

Behaviour for Learning Policy

Exclusions

Effective teaching and learning takes place when

..... students are challenged, praised, rewarded and feel successful within an orderly environment

Principles

At Deer Park we acknowledge that:

- Good discipline is essential to ensure that all students can benefit from the opportunities provided by education. The Headteacher will therefore use exclusion as a sanction where it is warranted. However, permanent exclusion will only be used as a last resort, in response to a serious or persistent breaches of the school's Behaviour for Learning policies; and where we believe allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school.
- The decision to exclude a student will be lawful, reasonable, proportionate and procedurally fair. We accept that we have a statutory duty not to discriminate against students on the basis of protected characteristics.
- Disruptive behaviour can be an indication of unmet needs. Where we have concerns about a student's behaviour we will try to identify whether there are any causal factors and intervene early in order to reduce the need for a subsequent exclusion.
- Reintegrating students that return to school following a fixed period exclusion is essential in managing their future behaviour.
- All children have a right to an education and so we will take reasonable steps to set and mark work for students during the first five school days of an exclusion, and provide alternative provision from the sixth day.
- While a review panel does not have the power to direct a Trust Board (also referred to in this policy as the governing body) to reinstate an excluded student if a panel decides that a Trust Board's decision is flawed when considered in the light of the principles applicable on an application for judicial review, it can direct a Trust Board to reconsider its decision. If the Trust Board does not subsequently offer to reinstate a student, the panel will be expected to order that the school makes an additional payment of £4000. This payment will go to the Local Authority towards the costs of providing alternative provision.
- Whether or not the school recognises that a student has special educational and/or disability needs (SEND), all parents (or students if aged 18 or over) have the right to request the presence of a SEND expert at an independent review panel. The SEND expert's role is to provide impartial advice to the panel about how SEND could be relevant to the exclusion; for example, whether the school acted reasonably in relation to its legal duties when excluding the student.
- Excluded students will be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and understanding.

Practice

At Deer Park:

- Only the Headteacher (or, in their absence, the Deputy Headteacher who is acting in that role) can exclude a student and this will be on disciplinary grounds. A student may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed period exclusion does not have to be for a continuous period. A fixed period exclusion cannot be extended or converted into a permanent one unless further evidence comes to light that will change the decision. If a longer exclusion is required, the school must issue a new fixed term or permanent exclusion to begin immediately after the first one ends.
- Students whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. In such cases the legal requirements in relation to exclusion, such as the Headteacher's duty to notify parents, still apply. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a Trust Board meeting is triggered.
- The decision to exclude a student, will be made in line with the principles of administrative law i.e. that it is: lawful (with respect to the legislation relating directly to exclusions and a school's wider legal duties, including the European Convention of Human Rights); rational; reasonable; fair; and proportionate.
- The decision to exclude a student will be taken in the following circumstances:
- In response to a serious breach of the school's Behaviour for Learning Policies.
- The principal legislation to which this policy relates is:
 - The Education Act 2002, as amended by the Education Act 2011.
 - Exclusion from maintained schools, academies and pupil referral units in England (September 2017).
 - Behaviour and discipline in schools - Advice for Headteachers and school staff (January 2016).
 - Searching, screening and confiscation - Advice for Headteachers, school staff and governing bodies (January 2018).
 - Use of reasonable force - Advice for Headteachers, staff and governing bodies (July 2013)

Exclusion, whether fixed term or permanent may be used for any of the following, all of which constitute examples of unacceptable conduct, and are infringements of the school's Behaviour for Learning Policies:

Actions which put the student or others in danger include:

- Verbal abuse to staff and others.
- Physical abuse to/attack on staff.
- Physical abuse to/attack on students.
- Indecent behaviour.
- Damage to property.
- Misuse of illegal drugs.
- Misuse of other substances.
- Theft.
- Serious actual or threatened violence against another student or a member of staff.
- Sexual abuse or assault.
- Supplying an illegal drug.

- Carrying an offensive weapon.
- Arson.
- Unacceptable behaviour which has previously been reported and for which school sanctions and other interventions have not been successful in modifying the student's behaviour.
- This is not an exhaustive list and there may be other situations where the Headteacher makes the judgment that exclusion is an appropriate sanction.
- Whilst an exclusion may still be an appropriate sanction, the Headteacher will take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that a student has suffered bereavement, has mental health issues or has been subject to bullying.
- Early intervention to address underlying causes of disruptive behaviour will include an assessment of whether appropriate provision is in place to support any SEN or disability that a student may have. The Headteacher will also consider the use of a multi-agency assessment for students who demonstrate persistent disruptive behaviour. Such assessments may pick up unidentified special educational needs but the scope of the assessment could go further, for example, by seeking to identify mental health or family problems.
- An independent panel's decision should not be influenced by any stated intention of the parents or student not to return to the school. If parents are not considering the reinstatement of the student, the panel should acknowledge this but it should not affect the conduct of the panel or the decision. The focus of the panel's decision is whether there are sufficient grounds for them to direct or recommend that the Trust Board reconsider its decision to uphold the exclusion.

Investigation Procedure

- Investigation of a complaint or rumour about a serious breach of the school's Behaviour for Learning Policies will normally be co-ordinated by the Deputy Headteacher, with the support from the relevant Director of Progress and Achievement (DOPA). The outcome of the investigation will be reported to the Headteacher. Parents will be informed as soon as reasonably practicable if a complaint under investigation is of a nature that could result in the student being excluded. The school will consider the 'balance of probability' that an incident happened when making a decision, and gather evidence with that consideration in mind.
- A student may be interviewed informally by a member of staff to establish whether there are grounds for a formal investigation. Before a formal interview is conducted the student will have an opportunity to write down/dictate their own account of events. A student who is waiting to be interviewed may be segregated from other students.
- A decision to exclude may well happen on the balance of probability that an incident has taken place after considering all evidence gathered. The school does not need conclusive proof to make the decision to exclude.

Fixed Term Exclusion Procedure

- Most exclusions are of a fixed term nature and are of short duration (usually between one and three days). The Department for Education (DfE) regulations allow the Headteacher to exclude a student for one or more fixed periods not exceeding 45 school days in any one school year.
- Whenever the Headteacher excludes a student they will, without delay, notify parents of the period of the exclusion and the reasons for it.
- They will also, without delay, provide parents with the following information in writing:
 - The reasons for the exclusion,
 - The period of a fixed period exclusion or, for a permanent exclusion, the fact that it is permanent,

- Parents' right to make representations about the exclusion to the governing body (in line with the requirements set out in paragraphs 50 to 57 of the DfE guidance) and how the student may be involved in this,
- How any representations will be made, and
- Where there is a legal requirement for the governing body to consider the exclusion, that parents have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend/advocate.
- During the course of a fixed term exclusion where the student is to be at home, parents will be advised that the student is not allowed on the school premises, and that daytime supervision is their responsibility, as parents/guardians.
- The school will expect work set by staff on Google Classroom to be completed during the fixed term period. Depending on the length of the exclusion this work will vary from some more general tasks and activities to set work which has been arranged by subject teachers. All students will have access to the school's Google drive site where a range of activities can be found which are directly related to their curriculum.
- Where a fixed term exclusion goes beyond five days the school has the responsibility to formalise an education provision for the student. This provision will occur between 1pm and 4pm and will be undertaken by a member of staff. The student will need to present themselves in full school uniform at Reception at 1pm and work with the member of staff in the inclusion room. Should the student need TA support, this will be provided. They will be dismissed at 4pm.

Permanent Exclusion Procedure

- A decision to exclude a student permanently is a serious one and will only be taken where the basic facts have been clearly established on the balance of probabilities. It will usually be the final step in a process for dealing with disciplinary offences following a wide range of other strategies which have been tried without success. It is an acknowledgement by the school that it has exhausted all available strategies for dealing with the student and will normally be used as a last resort.
- There will, however, be exceptional circumstances where, in the Headteacher's judgment, it is appropriate to permanently exclude a student for a first or 'one off' offence. These might include:
 - Serious actual or threatened violence against another student or a member of staff;
 - Sexual abuse or assault;
 - Supplying an illegal drug;
 - Carrying an offensive weapon; or
 - Continued, sustained and repeated disruption of teaching and learning
- The school will inform the police where a criminal offence may have taken place. The school will also consider whether or not to inform other agencies such as Youth Offending Teams or Children Services.
- These instances are not exhaustive, but indicate the severity of such offences and the fact that such behaviour can affect the discipline and well-being of the school community.

The Headteacher will remove a student's name from the school admissions register if:

- 15 school days have passed since the parents were notified of the governing body's decision to uphold a permanent exclusion and no application has been made for an independent review panel; or
- The parents have stated in writing that they will not be applying for an independent review panel.

- Where an application for an independent review panel has been made within 15 school days, the Headteacher will wait until the review has been determined, or abandoned, before removing a student's name from the register.
- Where a student's name is removed from the school register and a discrimination claim is subsequently made, the First-tier Tribunal or County Court has the power to direct that the student will be reinstated.

Behaviour Outside School

- The behavior of students outside School on school "business" for example educational visits and journeys, away school sports fixtures or a work experience placement is subject to the school's Behaviour for Learning policies and can be considered grounds for exclusion. Inappropriate behaviour in these circumstances will be dealt with as if it had taken place in school. If students' behaviour in the immediate vicinity of the school or on a journey to and from school is inappropriate and meets the school criteria for exclusion then the Headteacher may decide to exclude.

Statutory guidance to governing bodies on exclusions that would result in a pupil missing a public examination or national curriculum test

- Whilst there is no automatic right for an excluded pupil to take an examination or test on the excluding school's premises, the Trust Board should consider whether it would be appropriate to exercise their discretion to allow an excluded pupil on the premises for the sole purpose of taking the examination or test.

Procedures for Disciplinary Panel

- The Headteacher will notify the governing body, to review any exclusion which is permanent from the school, or a fixed period of exclusions that would result in a student being excluded for more than 15 school days in any one term, or missing a public examination. The governing body can delegate the function of reviewing exclusions to a committee consisting of at least three Trustees, which may be called the Student Discipline Panel.
- The Trust Board must also be informed of a fixed term exclusion resulting in a student being excluded for more than five school days in a term. However, the Trust Board need only convene a meeting to reinstatement within 15 days of receiving notification of the exclusion, where the exclusion takes the student's total days of exclusion above 15 for a term.

Statutory Guidance for the Trust Board

- Trustees should be considering the reinstatement of the student, rather than the decision to exclude. Trustees should consider any evidence that was presented in relation to the decision to exclude (in addition to considering whether the decision to exclude the student was lawful, reasonable and procedurally fair and whether the Headteacher followed their legal duties).
- The Trust Board has a duty to consider parents' representations about an exclusion. The requirements on a Trust Board to consider an exclusion depend upon a number of factors. The Trust Board is not required to meet and cannot direct the reinstatement of the student for exclusions of more than 5 but fewer than 15 school days in the term, if the parents do not make representations.
- When applicable, the Trust Board must reconsider the exclusion within 10 school days of being given notice of the independent review decision.
- The Trust Board must inform the Headteacher, parents and local authority of its reconsideration decision.
- The duty to remove the name of a student who has been permanently excluded from the school admissions register is the duty of the Trust Board.

- The details of this guidance are extensive and outlined clearly in the DfE guidance - Exclusion from maintained schools, Academies and pupil referral units in England (<https://www.gov.uk/government/publications/school-exclusion>)
- This guidance also includes non-statutory guidance for Headteachers and parents/guardians.
- When providing details of the role of the SEN expert in an independent review panel, the Trust Board should explain;
 - There is no cost for this appointment and
 - Parents must make it clear in any application for a review if they wish an expert to be appointed.

Linked Policies: Behaviour for Learning Policy – Behaviour Management
Child Protection Policy
Curriculum Policy
Equality Policy
Intervention Policy
Moral and Social Studies Policy
Safeguarding Policy
Teaching and Learning Policy