Full Governors
25.03.26
Signed .....

Suspension and Exclusion Policy

Statement of Intent

At Portway Infant School, we understand that good behaviour and discipline is essential for promoting a high-quality education.

Amongst other disciplinary sanctions, the school recognises that the suspension or exclusion of childs may be necessary where there has been a serious breach, or consistent breaches, of the school's Behaviour Policy. Suspending or excluding a child may also be required in instances when allowing the child to remain in school would be damaging to the education and welfare of themselves or others; in all cases, suspending or excluding childs should only be used as a means of last resort.

The school has created this policy to clearly define the legal responsibilities of the Headteacher, governing board and Local Authority (LA) when responding to child suspensions and exclusions, to ensure that they are dealt with both fairly and lawfully, and in line with DfE statutory guidance.

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

A **"suspension"** is defined as the temporary removal of a child from the school for behaviour management purposes. A child may be suspended for one or more fixed periods, up to a maximum of 45 school days in a single academic year. A suspension does not have to be for a continuous period.

An **"exclusion"** is defined as the permanent removal of a child from the school, in response to a serious breach or persistent breaches of the school's Behaviour Policy, and where allowing the child to remain in school would seriously harm the education or welfare of the childs or staff in the school.

Legal framework

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

- Education Act 1996
- Education Act 2002
- Education and Inspections Act 2006
- The Education (Provision of Full-Time Education for Excluded Childs) (England) Regulations 2007
- Equality Act 2010
- The School Discipline (Child Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023
- The European Convention on Human Rights (ECHR)

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 child referral units in England, including child movement'
- DfE (2024) 'Behaviour 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:

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

Roles and responsibilities

The Local Authority is responsible for:

- Having due regard to the relevant statutory guidance when carrying out its duties in relation to the education of LAC (Looked After Children)
- Arranging suitable full-time education for any child of compulsory school age excluded permanently, in coordination with the school.
- Reviewing and reassessing childs' needs in consultation with their parents/carers where they have an EHC (Education Health Care) 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 child where required.
- Arranging for the independent review panel hearing to be held via remote access when requested by parents/carers or excluded childs aged 18 and over. Permission must be sought from all parties attending the meeting for any recording to take place.
- 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.
- Appointing a clerk to provide advice to the panel and parties to the review on procedure, law and statutory guidance on exclusions. Where not appointed the responsibilities should be with the Local Authority.
- 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/carers, appointing a SEND (Special Educational Needs & Disabilities) 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 Local Authority about any suspensions or exclusions within the last 12 months.
- Arranging suitable full-time education for any child of compulsory school age who is suspended, where required.
- Considering parents/carers' representations about suspensions and exclusions within 15 school days of receiving notice if the appropriate requirements are met.
- Where a suspension or exclusion would result in a child missing a public examination or test, considering the suspension or exclusion before this date.
- Considering whether it would be appropriate for a child 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.
- Arranging for the representation meeting to take place via remote access where requested by parents/carers or excluded childs aged 18 and over
- Adhering to its responsibilities to consider the reinstatement of childs.
- Considering the interests and circumstances of the suspended or excluded child, including the circumstances in which they were suspended or 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 a suspension or exclusion.
- Ensuring clear minutes are taken of the representation meeting.
- Noting the outcome of the representation meeting on the child's education record, along with copies of relevant papers for future reference.
- Notifying the child's parents/carers, the Headteacher and ~~LA~~ Local Authority of its decision and the reasons for it, without delay.
- Where appropriate, informing parents/carers of where to apply for an independent review panel.
- Informing parents/carers of relevant sources of information.
- Ensuring a child's name is removed from the school admissions register, where appropriate.
- Reconvening within 10 school days to reconsider reinstatement of a child where directed to do so by the suspensions and exclusions review panel.
- Using data to evaluate the school's practices regarding intervention, suspension and exclusion.

The clerk to the exclusions review panel (where not appointed, the responsibilities should be assumed by the LA) is responsible for:

- 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 within the timeframe of the policy.

The Headteacher is responsible for:

- Implementing good levels of discipline to ensure all childs can benefit from the opportunities provided by education and to minimise potential suspensions and exclusions.
- Applying the civil standard of proof when establishing the facts in relation to a suspension or exclusion.
- Complying with their statutory duties in relation to childs with SEND when administering the suspension or exclusion process, as outlined in the Special Educational Needs and Disabilities (SEND) Policy.
- Considering any contributing factors that are identified after an incident of poor behaviour has occurred, e.g., if a child has suffered bereavement, bullying or has a mental health issue.
- Considering the use of a multi-agency assessment for a child who demonstrates persistent disruptive behaviour.
- Reviewing the effectiveness of suspensions or exclusions as a sanction, e.g., if a child has received multiple suspensions or is approaching the legal limit for suspensions in an academic year.
- Considering what extra support may be needed to identify and address the needs of individual childs, particularly those with SEND, eligible for FSM Free School Meals, LAC and those from certain ethnic groups.
- Engaging effectively with parents/carers in supporting the behaviour of childs with additional needs.
- Determining whether a child will be suspended or excluded on disciplinary grounds.

- Adhering to their responsibilities when cancelling an exclusion before the governing board has met to consider whether the child should be reinstated. Withdrawing any suspensions or exclusions that have not been reviewed by the governing board, where appropriate.
- Ensuring any decision to suspend or exclude is lawful, rational, reasonable, fair and proportionate.
- Complying with the requirements of the Equality Act 2010 when deciding whether to suspend or exclude a child.
- Ensuring they have considered their legal duty of care when sending a child home following a suspension or exclusion.
- Making the decision to suspend or exclude based on the evidence available at the time, regardless of any police investigation and/or criminal proceedings.
- Notifying a child's parents/carers without delay where the decision is taken to suspend or exclude the child, including the days on which the parents/carers must ensure the child 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/carers is clear and easily understood.
- Notifying the governing board and LA of their decision to suspend or exclude a child where appropriate, as well as the child's home authority if required.
- Notifying the governing board once per term of any suspensions or exclusions not already notified.
- Organising suitable work for excluded childs where alternative provision cannot be arranged.

Grounds for suspension or exclusion

- The school will only suspend or exclude a child where it is absolutely necessary, and where all other possible disciplinary sanctions, as detailed in the school's Behaviour Policy, have failed to be successful.
- The following examples of behaviour may underline the school's decision to exclude a child:
    - Physical assault against child
    - Physical assault against adult
    - Verbal abuse / threatening behaviour against child
    - Verbal abuse / threatening behaviour against adult
    - Bullying
    - Sexual misconduct
    - Drug and alcohol related
    - Damage to property
    - Persistent disruptive behaviour
    - Discriminatory abuse, e.g., racist, homophobic, biphobic, transphobic or ableist abuse
    - Use, or threat of use, of an offensive weapon or prohibited item
- Childs can be suspended on a fixed-period basis, i.e., up to 45 school days within a year, or excluded permanently. Similarly, childs can be permanently excluded following a suspension, where further evidence is presented. In all cases, the Headteacher will decide whether a child will be subject to a suspension or an exclusion depending on what the circumstances warrant.

The Headteacher's power to suspend or exclude

Only the headteacher has the power to suspend or exclude a child from the school, and is able to decide whether either a suspension or exclusion is appropriate. All suspensions and exclusions will only be issued on disciplinary grounds.

The Headteacher is able to suspend childs from the premises where their behaviour is disruptive during lunchtime. All lunchtime suspensions will be counted as half of a school day. The

Headteacher is also able to consider a child's disruptive behaviour outside of the school premises as grounds for suspension or exclusion, in accordance with the school's Behaviour Policy.

When sending a child home following any suspension or exclusion, the Headteacher will ensure that they exercise their duty of care at all times and will always inform the parents/carers.

Any decision made to suspend or exclude a child will be lawful, proportionate and fair, with respect to legislation relating directly to suspensions and 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, e.g., race, sex, disability, and will not increase the severity of a child's suspension or exclusion on these grounds.

The Headteacher will apply the civil standard of proof when responding to the facts relating to a suspension or exclusion, i.e., that 'on the balance of probabilities' it is more likely than not that the facts are true.

The headteacher may cancel any suspension or exclusion that has already begun, or one that has not yet begun; however, this power will only be used if the suspension or exclusion has not already been reviewed by the governing board.

Where a suspension or exclusion is cancelled, the headteacher will notify the child's parents/carers, the governing board, the LA, and, where relevant, the virtual school head (VSH) and the child's social worker. The notification will also provide the reason for the cancellation. The headteacher will offer the child's parents/carers the opportunity to meet with the headteacher to discuss the circumstances that led to the cancellation of the exclusion, and the child will be allowed back into school without delay.

When a suspension or exclusion is cancelled, the governing board's duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement.

Any days spent out of school as a result of a suspension or exclusion prior to it being cancelled will count towards the maximum 45 school days that a child can be suspended or excluded in an academic year. A permanent exclusion will not be cancelled if the child has already been suspended or excluded for more than 45 school days in an academic year or if they will have been so by the time the cancellation takes effect.

The headteacher will report the number of suspensions and exclusions that have been cancelled, alongside the circumstances around and reasons for cancellation, to the governing board once per term, to allow the governing board to have appropriate oversight.

The Headteacher will not issue any 'informal' or 'unofficial' exclusions, e.g., sending a child home to 'cool-off', regardless of whether or not the parents/carers have agreed to this. The Headteacher will not use the threat of exclusion as a means of instructing parents/carers to remove their child from the premises.

All suspensions and exclusions will be formally recorded on Integris.

Factors to consider when suspending or excluding a child

When considering the suspension or exclusion of a child, the Headteacher will:

- Allow the child the opportunity to present their case.
- Take into account any contributing factors that are identified after a case of poor behaviour has occurred, e.g., if the child's wellbeing has been compromised, or they have been subjected to bullying.

- Take into consideration whether the child has received multiple suspensions or is approaching the legal limit of 45 suspended days per school year, and whether a suspension is serving as an effective sanction.
- Consider early intervention to address underlying causes of disruptive behaviour, including liaising with external agencies, to assess childs who demonstrate consistently poor behaviour.

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

- LAC
- Childs eligible for FSM
- Childs with SEND (Special Educational Needs and Disabilities)
- Certain ethnic groups

The Headteacher will consider avoiding excluding LAC (Looked After Child), those with SEMH (Social, Emotional and Mental Health) issues or childs with an EHC (Education Health and Care) plan. Where any member of staff has concerns about vulnerable child 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 Policy. If the child continues to endanger the physical or emotional wellbeing of other childs or staff, despite exhausting the graduated response process, then suspension or exclusion may be considered. In accordance with the Equality Act 2010, under no circumstances will a child with identified SEND or SEMH issues be suspended or excluded before the graduated response process has been completed.

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

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

Preventative measures

Before taking a final decision to exclude, the headteacher will consider whether it is in the best interests of all parties to initiate off-site directions or managed moves as preventative measures to exclusion.

Off-site direction

Under the Education Act 2002, the governing board may require any registered child to attend at any place outside the school premises for the purpose of receiving educational provision intended to improve their behaviour.

The governing board and the headteacher will decide, in communication with the child and their parents/carers, whether off-site direction is an appropriate solution to manage a child's behaviour and avoid suspension or exclusion. Where all parties agree to this course of action, the school will work with the child and their parents/carers to discuss and agree a plan for the off-site direction, including a proposed maximum period of time that the child will be at the alternative provision and any alternative options that will be considered once the time limit has been reached, e.g. managed moves.

The governing board will notify parents/carers, and the LA if the child has an EHC plan, in writing with information about the placement no later than two school days before the relevant day.
The school will keep any off-site placements under review by holding review meetings at intervals deemed appropriate by the governing board; the governing board will ensure, where possible, that review meetings are convened at a time suitable for the child's parents/carers, and will invite parents/carers in writing to each review meeting no later than six days before that date. Where parents/carers request, in writing, that the governing board hold a review meeting, the governing board will arrange review meetings in response, as soon as is reasonably practicable, unless there has been a review meeting in the previous 10 weeks.

The governing board will decide at each review meeting whether the arrangement will continue and for what period of time; the meeting will also decide arrangements for further reviews. Reviews will be recorded in writing, including any decisions made regarding the placement.

Managed moves
Where it is thought to be in a child's best interest to transfer them to another mainstream school permanently, the headteacher and governing board will discuss this with the parents/carers of the child, and the LA if the child has an EHC plan – managed movies will only go ahead with the voluntary agreement of all parties involved, including the parents/carers and the admission authority of the new school.

The school will ensure that detailed records are kept of any decision to initiate a managed move, including evidence that appropriate initial intervention has been carried out. The school will participate in information sharing with the child's new school, including sending data on prior and current attainment, academic potential and any risk management strategies. The school will also cooperate with the child's new school to create an effective integration strategy.

Parents/carers who have concerns that a managed move is being forced on them or who are unhappy with a managed move will be referred to the Complaints Policy and Procedure.

Duty to inform parents/carers
Following the Headteacher's decision to suspend or exclude a child, they will immediately inform the parents/carers, in person or by telephone, supported by email communication, of the period of the suspension, or permanency of the exclusion, and the reasons behind this.

The Headteacher will inform the parents/carers in writing (see Appendix 1). This letter may be sent electronically if permission has been received from the parents/carers to do so. The following information will be included in the letter

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

Where the child is of compulsory school age, the Headteacher will inform the parents/carers by the end of the afternoon session that for the first five days of the suspension (or until the start date of any alternative provision or the end of the suspension where this is earlier), parents/carers are legally required to ensure that their child is not present in a public place during school hours without justification, and that parents/carers may receive a penalty fine if they fail to do so.

Where the Headteacher has arranged alternative provision, they will also inform the parents/carers of the following:

- The start and end date for any provision of full-time education
- The address at which the provision will take place
- Any information necessary for the child to identify the person they should report to on the starting date

Where the Headteacher is unable to provide information on alternative provision by the end of the afternoon session, they will provide the information in a subsequent written notice without further delay, and within 48 hours of the child beginning the provision. If the alternative provision is due to begin before the sixth day of the suspension or exclusion, the Headteacher is able to give less than 48 hours of notice, with parental consent.

If the Headteacher has decided to suspend the child for a further fixed period following their original suspension, or to permanently exclude them, they will notify the parents/carers without delay and issue a new suspension or exclusion notice to parents/carers.

Duty to inform the governing board and LA

The headteacher will inform the governing board, without delay, of the following:

- Any permanent exclusions (including where a suspension is followed by a decision to permanently exclude the child)
- Any suspensions which would result in the child being suspended for more than 5 school days in a term (or more than 10 lunchtimes)
- Any suspensions or exclusions which would result in the child being absent from an examination or national curriculum test

For any suspensions and exclusions, other than those above, the headteacher will notify the governing board once per term.

The headteacher will inform the LA of all suspensions or exclusions, regardless of their length, without delay.

All notifications to the governing board and LA will include the reasons for suspension or exclusion and the duration of any suspension.

If a child who is suspended or excluded lives outside the LA in which the school is located, the headteacher will notify the child's 'home authority'.

Duty to inform social workers and the virtual school head (VSH)

When a child has been suspended or excluded, the headteacher will, without delay, notify the child's social worker, if they have one, and the VSH, if they are a looked-after child. This notification will include the period of any suspension and the reasons for suspension or permanent exclusion.

Social workers and/or the VSH will also be informed when a meeting of the governing board is taking place, and will be invited to attend the meeting should they wish to do so.

Social workers and VSHs will be allowed to join a governing board meeting or independent review panel via the use of remote access, as long as the arranging authority is satisfied that they will be able to participate effectively, they can hear and be heard throughout the meeting, and their remote participation will not prevent the meeting being fair and transparent

Arranging education for excluded childs

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

The governing board will not arrange full-time education for any child who is currently in their final year of compulsory education, and who does not have any further public examinations to sit.

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

If a child with SEND has been suspended or excluded, the governing board will ensure that:

- Any alternative provision is arranged in consultation with the child's parents/carers, who are able to request preferences.
- When identifying alternative provision, any EHC plan is reviewed or the child's needs are reassessed, in consultation with the child's parents/carers.

Considering suspensions and exclusions

The governing board will consider any representations made by parents/carers regarding suspensions and exclusions.

Parents/carers and, where requested, a friend or representative, the headteacher, and a member of the LA will be invited to attend any consideration of suspensions and exclusions and will be able to make representations. Any meeting to consider reinstatement of a child will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits.

Where it is appropriate to the child's age and level of understanding, the child will also attend any consideration meeting, and will be enabled to make a representation on their own behalf if they desire to do so.

Any meeting to consider reinstatement of a child will be arranged at a date and time convenient for all parties, and in compliance with any statutory time limits. Parents/carers, and excluded child if they are over 18, will also be able to request that the meeting is held via remote access.

The governing board will consider the reinstatement of a suspended or excluded child, where:

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

In the case of a suspension where the child's total number of suspended days is more than 5 but less than 16 school days (this includes suspensions that exceed 15 school days by less than a whole day, e.g., one that totals 15.5 days) within a term, if parents/carers make representations, the governing board will consider suspensions within 50 school days of receiving the notice of suspension. In the absence of any representations from parents/carers, the governing board will consider the reinstatement on their own.

Where a suspension will take a child's total number of school days out of school above five but less than 15 for the term, and parents/carers have not requested a governing board meeting, the

governing board will not be required to consider the child's reinstatement but it will have the power to do so if it deems it appropriate.

Where a suspension will not bring a child's total number of days of suspension or permanent exclusion to more than five days in a term, the governing board will consider all representations made by parents/carers; however, the board cannot direct the reinstatement of the child and it is not required to arrange a meeting with parents/carers.

Where suspension or exclusion would result in a child missing a public examination, the governing board will consider the suspension or exclusion before the test to decide whether the child should be reinstated in time to take the examination.

[Maintained schools only] If it is not practicable for a sufficient number of governors to consider the decision before the examination, the chair of governors, or the vice chair of governors if necessary, will consider the suspension or exclusion alone and decide whether or not to reinstate the child.

In light of the above, the governing board will also consider whether it would be appropriate to allow the suspended or excluded child to enter the premises to take the examination.

When considering the reinstatement of a child, the governing board will:

- Only discuss the suspension or 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 childs and parents/carers 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 suspended or excluded child 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 child, including the grounds for suspension or exclusion.

Reaching a decision

After considering suspensions and exclusions, the governing board will either:

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

If reinstatement would make no practical difference, e.g., if the child has already returned to school following a suspension or the parents/carers make clear they do not want their child reinstated, the governing board will still consider whether the child should be officially reinstated, and whether the Headteacher's decision to suspend or exclude the child 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 a suspension or 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 suspension or exclusion of the child 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.
- Record the outcome of the decision on the child's educational records, along with copies, which will be kept for at least six months.
- Inform the LA of the outcome.
- Make a note of their findings, where they have considered a suspension or exclusion but cannot reinstate the child.

Notification of considered suspensions and exclusions
The governing board will notify the parents/carers of the suspended or excluded child, the Headteacher and the LA of their decision following the consideration of a suspension or exclusion, in writing and without delay.

In the case of an exclusion, where the governing board decides not to reinstate the child, they will notify the parents/carers:

- That the exclusion 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 child's SEND is considered relevant to the exclusion.
- That, regardless of whether a child has been identified as having SEND, the parents/carers 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/carers 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.
- That a request to hold the meeting via remote access can be made and how to do this.

The governing board will also notify parents/carers that, if they believe a suspension or 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/carers, and all other parties involved, of the decision that was made and the reasoning for this, in sufficient detail.

Removing excluded childs from the school register
The Headteacher will remove childs from the school register if:

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

If a child'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 child normally resides.
- The grounds upon which the child'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 child's name was removed.

If a child's name has been removed from the register and a discrimination claim is made, the child may be reinstated following a decision made by the First-tier Tribunal (SEND) or County Court.

Whilst a child's name remains on the admissions register, the appropriate code will be used to mark the child's attendance:

- Code B: Education off-site (not dual reg)
- Code D: Dual registration (attend elsewhere)
- Code E: Excluded, no alternative provision

Independent review panel

The LA will review the governing board's decision not to reinstate an excluded child if the parents/carers 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/carers 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/carers 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. Parents/carers can request that independent review panels take place via remote access.

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 child referral units in England'.

Appointing a SEND expert

If requested by parents/carers in their application for an independent review panel, the LA will appoint a SEND expert to attend the panel and covers the associated costs of this appointment. Parents/carers 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/carers or child, 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 child, or siblings of the excluded child. 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/carers have confidence in the impartiality and capability of the SEND expert. Where possible, this will include offering parents/carers 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 child'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 child, 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 child's exclusion.

Where the school does not recognise that a child 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 child may potentially have, and any contribution that this could have made to the circumstances of the child'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 child.

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 child wishes to attend the panel hearing, taking reasonable steps to enable the child 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 childs at the school. Childs under 18 will not be allowed to appear in person without parental consent.
- Inform the parents/carers, Headteacher, governing board and the LA, 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 an excluded child. In reviewing the decision, the panel will consider the interests and circumstances of the excluded child, including the circumstances in which the child was excluded, and have regard to the interests of other childs 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 child, parents/carers, 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 child, 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 an instruction to reconsider, the governing board does not offer to reinstate the child, then a £4,000 adjustment will be made to the school's budget.

Where the independent review panel recommends that the governing board should reconsider their decision not to reinstate a child, 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 child, it will not be subject to a financial adjustment. If, following reconsideration, the governing board offers to reinstate the child but the parents/carers decline, no adjustment will be made to the school's budget.

Following reconsideration, the governing board will notify the parents/carers, 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 suspend or exclude a child 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 suspend or exclude a child 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 suspensions and 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 suspension and exclusion.

Conducting governing board meetings or independent review panels via remote access

Parents/carers, or excluded childs if they are 18 or older, will be able to request that governing board meetings or independent review panels are held via remote access; however, parents/carers and childs will be made aware that this is not the default option.

Where a parent or child makes a request correctly in line with instructions set out in the headteacher's or governing board's written notification, the governing board or LA will hold the meeting via the use of remote access. Remote meetings and panels will be held in accordance with timelines for face-to-face meetings. Where a request for a meeting to be held via remote access is not made, or the parent or child does not state a preference, the meeting or panel will be held in person unless it is not practicable to do so.

If there is a reason related to extraordinary events or unforeseen circumstances, e.g., an outbreak of an infectious illness, which means it is not reasonable for a meeting or panel to be held in person, it may be held via remote access.

Meetings will only be held via remote access if the governing board or LA is satisfied that that the meeting can be held fairly and transparently. If this cannot be done, the governing board or LA will consult with the parent to discuss how a face-to-face meeting can be arranged that will be convenient for them.

If there are technological or internet issues during a remote meeting which compromises the ability for participants to be seen or heard or prevents the meeting from being held fairly and transparently and it is not reasonably practicable to resolve, a face-to-face meeting will be arranged without delay.

When holding meetings or panels via remote access, the governing board or LA will:

- Comply with relevant equalities legislation.
- Enable access to support which the parent is entitled to, including the presence of a friend.
- Confirm with all participants that they have access to the technology that will allow them to participate in the meeting or panel.
- Ensure all the participants will be able to put across their point of view and/or fulfil their function.

- Ensure the remote meeting or panel can be held fairly and transparently.

Where a suspension or exclusion began before 1 September 2023 and a governing board meeting has not yet been held, the headteacher will notify the parent, either on 1 September or as soon as possible afterwards, that they can ask the governing board to hold the meeting via the use of remote access. This also applies if an exclusion began before 1 September and the parent is entitled to make representations but has not yet done so. The headteacher's notification will explain how requests must be made and to whom and that requests must be made within three school days of the notification.

Where an exclusion began before 1 September 2023 and an independent review panel has not yet been held, the governing board must notify the parent, either on 1 September or as soon as possible that they can ask the independent review panel to hold the meeting via the use of remote access. This also applies if an exclusion began before 1 September and the parent is entitled to apply for an independent review panel but has not yet done so. The notification will explain how requests must be made and to whom and that requests must be made within three school days of the notification.

Using data

The headteacher will ensure that all data regarding suspensions and exclusions is collected and provided to the governing board on a termly basis. The governing board will review this data regularly in order to:

- Consider the level of child moves and the characteristics of childs who are moving on any permanent exclusions to ensure that this is only being used as a last resort.
- Gather information on childs who are taken off the roll and those who are on the roll but attending education off-site.
- Consider the effectiveness and consistency in implementing the Behaviour Policy.
- Understand any variations in the rolling average of exclusions to ensure they are only used when necessary.
- Understand the characteristics of suspended and excluded childs and evaluate equality considerations.
- Gather information on where childs are receiving repeat suspensions.
- Evaluate interventions in place to support childs at risk of suspension and exclusion, including where there are patterns which may indicate that certain policies and support measures are or are not working.
- Analysing whether the placements of childs directed off-site into alternative provision are reviewed at sufficient intervals to assure that the education is achieving its objectives.

All members of staff will be required to familiarise themselves with this policy as part of their induction programme.

Lisa McSherry
Reviewed spring 2025
To be reviewed spring 2026

Appendix 1

Portway Infant School
Woodlands Road, Allestree, Derby, DE22 2HE
Telephone: 01332 550702
email: admin@portwayi.derby.sch.uk
Headteacher: Lisa McSherry, B.Ed.Hons

Date

Dear **Mr and Mrs XXXX**

I am writing to inform you of my decision to suspend *child's first and last name* for a fixed period of…….. **This means that he will not be allowed in school on *date(s) of exclusion*** but may return on ***date of return.***

I realise that this suspension may well be upsetting for you and your family, but the decision to suspend *child's first name* has not been taken lightly. *Child's first name* has been suspended for this fixed period because of persistent disruptive behaviour.

You have a duty to ensure that your child is not present in a public place in school hours during this suspension on ***date(s) of exclusion*** unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the local authority if your child is present in a public place during school hours on the specified date. If so, it will be for you to show reasonable justification.

Work to be completed has been set by *teacher's name* and emailed/available on the school website for *child's first name* to complete during the time specified in the previous paragraph as school days during the period of his suspension when you must ensure that they are not present in a public place without reasonable justification. Please ensure that work set by the school is completed and returned to us promptly for marking if appropriate.

You have the right to make representations about this decision to the governing body. If you wish to make representations please contact the chair of governors, ***name of chair,*** at **Portway Infant School, Woodlands Road, Allestree, Derby DE22 2HE** **chair@portwayi.derby.sch.uk** , as soon as possible. Whilst the governing body has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's school record.

You should also be aware that if you think the suspension relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal under the Equality Act 2010, and/or make a claim to the First-tier Tribunal. Guidance on making such a claim may be found here http://www.justice.gov.uk/tribunals/send/appeals

Claims regarding other forms of discrimination should be addressed to the County Court at Derby Combined Court Centre, Morledge, Derby DE1 2XE.

You and *child's first name* are requested to attend a reintegration interview with a member of the Senior Leadership Team at **Portway Infant School** on **Friday 24th January 2025** at **8.55am**. If that is not convenient, please contact the school to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed. Failure to attend a reintegration interview will be a factor taken into account by a

magistrates' court if, on future application, they consider whether to impose a parenting order on you.

You also have the right to see a copy of *child's first name* school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of *child's first name* school record. I will be happy to supply you with a copy if you request it but there may be a charge for photocopying.

You may also wish to contact the exclusions team at Derby City Council, Children and Young People's Services who can provide advice on what options are available to you. You can contact them at The Council House, Corporation Street, Derby DE1 2FS or IYFA@derby.gov.uk

You can find further sources of advice from:

Derby SENDIASS – for parents and carers of young people with SEND. https://derbysendiass.org.uk/ or 01332 641414

Coram's Child Law Advice service - https://childlawadvice.org.uk/information-pages/school-exclusion/ or contacted on 0300 330 5485 from Monday to Friday, 8am – 6pm

ACE Education - http://ace-ed.org.uk or their advice line on 0300 115 142 on Monday to Wednesday from 10 am to 1 pm during term time.

Independent Provider of Special Education Advice (known as IPSEA – www.ipsea.org.uk) is a registered charity. It offers free and independent information, advice and support to help get the right education for children and young people with all kinds of special educational needs (SEN) and disabilities.

A copy of the current government guidance on exclusion/ suspension from school may be downloaded here https://www.gov.uk/government/publications/school-exclusion

child's first name suspension expires at the end of the day on ***date(s) of exclusion*** and we expect *child's first name* to be back in school on ***date of return*** at **8.55am**.

Yours sincerely

Mrs Lisa McSherry
Headteacher

Appendix 2

Reviewing the Headteacher's Suspension or Exclusion Decision

