

# **Mapping the Exclusion Process: Inequality, Justice and the Business of Education**

**Research report for Communities Empowerment  
Network**

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**March 2015**



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## Acknowledgements

The Esmée Fairbairn Foundation funded the research reported here and particular thanks goes to grants officer Derek Bardowell for his support and encouragement. The research benefited from the insight and time offered by key CEN advocacy staff, including Paulette Douglas, Marc Lorenzi, Alistair Martey and Ravinder Dhani. Many thanks also go to Brenda Parkes and Gus John for their helpful feedback.

Most centrally, thanks are due to the parents, local authority staff and Head teachers who generously shared their time and their stories by taking part in the research.



# Executive Summary

## Introduction

This small scale, qualitative study examines how the rapid restructuring of the English education system and recent changes to the exclusion appeals process is shaping the respective practices of parents, schools and local authorities. This research was funded by the Esmée Fairbairn Foundation and carried out for Communities Empowerment Network (CEN), a grassroots charity organisation providing advice, support and representation for the parents of children who have either been excluded from school or are at risk of permanent exclusion. It is concerned with changes to the appeals system through the move from the Independent Appeal Panel (IAP) to the Independent Review Panel (IRP)<sup>1</sup> format that does not have the power to direct student reinstatement, as well as the changing relationships between many local authorities and schools in the wake of widespread academisation. Boys, special educational needs (SEN) students<sup>2</sup>, black Caribbean students, and free school meal (FSM) students have been consistently disproportionately excluded<sup>3</sup>. As these patterns of inequality continue, the report addresses how disproportionalities might be reproduced through the exclusion process.

The project aimed to:

- Explore how parents deal with the permanent exclusion of their child and what resources exist to support and guide them through the process.
- Examine parents' experiences of interacting with schools and, in some cases, local authorities.
- Learn more about how schools and local authorities have had to adapt or alter their roles and practices in the wake of educational restructuring.
- Understand how disproportional exclusions interact with and are potentially compounded by changes to the regulatory landscape of the English education system.

## Methods

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<sup>1</sup> These changes were set out in the 2012 statutory guidance on exclusions and effective from September 2012.

<sup>2</sup> In this report, we use the term 'student(s)' rather than pupils, except where 'pupil(s)' is used in quoted texts, or in interview transcripts

<sup>3</sup> DfE (2014) *Permanent and fixed period exclusions in England: 2013-2013*, SFR 28/2014  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/338094/SFR28\\_2014\\_text.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338094/SFR28_2014_text.pdf)

The research was a small-scale, qualitative study conducted over 9 months from March 2014 and consisted of 26 semi-structured, face-to-face interviews with parents, local authority workers, Head teachers, one assistant head teacher and a clerk. Two excluded children also participated in interviews with their parents. The research design included shadowing advocates from CEN at the governors' disciplinary committee<sup>4</sup> (GDC) and IRPs. Although these observations are not explicitly drawn upon in the report, they shaped understandings of the appeals process in action.

## **Key Findings**

### **Regulatory Changes and Accountability in the Exclusion Process**

- The IRP format was unpopular with the majority of parents, exclusion officers and a minority of head teachers. These changes were described as politically motivated, unnecessary and confusing for parents, while many felt the IRP's inability to reinstate students could not provide justice for parents and made exclusions easier.
- The majority of exclusion officers, parents and some heads questioned the ability of the governing body to robustly critique a head teacher's decision to permanently exclude. Rubber-stamping of decisions and poor training were key areas of concern. Despite the fact the new review process places a much greater responsibility on governors, there is little additional guidance as to how they should carry out this role.
- Reduced accountability within the exclusion process was tied to school autonomy that often weakened partnerships between schools and local councils, limiting collaboration and the prevention of permanent exclusion. Exclusion officers relied on good relationships to influence schools, as they had limited power to encourage or censure schools.

### **Institutional practices: Going against the guidance**

- The vast majority of parents described how schools employed poor practices during the exclusion process; these practices often directly contravened the statutory guidance on exclusions and managed moves and constituted illegal exclusions. Parents who had migrated to the UK or who were perceived as not understanding the English education system were particularly vulnerable to these practices.
- There are numerous grey areas where it was questionable whether or not a head teacher's decision to permanently exclude was being used as a last resort as required by the statutory guidance. This connects to the large amount of discretion given to head teachers and the subsequently widely differing thresholds of permanent exclusion used across different schools.

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<sup>4</sup> Also referred to as the governors' disciplinary meeting or panel, however for reasons of consistency this will be referred to as the GDC throughout the report.

- The pressures and demands of a results-driven education system create less inclusive classrooms and potentially exacerbate exclusions. A lack of flexibility regarding curriculum delivery results in a one-size-fits-all approach to pedagogy; many students cannot learn or succeed within these narrow parameters.

### **‘Vulnerable’ Groups and Inequality**

- The statutory guidance asking head teachers to consider overrepresented groups prior to exclusion is ineffective in practice. There is little that constitutes guidance to heads or panels about how to consider these complex issues in any meaningful way. By the time the decision to permanently exclude is taken, it is invariably too late to consider how factors such as SEN, ethnicity, class or gender fed into the exclusion process. Depending on the particular evidence collated for hearings, there can be some assessment made. However, these judgments are often limited by a lack of information about the history or context of a particular exclusion.
- Mainstream educational institutions frequently lacked the staff expertise, financial resources and time to accommodate SEN students. Parents described a lack of staff training, with students often not readily assessed or told why the support they were offered was quickly retracted. Parents and a minority of exclusion officers felt that this made SEN students more vulnerable to exclusion.
- The majority of parents felt that race, class, gender or SEN played a role in their child’s exclusion. This was connected to the judgement institutions made of both parents and their children. Problems at school were quickly attributed to problems at home caused by poor parenting. Young people and young children were often regarded as competent adults, with punitive zero-tolerance approaches taken, rather than rehabilitative ones. Meanwhile, young black students were frequently associated with criminality, violence or hyper-sexuality.
- A slight majority of heads and exclusion officers felt raced or classed discrimination or middle-class privilege were at least partly to blame for disproportionate exclusion numbers. This was most commonly talked about in terms of middle-class parents having an advantage in the education marketplace due to their accent, assumed knowledge of the education system and the ability to seek redress. A minority of heads and exclusion officers did not consider disproportionate exclusions as an equalities issue, taking an individualised view of cases and disconnecting national trends from school or local authority data.

### **The experience of the IRP**

- The IRP meeting presents an uneven playing field, one that is weighted in the school's favour due to the differing levels and types of cultural and social capital parents and heads possess. While this meeting represents a gruelling, yet familiar day at the office for heads, it is a stressful, high stakes situation for parents where they enter unknown territory. The need to understand the education system, the exclusions guidance, and possess persuasive linguistic skills and confidence under pressure makes it difficult for parents to be equal participants.
- Several participants were concerned about panel bias at the IRP. Panels may include heads from within the same borough and this was regarded as a potential conflict of interest by parents, as heads judge colleagues they often know. The guidance also does not prohibit a Head teacher from an Academy Trust from sitting on a panel that is considering an appeal against the exclusion decision of a head from within the same Academy Trust.
- There were concerns over the rigour of the IRP's decision making processes, as panels often did not ask for documentation or evidence to corroborate the claims of a school and key points in a case. This often resulted in a scenario where it ended up being the head's word against the parent's.

### **The aftermath of exclusion: justice, redress and support**

- Reinstated students did not receive adequate redress and were essentially punished for the poor decisions of schools. There is no mechanism to ensure that schools follow good practice or adhere to timescales. There is also no oversight or guidance given regarding the reinstatement process, in order to make sure that pupils are fully reinstated or compensated for the education they have missed.
- Permanent exclusion has negative effects both upon young people and their families. The majority of parents described feelings of bitterness and frustration, while many students experienced isolation and depression. Academically, many students lost several GCSEs<sup>5</sup> because the Pupil Referral Unit (PRU) did not offer the same courses. Exclusion positions students not only as outside of mainstream education, but as outside of their peer group and society as both their confidence in themselves and in formal education is undermined.
- Every parent and exclusion officer, as well as the majority of head teachers, felt that there was not enough support available for parents going through the exclusion process. Most parents described how they would not have attended the IRP without a representative, while the majority of heads and exclusion officers felt that parents should not attend these meetings on their own. The majority of parents also did not find the local authority particularly helpful in the process.

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<sup>5</sup> General Certificate of Education



## Conclusions and Recommendations

The issues raised by the report have led us to make the following recommendations:

1. The IRP format should be replaced by the IAP format that was in place prior to the Education Act 2011, as the IRP's lack of power to direct reinstatement does not provide adequate justice to parents and their children. The IRP gives far too much discretionary power to schools and does not safeguard children against poor decisions. This echoes the recommendation by both the Children's Commissioner and the Joint Committee on Human Rights, as this exclusion system violates Article 6 of the European Convention on Human Rights that gives citizens the right to a fair trial.
2. Governing bodies must receive appropriate training in order to act as robust critics of head teachers' decisions and to curtail the widespread rubber-stamping of permanent exclusion decisions at the GDC. Because governing bodies have a close affinity to the Head teacher and are seldom impartial and seen to be acting in the interests of all students and staff in the school, they are not appropriately placed to reconsider the reinstatement of students under the current IRP format. The decision to reinstate must be considered by a wholly independent body.
3. Schools and local authorities need to work collaboratively to prevent permanent exclusions and promote accountability. No school should be an isolated island removed from intervention and advice, however this situation has increased with the advent of academies, with school autonomy being regarded more generally as beneficial. Academies should not be exempt from inviting local authority representatives to their GDCs and IRPs and exclusion officers should be able to participate in these discussions. Local authorities need to take a proactive role in building relationships with schools and have more binding powers available to discourage schools, including academies and free schools, from excluding.
4. Schools should be legally obliged to inform all parents as to their rights in regards to exclusion at the point at which their child enrolls in primary and secondary school.
5. The results-driven focus of the English education system needs to be altered in order to consider the manifold needs of all children in addition to academic achievement. The one-size-fits-all approach promoted by this system creates inflexible classrooms where exclusion is an inevitable feature of the landscape. This narrow focus and continual pressure is not in the best interests of young people and violates Article 3 of the UN Convention on the Rights of the Child which states that the best interests of children must be the primary consideration in all actions.

6. Schools need to actively address and confront the discrimination based on race, class, gender and SEN that persists in educational institutions. This cannot be effectively addressed solely through statutory guidance at the point of exclusion, but must be dealt with much earlier on a whole-school level. These are sensitive issues, but they must be broached and more training must be provided to teachers in order to comply with the Equality Act 2010 which should work not only to eliminate discrimination, but advance equality through school policies and functions.
7. Parents should be provided with an advocate or representative when attending the GDC and IRP in order to help level out the inequitable power dynamics of these meetings. Local authorities and schools should be proactive in signposting parents to available resources.
8. IRP or IAP panels should not include head teachers from the same local authority or the same Academy Trust. This would prevent a conflict of interest and negate any potential incentives for panel members to be lenient towards the school.
9. The statutory guidance needs to include more detailed information on what obligations schools have to students upon reinstatement. While the guidance states that the local authority must oversee the repayment of the adjustment fee should a student not be reinstated, there is no corresponding guidance regarding the reinstatement process. Reinstated students should receive appropriate compensation for the learning time they missed and be welcomed as a full member of the school community. These omissions should be rectified during the upcoming consultation considering the revised exclusions guidance.
10. Sanctions should be levied on schools for violating the guidance deadlines for the scheduling of GDCs and IRPs, as untimely delays prolong the exclusion process and incur further damage to a student's education and wellbeing. Adherence to these deadlines should be monitored.
11. The education of students should not be interrupted and permanently damaged by exclusion. Students should be able to continue to study the same subjects at the PRU as at their mainstream school. The discontinuity and disruption suffered by excluded students violates Article 2 of the UNCRC which states that all rights apply to all children regardless of what they have done, as well as Article 28 that states all children have a right to an education. Exclusion unquestionably curtails these rights.

# 1. Introduction

## 1.1 Aims and focus of the research

This research focuses on the overall process of permanent exclusion, centring primarily on the experiences of parents within London, but also those of school senior management staff and local authority exclusions officers. This research was funded by the Esmée Fairbairn Foundation and carried out by Communities Empowerment Network (CEN), a grassroots charity organisation providing advice, support and representation for the parents of children who have either been excluded from school or are at risk of permanent exclusion. CEN was founded in 1999 by a group of black education professionals and campaigners who were concerned with the level of exclusions affecting African-heritage and dual heritage pupils. It continues to support these groups, as well as parents and children from a diverse range of backgrounds across London.

This small scale, qualitative study examines how the rapid restructuring of the English education system and recent changes to the exclusion appeals process are shaping and affecting the respective practices of parents, schools and local authorities. Certain groups of students have been disproportionately excluded ever since local authorities and the government started collecting data on exclusions. This continues to be a great source of concern. The report addresses how this disproportionality is reproduced through the exclusion process. It seeks to understand how this disproportionality interacts with and is potentially compounded by changes to the regulatory landscape in the English schooling and education system. It is particularly concerned with changes to the appeals system that were introduced in the Education Act 2011, notably the move from the Independent Appeal Panel (IAP) to the Independent Review Panel (IRP)<sup>6</sup>. The IRP no longer has the power to direct schools to reinstate students as the IAP did.<sup>7</sup> This problem is compounded by the changing relationships between many local authorities and schools in the wake of the rapid expansion of the academies programme.

The research focuses on parents' experience leading up to the review or, in a small number of cases, the appeal of the decision to permanently exclude their child. The way parents experience the school's treatment of them and their child prior to the review or decision to appeal is key, as it feeds into their experience of the panel meeting. For them, therefore, the panel is not a separate and independent forum where they expect their interests to be protected, but part of a much longer history of interactions between parents and schools. The research also examines the actual experience of the panel itself, as well as the resulting

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<sup>6</sup> These changes were set out in the 2012 statutory guidance on exclusions and effective from September 2012.

<sup>7</sup> While a recent report on the IRPs and FTTs highlighted the need for more governor training and support for parents, it focuses solely on the IRP and does not take into account the process leading up to the event, nor the affective and emotive experiences students and parents have of the IRP. Crucially, it omits the power dynamics inherent within this process, taking a colour-blind and class-blind stance towards these interactions. See DfE (2014) *Independent Review Panel and First-tier Tribunal Exclusion Appeals systems*, Sheffield Hallam University Centre for Education and Inclusion Research, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/285458/DFE-RR313.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285458/DFE-RR313.pdf) Accessed February 2015.

outcomes in reference to issues of human rights and access to justice through this system.

The project aims were to:

- Explore how parents deal with the permanent exclusion of their child and what resources exist to support and guide them through the process.
- Examine parents' experiences of interacting with schools and, in some cases, local authorities, examining how they felt throughout these encounters and how issues of fairness and power figured into these processes.
- Learn more about how schools and local authorities have had to adapt or alter their roles and practices in the wake of educational restructuring and how parents, schools and local authority exclusion officers feel about changes to the appeals system.
- Develop a greater understanding of how the exclusion process is working in light of recent regulatory changes.

The research report begins with a brief survey of policy movements and research relevant to the discussion of permanent exclusion, addressing issues of equality, changing regulatory frameworks, as well as children's rights and access to justice. Chapter two will outline the methods used to generate the data, the sample of participants and how the data was analysed. The following four chapters focus on the empirical data and the findings generated from it. Chapter three examines regulatory changes and accountability in the exclusion process, considering perspectives on the shift to IRPs and implications for the role of governing bodies and the interactions between schools and local authorities. Chapter four examines many parents' descriptions of how institutions exhibit poor practice and violate the exclusions guidance. Chapter five will explore how the disproportionate exclusion of certain groups is shaped through everyday practices, judgments and assumptions, examining how SEN, race, gender, class, middle-class privilege and discrimination interweave to reproduce complex inequalities. Chapter six builds on chapter five by looking at how these inequalities help to determine the way parents experience the IRP, exploring power differentials within this format, issues around potential panel bias and decision making processes, student outcomes and whether those outcomes result from a process that is seen as fair and just, as well as the need for parental support. Finally, chapter seven draws together these findings to make key conclusions that have emerged from the study and offer recommendations for the development of future policy and good practice.

## **1.2 Permanent Exclusion Process and Trends**

Head teachers can exclude a pupil permanently or on a fixed-term basis for up to 45 days per school year on disciplinary grounds. The Statutory Guidance issued by the Department for Education in 2012 states that decisions to exclude must be 'lawful, reasonable and fair', and that schools have a statutory duty not to discriminate against pupils and to 'give particular consideration to the fair

treatment of pupils from groups who are vulnerable to exclusion<sup>8</sup>. Schools must provide and mark work for students during their first five days of exclusion, and alternative provision must be arranged after day six by the local authority. Head teachers excluding a student on either a fixed-term or permanent basis must put this in writing, detail the grounds for exclusion and inform parents that they have the right to make representations to the governing body. Governing bodies must consider whether or not to reinstate a pupil within 15 days of the exclusion notice. This takes place at what is often termed the Governors' Disciplinary Committee (GDC). Parents, the Head teacher and the local authority representative (if the school is a maintained school) must be invited and allowed to make representations. Exclusion decisions are judged according to civil standards of proof, or 'on the balance of probabilities'. Governing bodies can decide to either uphold the exclusion or reinstate the student. If the governing body upholds the decision, parents can have this judgement scrutinised by an IRP. The IRP is arranged by either the local authority or the Academy Trust and should take place within 15 days from the receipt of the parent's request for a review. Parents can also take their case to the First-Tier Tribunal (FTT) if there are allegations of discrimination due to disability.

The numbers of permanent exclusions at the secondary and primary level have been generally declining both nationally and within London. However, there was a spike in primary exclusions in 2012-13. Nationally the proportion of primary school children excluded has risen. The steady exclusion of children at the primary level runs contrary to the recommendations of the Children's Commissioner<sup>9</sup> that there should be a presumption against the exclusion of primary school students, while no students in reception and key stage one should be excluded.

A recent report<sup>10</sup> carried out by the University of Sussex about reducing school exclusions says these reductions are due to a focus on this issue at a local and national level that has led to the use of alternatives to exclusion. This is a welcome development. However, it should also be noted that during the course of this research it was suggested by local authority exclusion officers that boroughs with a no exclusions policy concealed exclusions through managed moves or the use of fair access panels whereby parents accept a managed move. While parents accepting this managed move avoid their child having a permanent exclusion on their record, if the managed move fails, their child is likely to be placed at a pupil referral unit (PRU). Because this is not a permanent exclusion, parents also lose their right to make representations. Head teachers and exclusion officers also commented on the head's power to direct students to off-site provision without parental consent. These practices require further scrutiny, for while they may work in many children's favour, they may also be open to misuse and in some cases could amount to illegal exclusions.

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<sup>8</sup> DfE (2012) *Exclusion from maintained schools, Academies and pupil referral units in England - A guide for those with legal responsibilities in relation to exclusion*  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/269681/Exclusion\\_from\\_maintained\\_schools\\_academies\\_and\\_pupil\\_referral\\_units.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269681/Exclusion_from_maintained_schools_academies_and_pupil_referral_units.pdf), Accessed February 2015

<sup>9</sup> Office of the Children's Commissioner (2012) *"They never give up on you": Office of the Children's Commissioner School Exclusions Inquiry*, (London, Office of the Children's Commissioner).

<sup>10</sup> Gazeley, Louise; Marrable, Tish; Brown, Chris and Boddy, Janet (2013) *Reducing inequalities in school exclusion: learning from good practice*. Project Report. Children's Commissioner.

The Department for Education's 2012 guidance stipulates exclusions must be made in accordance with the European Convention on Human rights and the Equality Act 2010. However, the Office of the Children's Commissioner School Exclusions Inquiry (2012) concluded that the English system of school exclusion does not comply with the United Nations Convention on the Rights of the Child (UNCRC) for several reasons. Firstly, the statutory guidance on exclusion does not stipulate that the best interests of the child must be a primary consideration when making the decision to exclude, which contravenes Article 3. While Article 12 states that children's views must be taken into account when key decisions are being made about their lives, there is no mechanism within the exclusion process allowing for the inclusion of children's views and they cannot appeal in their own right against their exclusion.

### 1.3 Continuing Inequalities

Despite the recent reductions in permanent exclusion, special educational needs (SEN) students, those in receipt of free school meals (FSM), boys and black Caribbean students are still being excluded disproportionately. In 2012-13, Students with SEN without statements were ten times more likely to be permanently excluded, while SEN students with a statement were six times more likely. Students on free school meals were four times more likely to be excluded, boys were three times more likely to be excluded and black Caribbean or white and black Caribbean students were three times more likely to be permanently excluded than the school population as a whole<sup>11</sup>. While exclusions overall have gone down, the disparities between student groupings remain and with many students falling into one or more of these categories, these disadvantages are compounded and overlaid in complex ways.

Drawing on 2009-10 data, the Children's Commissioner's report<sup>12</sup> demonstrates how these complexities work by creating two hypothetical English students. Jack and Jill go to the same school, are the same age and have the same rights. Jack is of Black Caribbean background, receives free schools meals and has SEN, while Jill is from a white British background, lives in a prosperous household and does not have SEN. These two children's life chances are extremely different, with Jack being 168 times more likely than Jill to be permanently excluded from school by the age of 16. The National Union of Teachers has also suggested that the recent reduction as seen in the 2012-13 data was predominantly prior to the large cuts to local authority budgets which have taken resources away from SEN and black and minority ethnic (BME) pupils<sup>13</sup>. Poverty levels are on the rise; currently 37% of children in London are living in poverty.<sup>14</sup> Under current austerity policies, child poverty across England is also expected to rise from 3.5 million

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<sup>11</sup> DfE (2014) *Permanent and fixed period exclusions in England: 2013-2013*, SFR 28/2014 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/338094/SFR28\\_2014\\_text.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338094/SFR28_2014_text.pdf)

<sup>12</sup> Office of the Children's Commissioner (2012); page 22.

<sup>13</sup> See <http://www.bbc.co.uk/news/education-18982210>

<sup>14</sup> Joseph Rowntree Foundation, *Child Poverty Rate by Region*, <http://data.jrf.org.uk/data/child-poverty-rate-by-region/>, Accessed February 2015.

children or one in four living in poverty, to 4.7 million children living in poverty by 2020<sup>15</sup>.

The Children's Commissioner's report also pointed out that these differing rates of exclusion have been known about for years, yet still no specific steps have been taken to address inequitable rates either through policy or practice. The Equality Act came into effect in October 2010 and schools' implementation of this Act must include addressing differential exclusion numbers. However, the evidence collected by the Children's Commissioner did not give them confidence that schools will carry out this work without direction from the Government. It recommends that the Department for Education (DfE) must work with government Equalities Office and Equality and Human Rights Commission to create guidance on best practice for schools and that compliance with these statutory duties should be part of Ofsted's<sup>16</sup> inspection criteria. However, Ofsted responded to this recommendation by saying that while equality is 'at the heart of inspection', instead of assessing schools' compliance with equalities duties, Ofsted 'focuses on how these duties are put into action in the school, and most importantly the impact of these actions on promoting positive outcomes for all groups of learners'.<sup>17</sup> There is a statutory requirement in the guidance stating that schools must not discriminate when excluding pupils and that they 'should give particular consideration to the fair treatment of pupils from groups who are vulnerable to exclusion'. However, there is no mechanism to ensure schools follow these requirements and it remains difficult to see how this guidance is being actualised through everyday institutional practices.

#### 1.4 Policy Developments

Recent developments have shown that the DfE would like to give Head teachers even more discretion when permanently excluding students. New exclusions guidance was released without consultation in late December 2014 and came into effect on January 5, 2015. It weakened the criteria for permanent exclusion by altering the key component of this central paragraph of the 2012 guidance:

*The Government supports head teachers in using exclusion as a sanction where it is warranted. However, permanent exclusion should only be used as a last resort, in response to a serious breach, or persistent breaches, of the school's behaviour policy; and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school. (DfE 2012)*

Firstly, the new guidance removed the stipulation that head teachers should only use permanent exclusion as a 'last resort'. Instead of children being permanently excluded if allowing them to remain in school would 'seriously harm' the education or welfare of other pupils or staff, the new guidance lowered this

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<sup>15</sup> Child Poverty Action Group, *Child Poverty Facts and Figures*, <http://www.cpag.org.uk/child-poverty-facts-and-figures>, Accessed February 2015.

<sup>16</sup> The Office for Standards in Education, Children's Services and Skills

<sup>17</sup> Ofsted (2012) *Ofsted Response – The Children's Commissioner for England*, [http://www.childrenscommissioner.gov.uk/force\\_download.php?fp=%2Fclient\\_assets%2Fcp%2Fadditional\\_promo%2F39%2FOfsted\\_response.pdf](http://www.childrenscommissioner.gov.uk/force_download.php?fp=%2Fclient_assets%2Fcp%2Fadditional_promo%2F39%2FOfsted_response.pdf). Accessed February 2015.

threshold by changing 'seriously harm' to 'detrimental'. Finally, the word 'and' in the final sentence was changed to 'or', meaning that head teachers could exclude without the student violating the school's behaviour policy:

*It is for the Head teacher to decide whether a child's behaviour warrants permanent exclusion, though this is a serious decision and should be reserved for a serious breach, or persistent breaches, of the school's behaviour policy; or where a pupil's behaviour means allowing the pupil to remain in school would be **detrimental** to the education or welfare of the pupil or others in the school.*

Just for Kids Law and CEN challenged these sudden changes by sending letters threatening judicial review against education minister Nicky Morgan, leading to the retraction of this guidance on February 2 by the schools reform minister Nick Gibb. The DfE announced that the guidance was being withdrawn so that it could be reconsidered and the department could make absolutely sure that all relevant matters are taken into account. To date, however, the DfE does not appear to have started a consultation on the new guidance, nor does it make a commitment on its website to engaging in consultation as a means of ensuring 'that all relevant matters are taken into account'

This crucial change of emphasis in the withdrawn guidance signals the continued movement towards making it easier for Head teachers to exclude unwanted pupils from their schools, and is part of a much wider shift towards a zero-tolerance disciplinary regime in English schools. It is important to note that permanent exclusion from school is not used as a sanction in most European education systems, but has been normalised as a legitimate disciplinary mechanism in the UK, the United States and Australia. Professor Carl Parsons highlights how permanent exclusion takes a punitive approach that is about placing blame and seeking retribution rather than rehabilitation and the meeting of unmet needs. He questions if this blame should rest with children who are the most vulnerable party in the equation, often with little control over the resources they can command, the forces influencing their lives, and not actively choosing their neighbourhoods, families or even schools. Parsons also points out how this punitive approach connects to the incarceration of young people, with an imprisonment rate substantially higher than most of its European neighbours<sup>18</sup>.

### **1.5 From the Independent Appeal Panel to the Independent Review Panel**

The Education Act 2011 removed parents' right of appeal to an independent panel against the permanent exclusion of their child, replacing the IAP with the IRP. While the IAP had the power to direct a school to reinstate a student if they deemed they had been permanently excluded unfairly, the new IRP does not have this power. The IRP has three potential outcomes: the panel may uphold the decision of the governing body, it can recommend that the governing body

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<sup>18</sup> Parsons, C. (2009) *Promoting strategic alternatives to exclusions from school*, (Trentham, London).



reconsiders the exclusion, or it can quash the decision and direct the governing body to reconsider. The panel must test the decision along the lines of judicial review, considering issues of illegality, irrationality and procedural impropriety<sup>19</sup>. Therefore, a school does not have to reinstate a pupil, even if a decision has been deemed unfair by the IRP. If a school refuses to reinstate a pupil after a quashed decision, they must make an adjustment payment of £4,000 to the local authority.

The reduced power of the new independent review panel format has raised concerns about human rights and justice, as wronged students are not given the redress of reinstatement and head teachers are given more power to exclude without consequence. Both the Children’s Commissioner and the Joint Committee on Human Rights have asserted that the IRP does not offer sufficient protection against schools acting unlawfully or unreasonably; consequently, this system is in breach of Article 6 of the European Convention on Human Rights that gives citizens the right to a fair trial<sup>20</sup>. The Children’s Commissioner has called for the prompt reinstatement of the IAP format.

This change – to the IRP format- has been in effect since September 2012 and the DfE’s data already shows how this has led to a marked reduction in the number of students being granted reinstatement. Table 1.1 shows the declining number of reinstatements over the past two years; half as many students were reinstated in 2012-13 compared to the preceding year. The percentage of cases resulting in reinstatement has also declined from previous years, with the exception of 2009-10.

**Table 1.1 Students Reinstated after Permanent Exclusion<sup>21</sup>**

(note that all academies, city technology colleges and special schools were omitted from these statistics until 2012-13)

Year	Number of appeals/reviews heard	Number of Reinstatements	Percentage of cases heard resulting in reinstatement
2008-09	590	60	10.2%
2009-10	470	30	6.4%

<sup>19</sup> It is important to note how complex judicial review principles are when considering the ability of parents, headteachers and panel members to effectively participate in the IRP. The 11KBW (Kings Bench Walk) Education Law Practice Group reflects on the first judicial review of an exclusion case since the new guidance was issued and point out how the grounds of illegality, irrationality and procedural impropriety are described in the leading text on judicial review over 1056 pages, while the exclusions guidance covers these grounds in 216 words. This led the judge to conclude that it was ‘difficult to see that it is entirely satisfactory for what is a lay body to be required to apply judicial review principles in the decision they have to make’. Although the complexities of judicial review are condensed to a few paragraphs, this case suggested that all the grounds of judicial review that are in play in the High Court are also in play at the IRP. This sets an enormously challenging task for IRPs, as well as other participants in the proceedings. <http://www.education11kbw.com/2014/07/25/school-exclusions-the-first-judicial-review-under-the-new-regime/> Accessed February 2015.

<sup>20</sup> Legislative Scrutiny: Education Bill; and other Bills - Human Rights Joint Committee (2011) <http://www.publications.parliament.uk/pa/jt201012/jtselect/jtrights/154/15404.htm>, Accessed February 2015.

<sup>21</sup> DfE (2014) *Permanent and fixed-period exclusions from schools in England, 2012-2013*: National Tables, SFR29/2013 <https://www.gov.uk/government/statistics/permanent-and-fixed-period-exclusions-from-schools-in-england-2011-to-2012-academic-year>. Accessed February 2015.

2010-11	450	40	8.9%
2011-12	400	40	10%
2012-13	300	20	6.7%

The DfE's data shows that 20 students were reinstated between 2012 and 2013. Importantly, it shows that academies and free schools are not reinstating many of their excluded pupils, with the majority of reinstatements being made by maintained schools. This is despite the fact that academies and free schools are excluding at a much higher rate in proportion to the total number of schools. In 2012-13 a total of 18,763 maintained schools excluded 2,700 pupils, while only 2,390 academies excluded 1,930 pupils. This means that 41.7% of permanent exclusions are being made by academies, although there are seven times as many maintained schools.

**Table 1.2 Recommended and directed reconsiderations of GB decisions by Independent Review Panels and results 2012-13<sup>22</sup>**

	Maintained Schools	Academies and Free Schools	Total
Number of panels recommending reconsideration by the GB	20	20	40
Number of pupils offered reinstatement by the GB of those 40 recommendations	10	x*	10
Number of panels directing reconsideration by the GB	30	20	50
Number of pupils offered reinstated of those 50 redirections	10	x	10
Total number of questioned decisions	50	40	90
Total number of pupils reinstated	20	x	20

\* (x=less than 5) There were 90 exclusion decisions flawed enough to merit either recommended or directed reconsideration by the governing body, yet of those 90 potentially flawed decisions, only 20 students were offered reinstatement. There were 50 decisions flawed enough that the panel directed the governing body to reconsider – the strongest motion an IRP can take. However, only 10 of those students were reinstated. One could assume that 40 children - or possibly more - that the former IAP may have directed for reinstatement have not been reinstated under the new IRP format.

## 1.6 Academisation and School Autonomy

The academy programme is the most obvious manifestation of a shift towards greater school autonomy. There are now over 4,400 academies open. Academies

<sup>22</sup> <https://www.gov.uk/government/statistics/permanent-and-fixed-period-exclusions-from-schools-in-england-2011-to-2012-academic-year>.

operate outside of local authority control as autonomous small businesses and are often part of a wider chain of schools. Some might be sponsored, while others might have recently converted from maintained status. Maintained schools and academies conduct the GDC and the IRP differently. The Statutory Guidance states that a parent may invite a local authority representative to attend an Academy's GDC meeting. However, they attend in the capacity of an observer and can only make representations with the consent of the governing body. In contrast, local authority representatives must be invited to and make representations at a maintained school's GDC. While there is no guidance offered on the role of the local authority during the IRP, they are responsible for organising the panel for maintained schools and routinely attend. However, the absence of specific guidance regarding their role during the meeting signals their shrinking input. Academies are responsible for arranging their own IRPs, unless they buy back this service from the local authority. While parents can elect to invite a local authority representative to attend, they may not be invited to speak during an Academy's IRP.

It is also important to note how working relationships between local authority exclusion officers and schools might be changing in the wake of increasing school autonomy. Carl Parsons, with financial support from the Esmée Fairbairn Foundation, examines how local authorities and schools effectively reduced exclusions and what policies and practices helped children with challenging behavior remain in mainstream education<sup>23</sup>. He found that strong relationships between local authorities and schools was a key thread in maintaining low exclusions, yet, despite the findings of his research, there has been a continuous encouragement by government and a movement towards school autonomy, as evidenced in the 2015 guidelines that were withdrawn only in the face of threatened legal action.

All of this suggests that serious consideration must be given to the impact of the extensive, ongoing changes in the administration of schools upon children's rights and on parents' capacity to seek redress against illegal and oppressive school practices. Such changes have other social effects, not least schools' estrangement from the local authority and beneficial collaborative relationships, despite the fact that among the residual responsibilities local authorities have is that of making alternative provision for permanently excluded students.

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<sup>23</sup> *ibid.* Parsons (2009)

## **2. Methods**

### **2.1 Design**

The research was a small-scale, qualitative study conducted over 9 months from March 2014 and consisted of 26 semi-structured, face-to-face interviews with parents, local authority workers, Head teachers, one assistant head teacher and a clerk. Two excluded students also participated in the interview along with their parents. The research design also included shadowing advocates from CEN at key meetings. While the ethnographic notes taken during these observations are not directly used in the report, they offered a first-hand understanding of how these meetings are conducted and helped shape the interview schedules. These meetings included a reintegration meeting, two GDCs at a primary and secondary school, and two IRPs at the secondary level. Three of the meetings observed involved the cases of research participants. Publicly available data from the DfE was also examined.

### **2.2 The Sample**

The sample consisted of three key groups of participants: local authority exclusion officers, parents of excluded children who had gone through the appeals process, and Head teachers. The research focused on the greater London area, since CEN's service is being based primarily within London. London also has a greater spatial concentration of exclusions and therefore appeals, thus making the research more cost-effective. The interviews took place in a range of locations, including parent's homes, cafes, Head teachers' offices and local authority meeting rooms. Most of the interviews lasted around one hour, although many of the interviews with parents exceeded this length and some were as long as two hours.

#### **2.2.1 Local Authority Officials**

Six local authority officials who dealt primarily with exclusion, as well as one clerk for an Academy took part in the study. While they had official job titles ranging from exclusion officer, inclusion officer, and behaviour service worker, for the sake of consistency, they will be referred to throughout the report as exclusion officers. They were recruited to represent both inner and outer London boroughs, as well as boroughs where the majority of schools were academies in contrast to those where the majority were maintained. These interviews focused on their role in the exclusion process and explore:

- the exclusion officers' role, the amount of contact they had with schools and if this differed depending on school type
- their level of participation in decisions to exclude, as well as GDCs and IRPs
- their perspective on the shift from IAP to IRP and issues of parental representation or support

### **2.2.2 Parents**

The sample included 14 interviews with 15 parents of excluded children who had gone through the appeals process. In order to find parents who had recently been through the new IRP format, the sample drew on parents who had used CEN as an advocacy and representation service during the exclusion process. This allowed us to access parents who had been through the IRP while also examining the effectiveness and need for CEN as a service. Of the parents interviewed, eleven families had gone through the new IRP process, two had been through the IAP format, while one had been through the GDC and was in the process of taking her case to the First Tier Tribunal. Six of the appeals through the IRP route were upheld, while five were quashed. Of the five quashed exclusions, four students had returned to their former school. One student was not reinstated because his father wanted him to attend another school. The rate of quashing and reinstatement of this small sample is much higher than the national average for 2012-13. According to the DfE's statistics, of the 300 IRPs decisions made in 2012-13, 210 or 71.8% of these were upheld, while 50 were quashed and 40 recommended for reconsideration by the governing body. Overall, only 6.6% of reviewed decisions result in a student returning to their school. This much higher success rate of the sample could be connected to CEN representing most of these parents at the IRP stage, while parents who came to CEN seeking support may also have had stronger cases.

The interviews explored parents' experience of the entire process of exclusion, ranging from the beginning of issues between the school and their child through to the appeal process and aftermath. It examined areas including:

- their relationship and interactions with the school and local authority
- how they located support and information during the process
- their understanding of the exclusion and appeals process
- how their son or daughter had been impacted by the experience
- how they felt attending the GDC, the IRP and other meetings
- feelings about the fairness of the process and panel outcomes

### **2.2.3 Head teachers**

The head teacher sample included two primary Head teachers, two secondary Head teachers and one assistant primary head teacher. Two heads were from academy primary schools that were part of a larger chain, while the three remaining heads were based at maintained schools. The heads were drawn from five different London boroughs. The topics included:

- the pressures facing Head teachers on a daily basis
- their relationship with parents and the local authority and their level of involvement with the school
- actions taken to prevent exclusion and how they felt about exercising this power
- their feelings on the disproportionate exclusion of certain groups and if this was addressed within the school

- how they prepare for and participate in the IRP and their feelings on changes to the new format

### 2.3 Sample Demographics

A table outlining some characteristics of the parent and head teacher sample has been included. Ethnic and class descriptors have been put in the words of participants. Due to the need to protect participant's anonymity, I have not included a detailed breakdown of ethnic descriptors for the exclusion officer sample. This demographic information has not been included in order to imply that a participant's ethnic or socioeconomic or SEN background determines how they essentially are or how they act in the world. Instead, it is included because these qualities do affect judgments and outcomes during the exclusion process, as many research participants described. As we do not live in a world blind to colour, class or disability, and given the equalities issues inherent in school exclusions, working from the premise that everyone is treated equally is not useful<sup>24</sup>. There is a need to identify patterns regarding who is being excluded and to identify the processes through which different bodies come to be regarded differently in the education system. Therefore, this research recognises how these characteristics do have a role to play in terms of how inequality continues to be reproduced through differential treatment.

Data indicating whether or not children were in receipt of free school meals was also included, as this is broadly used as an indicator of poverty. Both FSM data and class descriptors were included to highlight the affective dimensions of class and belonging, and how participants felt they related to or dis-identified from these categories<sup>25</sup>. This shows how claiming a class is not just about the economic resources available to participants, but the other sorts of capital they might hold<sup>26</sup>. While Nazia describes herself as middle class, her son is in receipt of free school meals. Evelyn may not feel comfortable claiming a working-class label, however she also comments that she is not middle class or she would not be living in a council flat. Mark and Jack both describe how they are from working class backgrounds, yet now make professional salaries, however they still do not give themselves the label of middle class. Charles, on the other hand, feels he is middle class in terms of the social and cultural capital he holds, but this is not matched financially. Therefore this study regards class not as a rudimentary way of categorizing people through occupational groupings or

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<sup>24</sup> See Ahmed, S. (2010) *The Promise of Happiness*, Durham and London, Duke University Press; Gillborn, D. and Youdell, D. (2000) *Rationing education: policy, practice, reform, and equity*, Buckingham: Open University Press; Hall, S. (1996) 'Race, Articulation and Societies Structured in Dominance', in H.A. Baker, Jr., M. Diawara and R. Lindeborg (eds), *Black British cultural studies: a reader*, Chicago: University of Chicago Press, pp. 16-61; Mirza, H.S. (2009) *Race, Gender and Educational Desire: Why Black Women Succeed and Fail*, London: Routledge; Puwar, N. (2004) *Space Invaders: race, gender and bodies out of place*, Oxford: Berg; Rollock, N., et al. (2011) 'The Public Identities of the Black Middle Classes: Managing Race in Public Spaces', *Sociology* 45(6):1078-1093; Solomos, J. and Back, L. (1996) *Racism and society*, Basingstoke: Macmillan.

<sup>25</sup> See Skeggs, B. (2004) *Class, self, culture*, London: Routledge. Skeggs, B. (1997) *Formations of class and gender: becoming respectable*, London: Sage. Savage, M. (2000) *Class Analysis and Social Transformation*, Buckingham: Open University Press; Reay, D. (2006) 'The Zombie Stalking English Schools: Social Class and Educational Inequality', *British Journal of Educational Studies*, 54(3):288-307.

<sup>26</sup> See Bourdieu, P. (1986) 'The Forms of Capital' in J. Richardson, ed, *Handbook of Theory and Research for the Sociology of Education*, New York: Greenwood, pp. 241-258; Bourdieu, P. (2010 [1984]) *Distinction: a social critique of the judgment of taste*, London: Routledge.

solely about economic position or social status, but is a way of talking about how power circulates through relationships, space and history to shape how people can act in the present.

The parent sample came from across London; two males participated, whilst the rest of participants were female. In two interviews, excluded children also participated. The majority of the sample, or nine participants, came from black Caribbean or black African backgrounds. Nine parents also described themselves as from working-class backgrounds. Comparatively, the sample of Head teachers were predominantly from white British and middle-class backgrounds, while local authority officers were a much more mixed group with three white British and four ethnic minority participants; only one participant identified as middle-class.

**Table 2.1 Demographics of Parent Sample**

<b>Name</b>	<b>Ethnic background</b>	<b>Socio-economic background</b>	<b>Receiving FSM*</b>
Ralph	West Indian Caribbean	Working class	Yes
Patience	Caribbean	Working class	No
Anna	Mediterranean	Working class	Yes
Eamon, Anna's son	Mixed Med. and African-Caribbean		
Mabel	African-Caribbean	None	Yes
Nazia	Asian	Middle-class	Yes
Stephanie	Black Caribbean	Working class	No
Christina	African	Working class	No
Maddox, Christina's son	African		
Grace	Black African	Working class	Yes
Amanda	Black Caribbean	Working class	No
Penny	White British	Working class	Yes
Julia	Jamaican	None	Yes
Margaret and Bruce	White British	Working class	No
Gloria	White British	Middle class	Yes
Evelyn	African	None, but not middle class	No

\*Free School Meals

**Table 2.2 Demographics of Head teacher and Local Authority Sample**

<b>Name</b>	<b>Position</b>	<b>Ethnic Background</b>	<b>Socio-economic Background</b>
Jack	Head, secondary maintained school	White British	Was working class
Daniel	Head, secondary maintained school	White British	None
Pete	Assistant head, primary academy	White British	Middle class
Henry	Head teacher, primary academy	British South African	Middle class
Emma	Head teacher, primary maintained school	White British	Middle class
Amber	Exclusion officer	BME	None
Dennis	Exclusion officer	BME	Classless
Mark	Exclusion officer	White British	Working class parents
Clarence	Exclusion officer	BME	None
Stuart	Exclusion officer	White British	Middle class
Barbara	Exclusion officer	BME	None
Charles	Clerk at secondary academy	White British	Middle class, but not financially

## **2.4 Data Analysis**

All the interviews were digitally recorded and transcribed by the researcher. The process of analysis began at transcription, with notes on emergent themes being gradually built up. Once the transcriptions were complete, the emergent themes were reviewed and refined prior to a systematic thematic analysis of all the transcripts. Each transcript was then coded in accordance with seven key themes. All the participants have been given pseudonyms to provide anonymity, while the names of all schools and boroughs have also been changed.



### **3. Regulatory Changes and Accountability in the Exclusion Process**

This chapter explores how parents, local authority exclusions officers and head teachers felt about the changes to the exclusion appeals process. It then describes the role of the governing body within this new process and reflects on its capacity to shoulder its increasing responsibilities effectively. Finally, the chapter examines the changing relationship between local authority exclusion officers and schools in the face of rapid academisation and a more general move towards school autonomy, interrogating how this interacts with permanent exclusions.

#### **Key findings:**

- The IRP format was unpopular with the majority of parents, exclusion officers and a minority of head teachers. These changes were described as politically motivated, unnecessary and confusing for parents, while many felt the IRP's inability to reinstate students could not provide justice for parents and made exclusions much easier.
- The majority of exclusion officers, parents and some heads questioned the ability of governing bodies to robustly critique the decisions to permanently exclude. Suggestions were made that rubber-stamping is rife, while some concerns were expressed about patchy governor training and the professionalisation of governing bodies. While a much greater responsibility lies with governors in the new IRP process, there is little additional guidance or training to enable them to carry out their functions effectively.
- The level of interaction between local authority exclusion officers and schools varied considerably across boroughs and was affected by the number of academies, the approach of exclusion officers, and the quality of relationships between heads and local authorities. Shrinking accountability within the exclusion process was linked to school autonomy that weakened partnerships between schools and local authority exclusion officers, limiting collaboration and the prevention of permanent exclusion. Exclusion officers relied on good relationships to influence schools, as they had limited resources to encourage or censure schools.

#### **3.1 Perspectives on the shift from the Independent Appeal Panel to the Independent Review Panel format**

The shift to the IRP format in September 2012 means panels can now only quash and direct the governing body to reconsider their decision; they cannot direct the reinstatement of students. This change was overwhelmingly unpopular with parents and most local authority officers, while heads were less concerned with these changes overall. Yet, as this section will explore, despite the sample of parents being dramatically more successful at the IRP stage than the average

national appellant, most parents as well as many local authority officers and some head teachers have serious concerns about changes to the process.

### 3.1.1 Parents

Many parents felt that the IRP format gave schools and head teachers too much power and presented them with a 'no win' situation; even if the exclusion was quashed, they could not rely on the governors reinstating their child. Bruce sums it up:

*It's a joke...the reason why you are there in the first place is to take away the power from the school and have another body overlooking the whole thing and saying we think they are right and not the school, but they are just passing it back to the school again so what's the point of going down that route in the first place? Because it is the school that has kicked them out and then at the end of it, going through all of the meetings, the school still have the right to say "no you are not coming back" so it is a pointless exercise.*

Anna struggled to understand how a permanent exclusion could come off a child's record, while the child could still remain excluded from the school. She feels heads 'have too much power in terms of you know, telling a whole family your child is not good enough for society.' Evelyn also thinks the new IRP format unfairly gave heads more power than anyone else. While Prescilla admits that the review process worked out for her because the governing body decided to reinstate her daughter, she still felt relying on the school to take this action could disadvantage parents.

Like Bruce and Anna, Penny also wonders what constructive outcome could result from taking her grandson's exclusion case to the new review panel:

*Yeah, what is the point of doing it? There is no point now, other than the fact that you know I wanted to go through as many hoops as I could if for nothing else to worry the head by that point because I was just so incensed by everything. But I did go into it thinking really what is the point? I don't foresee anything coming out.*

Although Penny does not have much faith that the review panel will provide justice for her five-year-old grandson Fred, she persists with the exercise out of her anger and frustration over Fred's treatment and as a way of demanding the head's attention.

Julia also points out the lack of justice provided by the review panel format, describing how 'I think that every parent should get their justice. What's right, it's right. What's wrong, if it's wrong, it's wrong.' She contests the grey areas of the review panel's decision making capacity, whereby a quashed decision, or a decision deemed 'wrong' by the panel can still be upheld by a governing body who continues to exclude that pupil despite their flawed decision. Julia goes on to point out, more ominously, the damage potentially inflicted on students like

her four-year-old son by heads' and review panels' poor decisions, adding that more justice should be available to parents:

*...I think that the government should really put these things forward, because they can't do children like this. That is the reason why a lot of kids, they are like that. Because things may happen to them when they are younger in school and they don't get justice and they grow with that vengeance in their heart. That does not mean that that child is a bad child you know, but it is the experience that that child has from growing up so they grow it in so when they get big now they tends to all sorts of stupid things. And it's not fair, it's really not fair.*

Julia fears that this traumatic permanent exclusion episode will continue to affect her son and shape his relationship with education.

Ralph had spent over two decades working in the education system and felt that recent changes to the exclusions guidance was 'giving head teachers the power to do what they like.' He thinks this power was used to 'get rid' of students that heads or staff did not like or did not want in the school – an opinion cemented by the permanent exclusion of his son Steve that was subsequently quashed. Ralph feels this was partly linked to a student's 'educational value', meaning that students who were not going to get five A to Cs at GCSE level or who were not 'academically minded' could be shifted out of a school as head teachers could 'find an excuse to get rid of you.'

Only Grace, whose son had been reinstated by the GDC, felt positive about the new panel format. She feels that the head sometimes needed to protect the image and reputation of the school by not reinstating certain students, even if the IRP had quashed the decision. She thinks if a student was 'killing the image of the school' and instigating poor behaviour, 'basically the image of the school falls down' and this impacted on pupil enrolment. She feels schools would 'rather lose one child for £4000 than lose ten more.' Grace knew first hand the dynamics of this education marketplace, as she describes how there had been rumours of some white middle-class parents withdrawing their children from the school after her son's reinstatement as the incident had involved a black boy and a knife.

### **3.1.2 Local Authority Exclusion Officers**

Four of the six inclusion officers offered negative critiques of the September 2012 guidance and unanimously felt that made it was much easier for head teachers to exclude pupils, even when their decisions were highly flawed. Exclusions officer Amber thinks schools liked the IRP's inability to reinstate pupils. She feels reinstatements depended on the personality of the school and the head's influence over the governing body, adding that in certain schools in her borough governing bodies were weak and would uphold a head's decision regardless of the evidence presented. Amber's borough had recently had two exclusions quashed, yet these children had not been reinstated. Mark had also seen a decision quashed in his borough, yet the pupil had not been reinstated. Dennis describes how there had been one decision to reconsider in his borough,

however the school did not reinstate the student who was managed moved to another school. He feels this was ironic, given that he had advised the head to try a managed move prior to exclusion. These changes unfortunately meant less power for parents and offered few incentives for heads to avoid exclusion.

Several exclusion officers commented on the £4000 sum schools must pay if the governing body decided not to reinstate a pupil. Amber feels £4000 is not enough to dissuade schools from excluding and thought many heads saw exclusion as a much cheaper option than placing a pupil in much more costly alternative provision. She laments that there is little the local authority could do to penalise schools for excluding:

*...we have massive pieces of guidance, documents that we wrote up to look at alternatives to exclusion but I think a lot of heads do think it is cheaper to exclude...if you are a head teacher and you are looking at supporting a child in year ten, each year that they go to alternative provision will cost twelve grand. Now it is quite a lot of money for the school, whereas if they were to permanently exclude, it is four grand. But it is my job to kind of say - we don't have anything to punish a school, do you see what I mean?*

Mark points out that even if the exclusion was overturned, the child would still not go back into that school if the school does not want them and 'the worst it will cost them is £4000.' Dennis relates how this sum does not benefit the young person and is received differently by heads:

*People say it is four thousand pounds to support the student's education, but really it is a fine that the school has to pay. And I have spoken to head teachers...and some of them say 'Well frankly Dennis, you know this kid is such a nightmare I would pay eight thousand to keep him out. You know, four thousand is a good deal.'...And other heads go 'Four thousand! that is day light robbery! What is the government thinking of?' So it just depends. It is an arbitrary figure, but ultimately it does nothing for the child. You know I explained all of this to the families and I say you know, even if the school don't reinstate well guess what, they get fined four thousand pounds. 'Yeah but what about my kid? He still doesn't have a school.' So you know it doesn't do anything.*

Here the payment is regarded as the necessary expenditure to keep a child out of your school - regardless of the IRP's decision. The readjustment fee levied on schools does not benefit the pupil or help them find another school. Both Dennis and Stuart, another exclusion officer, tie these changes to the making of a political point. Stuart feels these alterations provided a political sound bite and were 'based on a misconception that all of these tens of hundreds of kids were being put back in a school when the reality was...it was relatively small.'

Dennis describes the guidance changes as '*...ridiculous, completely ridiculous. I mean why would you have a review panel that does not have the power to direct reinstatement? It just seems completely absurd.*' He recalls David Cameron

campaigning for election and offering an anecdote about a boy reinstated by an appeal panel after bringing in a knife and catastrophe ensuing. While Dennis concedes this incident may have happened, he points out that there will also be positive outcomes where appalling exclusion decisions were overturned and students returned to school to get their GCSEs. Stuart points out that these changes have been based on 'fallacies', namely inaccurate rhetoric that heads were frustrated they could not exclude children when heads had always possessed this power. Dennis goes on to point out that although IAPs might occasionally make poor decisions, this should not result in a toothless system:

*... so we are going to do away with judges or with the judiciary we have got now or the jury system cause the jury got a decision wrong and it was overturned later at appeal? You know, no system isn't without its faults but you have to look at the general principle of it and I think the idea that you have got a system that even if it thinks it is an appalling decision, completely flawed, the best they can do is direct the meeting to be reconvened and reconsidered.*

Dennis feels the ability of a panel to overturn a head's flawed decision and reinstate a child is a key element of panels being able to provide justice, adding that he has seen several parents decide not to appeal once they realised the panel cannot reinstate pupils. Stuart also points out the loss of accountability in this new format, as the IAP was 'a bit more of a check and balance on what schools were doing' whereas 'the independent review panel now really, all it is, it's an inconvenience for schools...'

Stuart feels this new format has 'muddied the waters', making the process much more confusing for everyone, with parents finding it difficult to understand why their children could not return to school after an exclusion has been deemed flawed. Stuart thought the IRP required reform, as it had not improved matters but only had ensured that pupils were not being directed back into school. Of the three decisions quashed in his borough, none of the students had been reinstated and this was difficult for both parents and himself to understand:

*...that's the frustration for the parents because they don't understand how an IRP can quash a decision and on the basis - given the very prescriptive grounds that an IRP can quash a decision, that it then goes back to the governors who still uphold their decision which has been quashed by - so that is the primary difficulty...It needs to be tested in the courts to see whether this stands up. Because I don't quite understand how you can quash a decision and then for it still to be upheld again.*

Barbara is much less critical of the shift to the IRP format, but also acknowledges confusing aspects of the new guidance that were a bit 'higgledy-piggledy' to decipher. She also feels that parents want the panel to have the power to reinstate; many feel the process is 'long-winded' and nothing will result from it. There have been four quashes in the borough, yet three students were not offered reinstatement, while one school that did offer was rejected by the parent:

*Some schools we know have said they are not having the child back regardless, even if it is quashed, and they pay the 4000 thousand and they are happy to do that rather than have the child back.*

Despite some schools adopting a no-reinstatement stance, Barbara still feels that the shift is 'good in a sense' because schools need to be very clear if they are going to permanently exclude and have all of the necessary paperwork in order to substantiate the exclusion. However, the head teacher's need to justify a permanent exclusion would also have been part of the previous IAP process.

Clarence also feels the new process is more 'long winded' and complex, but thinks that it has accidentally ended up being more robust if parents are able to endure it because cases against the governing body can be taken to judicial review. However, he does not mention that financial restrictions might prohibit many parents from taking this step. Clarence's optimism may stem from the fact that governing bodies in his borough have reinstated when there are quashes; he feels they are aware of the risks of judicial review and are making good decisions. Yet 'doing the right thing at that stage' is purely discretionary, as Clarence admits that 'the backdrop to the process is where the government is pushing through the legislation for the increased power of head teachers and staff in schools around behaviour...'

### **3.1.3 Head teachers**

Head teachers were more ambivalent or sympathetic towards the changes to the appeal process than parents and exclusion officers. Some heads took a transcendent stance towards the guidance, while others welcomed the changes. Secondary school head Jack feels the panel's inability to overturn exclusions was a 'fundamental flaw in the new process.' When asked if this might change his approach to exclusions, Jack replies 'No, it doesn't influence us, two in five years [permanent exclusions], but I suspect some of my colleagues have thought "Well, can't lose now - throw caution to the wind"'. While he would remain uninfluenced by these changes, Jack also adds that the four thousand pound payment is not a substantial amount of money given his school's annual budget of six million pounds. Secondary head Daniel shares Jack's sentiment and felt changes to the exclusion guidance would not shape the ethos of the school nor his approach to exclusion:

*...I try to focus on the students and things that happen - they [policy changes] are just, they don't influence how we sort of behave. It's you know, like when there are changes to the league tables and what is being measured and you could sort of go down the route of changing everything in school according to the latest changes in policy or you could actually forget what is best for the students and I try to return to that. So no, I don't want to exclude students whatever the policy is.*

Daniel describes how he tries to adhere to an ethos where all members of the community are welcome and respected in the school, regardless of policy changes. Both Daniel and Jack want to continue to minimise permanent exclusions, although they admit permanent exclusion has become an easier

option for them. While this is an admirable goal, it relies on individual heads to exercise continual restraint in the face of more permissive guidance. As Jack highlights, their colleagues may not adopt a similar position and take advantage of these changes, demanding making exclusion a easier.

Primary head Emma takes a more ambivalent stance towards the changes. She feels that for an inclusive school offering excellent support there was 'nothing worse' than the head going through the appeal, the panel overturning the decision and the child being reinstated when there is nothing the school can do for that child. However Emma also notes that 'sometimes there are schools, and I know this, where schools don't put in place the right support for children, but then equally that child then should not go back to that school'. While students may not benefit from returning to an unsupportive school, the exclusion will weigh on the student's record - not the school's. Emma feels that there are pros and cons to each format, yet thinks few heads would use permanent exclusion lightly:

*No head is going to permanently exclude a child just because they don't want them. They will have tried everything first. It might be that another school could do it better, well then the child needs to go to that school don't they?*

Contrary to the views of many parents, some inclusion officers and head teacher Jack, Emma altruistically feels her fellow heads would only have used exclusion as a last resort after trying a range of strategies. While another school may well 'do it better', the permanent exclusion and review process does not necessarily mean that excluded students with unmet needs will end up at more proficient schools.

Finally, primary head Henry feels that the new guidance is positive, as it 'backs the heads' and signals a shift away from saying that permanent exclusion is the school's fault towards saying that exclusion is the fault of unsupportive parents who allowed poor behaviour. Henry feels 'disconcerted' that parents have been blaming schools rather than supporting attempts at tackling poor behaviour; he thinks the recent changes will address this issue. Henry admits that in some schools 'they get it wrong'. However, he fully investigates exclusions before making a decision and admits if he has made an error. While he concedes that sometimes a head might feel paying the £4000 adjustment to ensure a child would not return would be a welcome relief, Henry feels he would be happy to take back a child if his decision was quashed.

### **3.2 The Role of the Governing Body**

This section explores the increased responsibility governing bodies assume under the new appeals system. Whereas previously the IAP would decide whether or not to reinstate a pupil, this decision now rests solely with the excluding school's governing body. This section explores the concerns expressed over governing bodies and their capacity to act critically and independently of heads, as well as issues surrounding governor training and the guidance offered to governing bodies when reconsidering their decision to permanently exclude.

As several exclusion officers commented in section 3.1.2, many governing bodies are not reinstating students even when their initial decisions have been deemed flawed. This section will more closely examine the key role governing bodies play within the exclusion process and potential concerns around their ability to carry out their role effectively.

### **3.2.1 Critical friend or rubber stamp?**

Concerns were expressed that many governing bodies did not robustly critique and scrutinise permanent exclusion decisions, leading to the rubber-stamping of heads' decisions. Charles has worked as a clerk for numerous schools across London and is now currently clerking for a London secondary Academy. He feels that governors need to ensure they examine and assess the evidence justifying an exclusion, adding governors should not simply be taking the head's word for it as 'rubber-stamping is very common'. Exclusion officer Amber echoes his concerns:

*...I just think it is really unfortunate because I think with certain schools you have really bad governors that will uphold the decision...like tomorrow's meeting at (school name) it is very likely that regardless of the evidence placed on the table it will get upheld.*

Amber describes decisions being upheld by governors without regard to the actual evidence presented at meetings. Father Ralph describes how the GDC rubber-stamped the head's decision to exclude his son without reviewing any evidence, 'so basically they were only going on what the Head teacher and deputy head teacher had said to them'. While this decision to permanently exclude was upheld by the governing body, it was later quashed at the IRP.

Several exclusion officers described how it was often difficult for governors to be critical of the head, as their capacity for scrutiny was contingent on relations between the head and the governing body. Amber feels that the amount of influence the Head teacher has over the governing body shapes reinstatements. Mark flatly says, 'I would say 100 percent of exclusions in [borough] are upheld by the governor's disciplinary panel', while Stuart thinks only 10-15 percent get overturned in his borough.

Relationships of trust and support between heads and school governors can make it difficult for governors to assume the role of challenger. Mark describes how a governor should act as 'a critical friend', yet feels in many cases governors and head teachers do not have the sort of relationship that would allow the head's decisions to be overturned:

*They will trust the head, if they monitored the Head teacher and the way the behaviour policy works...if the governors helped write the behaviour policy, they will expect that the Head teacher would have followed it. So therefore they would expect that the head teacher's decision to exclude is a right one.*



Governors often expect or assume head's decisions will be sound, while clerk Charles thinks most governors do not 'necessarily see themselves as being required to be objective. They cannot divorce themselves from the school'. Governors are placed in a difficult position where they want to be supportive of the Head teacher, trusting them and the decisions they make. However, Charles felt that permanent exclusions will continue to be rubber-stamped:

*...until governors become objective and realise, and heads realise that governors have a role that is not just to agree with the Head teacher whatever...Take away this loyalty situation – even good heads are not always right. No one is.*

Stuart also feels that while many governors try to offer a robust critique of schools, 'there are some governing bodies who really are going through the motions'. He thinks governors need to challenge schools more, adding that they will generally question the parent and young person but will be more unquestionably accepting of what the head says.

### **3.2.2 Scrutinising decisions or youngsters**

The uneven questioning of parents and head teachers during the GDC was highlighted by Charles and several parents. Charles feels that while there are many governors who take their role seriously and consult the guidance in order to ask the school relevant questions, quite often he sees key questions 'just overlooked entirely'. Instead of governors testing the school's decision by asking a range of questions and ensuring all other options have been exhausted, the pupil is tested. Mother Nazia describes how her appeal to the GDC on behalf of her son Aarif featured this one-sided questioning. The meeting was held 'like he was in a kind of court', as the governors directed their questions towards her son:

*...of course they are going to take the school's side. They are not going to take our side. And the questions they had been asking Aarif, they are meant to be asking Molly Reeves [the head] - why she excluded him? They are meant to be asking questions to her because we are the ones that took our complaint to the governors...They didn't, they are asking Aarif.*

Nazia says that she knew the governors would uphold the head teacher's decision after observing how the GDC was conducted. She describes how the governor's attention was mainly focussed on her, her son and their representative during the meeting, while the Head teacher was 'just relaxing and sitting back'. While the governors upheld Aarif's permanent exclusion, it was later quashed by the IRP.

Christina feels that the head's description of events surrounding her son's exclusion were not scrutinised by the board of governors and that her opinions were not taken into account:

*You know what I saw...that man, that Head teacher seems to be holding, he is over, he appears that he is overall boss over the board*

*of governors you know?... Whatever he said, they would go by it. Because they never wanted to weigh out things, to listen to what other people said. Whatever he said, 'I am doing this because of A, B, C, D', they would go by it.*

Despite Christina's attempts to get the governors to 'weigh out' the circumstances surrounding her son's exclusion, she feels the head remained in control. Margaret relates how the education department in her borough told her while setting up the appeal that the governors never went against the Head teacher. Margaret brought this up in the GDC, but was reassured by the governors that they do go against the Head teacher whom she had never met until the GDC. While Margaret was made aware that the head of the upper school and several other teachers did not agree with her son Barry's exclusion, she realised that the Head teacher had the final decision on the matter and the GDC upheld this decision.

### **3.2.3 Inconsistent Training**

There were also concerns expressed about the training that governors received around permanent exclusions. Stuart confirms that there is training for governors available through the council, yet not many school governors attended these sessions. Poor governor attendance and the subsequent low levels of training around the new guidance was 'an issue', yet Stuart had little power to compel governors to attend, as governors act in a volunteer capacity. The only leverage he could use was the potential threat of an IRP or a judicial review if the decision was poor. Stuart thinks there is little guidance for governing bodies regarding how they should conduct the reconsideration of quashed exclusions that is 'a bit of a mess'. He feels steps should be taken to make sure governors 'are adequately empowered through training to do their job which I don't think most are'.

Mark expressed similar concerns, describing how the training the borough offered showed governors what to look for in order to examine if a head has acted appropriately. He stresses that it is up to governors to pick up on these things. Mark has run five training sessions since the guidance changes. However, out of the 270 governors in the borough, only 60 have attended. Mark worries that there are untrained governors 'sitting on GDPs and making decisions about a child's future', yet like Stuart, Mark does not have any way to compel them to attend short of offering encouragement.

### **3.2.4 The Composition of Governing Bodies**

Another potential challenge to governing bodies and their approach to exclusion relates to the changing composition of their members. As academies spread across London and Multi-Academy Trusts (MATs) govern numerous schools under one umbrella organisation, the composition of school governing bodies is likely to change as governing bodies become more professionalised. Lord Nash recently called for the consolidation of governing bodies, announcing that there were better places for parents to have their say than on governing bodies. While skills are undoubtedly important to running a school and making key decisions,

it is also important to consider whom these moves towards heightened professionalisation might preclude from taking part and how this could relate to exclusion.

While Charles feels that skills-orientated governing bodies are a good idea, he does not think this should impede the participation of lay governors:

*...because ordinary people who don't have a particular skill do have common sense. They have a feeling for justice, so why shouldn't they be involved and have the opportunity to express their views? It may be the view that a particular school person sees as being appropriate, but quite honestly we know enough about miscarriages of justice to know that professionalism and skills do not always get it right.*

Charles points out that it takes more than professional skills to make just decisions, highlighting how having just a 'top team' could limit local parents from being governors and only lead to certain values being reflected on governing bodies. Head Daniel emphasises the importance of local representation on governing bodies and connects this representation to robust decision making. Daniel feels the governors have a 'moral purpose' and the chair of his governing body would challenge him:

*...what are the motivations of a governor, of a local person being on the governing body? It is not to exclude other members of their local community. I mean the governors I work with have a real strong sense of moral purpose and what they want to achieve and they look at the exclusion data and you know they would say 'Well fixed-term exclusions seem to have gone up - what are you doing?' So no, it's not, I mean it's not a cosy sort of rubber-stamping, but you know you could find a school where it is...I think that is why the governing body you need to have governors with a strong presence in the local community.*

Daniel feels that parent representation is very important and gives the local community a stake in the school. Meanwhile, primary head Henry works as part of a MAT and describes how the central MAT board has four committees working to help it discharge its functions. The best governors from each individual school sit on those boards, advising on finance, building works and other areas. This level of professionalism is necessary in the absence of local authority expertise, and MATs in many ways come to function as privatised local authorities. Yet, this focus on professionals could exclude those who do not work in middle-class professions, such as architects or accountants. However, Henry feels his governing body would challenge him if necessary and ties this to the presence of professionals: '...so you want that challenge, so you want professional dynamic people who can say hang on, that does not look right.' Here professionals, not necessarily local parents, are seen as best placed to mount challenges.

Peter, an assistant head at a primary academy chain, describes a similar professionalisation of the governing body of his school. As the school converted from maintained to academy status, all the governors resigned after an

inspection carried out by the chain's hired team of inspectors deemed them inadequate. Peter describes how there was a 'range of governors before the academy', yet all the new governors were 'high-flyers, bankers' arranged by the chain. Although the new governors seemed concerned and were trained, Peter questions an inspection process that seemed 'a bit pre-determined by what the chain wanted to find' and found these changes lacked transparency. While governance might have improved, these changes effectively displaced the idea that local parents should be involved in making key decisions about their children's lives and resulted in stripping diversity out of governing bodies.

### **3.3 Accountability and oversight of the exclusion process**

Checks and balances on permanent exclusions have also been altered by the shifting relationship between some local authorities and their schools. The level of contact and collaboration between exclusions officers and schools varied considerably between the six boroughs, ranging from little involvement to significant intervention. The factors determining this involvement included: the particular approaches of local authorities and their levels of pro-activeness; the attitude and inclination of schools and the proliferation of academies across many boroughs. As aforementioned, unlike maintained schools, academies are not required to invite local authority exclusion officers to GDCs or IRPs. They set up their own IRP panels, although some academies buy back this service from the local authority.

#### **3.3.1 Changing relations between schools and local authorities**

Several local authority officers described differing levels of involvement with schools throughout the exclusion and appeal process and sometimes this was linked to their academy status. Mark offers the most extreme example of this. Since the majority of schools in his borough had become academies, he was no longer invited to GDC or IRP meetings. He feels the shift to academisation has radically changed his role. Mark describes the pre-academy procedure where both parents and himself were given the exclusion data five days prior to the GDC. He attended these meetings and was given the opportunity to offer his feedback on the information that had been circulated. However, he was no longer invited to those meetings and had no access to that information. Mark added that a few 'fairly inclusive' schools might ask him to check if their paperwork was correct, 'but they don't want you to go in and criticise what they have done, which we used to do before'. While Mark felt that academies want a relationship with the local authority when they are buying back a service, they do not want a critical partnership.

Mark worried that schools are taking liberties with procedures and sometimes do not follow the protocols at the GDC and IRP stages due to a lack of oversight. He described some discrepancies:

*...now we know, we have heard that since then some schools have not given the paperwork to the parent until two days before. Which is illegal, but of course the parents do not always know their rights. We find that out afterwards. We know that in some cases, I think that the parent has arrived*

*at the meeting and the Head teacher is sitting in the meeting with the governors. That's illegal. But if we are not invited in, as they are academies, we cannot do anything about it.*

Despite these deviations from the guidance, Mark feels the local authority has little power to coerce schools to behave otherwise. He points out that if he were in these meetings he could pick up any discrepancies in the paperwork and offer his point of view. The local authority used to ask governors at the beginning of the GDC if they had received training based on the latest guidance. However, Mark wonders who is asking this question now and feels many parents would not know their rights or how a panel is meant to be conducted. This lack of oversight leads Mark to conclude that the exclusion guidance for academies is they can 'exclude as they want'. Clarence was also not invited to attend the GDCs or IRPs of academies in his borough, adding that some academy chains do not have much involvement with the local authority. However, unlike Mark, he does not seem to find this problematic.

Charles also feels that although academies must follow the same guidance as maintained schools, there is no immediate mechanism to censure or oversee their behaviour. After clerking for both academies and maintained schools, Charles describes the differences he sees:

*So an academy is out there on its own. It can do what it likes, provided it sticks to the guidance. But there is not anybody asking...for example, when I first started clerking with [borough] they had an exclusions officer...and every exclusion - fixed term or permanent - those officers would be in the school at the meeting to advise governors as to whether the exclusion fell within a category which you could say warrants exclusion, had that exclusion officer seen similar kinds of issues in other schools, and what they had done. So although academies can invite exclusion officers to attend, they often don't do that and when they do they don't say anything because they are observers - they have not got any power. Whereas with maintained schools, there is a bit more influence. The local maintained schools will look over their shoulder in a sense to the local authority, so if a maintained school is chucking people out left, right and centre, sooner or later the local authority is going to be going 'What is going on here?' And probably the local authority will say chat with the chair of governors about what is going on. They have no such control as far as academies. So they can do what they want...*

Charles thinks there is little recourse for parents if these panels are not conducted properly or poor decisions are made, short of writing to Ofsted or the DfE.

Barbara makes a similar point about how academy status can preclude exclusions officers from working with schools to find alternatives to exclusion or from providing advice about the best course of action. While Barbara feels that she is not 'locked out' of academies and her relationships with them are not hostile, she describes how academies do not encourage the pastoral involvement

from the local authority. She had worked with one academy to prevent an exclusion, but added:

*Usually the decision is made before I can get in. So I get an email or something to say now this is what has happened, boom, and then I don't really challenge that...I will phone up and ask a question and they will give me an answer, but their decision still stands.*

This differs from Barbara's relationship with maintained schools that often ask her opinion or consult her for advice prior to making a decision, unless it is a very extreme case. She relates how academies '...don't say before making a decision, "Oh let me give Barbara a call and see what she thinks of this'. She feels academies want to be more independent and 'stand up more to make their own decisions rather than to be encouraged to make other ones'. Whereas some maintained schools seek clarification or alternative solutions, academies are premised on not taking advice from the local authority and Barbara feels they would probably rather go to a private education organisation for legal advice. While she can approach them about their decisions, particularly on SEN or LAC children, it is often too late to make an impact. Barbara says she can phone academies for 'a chat', but admits she is not aware of their procedures.

Unlike Mark, Barbara does attend the IRPs of the academies in her borough, however she does not usually get asked to share her views:

*Oh yeah, I go to the review panel meetings, yeah. And really I don't get to say - I don't get to say very much because I am not asked. Sometimes, different panels different things happen. And I do get asked my opinion, the local authority's opinion or if I have been involved in the case and there is something that I have to say about what we have done, then that will happen. But the majority of the time it is about the parent and the school.*

As Charles previously described, Barbara attends these meetings, yet predominantly in the capacity of silent observer rather than active participant. By this point in the process, the time for collaborating on alternatives to exclusion has long passed.

### **3.3.2 Critical relations as good practice**

Stuart ties good relationships between schools and local authorities to low exclusion rates, saying '...we've got a good relationship with all of our secondary schools and I think that also helped in terms of our low exclusion figures'. He attributes his good relations with most academies to many of them being recently converted rather than sponsored academies, which he felt could alter their attitude and approach to the local authority. However Stuart also admits that there is 'a lot of anxiety' surrounding the discretionary nature of these relationships, describing how this can impact heavily on exclusions:

*...if there is not commonality between the schools and the local authority and, particularly if you get a school that pretty much wants to do their own thing and go their own way, then it's, it makes life that much more difficult in terms of first and foremost trying to support the young people in that school. Yeah, so there is great anxiety and I think there are examples across the board where a change in head teacher - and it does not have to be an academy. You can get that with a maintained school you know, if a new head comes in that wants to do things a bit differently, then obviously they are entitled to do that...and it can make life that much more challenging.*

Stuart highlights how schools adopting a disconnected, distant attitude towards the local authority can make it much harder to be aware of and support the needs of young people. While Stuart thinks there is still more oversight of maintained schools by the local authority which helps limit exclusions, he also points out that it is not only academies which present these challenges. Heads of both academies and maintained schools have the discretionary power to adopt an autonomous ethos. This is indicative of the DfE's encouragement of school autonomy through policy and rhetoric, yet the uncritical adoption of self-governance as inherently positive does not recognise how crucial webs of accountability and support are also diminished through this process.

Dennis and Amber also emphasised the importance of building relationships with schools and heads, as they both worked in boroughs with numerous academies. Dennis describes how all the academies in his borough invite him to exclusion meetings, even though this is not required. He thinks it has been 'really, really hard work' building these relationships with heads, but these relationships were crucial to having influence: '...if you don't have a good working relationship with the academies then you have no impact at all in the community, so that helps'. Dennis feels that most heads trust him, understand what he is trying to do and suggests they might even feel sorry for him given the difficulty of his job. He describes phoning numerous schools trying to arrange a managed move and finally often getting a break from one head or another. Dennis realises that rapport between schools and the local authority is elective and actively cultivates relationships to have impact, adding that relationships are often based on personality even though they should not be.

Amber also describes how her effectiveness as an exclusion officer largely relies on relationships that have been carefully nurtured over time. She describes her approach:

*...a big part of what we do - the previous service was quite impersonal and so when I came I went out to most of the schools that would welcome me and put a face to the role and said what we could offer and how we could support you [schools].*

Like Dennis, Amber takes a very proactive approach and contacts schools to initiate relationships prior to incidents arising. She feels that the local authority works really well with most schools to reduce exclusions and provide support. Amber describes how building up relationships with busy heads takes time,

adding 'And it takes quite a long time for them to listen to you'. However Amber admits that some schools do not engage; this is usually down to the Head teacher and often 'it can be a personality type thing'. She cites a minority of academies and one maintained school that the council does not work well with, adding, 'And we can try as hard as we can, but we can't break those, it is really, really hard'. Amber is quick to add that it is not as straightforward as maintained schools being easier to work with than academies, but it is

*...more to do with whether the whole culture of the school, whether they are an open school, whether they really care about the child and whether they really want to reduce their permanent exclusions and look at the best interests of the child. And some schools, regardless of whether it is maintained or academy, don't really care.*

Like Stuart and Charles, Amber connects poor exclusion decisions to a lack of local authority involvement, noting that decisions quashed at the IRP stage were made by heads at schools that did not actively engage with the local authority.

Some schools also adopt a more proactive, open stance towards their local authority than others. Daniel emphasises that he is the head of a community school, so the local authority is involved and CEN even made a presentation at the parents' forum so that families are aware of the support available. Jack feels his school has a good relationship with the local authority and they are very supportive of the school. While he admits that the local authority does not provide a lot of services, Jack feels that it offers a valuable safety net in times of trouble and a wealth of expertise. Emma expresses a similar enthusiasm for the local authority and feels it is proactively supportive of schools in her borough. However, Henry, as the head of a primary academy describes how his school has moved away from the local authority because his school is now part of a multi-academy trust which answers to the MAT board and the secretary of state. Henry feels this is positive, as they are 'not caught up in bureaucracy' and function as a privatised state school. Meanwhile, Peter, assistant head of a primary academy, describes how an unsupportive local authority was a key reason the school opted to become an academy.

### **3.3.3 Limited Power**

Several exclusion officers mentioned how they had limited power to influence school's decisions around exclusion. Stuart describes how these decisions rest solely with the Head teacher:

*The local authority has no power at the governing body stage...or at the IRP, um yeah those days have long gone. And to an extent that is right, however I think the pendulum has swung too far the other way. Um but it's really a case of, it can only be through power of persuasion that you are going to have any influence.*

Stuart highlights how the limited influence local authority exclusions officers have in regards to the entire exclusion process, with even their advisory role



being cut in relation to some academies. As Dennis and others realise, the exclusion officer must mobilise their powers of persuasion in order to gain any purchase. Yet, persuasion does not always work. Amber describes how one academy recently made a 'dodgy' exclusion decision and the local authority was very limited in regards to taking action. Amber has challenged the school and will attend the IRP, '*...but at the end of the day I go to that meeting and I am an observer and I cannot speak*'.

Finally, Amber points out the changing, confusing and often downsized role of local authorities that has resulted from the increase in academies:

*Yeah, I think people are really confused as to what the hell the local authority does anymore. What makes it more confusing is the exclusions guidance, the statutory guidance and regulations does not have a paragraph on what we do. If you go back to the 2008 guidance there is a paragraph that says you know, what you do. So, really, it is open to interpretation.*

In light of this vagueness that reflects government's continual shrinkage of the local authority's role and their relentless increase in the levels of school autonomy, Amber and her colleagues have interpreted and created their roles. Yet, Amber wishes more schools would listen to her advice and suggests that more coercive actions like fining schools for exclusion and the acceleration of the SEN assessment process would help improve the situation. While they may take an active stance, there is little guidance to foster these collaborations that many exclusion officers feel are necessary to prevent exclusions.

## **4. Going against the guidance: institutional practices and the process of exclusion**

This chapter deals primarily with parents' experiences leading up to and including the permanent exclusion of their child prior to the GDC and IRP. It also draws upon the viewpoints of head teachers and exclusion officers. Firstly, it examines numerous incidents of poor practice by schools as parents negotiated the exclusion process. These poor practices included inappropriately handled managed moves, illegal exclusions and feelings that permanent exclusion had not been used as a last resort, where schools were seen to be capitalising on parents' lack of knowledge of the education system. The chapter concludes by exploring how the pressures of a results-driven system interact with exclusions.

### **Key Findings:**

- The vast majority of parents described how schools employed poor practices during the exclusion process; these practices often directly contravened the statutory guidance on exclusions and managed moves and constituted illegal exclusions. Parents who had migrated to the UK or who were perceived to not understand the English education system were particularly vulnerable to these practices.
- There are numerous grey areas where it was questionable whether or not a head teacher's decision to permanently exclude was being used as a last resort, as required by the statutory guidance. This connects to the large amount of discretion given to head teachers and the subsequently widely differing thresholds of permanent exclusion used across different schools.
- The pressures and demands of a results-driven education system create less inclusive classrooms and potentially exacerbate exclusions. A lack of flexibility regarding curriculum delivery results in a one-size-fits-all approach to pedagogy. Students who cannot learn or succeed within these narrow parameters often act out with poor behaviour, while, simultaneously, funding to address students' behavioural needs and support them to focus on learning has been cut.

### **4.1 Poor Practice**

This section explores how the vast majority of parents, 13 out of 14, described how schools used poor practices in the lead up to their decision to permanently exclude and in relation to the parents' decision to appeal the exclusion. These practices ranged from the use of informal, illegal exclusions, the inappropriate handling of managed moves, attempts to obstruct the convening of the IRP and responses that led parents to have a strong feeling that permanent exclusion had not been used as a last resort. Many parents described either being taken advantage of, or schools attempting to take advantage of, the fact that they may not know their rights as a parent or understand how the exclusion, appeal or managed move process should be conducted. Some parents commented on how less definable issues and relationships, like whether or not a particular teacher

liked you, could figure in decisions to permanently exclude. Very few parents felt that the process leading up to the IRP was fair.

#### **4.1.1 Let's make a deal: avoiding the IRP**

Both Stephanie and Ralph describe their respective secondary schools trying to make a deal with them prior to the IRP to prevent the process from going further. Stephanie's son Lucas was excluded in year eleven after being involved in an incident with two other boys and a mobile phone. Lucas was allegedly taking a video of a younger boy and threatening to put it on the Internet; however, the footage found was not on his phone and the other two boys involved went unpunished. Stephanie had strong suspicions that Lucas had been bullied by the other boys after coming home with various injuries, yet none of these incidents was dealt with by the school.

After the GDC upheld the head's decision to exclude, the Head teacher wrote Stephanie a letter saying that he would not put the exclusion on Lucas' record if he stayed in the PRU to finish his education. Stephanie showed this letter to a relative who advised her to take her case to the IRP, for even if Lucas did not have a permanent exclusion on his record, potential colleges would ask why he was finishing his education at a PRU. Stephanie learned first-hand about the stigma attached to being permanently excluded after visiting a college prior to the IRP. She relates her encounter with the admissions officer: '...she said, "So what is he doing at the moment?" and I said, "Well, he is in the PRU at the moment". And you know, "Why is he at the PRU?" and I said, "Well he got excluded, but we are going to appeal". And that was it'. Stephanie was thankful she had not taken the head up on his offer, as Lucas' permanent exclusion was quashed by the IRP.

Ralph describes how his son Steven was excluded in year 10 for violent conduct and carrying an offensive weapon. The incident had involved his son defending a friend from an attack by an older man and later picking up a broken stick and carrying it down the street. Ralph recalls:

*I said to the Head teacher "Did Steve threaten anyone with the stick?" He said "No he didn't". I said, "Did Steve hit anyone with the stick?" He said, "No he didn't". I said "Did Steve actually make any threatening gestures with the stick?" and he said "No he didn't". So I said, "Why are you excluding him?" "Because he walked past two dustbins and did not throw the stick in the dustbin". So I said, "Well that's not a weapon," I said "That would only become a weapon if he threatened someone with it. It's a stick until you threaten someone with it". They said, "Well, we feel that on the balance of probabilities he would have used the stick against a member of the public later on". I said, "What are you trying to say? That my son who is walking down the street is just going to pick up a stick and just randomly attack people in the street with this stick?" And so basically, that's what they are trying to say.*

Between Steven's exclusion and the GDC, Ralph describes how he battled to get student statements and other supporting evidence. These documents should be

sent to parents five days prior to the hearing according to the exclusion guidance, and yet, the school refused, saying it could not circulate these for reasons of anonymity. After the GDC was upheld without recourse to evidence, Ralph received a letter from the Head teacher admitting that he was in the wrong for withholding evidence and took full responsibility, acknowledging this could have prejudiced Steven's appeal. Rather than proceeding to the IRP, the head proposed that Ralph and Steven repeat the GDC with the full evidence. As part of this re-take, the head wanted Ralph to agree that his withholding of evidence had been unintentional. Ralph was stunned by this proposal and incredulously asked:

*You want me to go back in front of the three people who sat on the panel and saw no evidence, did not request any evidence, made no attempt to request any evidence? Did not hear us once present any case, so frankly they came there to rubber stamp the exclusion. And now you want us to go back to the same people and let them judge over us again?*

Needless to say, Ralph rejected the head's proposal and proceeded to the IRP where the exclusion was quashed. Ralph strongly feels the school's poor practice was related to an upcoming Ofsted visit and a need to rid the school of underperforming pupils. While his son had no previous record of violence he talked a lot, sometimes did not finish his work and had a previous disagreement with the head over a hooded sweatshirt. Ralph thinks the school's academy status enabled it to make its own rules regarding exclusion, as long as it sounded plausible on the balance of probabilities.

#### **4.1.2 Illegal exclusions and inappropriate managed moves**

Evelyn's son faced a catalogue of informal exclusions and a poorly handled proposed managed move at his secondary school before being excluded in year ten. Evelyn describes how her autistic son Tunde was being repeatedly sent home – sometimes for up to one or two weeks - without it being put into writing. Evelyn did not realise this was illegal until she attended an autism workshop and received a text message from the school saying that she should come and collect Tunde. Evelyn showed this text to the autism instructor who told her it was inappropriate to exclude a child, particularly a special needs child, without putting it in writing. Evelyn phoned and spoke to the head of year:

*They were just saying come and pick your son...and to my surprise, most of the teachers, 80 percent of the teachers in the school they did not know he was a special needs child. So they call me up and say 'Your son did this, your son did that' and I say this boy has autism. 'Oh we did not know! They did not let us know!' So eighty percent of the teachers, they do not know how to deal with him because the information was not passed around to the teachers for them to be aware that this is his situation...*

Evelyn describes how she realised the school was not helping Tunde or recognising his autism. Evelyn was introduced to Parent Partnership<sup>27</sup> through the autism programme and subsequently learned about her rights as a parent. Parent Partnership visited the school with Evelyn and asked them how they were supporting her son, yet the school could not show them any documentation and said that all support was done by verbal arrangement. Evelyn describes how Howard from Parent Partnership was unsatisfied with the school's arrangements, advised them and said he would try to arrange for Tunde to receive additional support. While Evelyn had taken the right steps to proactively secure support, this intervention did not facilitate positive changes. Instead of keeping Tunde in school, Evelyn feels this intervention fast-tracked his expulsion:

*But I think because I took Howard to school, that upset the Head teacher....that is really what happened. Because before...when he was to be excluded, when I went there, after being on my knees begging her, but when she [the Head teacher] realised that 'Oh so you are going far? You are going to [the local council] and other people are coming'....not far after, two months when Howard tell them that he is going to come back to see what the preparations are, they exclude him permanently before even Howard can come back.*

Evelyn empowering herself only seemed to threaten the Head teacher, as she had lost her subservient unawareness. After Howard's visit, anything Tunde did '...they would just be telling me "If you want to call [the local authority], you go and call [the local authority]. This is my school."' Whereas previously the Head teacher had told Evelyn that she did not have any money to help her son, 'the story just changed', with the head describing how she had a fund, but it was not enough and they needed to apply for a statement. Evelyn describes how her perspective on the school shifted. Instead of recognising and addressing Tunde's autism, he was being viewed and treated as a troubled child.

After this intervention, Evelyn received a call from the Special Educational Needs Co-ordinator (SENCO) one Friday telling her that Tunde was badly behaved and must be managed moved. The SENCO said Tunde would move to another school on Monday morning. Taken aback by this sudden plan, Evelyn sought advice and learned that there should be a meeting and agreement between parents and the school prior to a managed move. Evelyn went to meet the Head teacher with Howard from Parent Partnership:

*I said no, that is not the way how to do it. You call me on Friday and tell me my son has to be moved on Monday? There is supposed to be a meeting. And she said, 'Oh well you have lost the opportunity now because I have taken another person to go to [new school]'.*

Evelyn did not object to a planned managed move for Tunde somewhere nearby, however the Head teacher decided Evelyn's refusal of this extremely short notice

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<sup>27</sup> Parent Partnership is a statutory service set up to provide information, advice and support to parents and carers of children with SEN.

managed move to an out of borough school was a refusal to consider any future managed move. Shortly afterwards, Tunde was permanently excluded.

Patience's daughter, Prescilla, was also managed moved from her secondary school in year eight under the threat of permanent exclusion. Prescilla had been accumulating points for her behaviour in class and one afternoon she witnessed two other girls from her school hit another girl and take her bag at a bus stop. Prescilla wrote what she saw on an online social media site and was managed moved under the premise that it would have had a serious impact on the victim if she carried on at the school as she should have intervened. While Patience felt the threat of permanent exclusion was disproportionate to the incident, she did not realise that she had a choice. She describes how the school '...just said that "Oh we cannot do anything more for Prescilla here", so yeah and I thought okay. Until I went to [the new school] and they told me different'. Patience discovered upon arriving at the new school that this move had been optional. She also describes how her daughter had exclusions that were not written down, and she regretted not having kept track of all of the exclusion dates.

Charles, the Academy clerk, feels there are 'big issues' around how managed moves are being used by schools. While he feels they are a good option to investigate when permanent exclusion could be on the horizon, schools should not threaten permanent exclusion to persuade parents into accepting a managed move. He feels the coercion used by schools is much stronger than the guidance intends, as 'parents are against the wall' and must accept.

Nazia was also pressured to make a quick decision about her son's future after he was permanently excluded for sexual misconduct in year eleven. Nazia's son Aarif was excluded for having sexual relations with consenting girls in his school. The previous year he had been warned after a fight with two boys that he would 'be out' if there were any other problems. One female student who had been quarrelling with Aarif approached a senior teacher and informed him that Aarif was sleeping with girls at the school. This teacher told the student to find out how many girls Aarif had been sexually involved with, leading to a fight between the female student and a girl she wrongly accused of sleeping with Aarif. While sanctioning a student to conduct an investigation into a fellow pupil's sexual history is ethically questionable and seems wholly inappropriate, the incident continued to escalate. After this incident between the two girls, the school did not give Aarif an exclusion letter, but sent him home. When Nazia and her daughter went to meet with the Head teacher the next day, she delivered this ultimatum:

*'...you have only two choices for him: either take him to um [the local PRU] where normally all the kids who get excluded they go to...or he can be on the street with no full education, no education. It's your choice'. ...I want to talk to her, find out more about it, find out the reason, what he done. Is she just excluding him? It is not justice. I want to know more about it. At least talk to the girls or give me proper you know reason...anyways, she did not listen to me. She said you have got only two days until Monday to respond.*

Nazia's daughter asked the Head teacher on what grounds her brother had broken the school behaviour policy, as she could not find the policy online. Nazia also asked why it was fair to exclude her son, but not the girls who had also had sexual relations with Aarif? Nazia describes the head teacher's response:

*She said, 'No, normally it is the boy who gets the punishment'. And my daughter said, 'How is a boy going to get punishment? Is there any law', my daughter said, 'that the boy gets punished or gets excluded?' She said, 'The police will show to you the law'. She said, 'In this country there is a law where only the boys get the punishment, not the girls in sexual activity'. And my daughter said, 'Which words of the law, or which act and this and that?' And she said, 'Oh, the police will show it to you'.*

Nazia felt the Head teacher assumed that because she was from Pakistan that she would not know the law, although all her children were born in the UK and Nazia has lived here for many years.

*...she said it in a way, a kind of mean way that it sounds like we don't belong to this country. We are outsiders. And um, she is the one that has right to be here - not us - that kind of feeling she gave us.*

Nazia's migrant status is used to position her as an outsider who does not belong to or understand England and therefore is easier to manipulate. Nazia promptly consulted her friend who is a judge and advised Nazia to send Aarif back to school until a formal exclusion letter was issued, as it was an illegal exclusion that had not been put into writing. These incidents show how schools can take advantage of parents who are assumed to not know or understand their rights or the guidance around exclusions and managed moves. Unsurprisingly, several parents commented that their experiences had taught them to put everything into writing in order to keep a concise record of their interactions with schools.

#### **4.1.3 Exclusion as a last resort?**

In addition to these examples of poor practice around exclusion and managed moves, parents also felt that exclusion was not being used as a last resort as stipulated by the statutory guidance. There were concerns that teachers often took a personal dislike to their child that resulted in unhelpful comments and that safeguarding issues were not handled appropriately. Christina's son Maddox was excluded in Year 10 for helping a friend hide cannabis in the school toilet. Although Maddox did not bring the cannabis to school, smoke it, or know it was being brought in; he was excluded for touching it. Christina feels this punishment is a high price to pay for an impulsive one-off incident. Maddox participated in his mother's interview and adds:

*...I just feel like the Head teacher is just trying to keep up a good reputation for himself. He does not care what I feel or what my mum feels, he is just trying to make himself look good. The school has a policy of like, it does not matter, if it is your first day or your last day,*

*if you get involved they kick you straight out. But I don't think that is fair. You know, not even the police work like that - one strike you are out. They give you a caution, a warning, things like that.*

Christina feels a fixed-term exclusion would have been a more appropriate sanction in this situation. Although Maddox wrote a letter of apology to the head and governors, the decision to permanently exclude was upheld by the GDC and IRP.

Margaret and Bruce also felt the permanent exclusion of their son Barry for fighting in Year 11 was unnecessary. Barry was excluded for defending his smaller friend who was being attacked by another boy. His parents described how once Barry had intervened, he had 'seen red' and gotten carried away. The incident was recorded on a phone and the police were called, however they took no action and there were no injuries. Margaret feels that a fixed-term exclusion would have been much more appropriate given that Barry was taking his GCSEs soon, adding 'I think the schools now are too easy to exclude boys rather than try and deal with the problems. Rather than try and sort them out'. Although Margaret and Bruce relate how other teachers at the school told them they were unhappy with the head's decision to exclude Barry, the decision to exclude was upheld at the GDC and IRP stage.

Amanda was also upset that her daughter Devon was excluded in Year 10 after persistent bullying within her secondary academy was not addressed. Amanda phoned the police after Devon was attacked by a group of girls after school and pushed into oncoming traffic. Amanda chose not to press charges, but hoped police intervention would deter future incidents. She also informed the school, but they did not address the issue. Devon later received text messages from the girls about being beaten up after school, and Amanda picked her daughter up from school to avoid an attack. The bullying continued with a series of incidents both in and out of school. While Amanda rang the school each time, nothing was done. Amanda was frustrated and wondered why the school did not intervene or use restorative justice to deal with this on-going problem:

*No, they did not do anything....There is only one evidence that [the school] tried to mediate by getting the girls in to sit down and one party was not willing to do so, so the girls who were bullying my daughter were not willing to sit down and mediate so they never followed it through. So they kind of just left it unsolved and that's where it just escalated and escalated.*

One afternoon the girls threatened Devon during school about an after-school attack, however Amanda was unavailable to collect her that day and asked her sister to pick her up. When Devon's older sister, along with her two older brothers, arrived at the school they asked why nothing was being done to support their sister. The police were called as a tense exchange with teachers developed at the school gates, and although the police took no action, Devon was subsequently permanently excluded for summoning a gang and putting the school at risk. Amanda felt it was unjust for Devon to be excluded for an action



she did not commit, especially after extensive bullying went unaddressed, however the academy's decision to exclude was upheld at the GDC and IRP.

Finally, a significant minority of parents felt that their child's exclusion was related to a contentious relationship with a particular member of staff. Ralph, Mabel, Margaret, Evelyn and Penny all mention their children not being liked by particular teachers and this being a decisive factor in their exclusion. Penny describes her five-year-old grandson's Head teacher struggling to say anything positive about him in a meeting, admitting she could not think of anything before being chided by a social worker. Evelyn's older son had warned her about a head of year with a track record of exclusions and urged her to take Tunde out of the school:

*...my first child went to that school. Before he left he was saying 'Mummy if you don't take Tunde out of that school, if Mr Burt says that he is going to make sure that Tunde is out, he is going to be out'.*

Evelyn relates how head of year Mr Burt was 'like a giant of the school' and if students disobeyed him, he made sure they were excluded. Nazia also felt the director of learning wanted to her son out of the school as he and Aarif had a tense relationship.

Anna and Stephanie both describe inappropriate comments being made to their sons by teachers prior to their exclusion. Anna's son Eamon was permanently excluded from a secondary academy four weeks into year seven. Being a teacher herself, Anna understands the need for rules and boundaries; however, she felt the zero-tolerance disciplinary atmosphere in this academy was detrimental to students' well-being:

*You have to find a balance and you have to know your kids and that is what [name] academy did to him. They got rid of him before they even invested the time to get to know him. I could never forget one of the first meetings with the Head teacher. She told him, 'Oh you think you are bright? Oh well, I have not seen that in you yet'. And I thought, I am going to jump at her throat and just kill this woman! How can you tell my kid that he is not intelligent enough for your school? Who are you?*

Stephanie recounts a similarly upsetting and discouraging conversation with one of Lucas' teachers during an open evening. When Stephanie sat down at the table with Lucas and her older daughter, the teacher told her that her son

*'...is not going to amount to nothing and Lucas is this and Lucas is that' and right through that parent evening sitting there, he put Lucas right into the grave. And I walked out of there and I cried...Because he did not have right to do what he did with my son there, as he did.*

While these encounters occupy a much greyer area than the clearly defined inappropriateness of illegal exclusions and pressurised managed moves, they also highlight the inter-personal, micro-interactions surrounding permanent

exclusion. They work to build a picture of how parents are sometimes treated and spoken to by education staff and how unsupportive, punitive relationships and approaches feed into the permanent exclusion process.

#### 4.2 The pressures of a results-driven system

This section touches on how the limitations created by performance measures are creating less inclusive classrooms, particularly for SEN students. All head teachers acknowledged the enormous pressure to generate good test results and be prepared for Ofsted inspections. Emma describes how 'everything is so data driven', while when asked about his concerns and obligations, Jack says: 'Results, results, results. That is all that matters. It is a result-driven game...'. External performance measures are paramount, so much so that deputy head Peter describes how the intensely target-driven corporate culture of his primary academy resulted in his line manager asking him to change student levels so they were in line with targets regardless of their actual achievement.

These demands shape what can and cannot happen in the classroom. Three heads described the stress children were under to meet performance targets and how this affected teaching and learning. Emma describes how this system shapes teaching:

*...I think it has impacted very heavily on the style of teaching and the curriculum delivery, which means that that curriculum delivery cannot always be best for the children that you have because it is results driven. So for some children, they would be better off learning in a different way, but the pressure is to get them to a level four. But actually if you could lighten up a bit on that, then the curriculum you provide would meet the needs of the children better which would often mean that their behaviour would not be so challenging which therefore would reduce the number of incidents in some circumstances.*

The lack of flexible curriculum delivery creates the one-size fits all approach that several parents mentioned. Due to the need to attain certain levels within rigid time intervals, there is no time or place for a diverse range of pedagogical techniques to be implemented. Therefore, children who cannot readily adapt to this one-size fits all approach to learning are destined to struggle and often poor behaviour follows. Peter elaborates:

*...cramming for exams, it's not in the children's best interest. And I think it probably does have a mixed effect on behaviour in that some children have terrible behaviour records and really just turn it around in year six because of the pressure and they want to do well in a goal-driven...pass-fail and I am going to get the grade, data-driven approach to learning. Some of them really embrace it, others struggle with it. If they can't see or think that it is achievable for them, then they probably act out more. And are more inclined to get suspended or fixed term exclusions.*

While this pass-fail, data-driven approach to learning might spur some students on, Peter alludes to how it might alienate those who cannot find success within these unyielding parameters. Subsequent feelings of failure or frustration can lead to acting out and potential exclusion. Peter describes how his primary school used two conflicting moral imperatives to drive teachers. While on the one hand the teacher was supposed to imagine him or herself in the guise of a charity worker saving children from poverty, they were also asked to be like salespeople producing business outcomes. He felt pressuring children to produce results was not necessarily the best way of 'saving' them, and Peter had recently quit his post because of this target-driven culture.

Jack also describes how the meaning of student welfare has altered over the past decades and effectively redefined the very goals of provision:

*The every child matters agenda in which you looked at a wider range of things around the child, that's fallen away. And it is now far more results driven. And although we have probably the similar provision...all those things contribute to the children's success, but those interventions are far more focussed now on raising results than helping the child cope with them. And although that might sound like one is subservient to the other, um the impact measure is the result now, whereas prior to that the impact measure may have been feelings about self.*

Rather than a wide range of measures being used to gauge a child's well-being or success, the impact measures are now firmly harnessed to results. Jack describes how speech and language therapists, educational psychologists and organisations like Kids Company<sup>28</sup> continue to provide services, yet the criteria for measuring good outcomes have changed.

These changes affect classroom management. Parent Anna also works as a teacher and sympathises with teachers' frustration over misbehaviour. She describes how she must get students to learn and be tested on a topic within six weeks, therefore it is imperative to get children who are causing trouble out of the classroom. Peter thinks that if a classroom teacher has two or three children with 'pretty big needs, it becomes your job to manage those children...there is no way you can keep your whole attention on the rest of the class'. Often there is not the staffing levels, expertise or time to create a more inclusive environment or open out the curriculum in other ways. Exclusion officer Barbara remarks that exclusions in her borough have risen and suggests that a lack of alternative to the mainstream curriculum is partly to blame.

External constraints and resulting inflexibility within schools works to exacerbate exclusion. Exclusion officer Amber laments how long the SEN assessment process takes, while Head teacher Emma commented that it was

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<sup>28</sup> Kids Company is a charitable organisation that provides support to vulnerable children and young people living in London, Bristol and Liverpool.

taking up to a year for CAMHS<sup>29</sup> to deal with a referral. Amber feels that ‘...unfortunately in some situations a school thinks it is just easier to permanently exclude than to have that child for ages while that process takes ages’. She wishes her local authority could do something about this, as the most vulnerable children should not be getting excluded. Although the guidance explicitly states that schools should avoid excluding anyone with a statement, clerk Charles says that too many children on the SEN spectrum are permanently excluded. He feels some schools have much better procedures in place for SEN students than others, and this was echoed in parents’ narratives about their struggles to get support for their children.

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<sup>29</sup> Child and Adolescent Mental Health Services

## 5. 'Vulnerable' Groups and Inequality

While the exclusion guidance explicitly states that head teachers must pay careful attention when they are excluding a pupil from a group already overrepresented in the exclusion rates and consider the fair treatment of these students, it is difficult to see how, in practice, these considerations featured in decision making about exclusions. Arguably, these considerations need to be taken into account long before a child is at risk of exclusion, as this is a process that starts long before actual permanent exclusion is enacted.

The following sections address how factors like SEN, ethnicity, and class grouping continue to influence exclusion. Every parent felt that their child's SEN status, ethnicity or class position had something to do with their child being permanently excluded. Eight out of fourteen parents had children with SEN, ten were from ethnic minority groups and nine identified themselves as from working class backgrounds. Therefore, every excluded child was part of at least one, but often more than one 'vulnerable' group. This chapter will explore how parents felt these factors played a role in their child's exclusion, while these narratives will be supplemented by the views of local authority exclusion officers and head teachers.

### Key Findings:

- The statutory guidance asking head teachers to consider overrepresented groups prior to exclusion is ineffective in practice. There is little guidance instructing heads or panels about how to consider these complex issues in any meaningful way. This can lead to a tokenistic use of the guidance. By the point of permanent exclusion, it is too late to consider how SEN, ethnicity, class or gender fed into the exclusion process. Depending on the particular evidence collated for hearings, there can be some assessment made, however these judgments are often limited by a lack of information about the history or context of a particular exclusion.
- Mainstream educational institutions frequently lacked the staff expertise, financial resources and time to accommodate SEN students. Parents described a lack of staff training, how students were not readily assessed or referrals were not pursued, and how the support they were offered was not continuous. Parents felt that the staff expertise required for SEN students and the lengthy wait for referrals made these students more vulnerable to exclusion.
- The majority of parents felt that race, class, gender or SEN played a role in their child's exclusion. This was connected to the judgement institutions made of both parents and their children. Problems at school were quickly attributed to problems at home that were assumed to be caused by poor parenting. Young people and young children were often regarded as competent adults, with punitive zero-tolerance approaches taken over rehabilitative ones. Meanwhile young black students, boys in particular, were frequently associated with criminality, violence or hyper-sexuality.

- A slight majority of heads and exclusion officers feel that discrimination on account of race and class, or middle-class privilege was at least partly to blame for disproportionate exclusion numbers. This was most commonly talked about in terms of white, middle-class parents having an advantage in the education market by wielding the ‘right’ sorts of capital including a well-spoken accent, assumed knowledge of the education system and the ability to seek redress that resulted in differential treatment. Several heads and exclusion officers did not consider disproportionate exclusions an equalities issue, taking an individualised view of cases and disconnecting national trends from school or local authority data.

### **5.1 SEN and exclusion: struggles for support**

There is a strong relationship between SEN needs and exclusion from school. A story of parents struggling to have their child’s SEN assessed, or to have the appropriate support put into place for an already diagnosed condition, often accompanied stories of permanent exclusion. Many parents described how schools had overlooked their children’s needs. Parents, as well as a few head teachers and exclusion officers raised concerns about mainstream educational institutions being appropriately equipped to support SEN students. A lack of time, financial resources and staff expertise was thought to account for the large numbers of SEN students excluded from mainstream education each year.

Three parents described how their children had not been appropriately assessed for suspected SEN needs at the time of their exclusion. Stephanie describes how her family repeatedly went to the school to request that her son Lucas be assessed for learning difficulties. Stephanie’s older daughter is a teacher and had noticed that her brother Lucas was finding the work difficult and needed additional support. Stephanie describes how the school gave Lucas support for two weeks, but then removed it, saying that they did not have the resources. She requested an SEN expert<sup>30</sup> for the IRP who questioned the head teacher’s assertion that they had been providing help, pointing out that this had only happened twice. Stephanie felt that the lack of support became evident during the IRP and helped quash the exclusion. Nazia’s son Aarif was also having some issues with his learning and was suspected to have dyslexia. She had been asking the school to do a dyslexia test since year seven, however ‘...they just completely ignored it...And I have all the emails and everything...’ When Aarif was excluded in year eleven the assessment had still not taken place and the mishandling of this situation was also addressed at the IRP.

Patience describes a similar story. She asked for an assessment of her daughter Precilla in year seven because her concentration and information processing skills seemed confused. The school responded by saying there was nothing wrong with her. Subsequently Precilla was managed moved in year eight to

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<sup>30</sup> All parents can request an SEN expert, regardless of whether a school recognises the student has SEN needs. According to the statutory guidance, they are meant to provide impartial advice to the panel regarding how SEN might relate to the exclusion – ‘for example, whether the school acted reasonably in relation to its legal duties when excluding the pupil’.

another school, and within the first week the head of year requested an assessment of her comprehension. However, before this assessment could take place the school tried to move Prescilla back to her old school. The former school refused, leaving Prescilla excluded in the PRU. Her mother describes how her daughter's unaddressed SEN needs were brought up at the IRP:

*She (the SEN expert) said that um in year seven she was referred to speech and language, but Prescilla was not, they have not followed it up. And it is not how you speak, but it could be how you interpret and take in information. And that made me cry because I am always saying, 'Oh Prescilla why do you do this? It does not make sense' and then I start barking at her and then my parents would be like 'Maybe she really does not understand?'*

Patience was aggrieved that her daughter's year seven referral was never pursued and that she might have misunderstood her daughter's needs. She feels that the school perhaps '...just wanted an easy excuse to get rid of her because they don't really want to put in the money to get her assessed'. Rather than Prescilla accessing support, she found herself shuffled between schools.

While Mabel's son had a statement of SEN, he still struggled to receive support from his primary school. Mabel suggests that some schools take a rigid one-size-fits all approach to learning where they do not accommodate SEN children or understand special needs. She felt his first primary school took a punitive approach to managing behaviour, compared to the more positive, flexible approach to learning at his new primary school. Mabel was so upset about the poor level of support her son was receiving that she called social services because she was worried about his welfare:

*...I felt like you know I am the trainer who is constantly putting him in the firing line for him to get shot at every single day knowing full well that these people do not like him, he does not like the environment, and 'Mummy,' he said, 'don't send me back there'. So you know...I have to explain to a child with social and communication needs and who is on the autistic spectrum, you have to go to school. To a place that he hates to go.*

She felt the school did not listen to her, did not care and did not use her son's statement for his benefit by training staff in appropriate strategies to accommodate him.

Penny's five-year-old grandson Brandon experienced similar issues in his reception class. Brandon was vulnerable after having a turbulent home life and had emotional and behaviour issues. Penny works as a teacher herself and actively helped the early years teacher come up with behaviour strategies because they did not have any in place, however these were not consistently implemented. Eventually Brandon spent all day with an inexperienced teaching assistant, taught alone without any contact with his class teacher. While the educational psychiatrist pointed out that the school was itself triggering

inappropriate behaviours and offered strategies to support Brandon, the school did not follow these recommendations. While the school claimed they could not cope with Brandon, they also refused to refer him to CAMHS. Penny describes her frustration:

*They said that they could not cope with him, you know, he needed specialised support and help and I said, 'Well if you have exhausted every avenue, then why are you not applying for a statement because that's what you do?' So there was no mention of applying for a statutory assessment um, until I started raising it and I kept saying it again and again. 'So are you going to do it? Why is he not being, you know, why is he not being referred to CAMHS because that is where you would need to refer him'.*

Penny eventually took Brandon to the doctor to get referred to CAMHS and also unsuccessfully tried to get help from the school governors. Eventually Brandon started challenging the teaching assistant who was poorly supported herself and often simply followed Brandon as he ran around the school wreaking havoc. Penny describes how each time Brandon misbehaved he got sent home, so Brandon learned to misbehave in order to leave school.

Eventually, Brandon was permanently excluded after a catalogue of incidents one afternoon. Penny describes how no one stopped her grandson as he ran throughout the school, despite several adults being present:

*...he had burst into the room, obviously he was running around and he hit one of the children sitting at the desk, he was running around the room swearing, screaming, whatever, spat at the teacher, did this, threw this, whatever, nobody has gone and stopped him and intervened and he is a five year old little boy. You know, on the day, on the last day that he was permanently excluded I mean it was just literally like he went on a rampage around the school and it was a catalogue of things, one thing after another but no intervention...*

Penny marvelled at why such a young child was allowed to run around the school for so long without an adult stopping him or taking a baseball bat he was holding away from him. She felt like the school was purposefully leaving Brandon without any strategies or constructive interventions in order for him to misbehave so badly that it could have grounds for permanently excluding him:

*...like 'we are doing nothing' and eventually you know it's sort of like being hoisted by your own petard isn't it? It was exactly how it seemed...if you leave him to his own devices and stick him with this woman in this room, don't give him anything to...you know, um.*

Penny felt that there were serious issues around staff training and safeguarding within the school and much more could have been done to provide stable parameters for Brandon. She feels it is 'just criminal' that the neediest child in the school was placed in the care of one of the least qualified staff members.



Evelyn similarly relates how her son Tunde's secondary school did not attempt to apply for a statement to obtain additional support for him until Parent Partnership got involved, as discussed in the previous chapter. Due to the school's poor record keeping where all support for Tunde was arranged verbally, the school had difficulty evidencing the support it was providing and the application was rejected. Evelyn describes how keeping good records and applying for the statement much earlier in his school career would have made it much easier for Tunde to get the support he needed:

*...we see about three or four doctors that say that the school is a disgrace not to provide help for him because the school did not have anything to give, to support him. But to get a special needs school is very, very difficult...I've been to some schools and I have told them this is what is happening but what they are after is that statement...I have been to [school]. They are ready to take him if he has a statement. I have been to [school]. They are ready to take him if he has a statement....I did apply for the statement but the result came that the school is not providing enough evidence that they are supporting him so.*

Conversely, primary head Emma describes how she has occasionally used fixed-term exclusions to get a better outcome for children with SEN needs in her school. She feels that the oppositional behaviours that can result are often very difficult for mainstream schools to manage without high levels of expertise, which mainstream often does not have. Despite already providing a lot of support to SEN students within her school, Emma says that 'implementing fixed terms has made them realise this could escalate so something else is needed' and her concerns are taken more seriously. Emma thinks that sometimes this is the only way of getting the local authority and other agencies to listen and recognise that a child needs more expert support. Rather than letting ongoing SEN needs go unattended, Emma actively builds a detailed written log of what interventions and sanctions have been used with children so she can appeal to the local authority for extra support more effectively.

Finally, while Gloria's autistic daughter Sylvia had a statement of SEN, Gloria feels the secondary academy was not using the financial support from the statement to benefit her daughter. Sylvia was academically able and placed in a mainstream classroom, although her statement advised against this. While the school had a unit for autistic provision, Sylvia complained to her mother that she was rarely allowed to use this resource when she was feeling anxious. Gloria explains why she thinks Sylvia's access to the autism unit was limited:

*On reflection, they just wanted to have a child with a statement to take the money...but it is supposed to be invested in the child to make that child better, but because she was academically able they would much rather she was in a classroom of thirty children to achieve good academic results in English, maths and science so that the school can say on their website every year when they are trying to get people to come in and start in year seven, this is what we have achieved in the last academic year - join our school. But they are not doing anything*

*with the child with a statement for them to achieve on the difficulties they have in social and communication issues for example.*

Gloria feels that the school was much more concerned with Sylvia producing good results for the school and less focussed on her personal welfare. Instead of making reasonable adjustments for Sylvia, eventually she was permanently excluded and sent to the local PRU. Gloria feels it is 'absolutely ridiculous' that disabled children are being sent to PRUs, as they were already vulnerable and struggling to understand societal norms. A diagnosis of autism did not mean they were badly behaved children in need of reform.

Gloria feels mainstream schools are only interested in the academic side of achievement; dealing with the needs of SEN children is a distraction from producing results. While Gloria thinks SEN children can contribute to academic results, their other needs must be met at the same time by skilled and understanding professionals for this to happen. Gloria asserts that without mainstream teachers appreciating and understanding SEN children's needs '...it is never going to work and there will be constant exclusions until the attitude of mainstream teachers change'.

## **5.2 Judgement and difference: ethnicity, class and exclusion**

Numerous parents described how they felt their ethnicity or class position were factors in how schools treated them and their children. However, this differentiation was almost impossible to discuss openly and therefore often went publicly unacknowledged throughout the exclusion process. Parents were left to carry these troubles and keep this disquiet to themselves, although some parents like Stephanie had conferred with other black parents with similar grievances who were considering lodging a formal complaint against a senior teacher. Parents felt wrongly judged and discriminated against because the school assumed that their children came from troubled homes with poor parenting, saw blackness as signifying potential aggression and criminality and regarded young children as adults.

### **5.2.1 Problems at home**

Several parents described how their children's problems in school were readily equated with supposedly troubled home lives. Parents like Mabel, Anna and Penny felt that these stereotypical judgements were based on how parents looked or spoke. Mabel who described herself as both 'Afro-Caribbean' (in quote marks if it is her own descriptor, otherwise African-Caribbean) and English strongly felt that people were treated differently due to their ethnicity and her son's school had discriminated against her, describing her appearance as key:

*I have got dreadlocks and I am black, so come on, that is number one in the statistic list. Do you understand what I am saying? Don't tarnish me because I got dreadlocks and you think all I do is smoke weed all day. Alright, I don't. I actually work.*

Mabel asserts that despite stereotypical images, she works as a nursery nurse with disabled children and chose this job because it fitted around the needs of her children. Mabel goes on to describe how she purposefully never raises her voice and speaks in the language of education professionals to avoid being branded an aggressive black woman:

*Yeah, with me because I am black they probably expect 'Oh she is going to run off her mouth and she is going to be aggressive and ignorant'. I never raised my voice once, do you know what I mean? I always constantly stay calm. I have to do that because of the job that I do. I have to do that because of the temperament, because of the needs of my children...and it does not reflect good on them if I did that. I am not an ignorant person, I am open to suggestions and I will work with you. And that is what I demonstrate throughout my son's time at [school]. If they wanted me to. I can be ghetto and I can shout and be intimidating, but what I do is I talk in their jargon...*

Mabel adopts a calm demeanour not only to escape racist representations of black women, but for the benefit of her children and how the school views them. However, despite talking in professional tones and avoiding 'ghetto' language that she recognises would be perceived as threatening, Mabel still finds nevertheless that her son's school still perceives her as aggressive. This could stem from the fact that Mabel is aware of her rights and has used this knowledge to fight for adequate provision for her statemented son. Rather than carefully considering her son's needs, Mabel feels that many professionals' adopt a stereotypical approach and think 'Oh god, here we go again. It's another one. Let's just treat them the same as the statistic text book says how we should'. Mabel is reluctant to define herself as Afro-Caribbean?? African-Caribbean and English on paper, as she feels defining herself becomes another way for her to be labelled and pigeon-holed.

Mabel describes how her children were unjustly placed on the child protection register after she confided during a counselling session that she had slapped her daughter for stealing a large sum of money. She asserts that 'My children's lives were ripped upside down and we suffered tremendously' because of this intervention. Mabel felt she was penalised for asking for guidance, as she had voluntarily requested counselling and parenting classes to learn new strategies to deal with her two younger SEN children after realising that the parenting style she used to raise her older two children might not work as well. She feels parents are continually blamed for children's struggles in mainstream education, that she was penalised for asking for guidance, and was insulted by the school suggesting she had mental health issues.

Anna is of Mediterranean origin, also wears her hair in dreads, does not speak with a British accent and identifies as working class. Anna describes how she felt judged by her son's school despite always being supportive, attending meetings and taking the school's side in matters. Anna's son Eamon is mixed race, dual heritage, half Grenadian and half Mediterranean. When Anna requested Eamon's files to prepare to appeal his permanent exclusion, she discovered her feelings were not unfounded:

*Anna: And when I got that file, it took me three months, I realised that this lady from the local authority was not really on our side. She was sending nasty emails saying like 'What is wrong with the mother?'*

*C: Ah, so you saw all the correspondence that had been going on.*

*Anna: So I put in a complaint. They had to send me a letter of apology because you know you are not a professional if you send emails with that kind of language in it.*

Anna received proof that the local authority and school were discussing how she was 'a bit of a weirdo'. Anna adds:

*I think the minute you step into the school you are judged by the way you shake their hand, by the way you look, by the way you speak and by the way your child behaves. And their question was 'What about your other two children?' And I was like, they are fine. They never had these problems.*

Mabel mentioned a similar dynamic, where schools assume it is the parent creating the issues experienced by her son, however she is also pushed to cite that she did not have any problems with her two eldest children. Anna feels schools perceive you are 'like a whole dysfunctional family' and this is compounded when it is discovered she is a lone parent. Single motherhood brings more assumptions, as Anna says:

*Straight away they assume, okay single mother, three kids, she is probably abusive at home and that is why the child...they make all these assumptions without having the evidence. Without really investigating about what goes on at home. And then all of the sudden you find a social worker at your front door or on the phone saying I need to come and see your family.*

Anna describes enduring the judgement of numerous social workers inspecting her house and how she raised her children, and how this process of scrutiny ensued when a child had problems in school. Her other children were resentful of this intrusion and she says it broke the peace of their household. Anna says she has had 'enough of this kind of British looking down kind of attitude on people who are not from here' and even became desperate enough to consider leaving the country for Eamon's sake; however, she decided this was not fair on her older children. Anna felt that she was perceived as coming from abroad and making them spend more money to educate her SEN son.

Penny also thinks that there was an attitude of condescension by her grandson's Head teacher towards her daughter. Penny describes how '...she [the headt] absolutely did sort of look down her nose at you know um, yeah she did with my daughter'. Penny is white British and working class, while her grandson is mixed race. Like Mabel, Penny feels they were judged for trying to get support for a vulnerable child who had experienced unstable conditions. She describes her

daughter and the head teacher's relationship as fragile. Penny works as a teacher and knows the education system, therefore she became the key advocate for her grandson and has also become the children's primary carer. Despite her knowledge, she found the Head teacher 'so incredibly unhelpful', adding 'But I think she felt superior, quite honestly.' Like Mabel and Anna, Penny describes working hard to prevent her grandson's exclusion by working with the school, but this was met with little constructive action.

As both Mabel and Anna expressed, problems in school quickly become equated with problems at home. White British middle-class Gloria shares how her autistic daughter Sylvia's issues in school were also attributed to issues at home and social services were sent to assess her family. They visited twice, but concluded Sylvia's parents were doing the best they could with an autistic child and Sylvia's issues in school were due to the school environment and they needed to devise coping strategies. Gloria describes feeling vindicated after this assessment, yet Sylvia was still excluded from her secondary academy. Nazia also had social services sent to her family home, as the Head teacher felt Aarif's relationship with his dad might explain his behaviour and that there might be issues in the home. However, when the social worker visited and found out that Aarif had been excluded for sexual relations, they were upset and got in touch with the council to see if anything could be done to get Aarif back in school.

### **5.2.2 The sexualisation and criminalisation of children**

Children and their actions were often sexualised and criminalised by schools. Rather than incidents being regarded by schools as the misbehaviour of children, in two cases involving students as young as four and five, young children's actions were regarded as the choices of mature, rational adults. Many parents felt that incidents were regarded more as threatening criminal acts and less as childish mistakes because of students' ethnicity and class background. While many parents suspected these factors had influenced exclusion decisions, there was nowhere for this to be addressed. Discussing the power dynamics behind judgements was seen as potentially uncomfortable, if not discrediting to their case. To discuss these things was to become problematic, leaving parents with little recourse. Instead, parents are meant to work from the premise that these exclusions are taking place within an equitable framework – despite the guidance hinting to the potential unfairness within these processes.

Amanda highlighted aspects of criminalisation through the exclusion process, where black bodies were read as automatically threatening<sup>31</sup>. Amanda describes how her daughter Devon was excluded for summoning a 'gang' to her secondary academy after her three older siblings came to collect her. Her siblings asked the teachers why the school was not intervening as pupils repeatedly attacked their little sister. The siblings also asked if a 'race thing' was the reason for their

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<sup>31</sup> This hyper-visibility of the ethnic minority student body relates to the highly disproportionate stop and search rate of ethnic minority people by police. Black, Asian and ethnic minority citizens are twice as likely to be searched by the police. For black people, the rate of stop and search has risen 120% between 1999-2000 and 2009-10, yet the increase for white people was 7%. See <http://www.theguardian.com/law/2013/apr/22/ethnic-minority-britons-stop-search-white>, accessed February 2015.

inaction, as their sister was black while the key bully was white. As mentioned in the previous chapter, the school called the police and the siblings explained they were there to make sure their sister was safe. While the police did not take statements or names, Amanda says the school claimed '...they felt threatened, intimidated, they felt that they were being called racist', although the teachers at the school gate clearly outnumbered Devon's three siblings. Amanda felt the entire process was 'not fair at all. From the start to the finish it's been unfair....It's a big injustice to be honest, a big injustice for my daughter.'

Amanda feels that racial discrimination may have influenced Devon's permanent exclusion and thinks the school might have handled things differently if her daughter had been white and her attacker black. Her siblings raised this question when they asked if it was a 'race thing'. However, rather than engaging with this question and offering a response, instead the school interpreted this question as an accusation of racism, intimidation and it was used as a reason for Devon's permanent exclusion. This clearly shows the danger parents face when they ask questions about discrimination on account of race and class, for Devon's exclusion shows how these legitimate questions not only go unanswered, but can be re-mobilised to the detriment of parents and children. The siblings were described by the school as both a 'mob' and a 'gang', which Amanda also questions as problematic:

*And again, is that a racist comment, by saying all black people are a gang? Comes from a gang...And because obviously the young boys nowadays they might wear a hoody for instance, her other brother might have had a hoody on. Would that make him a gang member? Or because you are more than two...you are three black people?*

Rather than her siblings being regarded as a group of people concerned family members, they are spoken of in the language of an intimidating gang or mob. These sorts of comments and treatment have led Amanda to strongly believe that there is a connection between ethnicity and Devon's exclusion, yet these dynamics were not discussed at the IRP. Instead, a string of minor disciplinary incidents at the secondary academy were brought up at the IRP which '...make it appear as if she is a big time criminal, which isn't the case. It really isn't.' These incidents included bringing a phone to school, uniform infractions and being found smoking on the way to school two years prior to the permanent exclusion.

Amanda feels the zero-tolerance, business orientated nature of this academy was not putting children first and missed the point of education through a focus on details, as her daughter had never been disruptive or violent. Anna also describes how the zero tolerance approach of Eamon's secondary academy was also unhelpfully restrictive, with his first permanent exclusion resulting from his refusal to let a teaching assistant confiscate his crisps. Anna thinks this focus on appearance, tests, and strict rules created a negative environment unfocussed on learning.

Ralph, a West Indian Caribbean an African-Caribbean working-class father, also ties the permanent exclusion of his son Steven from his secondary academy to his racial and class background. Steven was excluded for defending his friend

from being attacked and carrying a stick under the assumption he might have used it as a weapon although he had dropped it by the side of the road and had not threatened anyone. Ralph describes how Steven's exclusion for concealing an offensive weapon conjures up perilous images and would ensure he never found another school. He describes how this incident would be interpreted without regard to the context in which it occurred:

*All they are seeing is that he had a weapon and the first thing they think is he was carrying a knife. That is the first thing that comes into people's heads. They don't think even know what the weapon is, but the first thing they think is that it is a knife or a gun. Right, second thing, is it says 'for violent behaviour' so they think this child, this man is someone who is completely violent, out of control, carries weapons, stuff like that yeah. They have labelled him with the most nasty stigma that you can have, especially as a black child in London. When he goes to college, when he goes for jobs, that is on his record.*

Ralph emphasises the damage to Steven's future, particularly as a black boy and with the public anxiety surrounding young boys and knife crime. Ralph was also concerned that this incident had left Steven with little respect for authority and adults, as he felt disillusioned that teachers lied and now thought everyone lies. Ralph says this was difficult for a young boy to understand '....and what everyone is forgetting as well is that Steven is a child.' He describes how the school was treating him as an adult, when he was still an impressionable, developing youngster.

Christina also wondered if her son's poor treatment might be down either to her colour or class, defining herself as African and working class. She wonders if the school does not listen to her because she is 'poor', despite working as a nurse, or 'maybe because of my colour'. Christina does not think a white boy would be treated the same way by the school. While Maddox and another Asian boy were excluded for touching the marijuana brought in by another student, another white boy who knew beforehand that the marijuana would be brought in and had offered to bring in tobacco to facilitate smoking it was not excluded. Christina thinks the school does not care about the disproportionate exclusion of black boys, as the Head teacher refused to consider any alternatives. Yet, he also told Christina the PRU was unsuitable for her son: 'I said "Why can't my son go there?" and he said "Because he is not aggressive. He's polite...the PRU is only made for those children that are unmanageable"'.

Christina was perplexed by what amounted to being 'involved with drugs', as there was clear evidence that the white student had known about and intended to smoke the cannabis, yet this did not count as involvement because he had not physically touched it. While waiting to meet with the head, Christina also describes sensing 'something funny' about how the head treated the mother of the white student. They emerged from the head's office smiling and enjoying friendly banter. However, Christina says as soon as she and Maddox entered the room 'he was all tensed up'. While Christina can never prove or confirm the validity of this feeling, like Amanda she feels ethnicity and social status had a role to play.

Stephanie describes how her son Lucas' school tried to manipulate his ethnicity to claim it was not excluding a vulnerable pupil. Stephanie's son Lucas is dual heritage and with SEN; yet, during the IRP the school attempted to 'make him white' like the other two students involved in the incident who were not permanently excluded. Stephanie, black Caribbean and working-class, describes this exchange:

*Well honestly it was...you know we are saying that Lucas is black, I'm black, Lucas's family is black. Okay he is mixed race, but even so his paternal father is black. So yes, he is black. But they were trying to say that he is white. They tried to make him white.*

Stephanie feels the school was trying to defend their actions, for by 'making' Lucas white his colour could not be an issue in the exclusion. Yet this whitening was patently absurd, as Lucas clearly does not visibly appear white<sup>32</sup>. Stephanie strongly felt that Lucas' school had racial issues and through prayer meeting and community networks she had met several other parents of black or dual heritage who had had similar struggles with the deputy Head teacher. One mother was organising a formal group complaint that Stephanie had agreed to support.

Julia's story is an extreme and troubling example of the sexualised, criminalisation of black boys even as young as four years old. Julia discusses with disbelief how her son Thomas could be permanently excluded for sexual misconduct at this tender age. She is Jamaican and strongly feels the Head teacher was racist for dealing with an incident between Thomas and a girl in his reception class in such a punitive way. Julia feels this event could ruin her son's future chances before his young life has even begun. Julia describes how the head called the police department to report the incident between her son and another four year old girl in the reception toilet. However, the police informed him it was not a police matter and directed him to social services. The head never contacted social services, nor took a statement from Thomas. Julia feels that the school is targeting young black boys and she has heard that other black parents were removing their children from the primary school since that Head teacher came into post. She also cites how there is only one black teacher working at the school, despite a diverse student cohort.

Julia does not understand how her four-year-old son can be punitively treated as a young person, for children of this age are still babies in many ways:

*These are not teenagers. You are treating this case like it is an adult child who has sense and knows what they are doing. These are babies - you can't say that what were they thinking. These are children.*

Julia took her case all the way to the Royal Courts of Justice with the help of a barrister concerned about Thomas' predicament who was willing to work for free, however the permanent exclusion was upheld. The judge did specify that

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<sup>32</sup> Lucas brought us cups of tea during our interview; no one would describe him as 'white' because of his darker complexion.



'sexual misconduct' must be removed from Thomas' record, as this is inappropriate for a four-year-old child. This leads one to question how the exclusion itself can stand as legitimate, if the very reason for it has been deemed inappropriate. Penny's five year old mixed-race grandson was also issued a fixed-term exclusion for putting his hand down the back of a girl's pants, however the educational psychologist deemed that this was not outside of the normal range of behaviours for a five year old child and a punitive response was inappropriate. Rather than small children being nurtured through critical stages of their development and guided towards appropriate behaviours, schools were quick to take a hard disciplinary stance even with four or five year olds.

Nazia's son was also sexualised and criminalised throughout the exclusion process. As previously described, Aarif was excluded for sexual activity with consenting girls and his mother was told by the Head teacher that in the UK boys, not girls, are punished for sexual activity. Nazia describes how the conduct of the GDC made it feel 'like he was a criminal'. They later found out during the IRP that the school regarded the girls who had allegedly been sexually involved with Aarif as innocent victims because they wore hijabs, playing on stereotypes of submissive Muslim femininity. Meanwhile, Aarif was positioned as a sexual predator and, after the quashing of the exclusion and his reinstatement, he was also questioned about a recent trip to Pakistan with his father during the school holidays. After wearing some traditional clothing and carrying prayer beads around after his holiday, the Head teacher became concerned about Aarif and enlisted a member of staff to talk to him.

What Aarif initially thought was a friendly chat became strained when the teacher started to ask him very specific questions about Pakistan, about his traditional clothes, and if he prayed at a specific mosque. Aarif told the teacher he did not attend mosque, but asked him why he was asking these questions. The teacher admitted the head had sent him because they were concerned Aarif had been radicalised, as Nazia describes:

*And that has really hurt me so much when Aarif was telling me. Now it's like the thing, like what is she [the head] up to now? Is she going to make him terrorist? Is she going to report to the police that he has become religious? Or that he is wearing his culture clothes?*

Nazia stresses that she and her family are not dangerous, but 'normal people' with limited connections to Pakistan. She feels obligated to stress her moderate religiosity, adding that 'The only thing I pray for is his education, nothing else....If anyone is going to mess up my children's education I am not going to keep it quiet'. She feels that the Head teacher was disappointed that she had lost the IRP and was determined to find something wrong with Aarif. Nazia also feels the school treats pupils differently based on colour. The first time Aarif was excluded for fighting, his Irish friend who was also involved was not excluded. Meanwhile his other white friend had also had sexual relations with one of the same girls, but this was not seen as a problem.

Black boys –as well as girls like Amanda's daughter Devon and Patience's daughter Prescilla - are regarded as more vulnerable to the inequities of the education system than their white counterparts. Grace, black African and

working class, describes how her son Felix was permanently excluded from his secondary school for waving a knife in the air to break up a fight between two white boys. One of the white boys fighting had brought the knife into school, however Felix cautioned him against carrying a knife and took it from him before the fight. When the fight outside the school gates became too heated, Felix waved the knife in the air and the crowd dispersed. Initially only Felix received a permanent exclusion, while neither boy fighting - including the one who had brought in the knife - was excluded.

Grace describes how colour makes a difference, as 'They did not mind who brought the knife in or what. So I feel like if you, if you are black you expose yourself to so many things'. She visited the PRU and comments that it was full of black students, however Grace did not think that black students were treated differently in the first place, but 'when you put yourself into that situation, you don't stand a chance'. Black students could not afford to push the boundaries or allow themselves to be vulnerable, as they might not get a chance to redeem themselves. Grace felt that black students had to avoid danger 'because you get lost in the system'. Grace thinks the Head teacher wanted to make an example of her son, as the decision to exclude Felix was based on one statement out of eight saying he had violent intent. While Grace claims black students are treated equitably at first, it is difficult to see how there is fairness when the black body is so hyper-visible, readily disciplined and associated with danger while other students pass under the punitive radar.

Felix's story shows how exclusion affects students differently based not only on their race, but their financial situation. The student who brought in a knife was also eventually excluded, yet Grace describes how his father had enough money to hire a home tutor and continued studying for his GCSEs, whereas her son spent the month sitting at home waiting for the GDC. Fortunately, the governing body overturned the exclusion and Felix was reinstated. The Head teacher told her that some people had left the school after Felix's reinstatement: 'When those students explained to their parents that a black student who had a knife is back in school, then they had to take out their kids'. The spectre of the black male with a knife looms large in the urban imaginary, regardless of the actual particulars of the incident and leads Grace to conclude that racism '...it is not always direct. It cannot be direct, it is indirect'.

Finally, Margaret and Bruce felt that class advantages meant their son Barry was permanently excluded while the other boy involved in the fight went unpunished. They describe themselves as white British and working class, while the other boy was from a wealthy white middle-class family. Margaret describes how '...he just went back to school as if nothing had happened. He got away with it. But he was also filmed hitting the other boy in the first place. But nothing happened.' Her son had known this boy since primary school; for several years prior to this incident he had told fellow students that his father contributed money to the school and he could do what he liked. Margaret and Bruce brought this to the attention of the governors, but these points were excluded from the minutes taken at the GDC.

Margaret felt it was difficult to raise any of the issues to do with the social context of the incident at the IRP, but in retrospect she wished she had. Bruce agrees, but adds 'You're gonna prove nothing', highlighting the difficulty of discussing the inequalities inherent in these processes. The personal aspects and social dynamics critical to these judgements and subsequent outcomes are seen as illegitimate or petty, personal commentaries. Margaret and Bruce struggled to get across what they strongly felt was true and ultimately felt defeated, as the boy remained protected and the exclusion of her son Barry was upheld.

### **5.3 Middle-class privilege and institutional racism**

Head teachers and local authority exclusion officers had a range of opinions regarding the disproportionate exclusion of students who were male, on free school meals or from black ethnic backgrounds. Seven heads or exclusion officers felt either racism, class bias, or middle-class advantages were at least partly to blame, although one exclusion officer felt this discrimination was inadvertent. Five heads and exclusions officers felt that there was no discrimination in their borough or school, or that individual cases stood up to scrutiny. Class-based discrimination was much more readily discussed by participants, with the notable exception of Jack who actively confronted racism both in his school and his interview. This suggests that heads and exclusion officers are far more comfortable talking about discrimination in terms of middle-class privilege rather than racism.

Head teacher Jack offered three reasons why he thought there were disparate exclusion rates. Firstly, he felt there were different views on education between black Caribbean and white working-class communities that affected exclusion rates. While white working-class families were more likely to withdraw their child from school in favour of an apprenticeship or casual labour, Jack felt black Caribbean families tended to have more faith in the transformative powers of education and kept their children in school. Jack describes two other reasons why exclusion rates were higher for black Caribbean students:

*Secondly there is some institutional racism going on in which there are spoken and unspoken beliefs about black Caribbean boys. And then thirdly there is what Chuck D described as fear of a black planet...they are far more likely to be sent to me...if they had a darker complexion and more athletic build and did not wear glasses than the complete opposite of that. And they were more likely to be sent by a certain group of staff who although unable to say anything, obviously felt somewhat threatened by these young people.*

Jack feels that a new generation of teachers more accustomed to living in a multicultural society is helping change this situation, although he also notes that there is scarcely any teacher training around these issues. As a head, Jack has worked to combat institutional racism within his own school by staff and students working with a professor from a local university over a year. This extended project helped because staff being told or challenged about their actions was not having any impact, as Jack thinks many staff were unable to acknowledge or articulate how they felt:

*It was almost tacit, a tacit understanding amongst some staff who could share the experience without saying anything. But getting a professor to stand at the front and keep asking questions and talking and saying what the research said and saying what other people had said in interviews with him allowed people to identify with some feelings and then start to kind of bring it to a kind of level of consciousness where they might address their actions. We also did a lot of work with the children, getting them to talk about how they felt and I did a lot of work with moving staff on.*

This tacit, shared understanding that fuels institutional racism could only be disassembled by developing a vocabulary to articulate feelings and critically reflect on actions. Yet this is a rare model of a school confronting and exploring how institutional racism manifests itself through everyday practices. Jack also feels that phasing out permanent exclusion would be the right way forward:

*...all schools should be held responsible for all of their children from age 11 to 19 and what is needed is a culture change in you can't kick a child out for any reason - even violence or knife crime - but there are certain thresholds when you are allowed for the child to have off site provision.*

Jack feels there should be set thresholds for excluding children or sending them to off site provision, rather than head teachers being able to 'ship children off' to poorly managed provision at their discretion and without parental consent<sup>33</sup>. Unlike many heads, Jack thinks his power to act autonomously should be more carefully structured and monitored.

Most heads and exclusion officers discussed discrimination on account of race and class in terms of middle-class parents having an advantage over other parents who did not fit into this group. Head teacher Daniel admits that discrimination is not a thing of the past:

*...I think there is this sort of middle class sort of white bias in education. And that can be quite, it can be very damaging. And you know one of the reasons we have the parents forum and you know we are happy to engage with CEN is because some parents feel marginalised and...they don't feel that school is accessible and they don't feel they have a voice and they don't want to enter into that engagement you know, their feeling is that some parents are better at playing the system and that is undoubtedly true.*

Daniel acknowledges that middle-class parents are better at gaining advantage within the education marketplace and the detrimental effects that this has on

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<sup>33</sup> Governing bodies can direct pupils to off-site provision to improve their behaviour without the consent of parents. See Alternative Provision Guidance, points 23-25. <http://www.education.gov.uk/aboutdfe/statutory/g00211923/alternative-provision>. Accessed February 2015.

other parents who cannot access these privileges. Exclusion officer Mark also describes the alienation that ethnic minority or working-class parents might feel, relating this exclusion to his history degree where all the books were written by white, middle-class men. Yet at the same time as Daniel recognises these differences and groupings, he also shuns a return to the days when there were well-meaning, yet patronising events targeting specific groups of parents. Daniel infers that these crudely essentialising approaches assume that 'the black parent' or 'the white working-class parent' exists as a set entity. Yet, at the same time discrimination continues along the lines of how people are perceived by institutions, as Jack describes some teachers' fear of tall, athletic black boys without glasses. Daniel adds, '...we all carry our histories, but I think in a school the leaders of the school need to say this is what we are about, this is our vision.' Rather than focussing on race- or class-based inequality explicitly, Daniel cultivates a welcoming egalitarian image, describing how the school is there to serve and respect local families and get the best outcomes for their children.

Head teacher Henry also describes the potential advantage possessed by middle-class parents in the appeals process:

*There could be schools that will, not manipulate, but exploit is the word that I am looking for, the fact that parents might not speak English or might come from ah, you know, whereas they might treat say a middle-class parent slightly different because they know the rules...*

Middle class parents perceived as understanding the education system are far less likely to be exploited than their less educated counterparts or those from elsewhere. Henry takes a much harder, no excuses approach to discipline, saying if behaviour 'is unacceptable, it is unacceptable and I don't care where you are from...that will not be tolerated on our site, period'. Students must learn to conform to the school, as Henry describes how expectations must be consistently applied because some boys from different ethnic groups might be used to acting differently outside of school. While conforming to these norms may be easier for middle class students, they are universally demanded. Henry does admit that some poor behaviour might be out of the child's control and describes how they try to empathise with and support students without condoning the behaviour.

Exclusion officer Amber offers examples of several highly flawed exclusion cases that she doubts would have occurred if the parent had a middle-class background. Amber describes this differential treatment:

*There is, I do think there is some really bad treatment of certain parents because of their background. Not in all schools, but in some. And I do sometimes wonder would this parent get treated the same way if they were you know a middle-class mum? Or a middle-class dad and they spoke really well and they knew all of their rights?*

She thinks that a small minority of schools exclude when they imagine that the parent will not appeal the decision:

*There is a lot to be done because I do think some schools...do exclude and they think, 'Oh I will exclude this one because, you know the parents will not really kick up a fuss, I know them, they won't kick up a fuss'. Do you know what I mean? They are not very legal, they will not do anything.*

Amber thinks some schools take advantage of parents who may not understand their rights or do not speak in a particular accent. Her borough actively tries to combat the exclusion of FSM and SEN students by liaising with parents and proactively challenging schools using data; however, Amber realises that this may not be the case in other boroughs.

Exclusion officer Dennis talks about disproportionately excluded groups and discrimination primarily in terms of class rather than race. While Dennis feels people are racist and this is part of the reality of life, he feels racism only accounts for ten percent of the issue: '...I am sure that racism does play a part in it, but not to the degree that people would like to believe. It is good old-fashioned class discrimination I suspect'. Yet, as the parent sample has shown, racism and class-based discrimination often arrive together as part of one package, where colour and class become closely intertwined and difficult to unpick within interactions. Clarence takes a similar approach to Dennis, depicting inequality as part of everyday life:

*...there are normal disadvantages that people suffer whether it be based on ethnicity, class, gender, you know, disability um which is about people's perceptions of them as a family, them as parents...simple things like having a very thick accent can mean that a person is not listened to in the same way as they might be if it was a more middle class accent. So all of that can feed in so that you end up with...an inadvertent discriminatory effect really.*

Clarence positions these disadvantages as somewhat normalised and taken for granted, feeding into institutions and their treatment of parents and children to create the effect of inadvertent discrimination. Markers like one's accent or colour can result in differential treatment, as both Clarence and Dennis matter-of-factly point out the systematic way that race- and class-based discrimination routinely operates in society and reproduces inequality. Clarence's use of the word 'inadvertent' signals how discrimination is not necessarily a conscious or intentional process, as Jack pointed out earlier in this section. Yet, positioning racism or classism as 'inadvertent' and institutional in nature can also absolve individuals from taking responsibility for their discriminatory actions<sup>34</sup>.

Meanwhile, several participants like exclusion officers Barbara and Stuart and head teachers Peter and Emma felt that they had not seen any discrimination in their schools or boroughs and that exclusion numbers were not disproportionate because of discrimination. Barbara feels that her borough is so diverse that head teachers '...are very experienced in dealing with different types of families,

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<sup>34</sup> See Ahmed, S. (2012) *On being included: racism and diversity in institutional life*, Durham: Duke University Press.

including those less educated or deprived'. Rather than considering exclusion as an equalities issue, Barbara describes how the focus is on the child's behaviour within the school. Several participants mentioned that some schools were much better than others at providing an inclusive, supportive environment. Barbara describes how some academies are not working to avoid the exclusion of SEN children, while Stuart describes how some schools 'are less tolerant shall we say and their recourse to an exclusion or a permanent exclusion is sometimes a fair bit shorter than it is with other schools.' School ethos made a difference to how quickly permanent exclusion was regarded as a solution.

Finally, numerous exclusions officers and heads also tended to view the disproportionately high numbers of black students being excluded in their borough as a matter of high proportions of these students rather than regarding it as a straight-forward equalities issue. Barbara describes how the large amount of black students in her borough leads to larger numbers of excluded black children, while Amber, Henry and Dennis all made similar points. Dennis is reluctant to see the trends in his borough as indicative of any wider pattern because he feels the numbers are too small to generalise, although more black students were being permanently excluded. Several participants emphasised the need to regard each permanent exclusion individually, rather than looking at overarching patterns. Barbara comments:

*Well I think that, when you look, I think every case is an individual. I really do. And when you actually get involved with the case it kind of gives you some of the answers, why this young person is not behaving that well.*

Peter takes a similar stance, saying that all the exclusion cases he came across '...stood up on their own merit. And I am not really into the categorisation of children that much anyway...' This individualistic stance confirms previous research showing how teachers – and in this case some local authority officials – tend to think in terms of individual students rather than in terms of systemic inequalities within the exclusion process<sup>35</sup>. While the patterns of inequality and over-representation were easy for heads and exclusion officers to see at a national level, this became much more difficult at the local authority or school level. While there may be more black students within many London boroughs compared to other parts of England, the excuse that therefore more must be excluded does not bear out on a national level where more black students are being excluded overall. As Gazeley et al (2013) point out, entirely individualistic approaches to exclusion are not sufficient to flag up and address inequality's central causes and can enable its continuation.

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<sup>35</sup> See Solomon, R.P., Portelli, J., Daniel, B-J. and Campbell, A. (2005), The discourse of Denial: how white teacher candidates construct race, racism and 'white privilege', *Race, Ethnicity and Education*, 8, 2, pp.147-169.

## 6. The experience of the IRP

This chapter explores the IRP and its outcomes through the narratives of parents, heads and exclusion officers. Firstly, it examines how the IRP was experienced by parents, as well as head teachers and local authority exclusion officers as a an event. There will be a particular focus on the more affective or emotional dimensions of this engagement, and how this ties to relations of power and fairness. It looks at how parents negotiated this experience, including their concerns over the conduct of panels and panel bias, and how decisions were reached.

### Key Findings:

- The IRP meeting presents an innately uneven playing field weighted in the school's favour due to the differing levels and types of cultural and social capital parents, heads and panel members possess. While this meeting represents a gruelling yet familiar day at the office for head teachers, it is a stressful, high stakes situation for parents where they enter unknown territory. The need to thoroughly understand the education system, the exclusions guidance, and possess persuasive linguistic skills and confidence under pressure makes it difficult for parents to be equal participants.
- Several participants were concerned about panel bias and who should sit on IRPs. Many panels are comprised of head teachers from within the same borough and this was regarded as a potential conflict of interest, as heads judge their colleagues who may subsequently judge them. The guidance also does not prohibit head teachers from within the same Academy Trust being on a panel and judging the decision of a head from the same Academy Trust, allowing fellow employees to judge one another's decisions.
- There were concerns over rigour in the IRP's decision making processes, whereby panels often did not ask for documentation or evidence to corroborate the claims of a school and key points in a case. This often resulted in a scenario where it ended up being the head teacher's word against that of a parent. In this scenario, the parent, parent advocate or exclusions officer seldom experiences IRP members challenging the evidence of head teachers).

### 6.1 Power relations within the event

Every parent in this sample except one attended the IRP with an advocate from CEN. This is important to bear in mind, as parents frequently attend these panels without a representative. Yet, despite this group of parents receiving support in person on the day, the overwhelming majority felt anxious and intimidated by the IRP and many said they would never have gone through the process without representation. Decisions at review panels are made on the balance of probabilities, or the civil standard of proof, rather than the criminal standard of



beyond reasonable doubt. A decision can be quashed if it shows illegality, irrationality or procedural impropriety based on the principles applied in an application for judicial review<sup>36</sup>. There were large disparities in power relations at play during these meetings. Head Jack, exclusion officers Stuart and Mark and clerk Charles all thought that most parents did not understand the process or the grounds for getting a decision overturned. Jack comments:

*You know I don't think that many of the families understand the appeal process. I really feel, you know, they turn up bemused, uninformated about what is going on and uncomfortableness, unfamiliarity with the process makes it harder for them to be fair participants. Whereas head teachers turn up, we have done it before, uh, nearly always know one or two people on the panel.*

Jack describes how heads and panel members enter a format and event they are familiar with, compared with parents who enter an unknown space. Whereas Jack knows the routine and often some of the panel members judging his decision, the parent arrives to a new, uncomfortable situation. Charles points out that parents '...do not understand how they can present their case and how they can argue against the case that is presented', which automatically creates an uneven playing field. Jack describes how families can occasionally behave confrontationally during the meeting, whereas at other times they show 'almost too much professional respect when their child's future is on the line'.

Many participants describe the review panel as a formal affair. Mark feels the panels are overly formal and intimidating, adding that parents do not get a 'fair shot' because many of them may not be aware of their rights or how to operate within such a situation. Like Jack mentioned, Mark feels that unless a parent is 'clued up', defence barriers might be erected:

*...if they don't know about it and they walk into a very formal setting with a group of suited adults of various academic backgrounds, they may feel quite intimidated and therefore might go on the offensive.*

The majority of parents in the sample identified as working class and often came from an ethnic minority background, whereas heads and panel members are predominantly from white, middle-class backgrounds. Mark added that the racial make up of panels might also be alienating for parents, suggesting that it was unlikely that many review panels had a diverse ethnic profile.

Henry has a very different view of the panel. He admits that it feels like his judgement is being tested, while it can be frustrating to see a badly behaved child appear 'like a little angel' at the event. Henry feels robust processes in his school

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<sup>36</sup> Although some participants down played the legalistic nature of the IRP, this obscures how IRPs operate along the principles of judicial review. The 11KBW Education Law Practice Group's blog even states that panel members, headteachers and parents should possess a thorough knowledge of public law in order to participate: 'IRPs face a very difficult task in reviewing a decision to permanently exclude a child. An in-depth knowledge of public law is, it appears, essential for both applicants for review...and IRPs themselves.' See <http://www.education11kbw.com/2014/07/25/school-exclusions-the-first-judicial-review-under-the-new-regime/> Accessed February 2015.

provide adequate evidence that exclusion was a last resort, however Henry was irritated that preparing these cases took teachers away from learning. Rather than recognising the intimidation or confusion parents might experience, Henry wants to do away with the emotive dimensions of this encounter, saying '...let's take the drama out of it, let's take all the hysteria, the blame game. The bottom line is...it is around the welfare of their child'. While Henry tries to recognise the parents' perspective, he also feels that 'you can't take things personally and I think too many people take it personally'. Henry would like exclusion to be regarded as a professional issue, however, as Jack mentioned, many parents feel they are fighting for their child's future.

Whereas for head teachers the IRP might represent a particularly gruelling day at the office, many parents felt they were entering an unknown battleground where their child's life was at stake. Both Christina and Amanda describe the experience as 'daunting', with Christina adding, 'I felt intimidated but I had to fight for him, try to have him cleared of this situation.' Amanda's review was held at the academy chain's headquarters, which could arguably contravene the guidance's call for reviews to be held at an 'appropriate' venue, as this is clearly not a neutral setting. Amanda had never been to any meeting like this before and describes the format of the meeting as difficult to navigate, '...I was finding it a bit confusing when to ask a question, when to make the statement and so it was bit confusing not knowing the process'. Stephanie felt extremely nervous going into this unfamiliar setting and describes how she is prone to becoming tearful and emotional when talking about her son. Stephanie often enlisted her daughter to speak on her behalf:

*I hated going into meetings like that. I am a very nervous person in a sense that I don't - it is like a confrontation isn't it? I mean you are fighting for your son's well-being, his life really. So going into something like that and I don't know what the outcome is going to be and what's expected of us.*

Evelyn also mentions the anxiety of expectation surrounding this unknown event: 'I remember when I was there I was panicking because I don't know what I am going to meet there'. Evelyn did not find the experience easy or comfortable, and was grateful to have the support of an advocate.

While Grace did not have to attend the IRP due to her son Felix's permanent exclusion being overturned at the GDC, she would never attend these meetings without an advocate. She had never been in a situation where she was fighting for her son in front of an audience of seven and, like Evelyn, felt a sense of panic during the GDC. Meanwhile Julia was so disturbed by the permanent exclusion of her four-year-old son for sexual misconduct that she could not stay for the entirety of the IRP. She went to the meeting with two advocates, but had to leave after speaking to the panel 'because it really breaks me down'. For Julia this meeting was a traumatic, unforgettable event.

Several parents described how proceedings often took place in an unfamiliar language. Mabel feels that having representation in meetings is essential due to the language spoken by educational professionals and the difficulty some parents might have getting their points across in this environment. Advocates

know how to place parents' arguments within the right context:

*...not all parents are as articulate as me, and even though I don't think I am very articulate, I can get my words across. Even though they say 'Oh she is aggressive'. I am not aggressive; I am just assertive...there is a big difference. But some parents, they don't know the jargon, so that is how they end up getting frustrated.*

Margaret also describes how it is difficult to deliver a coherent argument under stressful conditions when you do not know the 'jargon'. Although Margaret felt that the panel tried to make her and her husband feel at ease by appearing friendly, she still found the experience 'nerve wracking'. Margaret was relieved that her representative did most of the speaking, adding: 'I am no good with words and I cannot put across, in a situation like that, I cannot put across what I want to say'. While her husband Bruce felt that their representative left out a few key details, they did not feel comfortable interjecting during the proceedings and felt unsure about what they could and could not say in this sort of meeting. Margaret says 'it was like watching a court room' and feels 'that governor and head would have walked all over us if we had had been on our own'. Margaret and Bruce point out the routine difference in social positioning between panel members and parents, as Margaret says, 'Yes, they are posh innit they?' while Bruce replies, 'Yeah they are, but most of the time when they are in those meetings, they are speaking to people like us'. Panels are not comprised of people like Margaret and Bruce, but middle-class professionals who make decisions about the lives of mostly working-class and ethnic minority parents and their children.

Patience also felt she did not speak the panel's language and was out of her depth: 'I felt like I was on LA Law. It is not familiar, apart from on Ally McBeal, no'. Patience attended the GDC on her own, describing how '...I went by myself not understanding that they were cheating me. I did not know how to explain myself. It was hard'. She struggled with the format, often nervously forgetting her key points by the time it was her turn to respond. Patience attended the IRP with an advocate and felt this made a significant difference to the process and outcomes. She describes how she did not possess the specialist knowledge that her representative knew how to access:

*...I am just a regular parent. I don't know what you should or should not do. And he knew to get the educational needs specialist to help us and she looked at the reports and said that there were referrals that they never looked into.... I was so shocked, like tears filled my eyes.*

Patience felt that her advocate spoke the same language as the panel members and understood how to get the decision quashed. Patience, like many parents, was not aware of the three grounds for quashing a decision. While Patience gave her answers as well as she could at the GDC, she feels the decision never would have been quashed at the IRP without a representative who understood what was legally correct. Patience also highlights how speaking the panel's language also means speaking with the same accent, as Patience describes her representative asking to adjourn the meeting in a posh voice as the Head teacher

looked increasingly disconcerted. As mentioned in the previous chapter, the accent one speaks in functions as a key marker of class status, which ties to assumed knowledge and feeds into judgements.

Nazia relates a similar story of the IRP feeling like going to court and struggling to get her points across. She did not know 'how to put it into proper words for people to understand' or how to craft succinct arguments to make her long story short. Whereas Nazia would tell the story from start to finish, her representative had another way of telling the same story that highlighted the key points of the case and made the panel realise the permanent exclusion was wrong. Nazia feels she would have been in danger of bursting into tears during the IRP, however her representative could maintain emotional detachment from the situation. The secondary academy also had a legal representative in attendance. Nazia describes:

*Yeah of course, it was proper and she [the legal representative for the school] was talking in kind of some legal way of making Aarif into the bad excluded boy and only my representative could answer you know, I could not properly.*

While her advocate could counter the school's legal representative using similar language, Nazia felt she could not have competed with a trained legal representative. She describes how her advocate made the panel examine the details of her son's case by speaking slowly, which encouraged panel members to listen and think carefully. Nazia does not think she could have delivered a similar performance under such stressful conditions. Nazia also describes how there was a huge difference between how the Head teacher treated her when a professional person was present, compared to when it was just family members.

Even the three parents in the sample who had extensive experience working in schools described the IRP as a stressful experience. Teacher Anna describes her anxiety going into these meetings, even though she had prepared in advance and knew what she wanted to say. She navigated the panel order by jotting down notes and waiting her turn to respond; however, she still found it difficult to formulate answers. Anna felt that panel members were wondering what sort of teacher she was if she could not manage her own child:

*And there was always this sense of really, um, you know all of these people looking down on me. I tried to dress up and wrap my locks and look like decent, but I always felt like they looked at me as a person who does not really fit into society, that does not really fit with their kind of framework....it was difficult to bring my point across and show them that they were not actually doing anything for us to help us.*

Anna felt very uncomfortable, even though she is educated, speaks English fluently and understands the education system. She wonders how parents without these advantages can cope with these meetings. Youth support worker Ralph also questions how a layperson could navigate these meetings after his experience at the GDC. He describes how language can be used to frighten parents:

*Can you imagine someone who has no idea of the workings of a school? You've got to go in and you've got to sit in front of a panel who talks down to you, so straight away they are intimidating you. And what they are trying to do I think, they are trying to get a reaction from you...so they can say, 'Oh look, you can see where the kid gets it from'. They use language that you are unfamiliar with so you straightaway feel intimidated and that's how they seem to get away with it.*

Ralph's description of schools trying to elicit a negative reaction from parents that discredit their case ties to Mabel's comments about the school portraying her as aggressive rather than assertive.

Penny was the most confident about her performance at the IRP, as she had previous experience of a similar format as a teacher sitting on school appeal panels and running staff training sessions, yet she still admits that she cried at the end of the appeal. She rehearsed extensively prior to the meeting, assembled a chronology of events, and had documented every interaction with the school and external agencies. While Penny understands how the education system works, she wonders how a lay parent could negotiate this situation:

*I can't imagine going in there as a parent and not knowing what I knew, how can you argue it if you don't know the system? And if you don't know...it is really difficult. And if you don't know, I mean you might know just from instinct or whatever or just the way the school is, you are not doing everything you could be doing for this child. But if you did not know the sorts of things, the sorts of records that schools are required to keep and the agencies to which they should be referred to or strategies for behaviour...I can't imagine how difficult that must be to do as a parent going in, going in there...and that is why I think god, well, if I could not get that overturned, I don't know who could have. I really don't.*

Despite Penny's knowledge and the extensive evidence she compiled, the decision to permanently exclude was still upheld, leading her to wonder how other parents could win in this environment. Penny highlights how these encounters within the GDC and IRP require 'performances' from parents where your accent, confidence, knowledge of the education system and capacity to deliver coherent, convincing arguments with reference to the guidance points is key to getting decisions overturned. Some of the most disadvantaged members of society are going head to head with education professionals and occasionally legal representatives over a highly emotive matter. They often have little insider knowledge of how the education system works, making it difficult to see how this interaction could be described as 'fair'.

Several parents felt so strongly about their child's exclusion that they wanted to take their case further. Evelyn remains angry about her son Tunde's experience and plans to take her case to the First Tier Tribunal for the benefit of other SEN children:

*...yeah, we have to take it further. So, just to get his name cleared...They [local alternative education provider] said that we should not let the school get away with stuff like that, that they are not helping. That if we let the school get away with that, they are still going to repeat it with other children. So it's, what is going on now is not for him, we have to do it for the other children that are coming.*

Christina and Penny were also interested in applying for judicial review; however, legal aid is only available to those who qualify. Judicial review is lodged in High Court and costs can easily run into the thousands, and if parents lose, the other side can apply for costs that can be financially crippling. While Penny qualified for legal aid, before starting this process she had to spend £600 of her savings to see if there was a viable case. Penny admits feeling very angry about the decision and thinks about it most days. However, she was reluctant to take it further due to the potential expense:

*It was not so much the process, they were saying that legal aid was capped at whatever and I would still have to pay quite...well if that cost me, that was an hour's work, if that cost me that much and then I would have to go to a judicial review I cannot even begin to imagine how much that would cost me.*

While Julia initially received legal aid, this did not cover all of the legal costs and the case only proceeded because the barrister agreed to finish her case for free. Christina also wanted to appeal the decision to uphold Maddox's exclusion but was deterred by the legal costs. Seeking justice is not equally available to all parents, but comes with a prohibitive price.

## **6.2 Panel Bias and Grey Areas in the Guidance**

A minority of participants including several parents, one Head teacher and an exclusion officer highlighted potential concerns about the composition of the IRP and issues of potential bias. While the guidance clearly states that head teachers from within the same borough can sit on the IRP, several participants questioned the fairness of this guidance. These heads often knew each other and, it could be argued, had a vested interest in not overturning the decisions of their colleagues who could be judging them at a future IRP. Evelyn describes feeling disheartened by the fact that the Head teacher excluding her son was speaking to another Head teacher on the review panel and that they clearly knew each other:

*That made me feel bad, as straight away I know what is going to come out of the result...I know that they know each other and I know the outcome of the review. But they just only allowed the Head teacher to say her last statement...they did not ask me if I wanted to say my last statement...*

Evelyn felt this arrangement was unfair and was surprised that the panel members included a Head teacher from the same borough and several participants clearly knew the Head teacher. She thought '...they are going to feel for each other. So that is what I was really disappointed in'. Margaret and Bruce

similarly felt that their hearing was unfair because one of the panel members was at a hearing two weeks prior to their hearing defending his decision to exclude a student. Margaret feels that if this head lost his case, he would be more inclined to make sure the next Head teacher does not lose his. She feels that because head teachers can occupy either side of the table, they should not be judging exclusion decisions 'because I think their personal experience would overtake what you know the facts'.

Head teacher Henry feels that he would overturn the decision of a fellow Head teacher if it were incorrect. He thinks decision making must rely on professionalism and facts. However, Head teacher Jack feels that heads judging other heads presents a conflict of interest. As mentioned in section 6.1, Jack often knows one or two people on the panel judging his decision to exclude. While this is not a problem for him as a head, he does feel it is a problem in terms of reaching a fair decision. Jack describes how informal collegial networks influence the outcome of panel decisions:

*I have gone to panel and afterwards had a phone call from a panel member who has described to me the decision and how it was reached in intricate details and informed me about some of the things that I needed to say to persuade certain panel members in the future.*

Unlike parents who enter meetings with little insider knowledge of how decisions are made and have not repeatedly honed their skills of persuasion within this format, Jack benefits from the informal advice of panel members. Exclusion officer Amber describes how one legal representative had questioned the use of head teachers from within the same borough, however she points out that the guidance clearly permits this.

While Dennis feels the panel members used by his local authority are genuinely independent and rigorous, he does raise concerns about grey areas in the guidance that could introduce a conflict of interest – particularly in light of the proliferation of academy chains and multi-academy trusts. Dennis describes how the SEN expert appearing at a review panel was from the same academy federation being appealed against, something he did not discover until the end of the review when he requested the SEN expert's business card. Dennis describes how he questioned the SEN expert's independence after discovering this. Afterwards Dennis checked if this was legitimate, but found there was nothing in the exclusions guidance prohibiting the SEN expert from being an employee of the same academy federation, something he finds 'ridiculous'. While the guidance stipulates that panel members cannot be an employee of the local authority, Academy Trust or governing body of the excluding school, there is an exemption for head teachers employed within the same local authority or Academy Trust. Therefore it is permissible for a Head teacher from an academy federation to judge their fellow head teacher's exclusion decisions. It is also important to bear in mind that academies often organise their own panels, and there is little scrutiny or accountability regarding who is on these panels due to the absence of the local authority at many of these hearings.

### 6.3 The process of decision making

A significant minority of parents questioned how decisions were arrived at by the IRP and the variability of judgements. Several parents described how even though evidence had shown either SEN support had not been provided or bullying went unaddressed, decisions were still upheld. Amanda describes how her daughter's secondary academy had denied that bullying was taking place, yet the review panel found otherwise:

*And the review panel said - even though they upheld it - they said there was evidence of bullying so they actually said that there is evidence of bullying and had the school done something about it then perhaps it would not have escalated to where her siblings went up to the school.*

Although the panel suggested that the school could have prevented Devon's siblings from coming to school to collect her and getting into a heated discussion with teachers, the decision remained. Amanda was very frustrated by this and still questions how Devon could be excluded for the actions of her siblings. She feels that the panel did not follow the exclusions guidance and take into consideration her daughter's ethnicity or the fact that she was a crucial stage of her education in year ten.

Evelyn questioned several aspects of the panel's judgement in regards to her autistic son's case. Although the SEN expert criticised the school by saying they had ignored her advice, the panel still decided that the head's decision was correct. The Head teacher also insisted she had reapplied for Tunde's statement, which Evelyn countered, showing an email she had received from the local authority confirming that the school had not reapplied. This neglectful approach to Tunde's SEN needs did not seem to affect the panel's decision. Moreover, Tunde attended the IRP and sat relatively quietly for the entire time due to his mother's insistence and this was used to question the validity of his diagnosed autism. The panel inferred that because Tunde could sit through a three-hour meeting, he must understand when he is misbehaving in school. Rather than his actions being that of an autistic child, it was suggested that Tunde was rationally deciding to intentionally misbehave. Rather than Tunde's presence being read as positive, it was used to position his autism as imaginary. Yet Margaret and Bruce were told by the IRP that it would have improved their case if their son had attended. Unfortunately Barry was too depressed by this time to attend.

Two parents felt schools had been underhand about sharing their concerns or incidents regarding their children with them, yet later used these incidents to support the students' exclusion. Penny describes how an incident where her five-year-old grandson had simulated a sexual act had gone unreported to children's services, nor had the boy's mother or grandmother been informed. Penny only discovered this serious incident by reading paperwork later, although it was used as part of the justification for her grandson's exclusion during the GDC and IRP.



Similarly, Julia relates how she heard from another teacher that her son Thomas hit his class teacher in the face. Julia promptly called this teacher and asked her why she had not been told about this incident. The teacher reassured her that Thomas had not meant to hit her, but while crying and flailing about had caught her in the face by mistake. However, during the GDC and IRP, this story changed and the classroom teacher described how Thomas had deliberately hit her in the face and it was very painful. Julia describes her response:

*And I said to them, that you teachers, you are lying! Because literally the teacher told me that first point and then in the meeting she is going to say, she can't remember telling me that and Thomas hit her in her face so hard. Yeah, they were lying!*

Julia was disillusioned and distraught by this episode and the treatment of her son, however during the review process it is difficult to prove the veracity of these statements. In many ways it becomes the parents' word against that of the Head teacher and their staff.

There is a huge amount of discretion and variability exercised in the making of decisions by GDCs and IRPs, exemplified by the contrasting judgments of Grace and Christina's sons. Grace's son Felix was reinstated by the school's governing body after waving a knife to break up a fight because the governors decided he did not bring the knife in and did not use it as a weapon. However, Christina's son Maddox was permanently excluded from his secondary school for touching marijuana, although he had neither brought it to the school nor smoked it. This shows the great range of inconsistency across exclusion decisions, and recalls Head teacher Jack's suggestion that there should be nationally applied thresholds for permanent exclusion that reduce heads' enormous powers of discretion.

Penny was extremely frustrated after the IRP, for despite ample evidence that the school had not provided SEN support to her grandson, the decision was upheld. She explains:

*It seems to me it is almost impossible to prove that the school has failed, really. And certainly in a case like his where I am saying...I know these are the things he has done, however you need to look at the why. So if you are only going on the 'Oh yeah, that is the school's discipline policy or behaviour policy and he has broken these rules and whatever' then it is easy isn't it?*

Penny fully acknowledges that her grandson had contravened the behaviour policy, yet this does not take into account the lack of support given to him. She describes pointing out the missing specialised behaviour plan the school claimed to have, the lack of referrals and paperwork that was partially or incorrectly filled out. The school did not bring their behaviour or SEN policy to the IRP, and the meeting was adjourned so Penny could photocopy it for them. The SEN expert said that while the school might have done the things that it claimed, there was no evidence to prove this because they had not filled in the paperwork. The educational psychologist had also said the school was triggering Penny's grandson's misbehaviour through an inconsistent approach and a lack of

strategies. However, during the IRP the Head teacher claimed they had received a second report from the educational psychologist saying they were not triggering behaviours. There was no documentation provided of this second report. When Penny met with the educational psychologists from her grandson's old and new schools after the IRP, they said that no recent report had been sent to the school, leading Penny to suspect the Head teacher had lied about this during the IRP.

Penny describes how the panel did not request any paperwork to substantiate the school's claims, and in the end Penny felt the decision hinged entirely on whether or not her grandson had breached the behaviour policy without considering the myriad other evidence. Penny explains her frustration at what felt like a pointless exercise:

*When you can go to someone look, this is their policy they have not done this, this, this and this and they are saying that they are doing it, we will provide support, we will do this, I am telling you and the paperwork is showing you that they have not done it. Um, and then at the end of it to be told 'Oh well, he did breach the discipline policy'. It's, it's just ridiculous.*

Penny admits feeling mortified as she cried at the end of IRP, however she felt it was criminal that the school could exclude a five-year-old boy.

Exclusion officer Barbara feels that most schools permanently exclude when they can demonstrate the actions taken to prevent exclusion, but she also admits that she is aware of disagreements between schools and parents regarding the amount of support provided:

*So it is the school saying they have done this, they have done this, they have done this and the parent is going, 'No they didn't. They started that and it stopped as soon as it started' and you know, that is the argument that they have got there. Which I think that is down to the review panel to get evidence from and make a decision on that...So it can be difficult.*

Yet, in the case of Evelyn, Julia, Penny and Amanda, panels did not ask for the evidence to base their decisions upon. Instead, the head teacher's word appears to have been trusted and taken at face value, without requiring any corroboration through documentation.

## 7. The aftermath of exclusion: justice, redress and support

This final chapter explores whether the outcomes of panels provided justice for children by examining what happened when decisions were quashed and students were reinstated. It will explore whether or not adequate redress was provided to reinstated students and the detrimental effects of exclusion on many parents' and excluded students' lives, both academically and emotionally. Finally, it examines parents' need for support during the exclusion, GDC and IRP process and what resources were available to them.

### Key Findings:

- Reinstated students did not receive adequate redress and were essentially punished for the poor judgment of schools. There is no mechanism holding schools to account and ensuring that they follow good practice. There is also no monitoring of their adherence to exclusion guidance timescales, allowing the appeal of against permanent exclusions to sometimes drag on for months. Finally, there is no oversight of the reinstatement process to make sure pupils are fully reinstated or compensated for the poor decision making of schools and the lasting effects these decisions have on children's lives.
- Permanent exclusion has negative effects both on young people and their families. While the majority of parents describe feelings of bitterness, frustration and shame as they hit 'brick walls' in search of provision for their children, many students experienced isolation and depression. Academically, many students lost several GCSEs due to the PRU not offering similar courses. Exclusion positions students not only as outside of mainstream education, but as outside of their peer group and society as both their confidence in themselves and education is mitigated.
- Every parent and exclusion officer, as well as the majority of head teachers, felt that there is not enough support available for parents going through the exclusion process. Most parents described how they would not have attended the IRP without a representative, while the majority of heads and exclusion officers felt that parents should not attend these meetings on their own. The majority of parents also did not find their local authority particularly helpful in the process.

### 7.1 Reinstatement as Redress?

Out of six quashed exclusions, five students had returned to their former school. One student was not considered for reinstatement because his father wanted him to attend another school. The majority of reinstatements did not leave parents feeling positive about the school or the process of redress. Several parents described their children being treated as if they were still 'guilty' of permanent exclusion even after it was overturned. Nazia's son Aarif was excluded from his secondary academy in late November of year eleven – a

critical stage of GCSE preparation. Although Aarif's permanent exclusion was quashed and he was reinstated, by the time he returned to school it was April and there were only two weeks left before year eleven study leave. Nazia describes how there was no work sent home by the academy during the first period of exclusion and Aarif missed a crucial mock exam; a few pieces of work were finally sent after Nazia wrote a letter requesting revision work. Aarif's GDC took place in mid-January, which exceeded the 15 day time period for considering the reinstatement of excluded pupils as stated in the exclusion guidance. The results of this delayed meeting were not sent to the family for two to three weeks, with Nazia commenting: 'I think it took quite a while, they took a lot - the school wasted a lot of time to give in the report and take it further'. The IRP was not arranged until April, although the exclusions guidance clearly states that a review 'must begin within 15 school days of the day on which the local authority/Academy Trust received the parent's application for a review'. Although the academy had broken both of these stipulated time frames, there does not appear to be any monitoring or censure of such practices.

During the five-month gap between Aarif's permanent exclusion and the IRP, his education was extremely disrupted. From the end of November until early February, Nazia waited for the local authority to find Aarif a college place after being reassured something would be arranged. Nazia was reluctant to send Aarif to the PRU. However, when no college place had materialised by February, this was the only option as Aarif was becoming steadily depressed after spending three months at home. Unfortunately, most of Aarif's subjects changed when he entered the PRU, as they did not have many of the courses he had been studying at the academy. Aarif was forced to take different subjects due to differing exam boards:

*It was, it's like he has to do everything what he learned, he has to do all over. Art he had never took before. He took it when he was like in year 7 and 8, but in the GCSE he never took and it was something, a new subject. Kind of citizenship, he never had before.*

While Aarif excelled at the PRU and was promptly made a student ambassador, he was also attacked one day after school by a group of fellow students waiting for him outside. Nazia became worried for her son's safety, because while the inside of the facility was safe, it was rumoured that students hid knives outside the building nearby. Nazia debated about what action to take. Despite Aarif being badly beaten up, if he did not continue at the PRU he would not receive the reference he desperately needed to progress to college:

*And me like, to take him out, he is not going to be in the college because he is not going to get any reference. To keep him there, his life is in danger. So literally my husband has to take him to school every single day and he has to pick him up at school every single day.*

Aarif continued at the PRU until his permanent exclusion was quashed in April and the academy had to decide to either reinstate Aarif or pay £4000 to the council. The school reinstated, but Nazia describes how the head teacher offered no apology, claiming she still believed Aarif had acted inappropriately but would

respect the panel's decision. Although reinstated, Aarif was clearly not welcome back at the academy. Nazia describes how the head teacher asked what she wanted, as by this point there were only two weeks left. Nazia wanted Aarif to repeat year 11 as he had missed the most critical year of his education. The head teacher refused, saying that students could not repeat school years in English state schools. In lieu the head promised to provide Aarif with two weeks of one to one support in English and Maths so he could catch up; however this support did not materialise. Instead, Aarif was put in a large room on his own without a teacher and told to work independently, finding a teacher if he had questions. Nazia felt this was entirely inappropriate; Aarif needed to be actively tutored after missing five months of school. While Nazia was pleased with the IRP's decision, she feels the academy ultimately got away with unfairly excluding Aarif and no real justice was provided:

*They have not done anything. They have not given Aarif time, they have not paid four thousand, so in a way the school got away with it. You know what I mean? They got away with it. The only thing Aarif got out of it is his name cleared. Nothing else. So his education is all messed up and everything else as well, and he lost all of his friends as well and his reputation at school. And socially, social wise he don't go out that much. He became kind of more reluctant...so he don't trust people as much...*

Nazia strongly felt that Aarif had not been compensated for the damage this unfair exclusion had done to his academic career and personal life. While Aarif's name had been cleared, the lasting damage had not been rectified. Nazia felt that the panel should be more explicit about what parents can ask for or expect to receive when a child is reinstated. She feels there should be more options for Aarif and that the foundations of his education have been permanently damaged through no fault of his own.

Stephanie's son was also reinstated. However, his parents ended up deciding to keep Lucas at the PRU due to his poor treatment upon reinstatement. Like Aarif, Lucas was also excluded at a critical time in his education in year eleven. Lucas spent from October until the end of February at the PRU until his permanent exclusion was quashed. Stephanie described how this episode was extremely detrimental to Lucas and the family. She felt the PRU was an unsuitable place for Lucas and the teachers agreed, '...they said he should not be here because they all commended us and said he is a lovely boy and...they said good for you that you took the action you took with appealing and everything'. After the decision was quashed they did not hear from the school for several weeks, although the governing body should reconvene within 10 days of being given notice of the IRP's decision. Stephanie pursued the Head teacher both by phone and in writing until a meeting was finally arranged:

*Stephanie: ...he arranged a meeting and we went in, but at the meeting there were treating Lucas as if he was in a young offenders institute because they did not want him on the premises at lunchtime.*

*C: Even though they reinstated him?*

*Stephanie: Yeah, they did not want him on the premises at lunchtime. They did not want him mingling with the students because they said he was such a - what's the word they used...he was a danger to the children in the school.*

Stephanie felt the school had only decided to reinstate Lucas to avoid paying the £4000 adjustment. She describes how the school refused to let Lucas take the GCSE exams he had been preparing for because he had missed too much coursework, and they were also unwilling to provide tutoring. Yet, as Stephanie points out, '...but it is your [the school's] fault that he has missed all this work'. After much discussion, the family decided to let Lucas continue at the PRU for the final eight weeks of year 11 where he could take five GCSE exams. Like Nazia, Stephanie was pleased that Lucas' name had been cleared, yet she was also outraged that the school expected him to finish year eleven without any GCSEs due to their misjudgement. Despite the permanent exclusion being overturned, Lucas received no compensation from the school, which continued to regard him as a 'young offender'.

Patience also describes how Prescilla has not been treated fairly since her reinstatement. While the school had agreed to place her within a different class, this had not happened. Patience also described how one teacher had told children not to spend time with her daughter, while Prescilla had still not been assessed for SEN. Patience was frustrated that the school had still done nothing for her daughter, despite reinstatement, and was worried that this was affecting Prescilla's outlook on education:

*She doesn't want to be there because they have marked her and even her new tutor when we went back on the first day, she had a look on her face like...the teacher was looking at her in such a, in such a way and I thought, you have already formed an impression of her because of what you have heard. Now it is not her fault she is back there. I had to fight my child's case, but they are not fair, they are very biased.*

Despite Prescilla's exclusion being overturned, like Lucas and Aarif, she is still treated as an excluded student and made to feel unwelcome. Patience concluded that she needed to find another school for her daughter where she would not continue to be 'marked' by permanent exclusion.

Ralph's son Steven was excluded during year ten, also a critical stage for GCSE preparation. He was out of mainstream education between March and late June when the exclusion was quashed. Ralph was upset that his son had missed three months of school, for although he attended a centre for alternative provision, it did not offer the same GCSE courses as Steven's secondary academy. Ralph felt this discontinuation of Steven's studies was harming his education and he was disappointed by the centre's lack of rigour. Often there were no activities to do, resulting in Steven spending one afternoon washing the centre manager's car to keep busy. This highlights the often poorly organised provision offered to students shut out of mainstream education. Unsurprisingly, the majority of

parents were reluctant to send their children to these establishments and several commented that they had visited their local PRU only to find chaotic disorder. Grace refused to send her son to a PRU and he missed one month of year ten before being reinstated by the GDC. Yet, after one month Grace describes how Felix's levels had already dropped when they went for parents' evening. She feels he lost concentration and was now trying to catch up.

There are also ways of reinstating pupils without them actually attending their former school. Exclusion officer Amber had voiced concerned over the practices of one academy in her borough. This academy's exclusion of a student was later quashed by an IRP. While the academy reinstated the pupil, they promptly directed the student to off-site provision. The parent was very unhappy about this outcome, as it seemed to make a mockery of the quashed exclusion. Yet it is entirely legitimate to direct students to off-site provision without parental consent and for an indefinite amount of time according to the statutory guidance on alternative provision.

These stories show how permanent exclusion leaves an indelible mark on students, even when the decision has been quashed. Students irretrievably lost critical periods of their education, often dropped or changed GCSE subjects due to the different provision of PRUs, and frequently continued to be regarded by schools as 'guilty' despite the invalidity of the original decision to permanently exclude. Students and their families are essentially punished for the poor judgment of schools and there is no meaningful redress for students even when decisions are overturned. Meanwhile, there is no mechanism holding schools to account and ensuring that they follow good practice. There is no oversight of their adherence to timescales, allowing the appeal of permanent exclusions to sometimes drag on for months. There is also no monitoring of the reinstatement process to make sure pupils are fully reinstated and are not further punished and victimised by the school, and are compensated for the poor decision making of schools and the lasting effects these decisions have on children's lives.

## **7.2 Powerlessness and Depression**

Each parent attested to the negative effects permanent exclusion had on their children, with many describing fruitless struggles to find them suitable provision in the wake of exclusion. Permanent exclusion impacted on the entire family, generating stress and anxiety within the household. Several parents described a sense of powerlessness and frustration as they tried to help their children. Gloria felt that her opinion did not count for much; she described talking to the governors about her daughter's autism as 'like talking to a brick wall'. Her extended family paid for independent assessments of her daughter Sylvia which helped secure her a residential placement, and Gloria wonders if this would have happened without her family's financial help. This striking image of the immovable, impenetrable brick wall was evoked in two other parent interviews. Penny describes navigating the exclusion process: '...it was really like you are banging your head against a brick wall, you know, there is not anybody there to help you really.'

Amanda also describes 'hitting a brick wall' with the local council as she struggled to get her daughter back into a mainstream school for her final year of education. Devon had been out of school four and half months while her mother continued to look for a school place. The local council's only solution was to send Devon to the PRU, which meant that she would not be able to take the same courses and would lose several of her GCSEs after being a B student at her academy. Also, a close friend of the key bully from her former school had also been excluded and sent to this PRU which made her fear for her Devon's safety. Amanda feels the entire education system was failing her daughter. She wrote to her MP and describes begging her local council:

*Even with [the local council] I said as well, just give her a chance, give her a chance. You can put her in there, just like you want to put her in a referral unit, you can put her in a school. Give her three months, if you don't even want to give her three months, then just give her a month...*

Amanda does not know what she can do, but keep fighting for her daughter and try to find the money for a part-time tutor. Devon had become increasingly depressed during this period: 'There are times when she has been crying, she has been upset. In the beginning she has had some times when she felt really suicidal. She felt like her life was wasted...' Amanda tries to keep encouraging her daughter and reassuring her that it will get sorted out.

Although Ralph has spent years advocating for vulnerable and marginalised children as a youth worker, the experience is much different with his own son: 'The hardest thing in the world is that I see all this going on, I know it's going on and then it happens to your own child and then you feel powerless...'

Christina was also desperate to find her son Maddox another secondary school. She had visited numerous schools, but because he was in year 11 with a permanent exclusion on his record she had no success securing a place:

*We made about six applications. And yesterday I was all on my feet trying to go from one place to another trying, and they all say 'Oh no, we can't help, we can't help.' Who am I? I am just an individual, I am just an individual. If a council official had ringed the school, there would be a difference wouldn't it? But they ring nobody, nobody knows me there.*

Instead of being given a school place, Maddox was referred to a vocational school to study motor mechanics. Yet Maddox had no inclination or experience of motor mechanics and was more interested in academic subjects, achieving As, Bs and Cs at his former school. Maddox has been provided with a computer to use for home study. However, this did not include any tuition and the only available GCSEs to study are English, Maths, Science and ICT, meaning that Maddox will lose four of his GCSEs. His mother worries about him working in isolation at home:



*Honestly, you need some contact with other children. He will go mad...He is a human being; we need to interact with other people. The computer is there to give yes whatever information, but he needs to interact with other people. Maybe if they had provided a teacher which we had asked from the PRU lady, could you please arrange for a teacher? You know to be helping him, maybe occasionally, maybe once or twice in a week that would be nice. But her hands are tied as well, she can't do much. But honestly I mean I am here paying tax, I am paying my NI, whatever, why can't they help me?*

Christina describes how one morning when waking Maddox he said 'Oh mum, I was just dreaming that I was back at school'. Christina feels this is very sad and cannot sleep at night because she is worried about her son's future.

Margaret and Bruce described how they still felt bitter nearly two years after the exclusion of their son Barry and still debated about what more they could have done to get the exclusion overturned. Bruce says, 'I don't know, I get meself wound up. I mean this all happened a couple of years ago and it stunned me...' Barry was excluded in January of year eleven – a crucial time for GCSE preparation. Although he was referred to the PRU by the local authority, Margaret and Bruce were told by PRU staff that their son did not belong there. Instead of attending the PRU, Barry collected work from the school, but did not receive much tuition in the run up to his GCSEs. Barry became depressed and reclusive for over a year and lost hope in his studies. Margaret describes how Barry struggled to do his best without being in school and his grades were negatively affected. Bruce says, 'He just cut off from everyone, straight away. And we could not do anything with him. He just sat in the bedroom.'

These descriptions of depression and seclusion were common. Nazia's son Aarif also became depressed after his exclusion, locking himself in his room, isolating himself from friends and sleeping until one or two in the afternoon. Stress and tension in the household also rose, as Nazia admits that initially the family was angry and blamed Aarif for his exclusion. Slowly, Nazia realised that judging Aarif was not constructive and that the school had 'created a monster' out of nothing. Nazia quit work to stay at home and support her son, as she was worried about his mental health. Aarif began losing faith in education entirely: '...he said "What's the point of doing education? My whole education is ruined now. And I am going to fail"'. Evelyn's son Tunde also told her he was a 'failure' after his permanent exclusion. Exclusion positions students as outside of society, crushing both their confidence in themselves and education, as they come to regard themselves as failures.

Anna's son Eamon also became angry and depressed after being permanently excluded in year eight: '...when he left [the secondary academy] he was really down for I would say, for about a year. He was like "I've got no friends, what the heck, what is my life like now, how am I going to rebuild?"'. Anna also felt 'quite ashamed and depressed' by the meetings and fixed-term exclusions leading up to permanent exclusion. Anna feels Eamon's turbulent secondary education will affect him for the rest of his life; whereas his siblings achieved eight to ten GCSEs,

Eamon might get five. Anna thinks this will affect her son's employment trajectory, as employers ask for GCSE results even at the age of twenty or thirty. Anna feels Eamon got lost in the system: '...you know they just swept him under the carpet until he reached GCSE age...' Anna hopes her son can move on and find other ways to experience success outside of education.

Permanent exclusion also negatively impacted on the younger children in the sample. Julia describes how her four-year-old son Thomas missed nine months of school waiting for a primary place to arise. Thomas was then excluded by two more primary schools before settling into his current school. Julia feels that Thomas' permanent exclusion from the first school was linked to his files arriving from his first primary school detailing that he had been excluded for sexual misconduct. Julia did not appeal these additional exclusions as she felt it would only place further stress on Thomas. She feels the exclusion took a toll on him, as he cannot talk about the episode:

*...it had disturbed him because Thomas does not talk about. He does not like to hear it mentioned. He does not want to speak about it because it really, really damaged that little boy... if someone tries to speak to me about it, he will get angry. He will get very, very angry. Yeah. It just really wrecks him.*

Julia worries that Thomas may be adversely affected by this traumatic incident as he grows older and feels it is an ordeal that she would not like to see other parents endure.

Excluded children undergo both educational and social displacement, as exclusion pulls them out of the mainstream, pushes them outside of the world of their peers and effectively marginalises young people. In many ways, they come to feel they have been permanently rejected from education and society. Many students end up depressed, losing confidence in themselves and their abilities. This alienation can have catastrophic effects, as Ralph reminds us:

*The worst thing in the world is a young person who has nothing to lose. I have worked with them, I have seen them. The boys who have nothing to lose who are not in school - they will carry a gun, will fire the gun, because they now have to make up their own road.*

Being removed from the mainstream and designated irredeemable, many excluded students disconnect from education and unsurprisingly begin to lose respect for authority. With nothing left to invest their lives in, the road they make up is often perilous. It is not difficult to imagine how this marginalisation of vulnerable young people helps to construct a school-to-prison pipeline.

### **7.3 The need for parental support**

Every parent and the vast majority of head teachers and exclusions officers felt that there was not enough support available for parents going through the exclusion process. Most parents described how they would not have attended

the IRP without a representative, while the majority of heads and exclusion officers felt that parents should not attend these meetings on their own.

Jack feels that parents were 'very poorly supported' throughout the exclusion process, with Parent Partnership only assisting students with SEN. He thinks '...the whole process is weighted in favour of the schools,' and suggests that a national network of support and advocacy should exist to support families appealing against temporary and permanent exclusion, regardless of their child's status. He thinks there should be some right to legal aid so that every family has a 'bare minimum' of support. Jack feels this would give some balance to the process, rather than it being weighted in the school's favour.

Daniel also thinks that external support structures can give parents the confidence to engage with schools and feel more comfortable about approaching a potentially intimidating situation. An external advocate does not have the same level of emotional involvement and might be able to find different solutions. Emma does not think parents should attend exclusion appeals on their own, adding that this must be an 'awful' and 'daunting' time for the parent as they fight for their child- feelings confirmed by parents in chapter six. They should attend with someone who can 'give informed advice, understanding the system. Because that is what parents won't understand. And why would they?' Conversely, an advocate might advise the parent that this is the best thing for the child.

Every exclusion officer felt that parents needed more support. Stuart also points out the power imbalances inherent within the process, as schools have more resources to draw on than most families and unrepresented parents could easily be overwhelmed and find it difficult to effectively argue their case. He recounts recently observing an IRP where both sides had legal representation and the exclusion was quashed; he felt parental representation was a decisive factor in this outcome. Amber laments the scarcity of resources available for parents: '...at the end of the day, there is not enough resources for parents that I can sign post, which is a massive thing, and I actually, because I really care about parents I feel really bad when there is not enough...' Amber cannot highlight the flaws in a case, as it is outside of her remit, but is frustrated when she cannot arrange the necessary support. While Amber actively signposts parents to sources of support, Barbara appears to be less aware of the support available to parents although she thinks there probably should be more resources for parents. Clarence finds advocates generally beneficial, as schools take them seriously, while a small number of schools '...are less scrupulous around the process and where that happens you need to have some robust challenge happening.'

Dennis feels that there are not enough resources out there for parents, with many services like ACE<sup>37</sup> enduring recent budget cuts. He feels that parents not only need advice, but someone to attend meetings with them. He describes how some families have turned up with their pastor and some of them have done a fairly good job, but adds:

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<sup>37</sup> Advisory Centre for Education

*...you know, without the experience or the understanding of what the process is about you can find that they are arguing about something for half an hour which is really not that important in the scheme of things and they are missing a huge point which maybe they should be challenging the school on.*

Charles agrees, pointing out how advocates can 'ask the right sort of questions' to show a case is flawed. This returns to the necessity of understanding the education system and the grounds of overturning a permanent exclusion. Dennis also comments on the 'complete disparity' between schools and parents at IRPs where the school has legal representation and the family does not, tying this to families being unable to afford it.

Most parents felt that they could not get through the process on their own, with Christina echoing Jack's suggestion of a nationwide organisation that could advise parents and appear at meetings 'in the flesh'. Mabel felt having an advocate helped her realise that her struggle to access SEN support for her son was not an isolated story. The great majority of parents did not find that their local authority was particularly helpful in assisting them to navigate the situation or find alternative provision. Both Penny and Christina describe their local authority as 'useless', while Stephanie describes how the exclusion officer seemed convinced by the school's account, did not refer her on and advised her that it was probably not worth appealing her son's exclusion, which was later quashed. Ralph felt advocacy services like CEN were essential, especially for working-class parents who did not have the financial capital to hire barristers. He describes how talking his case through with an advocate reassured him that he was making the right decisions. Many parents found CEN through their own research or support networks. More support is needed not only in the run up to the IRP, but during the panel hearing itself. While some local authorities are proactive about signposting parents to additional resources, most parents felt left on their own to find support.

## **. Conclusions and recommendations**

### **8.1 Concluding discussion**

This section summarises and draws out some of the key research findings of this study, examining how the rapid restructuring of the English education system and recent changes to the exclusion appeals process are shaping and affecting the practices and experiences of parents, schools and local authorities.

The new IRP format was found to be unpopular with the majority of parents and exclusion officers, while a minority of head teachers felt this way. Five exclusion officers felt these changes were politically motivated and unnecessarily gave head teachers more power when they already possessed ample power to exclude. They also felt the changes were confusing to parents and that the panel's inability to direct reinstatement did not provide justice and made it much easier for heads to get the outcomes they desired - regardless of the fairness of the decision. Two exclusion officers did not find this change problematic, while the majority of heads welcomed or felt ambivalent about the changes. Several heads emphasised that their decision making would not be affected by the alterations.

There were substantial concerns voiced by the majority of exclusion officers, parents and a minority of head teachers regarding the capacity of governing bodies. Within the IRP format, the governing body's role and power have substantially increased given that the IRP can no longer direct the reinstatement of pupils, but can only direct the governing body to reconsider their decision. Therefore, reinstatement decisions now rest solely with governing bodies, first at the GDC stage and afterwards at the IRP. The majority of parents and exclusion officers questioned the ability of governing bodies to robustly critique the decisions of head teachers, suggesting that governors often found it difficult to contest a head teacher's decision. There was a tendency for governors to rubber-stamp exclusion decisions, while there were serious concerns over the amount and quality of training that governors received, given their newfound responsibilities.

The study highlighted how the permanent exclusion process lacks accountability. This has been exacerbated by the new IRP format as well as the move towards school autonomy that has often had the effect of weakening partnerships between schools and local authorities. The level of local authority advice and intervention varied substantially across the six boroughs and was shaped by the number of academies in the borough, the approach taken by exclusion officers which ranged from proactive to minimal, as well as the quality of relationships fostered between exclusion officers and head teachers. Collaboration had been limited in some boroughs by academisation or the shift to a more autonomous approach by maintained schools. Whereas exclusion officers once contributed to these meetings, they were now absent from GDC and IRP meetings of many academies and, when present, their participation was at the discretion of the academy. This highlights the increasingly unchecked power of schools and head teachers, as the local authority has been left with no real binding power to

censure schools or encourage them to find alternatives to exclusion. Instead, exclusions officers' effectiveness often depended on persuasion through the relationships they cultivated with heads.

The majority of parents described how their son or daughter's school had used poor or underhanded practices during the process of permanent exclusion. These practices included inappropriately carried out managed moves, illegal exclusions and improper conduct of the GDC. These actions often directly contravened the statutory guidance on exclusions and managed moves. Several parents felt these practices were more commonly used with parents who had migrated to the UK or were assumed to not understand their rights as parents. These actions therefore often end up discriminating on the axis of race and class, as those parents deemed vulnerable are more readily taken advantage of by schools. There were also numerous grey areas where parents felt permanent exclusion was not being used as a last resort as stipulated by the statutory guidance. While permanent exclusion did not seem like a reasonable sanction, no alternatives were offered. Several parents were even told by the PRU staff that this was not the right place for their permanently excluded child; oddly, one parent was told this by the excluding Head teacher. The large amount of unmonitored discretion awarded to heads results in widely differing thresholds of permanent exclusion across different schools.

All head teachers attested to the necessity of producing good test results. An emerging theme amongst several parents, exclusion officers and two head teachers was how the results-driven nature of the education system was not helping, but hindering the creation of inclusive classrooms. The ever-present need to generate results within fixed time constraints tended to create an inflexible one-size-fits-all model of curriculum delivery that could not accommodate all learners. While teachers could not modulate pedagogical approaches due to time constraints, students who could not learn or succeed within this framework were prone to developing behavioural problems. Many parents as well as exclusion officers and one Head teacher described how mainstream educational institutions rarely had the staff expertise, financial resources or time to effectively accommodate SEN students. Parents frequently described a lack of staff training and delayed SEN assessments, where support was offered and then quickly withdrawn. There was a strong feeling that the constraints on mainstream schools often made SEN students more vulnerable to exclusion.

The study also highlights how the statutory guidance asking head teachers to consider overrepresented groups when making exclusion decisions is ineffective in practice. At the time of permanent exclusion is far too late to consider how SEN, ethnicity, class or gender have been feeding into the inclusion or exclusion of the student in any meaningful, substantial way. There is little information within the guidance for heads or panel members regarding how to consider these issues in the context of the panel, and this can lead to a tokenistic nod to the guidance just to show all the bases have been covered.

Meanwhile, the vast majority of parents felt that race, class or gender played a role in their child's exclusion, and this was connected to the judgment of both

parents and children by institutions. These micro-interactions occurring in the run up to and during the process of exclusion are the practices that need considering to address disproportionate exclusions. They precede the actual decision to exclude, and are therefore not covered by the guidance's call for heads to consider overrepresented groups when excluding. Many parents described how their child's problems at school were quickly ascribed to problematic home lives, poor parenting or single motherhood. The majority of parents felt judged and often treated with condescension by schools. Youth and young children were consistently treated as rational, competent adults rather than young people in various stages of childhood or adolescent development and in need of guidance and support. These judgments were often tied to race or class, with many parents describing how other white or middle-class students involved in the same incident in a similar capacity did not face permanent exclusion or punishment. Several parents felt young black and ethnic minority students were more immediately associated with criminality, violence or hypersexuality by schools compared to their peers. Many parents questioned the usefulness of zero-tolerance, punitive approaches in educational institutions and felt more nurturing, rehabilitative and restorative strategies would be more productive.

A slight majority of head teachers and exclusions officers also felt that discrimination along racial or class lines was at least partly to blame for the disproportionate exclusion of black Caribbean students, FSM students, and boys. Rather than speaking about this discrimination in terms of race or class, most heads and exclusion officers spoke of it in terms of middle-class privilege where whiteness was inferred. Middle-class parents were clearly regarded as having the advantage as consumers in the education market. They were described as having well-spoken accents and knowledge of the education system that could be mobilised to secure them preferential treatment by schools. Compared to their ethnic minority and working-class counterparts, they had the social, cultural and economic capital more readily recognised as legitimate by educational institutions.

However, several heads and exclusion officers did not associate the disproportionate exclusion of some pupil groups with issues of equality. Instead, they described how each exclusion case should be regarded on an individual basis or felt that categorising students was not helpful, even if significantly different patterns exist according to pupil ethnicity, gender and FSM or SEN status. While the majority of exclusion officers did see disproportionate exclusions as an equalities issue when reflecting on national statistics, they tended to look for more individualistic explanations at the local authority or school level. Many tried to explain the high exclusion rate of black students in terms of there being a sizable black community in their borough.

The study shows how parents and head teachers enter an uneven playing field when making their representations at the IRP. The vast majority of exclusion officers, parents and one Head teacher described how this encounter was automatically weighted in the school's favour due to the different levels and types of cultural, social and economic capital parents and head teachers brought to the meeting. While the IRP certainly represents a testing day at work for head

teachers, they enter these meetings better equipped than the great majority of parents who predominantly come from ethnic minority and working-class backgrounds. Heads are familiar with the format of the proceedings, how the English education system works and the exclusions guidance. Meanwhile, parents enter this situation with little prior knowledge of how an IRP works and minimal understanding of the inner workings of the education system, the exclusions guidance or how to overturn an exclusion decision. Many parents have never attended a formal meeting of this nature before and have little experience setting out articulate arguments in front of an audience of predominantly middle-class professionals. They were heavily emotionally invested in the IRP's outcome, and often felt like they were fighting for their child's future. Many described feeling intimidated, anxious or like they were in court, while most parents could not afford legal representation. Under these conditions, it is difficult to see how unrepresented parents can act as equal participants in this meeting or possess the necessary tools to secure a fair hearing.

There were also several parents, two exclusion officers and one head teacher who raised issues about panel bias and potential conflicts of interest. Many panels are comprised of head teachers from within the same local authority as the excluding school, therefore many panel members know the head teacher whose decision is in question. Several parents felt this collegial relationship provided an incentive for head teachers to treat their colleagues leniently. There were also concerns raised about how the proliferation of academy chains could affect panel bias. One SEN expert offering advice worked for the same Academy Trust as the head of the excluding school; there is nothing in the guidance prohibiting this. The guidance also does not prohibit head teachers from within the same Academy Trust being on a panel, which essentially allows employees working for the same company to judge one another's decisions.

There were also concerns raised regarding the variability of the IRP's decision making processes. While several parents had raised significant issues around bullying that had not been addressed or SEN support that had not been fulfilled during the IRP, many panels did not request written documentation or evidence to substantiate the circumstances around exclusion. This often led to a scenario where parents felt it was the school's word against their own, where the head teacher's word carried more weight and did not require thorough investigation.

The majority of parents did not feel that their children had received justice or redress through the appeal process, even if the permanent exclusion had been quashed and they had been offered reinstatement. Instead, students continued to be treated as unwanted pupils even after reinstatement. These students were not provided with adequate redress; they were not allowed to make up for often large, lost periods of education and they did not receive extra support in the run up to their GCSEs. Although the decision to exclude them had been deemed unfair, these students still suffered from this decision without receiving adequate compensation. Indeed, many continued to be stigmatised by the school even after they had been reinstated. Meanwhile, there are few mechanisms in place to hold schools to account and ensure they follow the stipulated time guidelines for carrying out GDCs and IRPs. There is also no guidance on what



sort of redress schools should be required to provide to students after they have missed a critical portion of their education.

The majority of parents described how permanent exclusion had a negative effect on their child and the wider family. Many parents still remained bitter, angry and frustrated about the outcome of the appeals process – even when it had been successful. Those parents whose children were not reinstated described a frantic, fruitless quest to get their children back into mainstream education, a process that invariably took many months. Most parents also described how their children had become depressed, isolated and lost hope in education and themselves after the permanent exclusion. Academically, many students lost out on numerous GCSEs due to PRUs not covering the same subjects. Exclusion not only placed students outside of mainstream education, it placed them outside of the world of their peers and wider society. This social and educational isolation led many young people to regard themselves as failures.

Finally, every parent and exclusion officer and a majority of head teachers felt that there should be more support available for parents during the exclusion process. Many felt that parents should not be expected to attend these meetings on their own, but a representative should accompany them and provide support. There were concerns that parents' limited economic resources and cuts to legal aid had made securing representation more difficult. The majority of parents did not feel that the local authority was particularly helpful throughout the process; many had sourced support themselves through the internet or social networks.

## **8.2 Key Recommendations**

1. The Independent Review Panel format should be replaced by the Independent Appeal Panel format that was in place prior to the Education Act 2011, as the IRP's lack of power to direct reinstatement does not provide adequate justice to parents and their children. The IRP gives far too much discretionary power to schools and does not safeguard children against poor decision making. This echoes the recommendation by both the Children's Commissioner and the Joint Committee on Human Rights, as this exclusion system violates article six of the European Convention on Human Rights that gives citizens the right to a fair trial.
2. Governing bodies must receive appropriate training in order to act as robust critics of head teacher's decisions and to curtail the widespread rubber-stamping of permanent exclusion decisions at the GDC. Due to issues of impartiality and affinity with the head teacher, governing bodies are not appropriately placed to reconsider the reinstatement of students under the current IRP format. The decision to reinstate must be considered by a wholly independent body.
3. Schools and local authorities need to work collaboratively to prevent permanent exclusions and promote accountability. No school should be an isolated island removed from intervention and advice, yet this scenario has increased with the advent of academies and school autonomy more generally being regarded as beneficial. Academies should not be exempt

from inviting local authority representatives to GDCs and IRPs and exclusion officers should be able to participate in these discussions. Local authorities need to take a proactive role in building relationships with schools and have more binding powers available to discourage schools from excluding.

4. All parents should be informed of their rights in regards to exclusion by schools at the outset of their child enrolling in primary and secondary education.
5. The results-driven focus of the English education system needs to be altered in order to consider the manifold needs of children. The one-size-fits-all approach promoted by this system creates inflexible classrooms where exclusion is an inevitable feature of the landscape. This narrow focus and continual pressure is not in the best interests of young people and therefore violates Article three of the UN Convention on the Rights of the Child which states that the best interests of children must be the primary consideration in all actions.
6. Schools need to actively address and confront the discrimination and other unequal treatment based on race, class, gender and SEN that persists in educational institutions. This cannot be effectively addressed solely through statutory guidance at the point of exclusion, but must be dealt with much earlier on a whole-school level. These are sensitive issues, but they must be broached and more training must be provided to teachers in order to comply with the Equality Act 2010 which requires not only the elimination of discrimination, but also having due regard to the need to advance equality and foster good relations through school policies and functions.
6. Parents should be provided with an advocate or representative when attending the GDC and IRP in order to help level out the grossly inequitable power dynamics of these meetings. Local authorities and schools should be proactive in signposting parents to available resources.
7. IRP or IAP panels should not include head teachers from the same local authority or the same Academy Trust. This would prevent any potential conflicts of interest and negate any potential incentives for panel members to be lenient towards the school.
8. The statutory guidance needs to include more detailed information on the obligations schools have to students upon reinstatement. While the guidance states that the local authority must oversee the repayment of the adjustment fee should a student not be reinstated, there is no corresponding guidance regarding the reinstatement process. Reinstated students should receive appropriate compensation for the learning time they missed and be welcomed as a full member of the school community. These omissions should be rectified during the upcoming consultation considering the revised exclusions guidance.

9. Given the emotional trauma suffered by permanently excluded students, especially those whose career prospects are ruined by exclusion at the point of preparing for GCSE exams, local authorities should be resourced to provide counselling and guidance services for excluded students, whether reinstated or in alternative provision.
10. Sanctions should be levied on schools violating the guidance deadlines for the scheduling of GDCs and IRPs, as untimely delays prolongs the exclusion process and incurs further damage to a student's education and well being. Adherence to these deadlines should be monitored.
11. The education of pupils should not be interrupted and permanently damaged by exclusion. Students should be able to continue to study the same subjects at the PRU as their mainstream school. The discontinuity and disruption suffered by excluded pupils violates Article 2 of the UNCRC that states all rights apply to all children regardless of what they have done, as well as Article 28 that states all children have a right to an education. Exclusion unquestionably curtails these rights.

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