupil 'on report'
- Internal isolation

10. Monitoring arrangements

The Head Teacher monitors the number of suspensions and permanentexclusions every term and reports back to the governors. They also liaise with the local authority to ensure suitable full-time education for suspended or permanently excluded pupils.

This policy will be reviewed by the Head Teacher and governors every two years. At every review, the policy will be shared with the governing board.

11. Links with other policies

This exclusions policy is linked to our

- Behaviour policy
- SEN policy and information report

Appendix 1: Independent review panel training

The LA must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of 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 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act

Appendix 2: The Pupil Disciplinary Committee:

Before the PDC

79. The headteacher must, without delay, notify the governing board of:

• any permanent exclusion (including where a suspension is followed by a decision to permanently exclude the pupil);

• any suspension or permanent exclusion which would result in the pupil being suspended or permanently excluded for a total of more than five school days (or more than ten lunchtimes) in a term; and

• any suspension or permanent exclusion which would result in the pupil missing a public examination or national curriculum test.

The Head teacher must inform Governors of the reason for the exclusion. There is a range of information that Governors may need when considering an exclusion. **The responsibility lies with the Governors to request the information they require.**

- **Information that should be provided to Governors' panel by the Head teacher before the PDC:**

Each Governor should receive a meeting pack from the school ahead of the PDC. The pack may contain the following documents;

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- Referrals, reports and assessments completed by relevant external agencies such as Sensory Inclusion Service, or internal specialists such as SENCos. These can be redacted if needed to protect confidential information.
- Record of any intervention strategies put in place to support the student and their outcomes.
- Information pertaining to a student's SEN status and any other characteristics which may place them in a demographic group over-presented in exclusion data.
- Copies of the exclusion letter sent by school together with a timeline between the incident occurring and parents & LA being informed of the exclusion so Governors can be satisfied that everything falls within the timeframe set out by the DfE.
- Any policies or documents which the Governing Body are required to have regard for when making their decision such as; SEN Policy, Behaviour Policy, Exclusion Policy, Anti-Bullying Policy etc.

Governors are expected to make their own efforts to obtain the information they need in advance of the meeting:

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• not discuss the suspension or permanent exclusion with any party outside the meeting;

• ask for any written evidence in advance of the meeting, including witness statements and other relevant information held by the school such as those relating to a pupil's SEN and the pupil's school record;

• where possible, circulate any written evidence and information, including a list of those who will be present, to all parties at least five school days in advance of the meeting;

• allow parents and the pupil to be accompanied by a friend or representative (where a pupil under 18 is to be invited as a witness, the governing board should first seek parental consent);

• invite the pupil's social worker, if they have one, and if the pupil is LAC, the VSH to attend;

• comply with their duty to make reasonable adjustments for people who use the school and consider what reasonable adjustments should be made to support the attendance and contribution of parties at the meeting (for example where a parent or pupil has a disability with mobility or communication that has an impact upon their ability to attend the meeting or to make representations); and

• identify the steps they will take to enable and encourage the suspended or permanently excluded pupil to attend the meeting and speak on their behalf (such as providing accessible information or allowing them to bring a friend), taking into account the pupil's age and understanding; or how the suspended or permanently excluded pupil may feed in their views by other means if attending the meeting is not possible

- **Role of the student's view in the PDC**

When considering the exclusion Governors should identify ways to enable the excluded pupil's view to be heard at the meeting, whether or not the pupil is attending the meeting in person.

Please see the relevant section in the current Guidance – Part 7 paragraph 105.

Can the pupil attend for part of the meeting if they can't manage being in the whole of it? Can the pupil put their views in writing? Can the pupil attend with a friend or with a member of staff whom they trust?

- **Additional points to be considered**

102. The following parties must be invited to a meeting of the governing board and allowed to make representations or share information:

• parents (and, where requested, a representative or friend);

• the pupil if they are 18 years or over;

• the headteacher;

• a representative of the local authority (in the case of a maintained school or PRU)

• the child's social worker if the pupil has one; and

• the VSH if the child is LAC.

If a child has a social worker (whether this is through a Child in Need Plan or a Child Protection Plan) they should be informed of the exclusion by the school and invited to the Pupil Disciplinary Committee meeting.

If a child is looked after, the Head teacher from the Virtual School should be informed of the exclusion and invited to the Pupil Disciplinary Committee meeting.

Pupils with disabilities and Special Educational Needs (SEN) including those with Education, Health and Care plans (EHC plans)

53. The Equality Act 2010 requires schools to make reasonable adjustments for disabled pupils. This duty can, in principle, apply both to the suspensions and permanent exclusions process and to the disciplinary sanctions imposed. Under the Children and Families Act 2014, governing boards of relevant settings30 must use their 'best endeavours' to ensure the appropriate special educational provision is made for pupils with SEN, which will include any support in relation to behaviour management that they need because of their SEN.

54. Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs.

55. Where a school has concerns about the behaviour, or risk of suspension and permanent exclusion, of a pupil with SEN, a disability or an EHC plan it should, in partnership with others (including where relevant, the local authority), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEN or disability.

The head teacher and governing board must comply with their statutory duties in relation to SEN when administering the exclusion process. This includes having regard to the SEND Code of Practice.

Therefore, one of the key questions you must ask is whether the pupil is on the SEN Register. The Code of Practice is very clear about what process schools should follow to identify if a pupil has any special educational needs. There should be a process of monitoring and reviewing any additional support provided for the pupil. This should be documented in a clear plan demonstrating support being provided and evidence-based outcomes (what are the school trying to achieve by providing this extra help).

During the PDC

- **What questioning should take place within the PDC, and how do we satisfy ourselves as a panel that suitable interventions have been exhausted for this child?**

This question is paramount to the PDC process, and the answer is different for the case of every student who finds themselves excluded, however there are some points to consider which are relevant to every case:

- As well as the DfE guidance on exclusions, schools are also expected to uphold their own policies. School policies often feature clauses or statements which are much more prescriptive and specific than the Government guidance. It's important to be thorough in ensuring that any exclusion is compliant with school policy as well as the DfE guidance. Schools must apply their own behaviour policies in a consistent,

rigorous and non-discriminatory way with due regard to the Equality Act 2010. It is expected that Governors will challenge the Head Teacher on any breaches to policy and seek an explanation for why this may be during the PDC meeting.

- In the case of exclusions for persistent disruptive behaviour, Head Teachers should also provide evidence that early intervention measures have been used. It is appropriate to question any inconsistencies between accounts of an incident which leads to an exclusion, this will help to gain a greater understanding of the incident.
- The Governors should seek to understand the impact of interventions/support, to understand how relevant they were to the needs of the pupil and what the outcome was for the child. For example;
  The fact that a referral to the Educational Psychology Service was made does not provide enough information on what the outcome was for the child.
  Whereas a statement from the school which explains why the referral was made; the recommendations which were given by the Educational Psychologist; how the school implemented these recommendations and the impact which these had on the student's behaviour gives the Governors more information.
- When establishing the facts in relation to an exclusion the Headteacher must apply the civil standard of proof i.e. 'on the balance of probabilities' it is more likely than not that a fact is true. It is pertinent to properly explore any inconsistencies between student involved and witness accounts in light of this.
- The Headteacher should give the pupil the opportunity to present their case *before* taking the decision to exclude. It is appropriate to challenge the Headteacher if this hasn't been done by themselves or a senior member of staff.
- In making their decision, Governors should also refer to key legislation and guidance where exclusions are considered for example, the Equality Act and Special Educational needs code of practice.
- In order to uphold an exclusion, the Governing body must be suitably convinced that that exclusion is lawful, rational, reasonable, fair and proportionate.

- **If the school have adhered to their behaviour policy, can a pupil be excluded?**

Schools must also ensure that their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion. Provisions within the Equality Act allow schools to take positive action to deal with disadvantages, needs, or low participation affecting one group, where this can be shown to be a proportionate way of dealing with such issues.

Ensure that you are familiar with the relevant school policies. Governors should satisfy themselves that applying a 'blanket policy' or 'zero tolerance' policy to all pupils does not unfairly disadvantage some pupils. For example, if a pupil with SEN (such as autism) may find it difficult to understand a sanction which takes place at a later date (e.g. detention the following week). Making reasonable adjustments should be considered. Equality does not mean treating everyone exactly the same.

- **What should the school do when a pupil who has SEN or is a looked after/previously looked after child displays disruptive behaviour, resulting in repeated exclusions?**

The head teacher should, as far as possible, avoid permanently excluding any pupil with an EHC plan or a looked after/ previously looked after child.

*Where a school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with an EHC plan or a looked after child, it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEN. Where a pupil has an EHC plan, schools should consider requesting an early annual review or interim/emergency review***.**

Governors need to question whether the school has worked in partnership with other agencies, such as:

Inclusion

Virtual School

Educational Psychology

SEN Team

Early Help

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