



TAVERHAM HALL

Preparatory School

Discipline and Exclusions Policy

At Taverham Hall School there is a very clear behaviour policy which outlines the general stages a pupil will encounter before exclusion is considered. There are obviously occasions where a stage system does not apply for a singular serious offence.

Farrers' guidance has been used as a template for the procedure for handling **serious breaches of discipline** and exclusions, including appeals and the aftermath.

The following, from the Farrer website indicates why there is a need for a robust policy:

'Pupil exclusions rank as one of the most difficult and stressful decisions a school must from time to time take. Despite this, the fact of the matter is that pupil exclusions are on the increase and are happening at a younger age. Inevitably, this trend is taking place against the backdrop of an increasingly well-informed and litigious parent body'

A non-exhaustive list of the sorts of behaviour that could merit exclusion includes the following:

- Physical assault against pupils or adults
- Verbal abuse/threatening behaviour against pupils or adults
- Bullying
- Racist abuse
- Sexual misconduct
- Drug and alcohol misuse
- Damage to property
- Theft
- Persistent disruptive behaviour
- Parental behaviour;

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Whilst the precise procedure to be followed in a given situation depends on the circumstances of the case, the five stage procedure outlined in the Behaviour Policy would apply wherever possible which include the key principles as follows:

- a fair and thorough investigation should take place
- pupils must be informed of the allegation and the evidence relied upon
- pupils must be given a fair opportunity to exculpate themselves
- an appeal should be offered.

Procedure

First Steps

When a potential exclusion presents itself, some key considerations are as follows:

- **The allegation should be established and the pupil(s) concerned should be made aware of the allegation**

This will be done by a member of the Senior Management Team concerned specifically with pastoral welfare – the deputy Head or Senior Teacher Pastoral with the form tutor/ class teacher present

- *Decide what further information is required?*

Consider what evidence is already available to support the allegation. Next, consider what additional information is required and how best to obtain it.

- *Is anyone at risk (i.e. do the police or social services need to be informed?)*

Advice should be taken from the CPO (Mrs Foulkes-Arnold on this matter).

- *Who should be dealing with this?*

. The rules of natural justice dictate that, where possible, a different person should conduct each of the following stages:

- interviews with witnesses and general investigation of the allegations;
- the hearing; and
- the appeal.

At Taverham Hall School the investigation for serious offences is carried out by the Deputy Head in conjunction with the Senior Teacher Pastoral. The hearing is conducted by the Head and for any appeal is held by the governors. The Head should not take part in the investigation as this may compromise their impartiality at the actual hearing.

Investigation

Key issues are as follows:

Before a decision to exclude can be fairly taken, it is essential to establish the facts.

If exclusion is being considered then statements should be taken from all pupils and staff who were involved in or witnessed the incident. DfES guidance, whilst not binding, is helpful. It states that all written statements should be attributed, signed and dated by the witness who should first be given the opportunity to read it. The statement should also be countersigned by the person who took the statement and the person who was present when the pupil signed it. The original statement should be kept on file. The information gatherer should not be the same person as the decision taker. The Head is not to be involved at this stage.

It is good practice for another adult to be present when pupils are being interviewed by the person charged with the investigation. A neutral adult such as the school secretary or another member of staff is preferable. At Taverham Hall School, the combination of the Deputy Head and Senior Teacher Pastoral is the first option.

Parents should obviously be informed although the timing of this will always depend on the facts of the particular case. As a general rule, however, it will normally make sense for the parents to be informed **after initial investigations have been made but sufficiently in advance of any hearing to allow them time to prepare for that hearing**. Clearly, where a pupil has been suspended pending the outcome of a disciplinary process then it will be necessary to inform the parents immediately of this. Similarly, in cases where Social Services or the Police become involved, it will generally be prudent to inform parents as soon as possible – although see Section VI for further details in this respect.

Suspects should be kept apart to the extent that this is reasonably possible. The pupil should be told not to discuss the matter with other pupils and, in particular, with the other pupils involved. This is particularly important where the accusation relates to issues such as bullying and physical or verbal abuse.

In particularly serious cases it may be appropriate for the pupil to be suspended. The Head in consultation with the Chair of Governors, on occasions will make this decision. Any suspension should be as brief as possible. If a relatively lengthy suspension is unavoidable, suitable arrangements should be made to ensure that, so far as practicable, the child is able to continue with his education during this time. For example, arrangements could be made for work to be sent home and marked. Parents should be told immediately of any decision to suspend and this should be followed within one school day by a confirmatory letter.

Hearing

Once the information gathering stage has been completed, the next step is obviously to hold the hearing itself. The hearing will generally be heard by the head and attended by the pupil, parents, a note taker and any other person required (e.g. witnesses or the member of staff who carried out the investigation). A checklist for conducting the hearing is set out below:

BEFORE THE HEARING...

COMMENTS

Notify the pupil and parents of the hearing

Make sure the letter sets out precisely what allegations have been made. It should also contain all relevant practical details (e.g. the time, date, place and purpose of the hearing and who will be attending).

Circulate the evidence to be relied upon by the school.

Provide copies of all evidence to be relied on by the school (including witness statements) and ask for any written submissions from the pupil/parents (including witness statements) to be provided for circulation by a specified (reasonable) date. Make sure all parties have sufficient time to prepare for the hearing.

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Circulate any further evidence produced by the pupil/parents Ideally, all parties should have copies of all evidence to be relied on five **working days before the actual hearing**. If this is not possible then consider whether a brief postponement is preferable.

AT THE HEARING...

COMMENTS

Explain the purpose of the hearing The Head should set out how the hearing will be conducted and the school presents its case Generally this will be done by the person who conducted the investigation. If witness statements have been obtained then these should be read out loud.

Parents are entitled to know the precise nature of the alleged facts. From a practical perspective, allowing sufficient questioning will reinforce the impression of fairness. The pupil/parents present their case. The parents will normally undertake this role, but the pupil should be allowed to comment if appropriate. The Head asks questions of the pupil/parents The objective is for the Head to establish all the relevant facts to allow a fair decision to be reached.

Minute the hearing.

A designated note-taker should note the names and roles of all people present, all written documents considered, all oral evidence given and the decision reached, including the reasons stated.

Adjourn

In all but the most straightforward of cases, however, it is good practice to adjourn the hearing before announcing the decision. Failure to do so creates the impression that the outcome was predetermined. Before adjourning, explain what will happen next and when.

FOLLOWING THE HEARING...

COMMENTS

Inform all parties of the decision.

This can be done face to face in the first instance but should **always be confirmed in writing**, preferably within one school day of the hearing. The letter should state the decision in relation to the charge (or each of them), the sanction, when it takes effect, the reasons, to whom the parents may appeal and the deadline.

As a general rule, the pupils should attend the hearing. Natural justice requires that a pupil is able to hear the case against him and defend himself. Unless there are strong reasons to the contrary, therefore, the pupil should be present and allowed to speak on his own behalf if he wishes to do so and the parents agree.

Particularly where the other witnesses are also pupils it is generally preferable to rely on written statements at the hearing. Sometimes it may be felt that a witness should be present, for example to allow necessary questioning on the content of their statement. If so, the pupil may be asked to appear but should not be compelled to do so and the parents of that pupil must first consent.

Parents should not bring legal representatives to the hearing unless there are compelling reasons for allowing it (e.g. illness, English not parents' first language). You may, however, wish to consider allowing parents to bring a non legally qualified supporter, making it clear in advance that this person is not able to make representations. If this offer is made then parents should also be asked to name any such supporter in advance of the hearing.

Once the hearing has been held the decision-taker (almost certainly the head will have a range of sanctions open to him/her. The fairness of the sanction selected is another area open to legal challenge. **Before concluding that exclusion is justified, the Head and governor should ask the following questions:**

1. Has the burden of proof been discharged?

Where the pupil is accused of something that does not amount to a crime, the burden of proof required is, that on the balance of probabilities (i.e. it is more probable than not) the pupil did what was alleged. However, the 2003 Court of Appeal decision in *R(S) -v- The Governing Body of Y P School* established that a higher standard of proof was required when excluding a pupil for something which amounts to a criminal offence. The relevant question instead was "Does the evidence prove beyond reasonable doubt that the pupil did what he or she is accused of?" Following the implementation of the Education (Pupil Exclusions) (Miscellaneous Amendments) (England) Regulations 2004, however, the position has changed once again. The Regulations, which took effect from 22 March 2004, make it clear that no matter what offence the pupil is accused of, the head should decide the matter on the balance of probabilities. New guidance entitled *Improving Behaviour and Attendance: Guidance on exclusion from schools and pupil referral units* states that the more serious the allegations the more convincing the evidence substantiating the allegation needs to be. The regulations and guidance do not apply directly to independent schools who are still free to set their own behaviour policies. Like the *Behaviour and Attendance* guidance, however, the documents do provide a useful benchmark.

2. Is an exclusion fair in all the circumstances?

The decision to exclude is a very serious one with significant potential repercussions. In general, the decision should only be taken in response to a serious breach of the school's behaviour policy, once other options have been exhausted and if allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school. Once guilt has been established, ask yourself the following:

- Does the offence fall within the school's list of offences which may lead to exclusion? Any such list should state that it is non-exhaustive but an exclusion will be harder to challenge if the offence is contained in a published policy.
- Have pupils been excluded for similar offences in the past? As a general rule it is dangerous to exclude a pupil where previous offenders have been let off with, for example, a suspension. Schools are not bound to follow precedents but they will inevitably be asked to justify why a more severe sanction was fair in these circumstances.
- Has this pupil committed a serious disciplinary offence in the past?

Excluding for a first breach of discipline is far more susceptible to challenge than where a pupil has a proven track record of misbehaviour. The sorts of first offence that may justify exclusion typically involve:

violence,
sexual assault,
drugs and/or
offensive weapons.

Even then, a decision to exclude should have regard to all the relevant circumstances.

- Have you taken into account any relevant domestic circumstances and whether the pupil was provoked, perhaps as a result of bullying or harassment?
- Are any other pupils involved in the investigation being dealt with in the same way? Again, it is dangerous to scapegoat one pupil in circumstances where others are to be treated more leniently.

Check for consistency.

- Are the interests of the pupil outweighed by those of the school community as a whole? To put it another way, how much harm will it do to the school and those in it if this pupil is allowed to remain?

If the answer to any of these questions is "no", consider whether a less draconian sanction is more appropriate. Suspension (perhaps accompanied by a final warning) is the logical and less severe alternative. If the Head feels able to then he could consider agreeing to a managed move of the pupil to another school, provided such an alternative can be readily identified.

Another option may be to allow the parents an opportunity to withdraw the pupil rather than having an exclusion imposed. Both these options should be used with care and are generally to be avoided where there is no confidence in the quality of the relationship between the school and parents going forward. Furthermore these two sanctions both present an inconsistency in the school's position – if exclusion is not justified on the evidence then it is logically hard to justify a 'lesser' sanction which still involves the removal of the pupil from the school.

Heads should consider taking advice before offering either of these options.

Appeal

Fundamental to the fairness of any exclusion process is the right to appeal. A failure to allow this will invariably make the exclusion unfair and hence susceptible to legal challenge. It will also amount to a failure to handle a complaint in the manner prescribed by the 2003 Regulations².

Who hears it?

In the independent schools context an appeal should usually be heard by at least two of the governors and one person who is independent of the running of the School. A key point is that the appeal is not heard by the original decision taker and to this end, no governor who has been directly involved in the matter at hand should hear the appeal. From a practical perspective it makes sense for schools to have a pool of governors and independents from which to select three or five to hear an appeal at any given time. This flexibility should help minimise delays. Any governor with a connection to the pupil should also be excluded from the panel.

Location

There may be circumstances where it is unwise to hold an appeal hearing at the school if this can be avoided. Try to identify a more neutral location that is convenient for all the parties.

Timing

The risk of lost schooling is a key concern that makes time of the essence. The objective must therefore be to hold any appeal within a reasonable time frame. In the first instance this should be governed by the time limits set out in any school policy on the subject. In the absence of such a policy a benchmark would be to aim to conduct the appeal within five working days.

Purpose

Some schools have an exclusion policy whereby the appeal stage is limited to a review of the fairness of the investigation and the sanction imposed. Legally it may be permissible simply to consider the grounds of appeal raised by the parents.

However, parents frequently do not understand the concept of a limited appeal and an appeal by way of re-hearing may often be the safest course (see below). By and large, however, the purpose of the appeal hearing is generally to decide two issues; first, whether the pupil actually committed the disciplinary offence in question and, second, whether permanent exclusion is a reasonable response. If the appeal panel concludes that the answer to the first question is no, the second question ceases to be relevant and the pupil should be re-admitted.

The appeal panel should not receive or consider fresh evidence that relates to issues not considered when the decision to exclude was taken. Equally, it should not overturn a decision to exclude purely on the basis of there having been a technical defect in the procedure followed – unless that defect was so substantial that justice was not done. It should be made clear from the outset that the appeal decision is final.

The following section deals with less serious breaches of discipline that do not merit exclusion.

PART 2

REWARDS & SANCTIONS FOR BREACHES OF DISCIPLINE THAT DO NOT MERIT EXCLUSION

Rewards

At Taverham Hall School, we encourage the establishment of good teacher/pupil relationships and support for the school's values through a system of rewards and sanctions which are designed to promote a calm, disciplined learning environment. Our system of rewards includes:

- Verbal praise and written praise for good work
- Academic merits for both effort and achievement, which are celebrated in the classroom and in the boarding house
- Annual subject and year group prizes
- Posting examples of excellent work in art/design, sports, and drama and concert achievements on the school's web site, so that the community can celebrate success.
- Reports to parents, which are always worded to be as constructive as possible.
- We operate a 'radiator of the week', celebrating the successes of a different student from each year every week.

Sanctions for breaches of discipline that do not merit exclusion

The following is outlined in detail in the school's behaviour policy

The teacher is responsible in the first instance for dealing with minor infringements, such as lateness, casual rudeness in class, late or poorly completed work. Additional work may be set, or the pupil may be required to re-do unsatisfactory work. Repetition of this behaviour will be reported to the form tutor

Minor indiscipline in class or other minor misdemeanours are reported to the pupil's form tutor and may lead to a de-merit.

Persistently poor academic performance may result in the Tutor in conjunction with the Deputy Head requiring a pupil's teachers to make written comments on his/her performance at the end of every lesson that he/she attends for a period of one or two weeks. This is termed as 'being on report'

The Head may suspend a pupil, for a period of between 48 hours and one week for very serious indiscipline, or less serious offences, where repeated punishment has proved ineffective. If suspension is ineffective, the school may be forced to exclude the pupil, or to require him/her to leave the school under the procedure described in part 1.

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