

THE RICHARD PATE SCHOOL



Exclusion Policy

November 2019

1. Policy Statement

Infringements of school rules and disciplinary matters generally will be dealt with on a day to day basis by the Head and staff of the school as outlined in the Schools Behaviour Management Policy. In the case, however, of serious misconduct, the Head has the right to suspend or exclude a pupil. The following procedure will be followed in cases of serious misconduct. The objective is to deal appropriately with the case in question but also to afford to the pupil his or her rights in natural justice. No unacceptable, excessive or idiosyncratic punishments are used including any punishments intended to cause pain, anxiety or humiliation.

The school does not use corporal punishment.

2. Circumstances Leading to Suspension or exclusion

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
- Serious or persistent bullying
- Any form of abuse on the grounds of race, religion / belief, disability, special educational needs or sexual orientation
- Sexual misconduct
- Drug and alcohol misuse
- Wilful damage to property
- Theft
- Persistent disruptive behaviour or serious breaches of the School's Behaviour Management Policy or School Rules
- Parental behaviour
- A series of minor misdemeanours.

This may include behaviour outside of school time and off the school premises.

Conversely, the sorts of behaviour that should not normally justify an exclusion (at least for a first offence) would include:

- Lateness or truancy

- Poor academic performance
- Breaches of school uniform rules.

Other circumstances: A child may be asked to leave if, after all appropriate consultation, the Head is satisfied that it is not in the best interests of the child, their parents or the school, that the child remains at the Richard Pate School. (*See parent contract*)

If the Head decides that the child must leave the school, he will consult with the parents before deciding on the child's leaving status (see below).

3. Procedure

The precise procedure to be followed in a given situation depends on the circumstances of the case, the School will apply the following key principles in all cases (other than in cases which involve safeguarding at which point the School's Safeguarding Policy will apply):

- a fair and thorough investigation will take place
- the decision-maker will maintain an open mind until all the evidence has been gathered
- only relevant considerations will be taken into account, and irrelevant considerations will be ignored
- pupils will be informed of the allegations and all relevant evidence
- pupils will be given a fair opportunity to exculpate themselves
- the sanction will be proportionate to the behaviour complained of
- parents will be informed as soon as reasonably practicable if a complaint or allegation under investigation is of a nature that would result in the pupil being excluded
- an appeal will be offered

Preliminary stage

When a potential exclusion presents itself, the following will be considered:

- *Clarity of what exactly is the allegation?*

This ensures that decisions can be taken about how best to proceed.

- *What information is available and what further information is required? -*

The School will consider what evidence is already available to support the allegation. It will then 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?)*

- *Who should be dealing with this?*

Where possible, a different person will conduct each of the following stages:

1. interviews with witnesses and general investigation of the allegations;
2. the hearing; and
3. the appeal.

Investigation

- *Information gathering* – This will be carried out by the relevant form teacher, head of department, pastoral lead, deputy head or bursar. **THIS WILL NOT BE CARRIED OUT BY THE HEAD**

Statements will be taken from all pupils and staff who were involved in or witnessed the incident. All written statements should be attributed, signed and dated. The original statement should be kept on file.

- *Should another adult be present?*

Another adult will be present when pupils are being interviewed by the person charged with the investigation. This will be a neutral adult such as the pupil's class teacher or a previous class teacher.

- *When should the parents be informed?*

This does depend on the facts of the particular case. However, ordinarily parents will 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. In cases where the Police or Safeguarding authorities are involved the guidance in the Safeguarding Policy will be followed.

- *Should suspects be kept apart?*

Yes, to the extent that this is reasonably possible. The pupil will 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.

- *When is it appropriate for the suspect to remain at home, pending the investigation?*

In particularly serious cases it may be appropriate for the pupil or pupils involved with the alleged wrongdoing to be told to stay at home or placed under a segregated regime on

the School premises. The relevant period will be as short as possible, however in cases where it becomes a longer period of time the School will put in place arrangements to ensure that, so far as practicable, the child is able to continue with his/her education during this time. Parents will be told immediately of any decision to keep the child at home and this should be followed within one school day by a confirmatory letter. The period of absence is not a disciplinary sanction but is to allow the school to investigate the allegations appropriately.

Hearing

This will be conducted by the Head

Once the investigation has been completed, the information-gatherer will consider whether there is a case to answer. If he or she comes to the conclusion that there is, the next step is to hold a hearing.

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). The member of staff who carried out the investigation may present the case against the pupil, but this will depend on the circumstances. The Chair of Governors will also be informed of the investigation and that a hearing is to be held but shall not take part in either of them.

The following procedure will take place when conducting a hearing

Prior to the hearing

- Notify the pupil and parents of the hearing by letter
 - The letter will set out precisely what allegations have been made and will contain all relevant practical details (e.g. the time, date, place and purpose of the hearing and who will be attending). The letter will also give an indication of the possible sanction (e.g. exclusion, suspension), and refer to the relevant contract, policies and procedures.
- Circulate the evidence to be relied upon by the School
 - The School will provide copies of all evidence (including witness statements) and ask for any written submissions and other evidence from the pupil/parents (including witness statements) to be provided for circulation by a specified (reasonable) date. All parties should have sufficient time to prepare for the hearing (see below).
- Circulate any further evidence produced by the pupil/parents
 - Ideally, all parties should have copies of all evidence to be relied on three to five working days before the actual hearing. If this is not possible then consider whether a brief postponement is preferable.

At the Hearing

- Explain the purpose of the hearing
 - The Head should set out how the hearing will be conducted and the role of all those present.
- The School presents its case
 - Generally this will be done by the person who conducted the investigation
- Allow the pupil/parents to ask questions
 - The pupil and parents are entitled to know the precise nature of the alleged facts. Allowing sufficient questioning should make the hearing fair.
- 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, the hearing will be adjourned before announcing the decision. Before adjourning, the Head explain what will happen next and when.

Following the hearing

- Inform all parties of the decision
 - This may be done face to face in the first instance but will always be confirmed in writing, preferably within one school day of the hearing. The letter will 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 within which they must do so.

Frequently asked questions for the hearing

- *Should the pupil be present at the hearing?*

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

- *Should any other witnesses be present at the hearing?*

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 there is a significant conflict of fact. If considerations such as the age of the witness make questioning by the other pupil or his/her parents unacceptable, the School will consider allowing the pupil/parents to suggest questions that they wish to have posed to the witness through the person conducting the hearing.

Pupils who are asked to appear as witnesses should not be compelled to do so, and the parents of pupils who are potential witnesses must give consent to their involvement.

- *Can parents bring legal representatives to the hearing?*

Parents may bring a non-legally qualified supporter, although this person is not able to make representations. Parents will be asked to name any such supporter in advance of the hearing.

- *Will the hearing be recorded?*

The hearing will not be recorded. A full minute of the meeting will be taken by the bursar and retained on file.

Sanction

Once the hearing has been held the decision-taker (normally the Head) will have a range of sanctions open to him/her. To ensure fairness the decision-taker will consider the following:

1. *Has the burden of proof been discharged?*

A balance of probabilities test will apply to whether or not misconduct has occurred. However, the more serious the allegations the more convincing the evidence substantiating the allegation needs to be. The School will consider DfE guidance on this matter.

2. *Is an exclusion fair?*

- Does the offence fall within the School's list of offences which may lead to exclusion?
- Have pupils been excluded for similar offences in the past?
- Has this pupil committed a serious disciplinary offence in the past?

- 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?
- Are the interests of the pupil outweighed by those of the School community as a whole?

Alternatives to exclusion

See the School's Behaviour Policy for less severe sanctions.

4. Appeal

The decision of the Hearing may be appealed, and will follow the procedure in Stage 3 of the School's Complaints Procedure.

5. Aftercare

The decision to exclude is always a serious matter for both the pupil and the School. The School will do all it reasonably can to minimise educational damage to the pupil being excluded.

Finding a New School

Where appropriate the School will work with the Parents to identify a suitable new School for the excluded pupil.

References

As in the employment context there is no absolute obligation on schools to provide references for their pupils and, where an exclusion is involved, even greater care is required. In giving references schools will owe legal duties both to the pupil and also the recipient. Any reference must therefore be fair, accurate and not misleading.

6. Confidentiality

Exclusion cases as a whole should be treated in the strictest confidence by all individuals involved in the process. This will include members of staff, Trustees, appeal panel members parents and pupils.

7. Police

The School will report to the police anything they believe may amount to a criminal activity. The alleged victim's parents will also be informed immediately of the incident

and told that the police have been informed. Whether the victim and parents then speak to the police is a matter for them.

The School may not always await the outcome of a police investigation before reaching a decision to exclude but it will seek agreement from the police prior to commencing any internal investigation. The School's decision may not always be in line with the outcome of the police investigation, for example the police may have a different burden of proof.

8. Social Services

Where the School believes a child may be suffering, or may be at risk of suffering, significant harm the School will follow the procedures set out in the School's Safeguarding Policy.

9. Equal Opportunities

Any decision to exclude will not be based on a person's race, sex, disability (including Special Educational Needs), sexual orientation, religion or belief in line with the Equality Act 2010.

10. Review

Reviewed annually by the Headmaster (see top of policy for last date of review)

11. Related Policies

Anti-Bullying Policy
Behaviour Management Policy
Complaints Procedure
Rules for Children