

Behaviour policies, disciplinary procedures, & parental contracts

Good behaviour, integrity and respect for others are cornerstones for any school's disciplinary regime. Mindful of balancing the needs and welfare of each pupil and the school community as a whole, a well drafted and robustly applied behaviour policy will go a long way in ensuring clarity and fairness for all concerned. Lawyer Ane Vernon offers some tips...

Independent schools owe various statutory and common law duties to their pupils, but the relationship between an independent school and its pupils is primarily regulated by the contract between the parents and the school. This will generally provide that a pupil may be suspended or excluded for serious misconduct or breach of the school's policies. Also, increasingly, terms include obligations as to the parents' conduct: aggressive or unreasonable behaviour towards school staff may give the school a contractual right to exclude a pupil, irrespective of the child's own behaviour.

Punishment of poor behaviour must not breach any applicable legislation and it must be reasonable in all the circumstances. The power to exclude is generally expressed to be a discretionary one that rests with the head teacher and discretionary powers must be exercised reasonably. The parent contract is a contract for services (i.e. the provision of education) and as such it is subject to consumer rights legislation. This affords protection to parents as consumers and means that the school's terms should be demonstrably fair, transparent and easy to understand. In addition, the contract will contain an implied

term that in providing the services the school acts with reasonable care and skill.

As a private organisation independent schools are not subject to human rights law, although complaints founded in human rights (e.g. misuse of private information) could be brought. Sometimes the parent contract enshrines human rights principles as a matter of contract. In any case, compliance with such fundamental principles will be prudent and assists in maintaining good relations with parents, as well as minimising challenges.

Independent schools must comply with the Equality Act 2010 and in the application of a disciplinary regime consideration must be given to pupils with protected characteristics. Their rights and needs must be carefully balanced against the needs and welfare of the wider school community. When sanctions are imposed account must be taken of the individual pupil's circumstances such as age, special educational needs or religious requirements. An exclusion successfully challenged under the Equality Act may give rise to a range of remedies such as a direction that the pupil be reinstated, that

the school provide an apology or undergo training.

As a matter of good governance there should be a detailed record of any steps or decisions taken under the school's disciplinary regime (including investigations). Such records will not only be relevant in the event of a dispute but may also assist when updating policies and procedures.

A pupil in a state school facing exclusion has clear routes of appeal, from the governing body to the Independent Review Panel and the possibility of a court challenge by way of a judicial review. The independent sector is outside that regime and a decision to exclude a pupil cannot be challenged by a judicial review. The school's policies will often confer a right of appeal of a decision to exclude a pupil or, if no specific appeal mechanism is set out, the school's complaints procedure may be followed. Not least bearing in mind the fairness requirement a clear written appeal policy is important. In the case of a serious sanction such as exclusion the pupil and their parents should have the right to make representations and be aware of the procedure to do so.

One would expect a well drafted parent contract to refer to the



code of conduct and other policies. To aid transparency schools may consider drawing attention to these documents in the acceptance form confirming an offer of a place. Policies can and should be updated from time to time, to conform with changes in law and statutory guidance, and to reflect trends and developments in society. It is good practice to remind both pupils and parents of what is expected, and significant updates are worth highlighting.

Objections to necessary or reasonable policy updates are unlikely – above all parents should recognise the overarching objective of maintaining a safe and happy school environment. To encourage dialogue the school may choose to consult with parents and invite questions. Consequences of disagreement or non-compliance with school policies can be addressed in the parent contract, subject always to fairness and other relevant contractual principles.

Armed forces say thanks

A North Wales school has received a prestigious Ministry of Defence award – and a picture commemorating Wales's great poet Hedd Wyn – for its support for the Armed Services.

Myddelton College, in Denbigh, offers the most generous reduction in fees in the UK, 25 per cent, to families with serving members of the Army, Royal Navy and Royal Air Force.



They also have their own Combined Cadet Force (CCF) squadron overseen by former Royal Welch Fusiliers Sergeant Major Graham Evans who

painted a squad of First World War RWF soldiers including Hedd Wyn. Sergeant Major Evans, who has been exhibiting his paintings since he was

13, imagines a scene in the trenches on the eve of the bloody Battle of Passchendaele in 1917 with Hedd Wyn among the Royal Welch Fusiliers waiting to go over the top.

He had already entered a poem in the National Eisteddfod that year and it won the Chair but by then the Trawsfynydd shepherd poet, real name Ellis Humphrey Evans, aged 30 was dead, killed on the first morning.

The presentation at Myddelton College was made by Lieutenant-Colonel John Hurst who handed the certificates over to Headmaster Andrew Allman, along with the framed print of the painting.