

## **EXCLUSIONS POLICY**

### **Serious Incidents of Misbehaviour Leading to Fixed Period or Permanent Exclusion**

#### **Introduction**

The Marsh Academy is an inclusive school, committed to recognition of the equal value of each pupil inside the Academy. We recognise that exclusions are damaging as they diminish the sense of belonging to the Academy community. As such exclusion is intended to be used only sparingly as part of an overall behaviour strategy which seeks to develop the culture of inclusion, ownership and responsibility for one's own behaviour.

The Academy seeks to avoid permanent exclusions. These will take place only for very serious incidents or when all other strategies have been tried and have failed over time.

#### **1. Action to be invoked by Senior Staff in Serious Disciplinary Matters**

I. Over serious matters a senior member of staff, eg Vice Principal or Head of House, must interview students. If the nature of the incident is most serious then at least two staff members should be present to conduct the interview. The student should be questioned fairly and be given ample opportunity to give a response. The student should be encouraged to provide a written statement of what happened and offered the opportunity to sign this as an authoritative record of events. At this stage this report will help to enable The Marsh Academy to decide on what further action should be undertaken.

II. In discharging their duties the Executive Head, Head of School and Governors of The Marsh Academy will have regard to DfES Circular 10/99 and any subsequent DCFS guidance on exclusions.

III. A decision to exclude a student will only be taken

- in response to serious breach The Marsh Academy's Behaviour and Discipline policy.
- if allowing the student to remain in The Marsh Academy would seriously harm the learning or welfare of the student or other students in the school.
- in cases where there has been a major breach of normal expectations of conduct or a breach of the criminal law.

IV. Before excluding a pupil, in most cases a range of alternative strategies will have been tried.

#### **2. Responsibilities of the Head of School**

I. The Head of School alone (or a Vice Principal if she is absent) has the power to exclude students.

II. In considering excluding a student the Head of School should carry out a range of activities including:

Governors:

To be reviewed:

- undertaking a thorough investigation
- considering all the relevant facts and firm evidence to support the allegations
- taking into account The Marsh Academy's Behaviour and Discipline policy including the equal opportunities and bullying policies.
- checking whether an incident appeared to be provoked by racial or sexual harassment
- ensuring that all students involved including those students with learning difficulties have the opportunity to give their version of events.
- consulting other people or agencies except where they may be involved in any review of the exclusion
- ensuring time has been given to addressing and supporting the student's individual problems within the capabilities of The Marsh Academy.

III. Before deciding to exclude a student permanently the Head of School will normally first try a range of strategies including fixed term exclusion. Normally only when other strategies have been tried without success will the Head of School consider permanent exclusion. The Executive Head will be consulted before any decision is made to permanently exclude a student.

IV. There are occasions when the severity of the offence will merit permanent exclusion, even when there has been no record of poor behaviour.

V. The Executive Head and Head of School may exclude a student for up to 45 school days in any academic year. Any exclusion beyond 45 school days will be permanent. However before that point is reached the Head of School will have held discussions with Kent LA with a view to arranging an appropriate placement in another school or Pupil Referral Unit(PRU).

VI. The Head of School will aim for the shortest possible period of exclusion but however brief an exclusion plan will be made

- to enable the student to continue his or her education
- to use the time to address the student's problems
- to examine the process of reintegration.

### 3. Informing Parents about the Exclusion

I. The Head of School will make sure the Parent is notified immediately, ideally by telephone, and that the telephone call is followed by a letter within one school day. An exclusion will normally begin on the next school day.

II. Letters about fixed period and permanent exclusions will explain:

- why the Head of School decided to exclude the student and the steps taken to try to avoid the exclusion
- the arrangements for enabling the student to continue his/her education, including setting and marking the student's work
- the parent's right to state their case to the Governing Body's Discipline Committee
- who the parents should contact if they wish to state their case(usually the Clerk to the Committee)
- the latest date the parent can put a written statement to the Discipline Committee

- the parent's right to see and have a copy of their child's record
- if the exclusion is for a fixed period, the length of the exclusion and the date and time the student should return to The Marsh Academy
- if the exclusion is permanent, the date the permanent exclusion takes effect, and details of any relevant previous warnings, fixed period exclusions or other disciplinary measures taken before the present incident.

III. If the Executive Head or Head of School wishes to extend a fixed period exclusion or, exceptionally, converts a fixed period exclusion into a permanent exclusion, the Head of School will again write to the parent explaining the reasons and making the other points above. Where an exclusion is extended, there will be a new right for the parent to state their case to the Discipline Committee.

#### 4. Informing the Discipline Committee

I. The Head of School will inform the Chairman of the Governing Body's Discipline Committee of:

- all permanent exclusions
- all exclusions which result, separately or in total, in the student missing more than five school days in any one term, or which deny a student the chance to take a public examination.

II. Fixed period exclusions of one to five school days will be reported termly, unless the Discipline Committee asks for more frequent reports.

#### 5. Responsibilities of the Governing Body

I. The governors do not have the right to exclude a student. Governors will review the use of exclusion in The Marsh Academy regularly. The Governing Body will establish both a Discipline Committee and when the need arises and an independent Appeal Panel.

#### 6. The Role of the Discipline Committee

I. The Discipline Committee will consist of three governors who will review the use of exclusion within The Marsh Academy, including considering the views of the parents of an excluded student, and deciding whether or not to confirm exclusions of more than five school days or those where a student would miss an opportunity to take a public examination. The Governing Body will appoint a clerk to the Discipline Committee to provide advice on the exclusions process and to handle the administrative arrangements for considering exclusions.

II. If the exclusion is for five school days or fewer, the Discipline Committee will not direct reinstatement but will consider any statement from the parent. If the exclusion causes the student to miss sitting a public examination the Discipline Committee will meet before the public examination. Where a public examination is concerned, if it is not practical for the Discipline Committee to meet, the Chair of the Committee will consider the exclusion. Alternative arrangements to allow an excluded student to take public examinations will be considered.

III. For exclusions of more than five school days in a term or where a student would lose the opportunity to take a public examination the Discipline Committee will consider the exclusion and decide whether the student should be reinstated. If a student has been excluded on a number of occasions the Discipline Committee will meet once the student has missed more than five school days in the term.

IV. For permanent exclusions the Discipline Committee will consider the exclusion and decide whether the student should be reinstated. Such consideration will take account of the student's disciplinary record and the likely impact of his or her continued attendance at The Marsh Academy as well as the severity of the offence.

V. On receiving notice from the Head of School that a student has been excluded for more than five school days, the clerk should:

- for an exclusion of between six school days and 15 school days in a term, set up a Meeting between the 6<sup>th</sup> and the 50<sup>th</sup> school day to consider the exclusion
- for an exclusion of over 15 school days, set up a meeting between the 6<sup>th</sup> and 15<sup>th</sup> school day after that notice to consider the exclusion
- invite the parent to the meeting, at a time and place convenient to all parties as far as possible. The parent may be accompanied by a friend or a legal representative at their request
- ask for any written statements in advance of the meeting
- circulate any written statements, ensuring that the identity of students is concealed if thought appropriate, and a list of those who will be present at the hearing to all parties attending.

VI. Unless there are strong reasons to refuse, the chair of the Discipline Committee should allow the excluded student to attend the meeting and present their case if the parent and the student ask for this. But the parent formally remains the appellant unless the student is 18 or over.

VII. If the student is back at school before the Discipline Committee meets, the meeting still enables the parent to give their views. The Discipline Committee can also consider whether more information should be added to the student's record.

VIII. If the student is still excluded when the meeting takes place, the Discipline Committee should decide whether to direct reinstatement. In reaching their decision the Committee should:

- consider the parent's statements
- have regard to the guidance on the appropriate use of exclusion in DfES Circular10/99 and in The Marsh Academy's Behaviour and Discipline Policy, and consider whether the Head of School has tried sufficient approaches to improve a student's behaviour before resorting to exclusion, and whether any further strategies might be an alternative to exclusion
- for permanent exclusion, the Discipline Committee should normally satisfy itself that all possible strategies to improve a student's behaviour were tried without success. Strategies should include those in DCSF guidance, including a Pastoral Support

Programme. For children with statements of SEN, revising the statement might be better than resorting to exclusion.

IX. the Discipline Committee may not attach conditions to the reinstatement of a student.

X. If the Discipline Committee upholds the Executive Head and Head of School's decision to exclude a student permanently, it will write within one school day to the parent giving the reasons for the decision explaining the parent's right to appeal to an Independent Appeals Panel to which the parents can make oral and written statements, giving the name and address of the person the parents should contact if they wish to appeal, explaining that any notice of appeal should explain the grounds of appeal and stating the latest date for giving notice (15 school days from the date of the Discipline Committee's decision). The parent has the right to appeal to the panel even if they did not make a case to the Discipline Committee.

XI. If the Discipline Committee upholds a decision to exclude a student permanently it will notify the Kent LA in writing of this decision within one school day of the hearing. The Discipline Committee's decision on fixed term exclusions is final. In the case of permanent exclusions, parents may appeal to an Independent Appeals Panel.

After the meeting

XII. A note of the Discipline Committee's views on the exclusion should normally be placed on the student's record with a copy of the Head of School's exclusion letter.

## 7. Appeal Hearings

I. Parents whose child is excluded permanently from The Marsh Academy, have the right to appeal against the Discipline Committee's decision to uphold the exclusion. This appeal is made to the Appeals Panel. The right of appeal is unrestricted, subject to the time limit.

II. Any appeal must be lodged in writing to the Clerk to the Appeals Panel within 15 school days from the date the parent receives notice of the decision. The panel should meet as soon as possible but normally within 15 days of the notification of appeal.

III. In the event of a permanent exclusion Kent LA will be notified promptly once the exclusion is confirmed.

## 8. Arranging an Appeal Hearing

I. The letter from the Clerk to the Discipline Committee will inform the parents of their right to appeal against the decision of the Discipline Committee not to reinstate the permanently excluded student. The letter will give the name and contact details for the Clerk to the Appeals Panel (who will not be the same person as the Clerk to the Discipline Committee) and explain that the parent's notice of appeal must be in writing and set out the grounds of appeal. The letter will tell the parents that the final date for lodging an appeal will be 15 school days from the date the parent receives notice.

II. The day on which the parent is given notice will be taken to be the second school day after the date of posting by first class post, or where the notice is hand delivered, The date of delivery (unless a different date of receipt can be demonstrated). No appeal will be accepted if it is made after the final date for lodging an appeal.

III. The Independent Appeals Panel will comprise three independent panel members plus a clerk appointed by the Governing Body.

IV. No governor, employee of The Marsh Academy, Trust or person who has had any connection with The Marsh Academy, Trust or with the excluded student or with the incident leading to the exclusion, shall serve on the Appeal Panel. The members of the Panel will be people with experience in education in the area; at least one must be a lay member.

V. The Appeals Panel will not reinstate students purely on minor 'technicalities' relating to prior procedure, where they are persuaded on the merits of the case that the exclusion was justified and would not otherwise direct that the student should be reinstated. The Appeals Panel will rather consider afresh the question of whether the student should be reinstated.

VI. The Appeals Panel will meet within 15 school days of the date the parent lodges notice of appeal.

VII. Those entitled to attend a hearing and present their case are:

- the parent, who may be represented by a legal or other representative
- the Head of School, who may make oral representations
- a nominated member of the Discipline Committee, who may make oral representations
- a legal or other representative of the Discipline Committee.

VIII. The Head of School and Governing Body may also make written representations. Wherever possible, the Clerk will make available all written evidence to the panel members and the parent four working days in advance of the hearing. The student, if s/he or his/her parents so request, will be allowed to attend the hearing and speak on his/her own behalf, unless there is good reason to refuse.

## 9. Role of the Clerk

I. The Appeals Panel will have a clerk who will serve as an independent source of advice on procedure for all parties to the appeal. The Governing Body will use its best endeavours to ensure that the clerk has some legal training and has experience in the conduct of appeal hearings. They will not be the same person who served as a clerk to the prior Discipline Committee hearing.

II. When the panel withdraws, or invites the parties to do so, when it wishes to consider its decision, the clerk may remain with the panel, but only for the purpose of offering advice on procedure or law, and recording decisions and reasons.

## 10. Procedure at the Hearing

Governors:

To be reviewed:

I. The appeal hearing will not be held at The Marsh Academy. The Appeals Panel will do everything possible to establish an atmosphere of informality where the parties can present their cases effectively.

II. The remit of the Appeals Panel is to consider whether the student should be reinstated.

III. In considering an appeal, the panel will decide whether the student actually did what he/she is accused of doing. If more than one incident of misconduct is alleged, the panel will decide on each incident. If satisfied on the balance of probabilities that the student did what was alleged to have been done, then the panel will decide whether, considering all relevant factors, permanent exclusion was a reasonable response to that conduct. Relevant factors must include:

- the broader interests of other students and staff in The Marsh Academy, as well as those of the excluded student
- The Marsh Academy's published Behaviour and Discipline policy
- where other students were involved in the same incident and were also disciplined, the fairness of the permanent exclusion in relation to the sanctions imposed on the other students involved.

IV. To reach a decision, the panel may need to hear evidence from those directly or indirectly involved, including the student. The Appeals Panel may not introduce new reasons for the exclusion. However, the parent may put forward new information that may not previously have been available. If this happens, the Appeals Panel should be given an opportunity to respond.

V. The order of hearing will be notified in advance to the parties. At the start of the hearing the chair or clerk will welcome the parties and introduce those present, pointing out that the panel is independent of The Marsh Academy, and its governing body and that its decision is binding on them. The clerk will explain the order in which the parties entitled to be heard will state their case and that there will be an opportunity for questioning by the other parties afterwards.

VI. The panel members may also ask question of the other parties to the appeal or of any witnesses who appear, in order to clarify an issue or to elicit more information. The aim will be for panel members to ask their questions at the end of each party's statement and following questions by the other parties.

VII. The clerk may be called on to give legal or procedural advice to the Appeals Panel during the course of the hearing and when they retire to consider their decision.

VIII. The chair will order proceedings and lead the panel in establishing the relevant facts. If the parent appears to be having difficulty in presenting their case, the chair should intervene to assist them to ensure that their case is established and that factual matters not in dispute are clearly identified. The chair will assist parents who have English as an additional language or who have literacy problems, and who may not have understood all the paperwork.

IX. If the Appeals Panel wishes to vary the notified procedure, they should only do so after hearing the views of all the parties present and entitled to make representations.

X. Sufficient time will be allowed for each party to put its case. The panel should ensure that parents are given the opportunity to comment on relevant information obtained from the Governing Body. Care must be taken to ensure that no party attending the hearing is present alone with the Appeals Panel in the absence of the others.

XI. In exceptional cases the panel may adjourn an appeal to a later date. If there is an adjournment, it is essential that no part of the proceedings take place other than in the presence of all the panel members.

## 11. Evidence and Witnesses

I. Where the school's case rests largely or solely on physical evidence, and where the facts are in dispute, then the physical evidence, if practicable, should be retained and be available to the panel, if they wish to see it. Where there are difficulties in retaining physical evidence, photographs or signed witness statements are acceptable as evidence.

II. The Appeals Panel cannot compel witnesses to attend and any witnesses must therefore appear before it voluntarily. The Appeals Panel may wish to call witnesses who saw the incident or behaviour which gave rise to the exclusion. They may also wish to call a teacher or teachers (other than the Head of School) who investigated the incident and interviewed students. The Head of School has the right to make written representations to the panel and to appear and make oral representations.

III. Where adult witnesses are unwilling to appear in person or are unavailable, the panel must rely on their written statements, copies of which will have been circulated to all parties by the clerk before the hearing. In the case of witnesses who are students of The Marsh Academy, it will generally be appropriate for the panel to rely on their written statements. Students may, however appear as witnesses in person if they do so voluntarily and their parents consent. All written witness statements must be attributed and signed, except in cases where the school has good reason to wish to protect the anonymity of students. In such cases the statement will not be attributed and some names may be blanked out. The general principle remains that someone accused of something is entitled to know the substance and the source of the accusation. If any witnesses are going to appear in person, all parties need to know the details in advance of the day of the hearing.

IV. The calling of character witnesses is at the discretion of the panel, but should be allowed unless there is good reason to refuse. It is for the panel to decide whether any witnesses, having given evidence, should remain for the remainder of the presentation of the case.

V. If any of the parties intend to raise matters or produce documents at the hearing which are not covered by the statement of decision or the notice of appeal, these should be submitted to the clerk to the Appeals Panel in good time before the

hearing. If substantial new issues are raised for the first time at the hearing, an adjournment maybe necessary to allow all parties to consider the issues.

VI. An Appeals Panel, when directing reinstatement, may specify a future date rather than an immediate return, perhaps to allow for support arrangements to be put in place. But the date of reinstatement should be reasonable in all the circumstances. The Appeals Panel cannot attach conditions to the reinstatement of a student.

VII. Under no circumstances can an appeal continue if the number of panel members drops below three at any stage during the appeal. Once an appeal has begun, no panel member may be substituted by a new member for any reason. In the case of a five member panel, if any member dies or is taken ill, the panel may continue, provided the two categories of member are still represented on the panel.

## 12. Record of the Proceedings of an Appeals Panel

I. In addition to notes taken during appeals to help the panel's decision making process (including a record of the Discipline Committee's decision and the reasons for it) the clerk to an Appeals Panel should keep brief notes of the proceedings, the attendance, the voting and the decision in such forms as the Appeals Panel deems appropriate.

## 13. After the Hearing

I. The decision of the Appeals Panel is binding on all parties. The Appeals Panel will communicate its decision to all parties by the end of the second school day after the appeal hearing. Where a hearing is held on the last day of term or outside term-time, the panel will notify all parties by the end of the second working day after the conclusion of the hearing.

II. If the Appeals Panel upholds the permanent exclusion, the clerk should immediately report this to Kent LA. The clerk should also advise the parent to contact the Kent LA about arrangements for their child's continued education. The Head of School should remove the student's name from The Marsh Academy's roll the day after the conclusion of the exclusion appeal. Where the Appeals Panel direct reinstatement they should immediately inform the Head of School of their decision and specify the date on which the student must be readmitted.

III. Details of an exclusion may not be deleted from the student record, where an exclusion is a matter of fact. The Governing Body must, however comply with any parental request to append their appeal statement to the student's record. It will be for the Governing Body to decide what details of the exclusion are included in the student's school record Copies of the Head of School correspondence should be included and possibly the minutes of the Discipline Committee and Appeals Panel hearings, if the Discipline Committee and Appeals Panel respectively agree to this.

IV. The Academy will ensure that there is a written record of the sanctions given under this policy and that patterns of exclusion are investigated regularly, with half termly reports produced for the Governing Body.