

Permanent Exclusion Policy and Procedure



St John's School
LEATHERHEAD

Date of issue:	September 2020
Date of review:	September 2021
Responsible person:	The Head
References:	The Education (Independent School Standards) Regulations 2014 The Education Act 2002, Part 10 DfE: Behaviour and Discipline in Schools (January 2016)
Policy number:	9b

1 Introduction

The School must maintain discipline and good conduct to ensure an orderly environment. The Parent Contract and school behaviour policies are clear about what constitutes unacceptable conduct and the possible consequences of such conduct.

A pupil may be excluded permanently from the School if it is proved on the balance of probabilities that the Pupil has committed a very grave breach of discipline or a serious criminal offence. Permanent Exclusion is reserved for the most serious breaches. The Head shall act with procedural fairness in all such cases. The Head's decision to exclude permanently shall be subject to a Governors' Review if requested by the Parents. The Pupil shall be excluded from the School pending the outcome of the Review.

A pupil may be excluded from St John's in the following circumstances:

- in response to a serious breach of School discipline.
- if allowing a pupil to remain in school would, in the opinion of the School, seriously harm the education and welfare of other pupils or members of the School community or in response to a pupil's continual refusal to comply with the School's rules and behavioural expectations after the School has taken all reasonable strategies to avoid excluding the pupil.
- A pupil may be excluded if he or she has been found to have committed a criminal offence in or outside school or found to have behaved in a manner that tends to bring the School into disrepute.

2 Guiding Principles

Whilst the precise procedure to be followed in a given situation will depend on the circumstances of the case, the following key principles are followed:

- A fair and reasonable investigation will take place. No decision will be made until sufficient information has been gathered.
- Pupils will be informed of the allegations and the supporting evidence and must be given a reasonable opportunity to exculpate themselves.
- The sanction should be proportionate and an appeal should be offered.
- Immediate permanent exclusion of a pupil will only take place in exceptional circumstances, e.g. if there is an immediate risk to the safety of others in the School or the pupil concerned.

Only the Head can permanently exclude a pupil from the School.

3 Procedure

3.1 Clarification

When a matter arises which may lead to permanent exclusion of a pupil, the Head will seek clarification as to the exact nature of the allegation and the extent of the information available. She will make a judgement as to whether external agencies should be involved.

3.2 The Investigation

The Head will appoint an Investigating Officer (usually the Senior Deputy Head) who will interview all staff and pupils involved. A pupil's Housemaster/Housemistress (or tutor if Housemaster/Housemistress is absent) may be present at the interview. There is no requirement for parents to be present. Statements may be taken from staff and pupils involved in the matter or who witnessed an incident. All written statements will usually be attributed, signed and dated by the witness, having first

had a chance to read through. They will usually be countersigned by the person who took the statement and by the person present when the statement was taken.

Pupils involved in the matter should be kept apart throughout the period of the investigation as far as is reasonably possible. Each pupil interviewed should be told not to discuss the matter with other pupils, especially others involved in the incident.

It may be appropriate to suspend the pupil while the investigation continues. If this is the case, suspension will be kept as brief as possible and arrangements will be made to provide remote academic support to the pupil(s) in question. It will be made clear to both parents and pupils that suspension is to allow the School to investigate the matter properly and not a disciplinary sanction. The School will also endeavour to provide pastoral support to both the suspended pupil and parents whilst the disciplinary process is taking place.

Parents will be informed by the Housemaster/Housemistress once the pupil has been interviewed by the Investigating Officer.

On conclusion of the investigation, the Investigating Officer will consider the findings of the investigation and will consult the Housemaster/Housemistress. If s/he decides that there is a case to answer the case will be referred to the Head. At this point the Head may decide to meet with the parents. The parents may, in light of this discussion, decide to withdraw their son or daughter, on the understanding that they would be waiving the right to a hearing and right of appeal.

The School may refer to the Police any matter which amounts to a criminal activity.

3.3 The Hearing

The hearing will usually be heard by the Head and attended by the pupil, parents and a note-taker. Witnesses may be required to attend, if appropriate and necessary. The Investigating Officer may attend the hearing in order to present the case against the pupil; the Housemaster/Housemistress may attend at the invitation of the Head.

Before the hearing, the School will send the parents a letter that sets out the precise allegation and contains all relevant details about the hearing and any other relevant information. Copies of the evidence will also be provided before the hearing, subject to redactions that may be required to meet Data Protection regulation. Parents and pupils are required to submit evidence relating to their case to the Head at least three working days before the hearing. Parents are not normally permitted to bring legal representatives to the hearing but are allowed to bring a non-legally qualified supporter. This supporter will not be able to make representations and should be named in advance of the hearing.

At the hearing the Head will explain how the hearing will be conducted and the role of everyone present. The School will present its case, allowing parents and pupil the opportunity to ask questions. The parents will then present their case and the Head will ask questions if necessary. Save in exceptional circumstances, the pupil should be present at the hearing and will be allowed to speak on his/her own behalf. The hearing will then be adjourned to allow time for the Head to reflect before reaching a decision. Before adjournment, the Head will explain what will happen next and when.

The Head will consider whether the burden of proof has been discharged and, in all cases, a balance of probabilities test will apply as to whether or not misconduct has occurred.

After the hearing the Head will talk to the parents of the pupil giving the reasons for any decision. Notification in writing will follow an oral notification. The notification should state clearly:

- the decision in relation to the charge(s)
- the sanction and when it takes effect
- the reasons for the decision
- to whom the parents may appeal, the deadline and process for doing so

The Head may raise the possibility of withdrawal of a pupil by the parents or a managed move once the process has been followed and a decision taken to exclude the pupil. Any offer made outside the formal process will be at the Head's discretion. The Head will make it clear verbally and in writing that if parents choose to withdraw their child from the School, they will not have the right to appeal or any other opportunity to challenge the Head's decision or the process followed.

3.4 The Right of Appeal

The Chair of the Governing Council must be informed of the decision to exclude a pupil. In the event of a permanent exclusion of a pupil, the pupil's parents or recognised guardian may appeal the decision.

Application for an appeal must be made in writing to the Secretary to the Council at the School address. The application must be received within 14 days of the Head's notification to parents of the permanent exclusion and the right to an appeal will lapse if it is not.

In making the application the parents should:

- State the decision appealed against and the date of the exclusion.
- Give the grounds for the appeal.
- Provide any new evidence not available to the Head at the time of his decision. (However, the Chair of the Appeal Committee (see below) must be satisfied that the fresh evidence is relevant and that there is good reason why it was not brought forward in the first instance).

On receipt of the application the Chair of the Governing Council will appoint a committee to consider the application. The Chair of the Governing Council will appoint a Chair of the Appeal Committee who shall be a Governor. The committee shall consist of two Governors and an independent member (appointed by the Chair of the Governing Council). If reasonably possible, no Governor who has been directly involved in the matter at hand should hear the appeal.

The Chair of the Governing Council will confirm receipt of the application and will then request the Chair of the Appeal Committee to convene a meeting of the Appeal Committee to consider the application.

The committee members shall be provided in advance of the appeal hearing with a copy of the application together with a report from the Head and copies of any papers referred to in the application or the Head's report. The Chair of the Appeal Committee may request additional information from the parents or the Head prior to the hearing. The Head's report, together with any additional information, will be sent to the parents before the hearing and the Committee will take into account any response from the parents.

Having considered the papers, the Chair of the Appeal Committee may request the attendance at the hearing of any person referred to in the application, the Head's report or any of the papers presented to the committee or any other person. The Chair of the Appeal Committee will decide whether the hearing may be attended throughout by the Head, the parents and the pupil. The Head and the parents shall have the opportunity to present their case to the committee. Parents may be allowed to appoint another person to represent their interest to the committee but must obtain prior consent from the School. The appeal hearing will be recorded by a note-taker.

When all the evidence has been submitted, the committee will retire to make their decision. Such decision shall be final and shall be communicated to the parents by the Secretary to the Council if reasonably possible within five working days of the appeal hearing. The Secretary to the Council shall attend the appeal hearing and shall be responsible for communicating the decision to the parents.

The following flow diagram outlines the Disciplinary procedure. Hyperlinks are used to allow ease of access to other parts of this document.

