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# EXCLUSIONS POLICY



## **Exclusions – an introduction**

Wey Education is entitled to enforce the agreements enshrined in the contract of engagement signed by parents and carers at Interhigh, which include that students will not engage in a serious breach of school rules and that parents will promote good behaviour in their child. By exception, Wey Education may seek to exclude a student, either for a fixed-term or permanently, where these agreements are contravened.

## **Links with the Behaviour and Attendance Policy**

Wey Education publishes a Behaviour Management Policy that explains the school's overall values and approach as well as detailing rewards and sanctions used to promote positive behaviour. Wherever possible, the positive aspects of any student will be emphasised. Our Behaviour and Attendance Policy makes clear the measures we take to reward good behaviour. It also cites the stages of behaviour management techniques which we will apply when misbehaviour occurs, including more serious instances.

## **Behaviour management techniques**

To simplify the process of applying behaviour management techniques, we have identified five separate stages of inappropriate behaviour that will require a particular response:

### **Stage 1 – General misbehaviour** managed by the leader of learning

Example: Inappropriate language or comment to the leader of learning/peer

Behaviour management technique: reminder by the leader of learning that this is inappropriate behaviour

### **Stage 2 – Repeated misbehaviour** managed by the leader of learning

Example: Repeated incidents of inappropriate language or comment to the leader of learning/peer

Behaviour management technique: removal of messaging, voice or whiteboard tools for period e.g. 2 minutes. Parents would be informed if incidents are repeating.

### **Stage 3 – More serious misbehaviour** which may endanger the safety of the person or their peers or disrupt the smooth running of the classroom

Example: Sharing of personal information, repeated interruptions that have not been resolved through sanctions imposed at Stage 1 or Stage 2.

Behaviour management technique: removal from the classroom for the remainder of that day and mentor/parent contacted. Discussion about appropriate action with mentor including informing parents/carer. If the disruption continues upon return, the individual is removed from their timetable for an agreed amount of time of good behaviour before we consider putting it back on their timetable. Pastoral/HoF must inform parents with reason.

### **Stage 4 – Very serious misbehaviour** requiring the intervention of Associate Dean of Faculty and Associate Dean.



Example: Continued sharing of personal information; repeated interruptions/personal abuse that have not been resolved through sanctions imposed at Stage 1,2 or 3; serious data protection issue such as hacking into personal database.

Behaviour management technique: discussion about appropriate action with mentor including informing parents/carer and consideration of a fixed-term exclusion although this is only taken as a last resort.

**Stage 5 – Continued very serious misbehaviour** requiring the intervention of the Associate Dean / Executive Director of Education.

Example: Continued sharing of personal information; repeated interruptions/personal abuse that have not been resolved through sanctions imposed at Stage 1,2, 3 or 4; serious data protection issue such as hacking into our databases.

Behaviour management technique: discussion about whether the placement in an online school is appropriate with parent and carer and where appropriate, mentor, parent school and LA. In this circumstance, a permanent exclusion may need to be considered.

### **Excluding a student**

This policy specifically deals only with major disciplinary issues. The most serious stages are only appropriate for serious offences or in cases where a student has repeatedly contravened rules and been subject to behaviour management techniques at Stages 1-3.

#### **Reasons for exclusion**

Serious disciplinary offences that may result in exclusion may include but are not limited to:

- physical assault against students or adults
- verbal abuse/threatening behaviour against students or adults
- bullying (especially if it is severe or persistent)
- abuse on grounds of race, religion/ belief, disability, SEND (etc.)
- sexual misconduct
- drug and/or alcohol misuse
- damage to property (during on-site activities)
- theft
- malicious allegations against staff
- persistent disruptive behaviour

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

- lateness or truancy
- poor academic performance

This policy on exclusions does include the consideration of conduct outside of school time, where such conduct might be considered to harm Interhigh's reputation.

Interhigh keeps a register of the behaviour management techniques (referred to above) that have been imposed for serious misbehaviour, even if it has no entries. This record includes:

- the student's name and year group
- the nature and date of the offence



- the behaviour management technique imposed.

Exclusion may also be imposed by the school as a sanction for a series of minor misdemeanours. Wey Education centralises this record, so that patterns can be identified by the school leaders.

### **Types of Exclusion**

Only the Associate Dean of Interhigh, or if absent, the Executive Director of Education, can exclude a child. Before deciding to exclude a student, the Associate Dean will:

- Ensure that an appropriate investigation has been conducted
- Ensure that all the relevant evidence has been considered
- Give the child an opportunity to be heard
- Consult with the Chief Executive Officer (CEO).

### **Fixed Term Exclusion**

A fixed term exclusion is a fixed period of absence that will be agreed in advance. Students may be temporarily excluded whilst an investigation is completed as a neutral act, following which the appropriateness of any sanction would then be considered carefully. If the child has been suspended pending an investigation, this period of time may be considered as part of the fixed term exclusion period.

The Associate Dean may temporarily exclude a student, for a period of between 24 hours and five working days, for serious indiscipline, or for less serious offences, where repeated use of behaviour management techniques has proved ineffective.

If fixed term exclusion is ineffective, the school may be forced to permanently exclude the student, or to require him/her to be withdrawn.

It is usual for fixed term exclusions to be increased in severity for a series of significant offences that do not merit immediate permanent exclusion. The maximum fixed term exclusion is usually for five days and carries with it the caveat that a repetition of any further serious disciplinary offence will put the student's position at the school in jeopardy. Work will generally be set for a child to do at home during the period when they are temporarily excluded. In addition, consideration will be given to any relevant problems of the excluded child and how they might be addressed in the interim, together with reintegration post-exclusion.

The Associate Dean will inform parents of any offence or outcome of an investigation without delay either in person or by telephone, followed by a letter stating the length of fixed term exclusion, and the reasons for this sanction. Fixed term exclusion constitutes a clear warning about continued membership of Interhigh and this warning should be regarded as final. No child who is excluded for a second occasion may return to the school without the Associate Dean having obtained the approval of the Chancellor Emeritus.

### **Permanent Exclusion**

Since fixed term exclusion should always be regarded as a warning that permanent exclusion may follow next, the Associate Dean considers that all children and their parents should clearly understand



the consequences of permanent exclusion from the school. Some parents prefer, after due consideration, voluntarily to withdraw their child rather than the school imposing permanent exclusion. However, it must clearly be understood that the Associate Dean reserves the right to insist on permanent exclusion as a sanction.

Only the Associate Dean (or in his / her absence, the Executive Director of Education) can permanently exclude a child and before doing so, the Associate Dean will follow the same procedure as for fixed term exclusion. The Associate Dean will always consult with the Chair of the Academic Council before any decision to exclude permanently is made.

In making decisions about exclusion the Associate Dean will take into account any contextual circumstances such as additional learning needs, disabilities, gender and cultural differences that may be relevant to the case and any representations by the parents. Consideration will also be given to the child's continuity of education.

The school will make reasonable adjustments for managing behaviour which is related to a student's special educational need or disability. Where fixed term exclusion needs to be considered, the school will ensure that a student with a disability or special educational needs and/or his/her parents are able to present their case fully where their disability or special educational needs might hinder this.

Following any meeting or correspondence about the sanction, parents will be informed immediately with confirmation of the decision in writing, including the reason for the sanction.

#### **Removal in other circumstances**

Parents may be required, during or at the end of a term to remove the student, permanently from the school, if, after consultation with the student and/or the parents, the Associate Dean is of the opinion that by reason of the student's conduct, the student is unwilling or unable to benefit sufficiently from the educational opportunities offered by the school, or if the parents have treated the school or members of the staff unreasonably.

In these circumstances, parents may be permitted to withdraw the student as an alternative to permanent exclusion. The Associate Dean shall act with procedural fairness in all such cases and shall have regard to the interests of the student and parents as well as those of the school. In such circumstances, should parents accept this offer, no right of appeal is available.

#### **Breaches of discipline outside school**

Interhigh takes the conduct of its students outside school extremely seriously. A student's misbehaviour outside of school can be damaging to the reputation of both the student and the school. Where an incident is reported to the school of a student's poor behaviour at times beyond the school day 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.

Interhigh will usually report to the police any actions which it believes may amount to a criminal activity. Drugs and weapons will be confiscated immediately and held for the police as potential



evidence. If the school believes a student may have taken drugs then Interhigh will seek immediate medical advice and may involve the police.

Sexual offences will generally be reported to the police immediately, including in cases where a student is suspected or alleged to have committed such an offence provided a reasonable amount of evidence is available.

The alleged victim's parents will usually 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 exclusions procedure**

In each exclusion case, Interhigh will conduct:

- a general investigation, including interviews with witnesses
- an exclusion hearing
- an appeal

Different senior colleagues at Interhigh will conduct each stage of the procedure as above. The investigation will typically be carried out by a Head of Faculty or Form Tutor. The hearing will be conducted by the Associate Dean Interhigh. The appeal will be chaired by a director.

### **Investigation**

#### ***Assessing the situation***

The investigator, when exclusion is being considered, will:

- investigate the nature of the allegation
- inform the student of the case against him or her
- find out what information is available and what further information is required
- assess whether anyone is at risk -i.e. whether the police or children's social services need to be informed
- decide who should be dealing with it

#### ***Information gathering***

Statements should be taken from all staff and students who were involved in, or who witnessed the incident(s). A neutral member of staff should be present at the (online) interview with an accused student. Those involved in an incident should be 'kept apart' as far as reasonably possible -for example, not attending the same online lessons for the period of the investigation. Students should be told not to discuss the matter with other students.

All written statements should be attributed, signed and dated by the witnesses who should have had the opportunity to read them. Exclusion cases will be treated in the strictest confidence. However, we cannot give assurances in relation to confidentiality on witness statements because this might



infringe the rights of the student in question to read written testimony or hear oral testimony against them.

### ***Informing parents***

Parents and carers will generally be informed after initial investigations have been made but sufficiently in advance of any hearing, in order to give them time to prepare.

### **Exclusion Hearing**

The Hearing will generally be heard by the Associate Dean Interhigh and will be attended by:

- the student who is the subject of the potential exclusion
- parents and carers
- a note-taker
- any other person required – e.g. witnesses or those members of staff who carried out the investigation

### ***Before the hearing***

Before the hearing, Interhigh will notify the pupil and parents of the hearing in writing. The letter will set out precisely:

- the allegations that have been made
- practical details, eg the time, date, place and purpose of the hearing.

All parents and carers will be notified in writing, including those with parental responsibility who live at a different address, each of whom has the right to make representations.

Interhigh will then:

- circulate the evidence
- ask for written submissions from pupils and parents / carers
- make sure all parties have sufficient time to prepare
- circulate all further evidence produced by pupil/parents & carers, ideally five working days before the hearing.

### ***At the hearing***

Minutes should be taken. However, it is generally unwise to record it.

Interhigh will comply with the following procedure.

- The Associate Dean Interhigh will explain the purpose of the hearing and set out how it will be conducted and the roles of everyone present.
- Interhigh will present its case and the witness statements should be read aloud.
- Students/parents should be invited to ask questions.
- Students/parents should present their case.
- The Associate Dean Interhigh will ask questions of students/parents & carers.
- It is good practice in all but the most straightforward of cases to adjourn the hearing before announcing the decision.

The student should generally always be present at the hearing in accordance with the [rules of natural justice](#).

Particularly where witnesses are other pupils, it is preferable to rely on written statements at the hearing.

#### ***Parent and carer representatives***

Parents should be discouraged from bringing legal representatives. Interhigh will consider allowing parents & carers to bring a supporter who is not legally qualified.

#### ***Result of the hearing***

After the hearing, Interhigh will inform all parties of the decision. This can be done face-to-face in the first instance but should always be confirmed in writing.

The letter should state:

- the decision
- the [decision](#) on exclusion -e.g. to exclude and whether it is fixed term or permanent
- when exclusion, if decided upon takes effect
- the reasons
- to whom the parents may [appeal](#)
- the deadline by which they must do so.

#### ***Deciding to Exclude***

Once the hearing has been held, the decision-taker (generally the Associate Dean Interhigh) will have a range of behaviour management techniques open to him/ her. The fairness of the technique selected must be established.

Before concluding that exclusion is justified, Interhigh will ensure that:

- the [burden of proof](#) has been discharged
- the exclusion is [fair](#) in all the circumstances.

#### ***Burden of proof***

The burden of proof must be discharged on the balance of probabilities; i.e. it must be more probable than not that the student did what was alleged.

Following the implementation of the Education (Pupil Exclusions) (Miscellaneous Amendments) (England) Regulations 2004, the burden is the same no matter what offence the student is accused of.

#### ***Fair exclusion***

The decision to exclude is a very serious one with significant potential repercussions.

In general, the decision should be taken only:

- in response to a serious breach of Interhigh's behaviour policy
- once other options have been exhausted
- if allowing the pupil to remain at Interhigh would seriously harm the education or welfare of the pupil or others in the school.

A decision to exclude should never be based on a child's race, sex, disability, sexual orientation or religious belief.

#### ***Appeal***



Interhigh will always offer the right of appeal to any student excluded from the school. Any appeal against exclusion will be dealt with under Stage 3 of the School's Complaints Policy and should be made in writing to the Associate Dean in accordance with this policy.

If parents wish to appeal against a decision to exclude their child either temporarily or permanently, they should set out the nature of their complaint in writing, detailing the nature of their grievance and the reasons they see for review. Any such letter should be addressed to the Chair of the Appeals Panel.

The request for a review should be acknowledged by Head Office within five working days and a response made within ten working days.

If the matter is not then resolved, the company will convene a panel of at least three individuals not directly involved in the matters that are subject to the decision, one of whom will be independent of the management and running of the school.

#### ***Appeal panel***

An appeal will usually be heard by at least three people who were not directly involved in the matters detailed in the complaint, including one who is independent of the management and running of the school. The appeal will not be heard by the original decision-taker, and no individual directly involved in the matter should hear the appeal. Any director with a connection to the pupil should be excluded from the panel.

#### ***Appeal hearing***

##### ***Venue***

There may be circumstances where it is unwise to hold an appeal hearing at either our London or Wales office if this can be avoided. A more neutral location is preferable, one which fully takes account of the family's home address.

##### ***Timing***

An appeal must be held within a reasonable time. This will be governed by the frameworks set the Wey Education Complaints policy.

##### ***Purpose***

The purpose of the hearing is to decide whether:

- the student actually committed the disciplinary offence
- permanent exclusion was a reasonable response.

The appeal panel should not consider fresh evidence that relates to issues not considered when the decision to exclude was taken.

Any evidence must be distributed to the relevant parties in advance of the appeal and in sufficient time to allow everyone to prepare.

If new evidence emerges at the appeal itself, Interhigh will consider whether an adjournment is necessary.

The appeal panel 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.



### **Appeal procedure**

The procedure for the appeal hearing is mostly the same as for the original [hearing](#).

The principal differences are that:

- the appeal will generally be heard by the panel
- the Associate Dean Interhigh will generally present the case for the school, submitting why the decision to exclude was justified.

The parents / carers will present the case for the defence; i.e. why the student is not guilty and/or why exclusion would be disproportionate.

A hearing will be held as soon as practicable and within twenty-eight working days. Parents will be entitled to attend, accompanied, if they wish, by one other person. This may be a relative, teacher or friend. Legal representation will not normally be appropriate.

The findings, and recommendations, if any, will be made available within one week in writing and sent by electronic mail or otherwise given to the complainant, the Associate Dean, the Academic Council and the Company Board.

Full details of the complaints procedure are to be found in the Wey Education Complaints policy.

### **Associated policies**

- Behaviour and Attendance, including Anti-Bullying
- Child Protection and safeguarding
- E- Safety
- Complaints
- Equalities

### **References:**

- Human Rights Act 1998
- ISI Handbook for the Inspection of Schools, Commentary on the Regulatory Requirements January 2018
- 'Behaviour and Discipline in Schools: Advice for headteachers and School Staff', DfE, January 2016
- 'Excluding Students – A Practical Guide for Independent Schools' by Farrer & Co (an ISBA briefing document), May 2013
- The Education Act 2002, Part 10
- The Education (Independent School Standards) Regulations 2014 (ISS Regulations)

### **Appendix – Exclusions and safeguarding considerations**

#### **Involving Children's Social Services**

Children sometimes experience abuse or neglect at home and this can cause behaviour leading to exclusion. Schools can play a vital part in the prevention of abuse and neglect. This can happen through the school's own policies and ethos or by referring concerns to the social services or another appropriate agency.

A frequent question therefore is whether a school should or must involve social services and, if so, at what stage.



### ***Risk of harm***

The obligation to refer matters to children's social services applies in all cases where a school believes that a child may be suffering significant harm or may be at risk of suffering significant harm.

The child and parents should be treated sensitively and with respect, and the situation should be approached with care and concern.

Schools should generally discuss any concerns with the family first and, where possible, seek their agreement to making a referral to social services.

However, this should be done only where it will not place a child at increased risk of significant harm.

Where social services are referred a case that constitutes or may constitute a criminal offence against a child, they should inform the police at the earliest opportunity. The aim thereafter is for both agencies to consider jointly how to proceed in the best interest of the child

### ***Involving the Police***

In some cases, a difficult question arises whether to involve the police and, if so, at what stage. This will be relevant where:

- the incident being investigated may amount to a criminal offence
- there is a genuine belief that students are at risk from harm, eg via a reprisal from a drug dealer.

As a rule, Interhigh will report to the police anything we believe may amount to criminal activity. An element of discretion is inevitably involved, however.

For example, an incident in which Student A steals something from Student B technically constitutes theft but is unlikely to warrant a report to the police.

The police should be notified of:

- incidents involving drugs and weapons
- sexual offences.

Interhigh is aware also that the standard of proof required by the police may be stricter than that needed by the school to justify exclusion.

### ***Drugs and weapons***

Incidents involving drugs and weapons are more serious than theft. Drugs and weapons should be confiscated and held for the police as potential evidence.

If the school believes a pupil may have taken drugs, then medical advice should also be sought.

### ***Sexual offences***

Sexual offences are potentially serious and should generally be reported to the police immediately, including cases where a pupil is only suspected or alleged to have committed an offence. However, there must be a reasonable amount of evidence.

The alleged victim's parents should 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.

### ***Police standard of proof***

It is not necessary to await the outcome of any police investigation before reaching the decision to exclude. Police investigations:



- can take time
- involve a different burden of proof
- are ultimately separate from a school's procedures.

A police charge may be dropped owing to a procedural slip-up, legal technicality or because of the higher standard of proof required.

This does not necessarily mean a school's decision to exclude is or would be wrong.

### If a Pupil is Excluded

If a decision is made to exclude a pupil, the panel must inform those concerned of their decision within a reasonable timescale following the hearing.

Other issues Interhigh will consider at this point are:

- [after-care](#) for the excluded pupil
- support for the family in [finding a new school](#)
- to consider allowing time to find a new school by [deferring the exclusion](#)
- [references](#)
- [settlement of fees](#) after a pupil is excluded.

### *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 and in light of the perceived blemish to a student's good character.

The potential for emotional and psychological side-effects should be borne in mind.

### *Finding a new school*

Finding a new school is a key issue, particularly if the student is in the process of studying for external examinations. It might be hard to match a student's subject choices at a new school.

Building symbiotic "referral" relationships with other schools (preferably with similar exam boards and curricula) can pay dividends for both the school and the pupil to minimise disruption.

### *Deferred exclusion*

Schools should also consider whether an exclusion decision can be made but on a deferred basis so that the parents have sufficient time to make suitable alternative arrangements.

### *References*

In giving references, schools will owe legal duties both to the pupil and also the recipient. Any reference must therefore be:



- fair
- accurate
- not misleading.

There is, however, no absolute obligation on the school to provide a reference.

#### ***Fees after exclusion***

The arrangements regarding payment of fees will be covered in the contract with the parent / carer.