The Zero Tolerance Behaviour Policy Paper

Understanding zero tolerance behaviour policies

Zero tolerance policies (ZTP) have a wide scope and can be found in most social institutions and beyond. In the main they derive from controls and programmes on people, which seek to minimise anti-social behaviour such as abuse, vandalism, noisy and violent conduct and much more. Some use the term for productivity e.g. zero tolerance of waste, or for the environment, for instance zero tolerance for litter or dumping toxins into the water.

In the school context, and considering zero tolerance behaviour policies in particular, most of the evidence base for the school comes from the United States[1] and generally identifies the lack of long-term success of such policies.[2] The underlying assumption of these policies is that anti-social or non-productive behaviours will then subside and more dangerous or costly behaviours are gradually reduced as well.

For the purpose of this paper we are looking at zero tolerance policies in schools in England and Wales. The general view of zero tolerance in England was expressed in a recent 2019 SecEd paper:

> 'Zero tolerance' refers to behaviour management policies that seek to punish all offences severely, no matter how minor. Growing out of the gun violence tragedies in US schools in the early 1990s, any perceived threat-making by students resulted in automatic and permanent expulsions." [3]

However, some ZTP are more nuanced. Many schools have a zero policy on bullying for instance, or racial discrimination, with attendant links to a wider policy in safeguarding and child protection, and legal implications for those who are negligent in tackling such anti-social behaviour.

In mainstream schools the major thrust of ZTP is in managing the learning behaviour of students and young people, through punishing minimally disruptive behaviour in punitive ways. The expectation is to reduce wider and more disruptive behaviour, which may jeopardise the learning opportunities of peers at the school. These policies were supported by some in government, including the former Secretary of State for Education, Gavin Williamson (2019-2021).[4] Often the punitive measure is isolation, instructing young people to behave positively or face segregation or exclusion. That said, there is little evidence that zero policies inform long term behaviours or have a lasting effect on young people in their general behaviour afterwards, and in other contexts. This lack of evidence, may well be because, as yet, we are relatively new to zero tolerance behaviour policies and their evaluation as a behaviour modification programme. There seems to be no consensus on the application and methodology of zero policy.

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Zero tolerance policies and the law

What we might call 'true' zero tolerance behaviour policies - where the same strict rules are applied to all pupils regardless of their individual needs or circumstances - are unlikely to be lawful. For pupils with special educational needs and disabilities (SEND) in particular, the key consideration is the Equality Act 2010. 'Blanket policies' of this kind generally fall foul of the requirements of the Act. Any policy would need to specifically lay out how it would be adjusted in light of protected characteristics.

Disability is a protected characteristic under the Act, meaning that it is unlawful to discriminate against someone because of their disability. A claim can be brought against a school in the First-tier Tribunal (Special Educational Needs and Disability) where discrimination is alleged to have occurred. Where the pupil has been excluded, the Tribunal has the power to order reinstatement.

A school applying a policy which fails to take a pupil's individual needs into account would be likely to amount to discrimination. In the context of pupils with a disability, this could be:

» **Indirect discrimination:** When a practice, policy or rule applies to everyone in the same way, but puts disabled pupils at a particular disadvantage. For a claim to succeed, the parents would need to show that the pupil was disadvantaged by the policy compared to pupils without that disability.

  » Example: A pupil has dyspraxia, which affects their organisational skills. In line with the school's behaviour policy, after being late for two lessons in a row they are automatically sent to the isolation room.

» **A failure to make reasonable adjustments:** Schools have a duty to make reasonable adjustments for pupils with disabilities in two ways. If a disabled pupil requires aids or equipment to help them access education, the school must provide those aids. More relevant here is that where a practice, policy or rule puts disabled pupils at a particular disadvantage, adjustments must be made to that policy. In both cases the duty only applies where it would be reasonable to expect the school to do so.

  » Example: A school's behaviour policy states that a failure to arrive in the correct uniform will result in an automatic lunchtime detention. A pupil with Autism finds wearing something tied around their neck intolerable due to sensory issues. Their parents suggest wearing a clip-on tie instead, but the school states this is not permitted uniform.

» **Discrimination arising from a disability:** This occurs when a disabled pupil is treated unfavourably because of something connected to their disability, rather than the disability itself. For this type of discrimination, there is no requirement to show that the pupil was treated differently to those without their disability - only that they were treated unfavourably (such as being subjected to disciplinary sanctions).

  » Example: A pupil with a learning difficulty has a tendency to flap their arms when distressed. On arriving at a lesson, a new teacher directs the pupils to sit in certain seats. The pupil is distressed that they cannot sit in their normal seat and becomes agitated, flapping their arms and making noises. The teacher perceives this as threatening behaviour and in line with the schools' behaviour policy they receive a detention.

How zero tolerance policies affect children and young people

Given the lack of any comprehensive research-based study on zero tolerance behaviour policies in England and Wales, only anecdotal evidence is available. However common themes suggest that they are:

Ineffective:

» The focus on identifying specific infringements reduces teachers' abilities to identify and tackle the root causes of a problem.

» Repeated punishment and exclusion without considering the wider context or mitigating circumstances, cause anxiety and distress for students.

» There is no evidence that punitive consequences help pupils adapt their behaviour. In the US the opposite is happening. Indeed, in England, the Youth Justice Board sees exclusions as a trigger for criminal activity.

» Poor preparation for adulthood (only 1% of excluded pupils will go on to achieve five good GCSE grades and children who are excluded from school by age 12 are four times more likely to be imprisoned as an adult).[5]

Damaging to relationships:

» Over-zealous penalties for minor infringements of the rules not only impact the relationship between teachers and pupils, but also damage parents' goodwill towards schools.

» It is a necessarily 'top-down' approach and so can leave staff, pupils and parents feeling disempowered.

Discriminatory:

» Zero tolerance behaviour policies disproportionately impact children with SEND who may have greater difficulties in complying with certain requirements. As a result, such policies become a method of 'selection' for schools, by either formally excluding or encouraging parents to withdraw children with higher levels of need.

» Zero tolerance for non-neurotypical behaviours translates into wider intolerance for pupils who present differently to their peers.

» Evidence from the USA, and wider evidence from England and Wales, indicates that students from Black, Asian and Ethnic Minority (BAME) backgrounds are more likely to be punished than white students for the same actions - thus undermining the principle that zero tolerance is applied equally to all.

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Positive alternatives to zero tolerance policies

Alternatives are thoroughly discussed by Her Majesty's Chief Inspector, Amanda Spielman in her HMCI commentary in September 2019, in which more emphasis was placed on good teaching, shared values, consistency and developing positive relationships.

> " Strong views are held regarding the effectiveness of particular approaches, such as restorative justice or zero tolerance. However, we found that teachers and headteachers typically did not talk about their approaches in those terms, and rarely made reference to any of the standard approaches so frequently discussed in the media.' … 'Policies that are called 'zero-tolerance', for example, can mean different things in different contexts. " [6]

Where behaviour was negative, specific, personal responses were deemed to be preferable to blanket decalogues. Expectations for good behaviour were founded in mutuality, around:

» **Foundational behaviours:** good classroom etiquette and on task behaviour.

» **Learning behaviours:** a shared understanding that school is a learning environment, with everyone there to support this and reduce disruption.

» **Social Behaviours:** the dynamics of interaction between students and staff are paramount. Where this relationship is positive, the school dynamics were improved.

» **Wider community behaviours:** the support/understanding of parents and carers should not be underestimated when it comes to managing at-school behaviour.

A common theme that features when researching behaviour reports for 'Outstanding' schools, is that positive relationships between staff and pupils based on shared values are evident throughout these communities .

Team- and resource-building between locality schools were also understood to be valid ways of reducing learning disruption. This is more likely to happen effectively when the leadership of locality schools in local authorities and academy chains is open, and welcoming to a wider partnership of expertise in independent and non-maintained communities.

In summary

Tolerance is born out of understanding and engagement, and understanding comes from interaction. As such, zero tolerance as a vehicle for exclusion is the antithesis of school community's purpose, especially inclusive schools. We as educators seek the path of inclusion, through understanding behaviours and applying methodologies which mitigate negative behaviour. In doing so we identify mutual and sustainable alternatives, and secure learning. In special schools and alternative placements, ZTP are especially impractical. Few of us tolerate negative behaviours in any area of life but we will not change any behaviours if we cannot engage with the person.

The government have recently released a suite of consultations and adaptations from existing policy on behaviour permanent exclusions and suspensions[7] and attendance,[8] which makes some adaptions to the existing practice.

There is a move away from terms such as punishment to consequences and an increased reinforcement that school leaders identify suspension and permanent exclusion as the last possible choice for meeting the needs of the individual pupils concerned and their peers.

The need for good working relationships is also re-emphasised, as well as new clarity around the needs of young people with SEND to be given contextual consideration.

Behaviour in all of these new 'updates', is seen within social context and the community of the school as the greatest barrier to disruptive learning behaviour. This surely re-enforces the inclusive power of school communities rather than exclusionary and separational policies and protocols.

We should await the outcomes of the consultations but there is currently no mention of ZTP in any of the new raft of relevant updates and consultations on DfE thinking on behaviour.

To date, the concept of zero tolerance has been given an alarmingly free rein. The suggestion that zero tolerance policies work in general to improve learning behaviour and learning outcomes is unproven.

However a close reading of successful schools (85% of all schools)[9] shows a firm correlation between positive outcomes for young people and positive relationships between staff and young people.

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