

# Holme Grange School

## Whole School Policy Including EYFS



### Exclusion Policy

<b>Date:</b>	<b>Amendment:</b>	<b>Reviewed by:</b>	<b>Authorised by:</b>
Feb 2023	Next review due		
Jan 2022	Reviewed	M.Jelley	
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## INTRODUCTION

Holme Grange School has a very clear Behaviour and Discipline 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 single serious offence.

*'Excluding Pupils – A Practical Guide for Independent Schools'* by Farrer & Co has been used as a template for the procedure for handling serious breaches of discipline and exclusions, including appeals and the aftermath. A decision to exclude a pupil, either for a fixed period or permanently is seen as a last resort by the School.

The School is responsible for communicating to pupils, parents and staff its expectations of standards of conduct. A range of policies and procedures are in place to promote good behaviour and appropriate conduct. No exclusion will be initiated without first exhausting other strategies or, in the case of a serious single incident, a thorough investigation.

This policy should be read in conjunction with the following documents: Behaviour and Discipline Policy; Tackling Bullying Policy; School Rules and Code of Conduct; Drugs and Substances Abuse Policy; E-Safety Policy; and Complaints Procedure.

### What behaviour merits exclusion?

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

- physical assault against pupils or adults;
- behaviour which puts the safety of the pupil, or any other person, in jeopardy;
- verbal abuse/threatening behaviour against pupils or adults;
- bullying, including (cyber-bullying) [in accordance with the School's Anti-Bullying Policy];
- committing a criminal offence;
- fighting;
- abuse on the grounds of protected characteristics: race, religion/belief, disability, (etc.) or any form of unlawful discrimination;
- sexual harassment or misconduct, including youth-produced sexual imagery;
- drug and alcohol misuse (including supply/possession/use);
- damage to property;
- vandalism or computer hacking;
- theft or unauthorised possession of any property belonging to the School, another pupil, or a member of staff;
- wilful damage to property;
- bringing illegal, inappropriate or dangerous items into School, such as drugs, weapons, firearms, pornographic material etc;
- misconduct which adversely affects or is likely to adversely affect the welfare of a member or members of the School community;
- misconduct which brings or is likely to bring the School into disrepute; and

- persistent disruptive behaviour or breaches of the School's Behaviour and Discipline Policy and School Rules.

Please note that exclusion / required removal may also be imposed by the School as a sanction for a series of minor misdemeanours.

### Parental Conduct

As set out in the School's Terms and Conditions (Parent Contract), the School may require the removal of a pupil in circumstances where the Headteacher considers in his/her discretion that the behaviour or conduct of a parent is unreasonable.

A non-exhaustive list of the sorts of behaviour that could merit required removal of a pupil on the grounds of unreasonable parental behaviour includes the following:

- treating the School or a member of staff unreasonably;
- making a malicious allegation about a member of staff or the School;
- communicating with the School in person or in writing (directly or indirectly), in a manner which is deemed voluminous, and/or relentless, and/or confrontational, and/or unreasonable, and/or overly aggressive;
- behaving in a manner which adversely affects (or in a manner which is likely to adversely affect) the welfare of a member or members of the School community;
- behaving in a manner which brings (or is likely to bring) the School into disrepute;
- behaving in a manner which adversely affects (or in a manner which is likely to adversely affect) a pupil's progress at the School; and
- breaching the Schools Terms and Conditions (Parent Contract).

The School reserves the right to impose sanctions for parental behaviour falling short of required removal, including but not limited to placing restrictions on a parent's access to School / School events, communications with the School and/or the imposition of a warning (up to and including a final written warning).

As set out in the School's Terms and Conditions (Parent Contract), the School may require the removal of a pupil in circumstances where the Headteacher considers in his/her discretion that the pupil's attendance or progress at the School is unsatisfactory and, in the reasonable opinion of the Headteacher, the removal of the pupil is in the School's best interests and/or those of the pupil or other children.

### Geographical Application

This policy applies to behaviour of pupils within and outside of the School grounds and routine school timings. It includes any behaviour likely to bring the School into disrepute:

#### Breaches of discipline outside of the School grounds:

The School takes the conduct of its pupils outside of school grounds extremely seriously. A pupil's misbehaviour outside of School can be damaging to the reputation of both the pupil and the School. Where an incident is reported to the School of a pupil/s' poor behaviour outside of the School grounds and the incident has not been witnessed by School staff, the

School will take an evidence-based approach and/or talk to witnesses before identifying further action and any sanctions required for such behaviour.

The School will usually report to the police any activity which it believes may amount to a criminal activity which takes place either within the school grounds or outside of its grounds. Drugs and weapons will be confiscated immediately and held for the police as potential evidence. If the School believes a pupil may have taken drugs then the School will seek immediate medical advice and may involve the police.

Sexual offences will generally be reported to the police immediately.

Other agencies, for example Children's Social Care, may also be notified where necessary and appropriate to the facts of the case.

## Procedure

### First Steps

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

#### What exactly is the allegation?

- 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 with another member of staff, usually the Form Tutor, present.

#### What information is available and 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 Designated Safeguarding Lead (DSL) and in his/her absence the Safeguarding Deputies. See the School Safeguarding Policy for further advice.

#### 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;
- the appeal review.

At Holme Grange School, the investigation for serious offences is carried out by a member of the Senior Management Team. The hearing is conducted by the Headteacher and any appeal review is overseen by the governors.

### Investigation

*Key issues are as follows:*

Before a decision to exclude can be fairly taken, it is essential to establish the facts. If a permanent or fixed term exclusion is being considered then statements should be taken from all pupils and staff who were involved in or witnessed the incident. [DfE guidance](#), whilst not binding, is helpful. 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 Headteacher 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. However, this need not be a parent. A neutral adult such as the school secretary or another member of staff is preferable.

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 – *reference should be made to Section VI of Excluding Pupils – A Practical Guide for Independent Schools* before contacting Police or Social Services.

Suspects should be kept apart to the extent that this is reasonably possible. The pupils 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 (or pupils) to be suspended. The Headteacher in consultation with the Chair of Governors, on occasion, 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 is practicable, the child is able to continue with their education during this time. For example, arrangements could be made for work to be sent home or provided by remote tech, Google Classroom, for example. 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 to hold the hearing itself. The hearing will generally be heard by the Headteacher 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

#### 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. date, time, place and purpose of the hearing and who will be attending).

#### **Circulate the evidence to be relied on 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 date. Make sure all parties have sufficient time to prepare for the hearing.

#### **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**

##### **Explain the purpose of the hearing**

- The Headteacher should set out how the hearing will be conducted.

##### **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.

##### **Allow the pupil/parents to ask questions**

- From a legal perspective, the pupil and 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**

- to comment if appropriate.

##### **The Headteacher asks questions of the pupil/parents**

- The objective is for the Headteacher 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 the 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. Before adjourning, explain what will happen next and when.

##### **Following the Hearing**

### **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, and to whom parents may appeal. Any request for an appeal must be made as soon as possible and in any event within seven days of the decision being notified to the parents.

### **Questions that may arise:**

#### **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 him/herself. Unless there are strong reasons to the contrary, therefore, the pupil should be present and allowed to speak on their own behalf if he or she wishes to do so and the parents agree.

#### **Should 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 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.

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

- 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). There may be cases where the School may 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.

### **Sanction**

Once the hearing has been held, the decision taker (almost certainly the Headteacher) will have a range of sanctions open. Before concluding that exclusion is justified, the Headteacher should ask the following questions:

#### **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 balance of probabilities (i.e. it is more probable than not), the pupil did what was alleged.

#### **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, it is important to ask the following:

### **Does the offence fall within the School's list of offences which may lead to exclusion?**

- The list is found at the beginning of this policy but is non-exhaustive.

### **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. Holme Grange School is 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.

### **Has the School 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?**

- i.e. how much harm will it do 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. A fixed term exclusion (perhaps accompanied by a final warning) is the logical and less severe alternative.

### **Appeal: Governors' Review**

The School will always offer the right of appeal to any pupil excluded or required to be removed from the School. Any appeal against exclusion will be dealt with under Stage 3 of the School's Complaints Procedure, and should be made in writing to the Head within five working days of the pupil's exclusion / required removal. If parents do appeal, the pupil(s) will remain suspended from School until the review procedure has been completed. While suspended the pupils shall remain away from school and shall have no right to enter the school grounds without written permission from the Head teacher. The outcome of the appeal process is final and there shall be no further right to appeal.



If a decision is taken by the parents to withdraw the pupil, the parents will waive any right to an appeal.

For the purposes of this policy “working days” refers to weekdays (Monday to Friday) during term time, excluding bank holidays and half term.

### **Aftermath**

The decision to exclude is always a serious matter for both the pupil and the school. After following a fair procedure, the School does all it reasonably can to minimise educational damage to the pupil.

### **After-care**

The consequences of a decision to exclude can be far-reaching, both in terms of the immediate issue of placing the pupil in another School but also in light of the perceived blemish to a pupil’s good character. The potential for emotional and psychological side-effects should obviously be borne in mind and can be mitigated not only by the human way in which the process is managed, but also by the School’s care for the pupil both during and after the process.

### **Fees after expulsion**

If the pupil is expelled, there will be no refund of the acceptance deposit or of fees for the current or past terms. There will be no charge or fees in lieu of notice but all arrears of fees and any other sum due to the School will be payable.

### **Removal in other Circumstances**

Parents may be required, during or at the end of a term, to remove the pupil, temporarily or permanently from the school, if, after consultation with the pupil and/or parent, the Headteacher is of the opinion that by reason of the pupil’s conduct or progress, the pupil is unwilling or unable to benefit sufficiently from the educational opportunities and/or community life offered by the School, or if a parent has treated the School or members of its staff unreasonably. In these circumstances, parents may be permitted to withdraw the pupil as an alternative to removal being required. The Headteacher shall act with procedural fairness in all such cases and shall have regard to the interests of the pupil and parent as well as those of the School (see appeal procedure above).

### **Fees following removal**

If the pupil is removed or withdrawn in the circumstances described above, the rules relating to fees and the acceptance deposit shall be the same as for expulsion save that the acceptance deposit will be refunded in full without interest.

### **Leaving status**

The expression “leaving status” has reference to whether the pupil has been expelled, removed or withdrawn, and to the record which will be entered into the pupil’s file as to the reason for leaving, and the pupil’s status as a leaver, and the transfer of the pupil’s work to another educational establishment and to the nature of the reference which will be given in respect of the pupil, and also to the financial aspects of the pupil’s leaving. These and any other relevant matters of leaving status will be discussed by the Headteacher with the parents and, where appropriate with the pupil, at the time of the Headteacher’s decision. Any

requirement to inform the Local Authority regarding expulsion and/or removal of a pupil, will be met.

### **Other important issues**

#### **Safety**

An exclusion should not be enforced if doing so may put the safety of the pupil at risk. In cases where parents will not comply by, for example, refusing to collect the child, the child's welfare is the priority.

#### **Confidentiality**

Except as required by law, the School and its staff shall not be required to divulge to parents or others any confidential information or the identities of pupils or others who have given information which has led to the complaint or which the Headteacher has acquired during an investigation. The basic rule is that exclusion cases as a whole should be treated in the strictest confidence. This is something that should be clarified from the outset and reiterated at intervals throughout the process.

#### **Equal Opportunities**

Any decision to exclude should not be based on a person's race, sex, disability, sexual orientation or religious belief as stated in the Equality Act 2010.

#### **Special Educational Needs**

Following the implementation of the Special Educational Needs and Disability Code of Practice (2014) it is unlawful either to treat a disabled pupil less favourably for a reason related to their disability, or to fail to make reasonable adjustments in relation to a child's education and associated services to ensure that disabled pupils are not placed at a comparative substantial disadvantage.

The School must take account of any special educational needs when considering whether or not to exclude a pupil. The Headteacher should ensure that reasonable steps have been taken by the School to respond to a pupil's disability so the pupil is not treated less favourably for reasons related to the disability. 'Reasonable steps' could include:

- developing strategies to prevent the pupil's behaviour
- requesting external help with the pupil
- staff training

Where reasonable adjustments to policies and practices have been made to accommodate a pupil's needs and to avoid the necessity for exclusion as far as possible, exclusion may be justified if there is a material and substantial reason for it. A specific incident affecting order and discipline in the school may be such a reason.