



Exclusion Policy Junior School and Senior School Policy including Boarding

Exclusion and Removal from the School

A decision to exclude permanently will be taken as a last resort when a wide range of other strategies have been previously employed or if an exceptional individual offense has been committed.

The decision to permanently exclude is taken by the Principal after discussion with senior staff and the Clerk of Committee. The parents are informed of the decision and asked to collect the pupil as soon as possible. Parents are usually asked whether they wish to withdraw their child rather than have them expelled.

Parents will be concerned to have the School reach a decision which is in the best interest of their child. The School needs also to take account of the interests of the whole School community.

Rationale for Exclusion

Exclusion will usually be considered only where such action is deemed to be in the best interests of one or more of:

- the pupil concerned
- other pupils in the School
- staff in the School
- or where the pupil's action has brought or is likely to bring the School's reputation into disrepute.

Exclusion will also be considered where the pupil concerned is regarded on the balance of probabilities as having committed a criminal offence, whether connected with the School and whether criminal proceedings have been instituted.

A pupil is also liable to be excluded if fees remain unpaid unless an arrangement has been agreed with the Director of Business Operations for paying off those arrears.

Process of Exclusion

Before a decision is made to exclude a pupil from The Mount permanently, a full investigation, if required, will be undertaken by the Deputy Principal or Head of Junior School and the appropriate Head of Year. The Principal will not take part in the investigation as this may compromise their impartiality at the actual hearing.

While the precise procedure to be followed in a given situation depends on the circumstances of the case, the procedure outlined below would apply wherever possible:

- A fair and thorough investigation if required will be led by the Deputy Principal or Head of Junior School
- Pupils must be informed of the allegation and the evidence relied upon
- Pupils must be given a fair opportunity to exculpate themselves
- Parents will be informed as soon as practically possible
- A hearing will be conducted by the Principal and a decision reached
- An appeal should be offered, and this will be conducted by the Clerk of Committee

If a pupil is excluded by the Principal, the parent may appeal against the decision. Such an appeal should be made in writing to the Clerk of the Committee within 14 days of the decision to exclude and should set out the reasons for disputing the Principal's decision.

A pupil whose exclusion is subject to such an appeal will be suspended from attending the School pending the outcome of the appeal.

Date of last review: Autumn Term 2018

Date of next review: Autumn Term 2020

Reviewed by: Deputy Principal and Head of the Junior School

In the event of an exclusion, the Clerk will appoint an 'Appeal Panel' of three persons, at least one of whom will not be a member of the School Committee. Prior to the meeting of the Appeal Panel, the Clerk will arrange for the Principal to produce a statement of the reasons for exclusion and will give the appellant(s) the opportunity to comment upon that statement.

Unless otherwise agreed by the appellant(s), at least 7 days' notice will be given of the time and place of the meeting of the Appeal Panel.

Whether or not the decision of the Appeal Panel is announced at the time of the meeting, the panel will produce a written decision giving their reasons for upholding or varying the decision to expel the pupil. The Principal may, as a consequence, be asked to reconsider their decision to exclude. The re-considered decision of the Principal will be final and will not be the subject of any further review.

Procedures for Holding a Hearing

Once the information gathering stage has been completed, the next step is obviously to hold the hearing itself. The hearing will generally be heard by the Principal and attended by the pupil, parents, a note taker and any other person required (eg witnesses or the member of staff who carried out the investigation).

Before the Hearing

Notify the pupil and parents of the hearing.

Make sure the letter sets out precisely what allegations have been made. It should also contain all relevant practical details (eg the time, date, place and purpose of the hearing and who will be attending).

Circulate the evidence to be relied upon by the School.

Provide copies of all evidence to be relied on by the School (including witness statements) and ask for any written submissions from the pupil/parents (including witness statements) to be provided for circulation by a specified (reasonable) date. Make sure all parties have sufficient time to prepare for the hearing.

Circulate any further evidence produced by the pupils/parents. Ideally, all parties should have copies of all evidence to be relied on, five working days before the actual hearing. If this is not possible then consider whether a brief postponement is preferable.

At the Hearing

A checklist for conducting the hearing is set out below (Excluding Pupils – A Practical Guide for Independent Schools – August 2005):

Generally, the pupils should attend the hearing. Natural justice requires that a pupil is able to hear the case against her/him and defend herself/himself. Unless there are strong reasons to the contrary, therefore, the pupil should be present and allowed to speak on her/his own behalf if she/he wishes to do so and the parents agree.

Particularly where the other witnesses are also pupils, it is generally preferable to rely on written statements at the hearing. Sometimes it may be felt that a witness should be present, for example to allow necessary questioning on the content of their statement. If so, the pupil may be asked to appear but should not be compelled to do so and the parents of that pupil must first consent.

Parents should not bring legal representatives to the hearing unless there are compelling reasons for allowing it (eg illness, English not parents' first language). You may, however, wish to consider allowing parents to bring a non-legally qualified supporter, making it clear in advance that this person is not able to make representations. If this offer is made, then parents should also be asked to name any such supporter in advance of the hearing.

Explain the purpose of the hearing. The Principal should set out how the hearing will be conducted, and the School presents its case. Generally, this will be done by the person who conducted the investigation. If witness statements have been obtained, then these should be read out loud.

Parents are entitled to know the precise nature of the alleged facts. From a practical perspective, allowing sufficient questioning will reinforce the impression of fairness. The pupil/parents present their case. The parents will normally

undertake this role, but the pupil should be allowed to comment if appropriate. The Principal asks questions of the pupil/parents. The objective is for the Principal to establish all the relevant facts to allow a fair decision to be reached

Minute the Hearing: A designated note-taker should note the names and roles of all people present, all written documents considered, all oral evidence given, and the decision reached, including the reasons stated.

Adjourn: In all but the most straightforward of cases, however, it is good practice to adjourn the hearing before announcing the decision. Failure to do so creates the impression that the outcome was predetermined. Before adjourning, explain what will happen next and when.

Following the Hearing

Inform all parties of the decision.

This can be done face to face in the first instance but should always be confirmed in writing, preferably within one school day of the hearing. The letter should state the decision in relation to the charge (or each of them), the sanction, when it takes effect, the reasons, to whom the parents may appeal and the deadline.

Once the hearing has been held, the decision-taker (almost certainly the Principal) will have a range of sanctions open to her. The fairness of the sanction selected is another area open to legal challenge.

Before concluding that exclusion is justified, the Principal and Governor should ask the following questions:

Has the burden of proof been discharged?

No matter what offence the pupil is accused of, the Principal should decide the matter on the balance of probabilities. (Guidance entitled *Improving Behaviour and Attendance: Guidance on exclusion from schools and pupil referral units* states that the more serious the allegations the more convincing the evidence substantiating the allegation needs to be. The regulations and guidance do not apply directly to independent schools who are still free to set their own behaviour policies. Like the Behaviour and Attendance Guidance, however, the documents do provide a useful benchmark.)

Is exclusion fair in all circumstances?

The decision to exclude is a very serious one with significant potential repercussions. In general, the decision should only be taken in response to a serious breach of the School's Behaviour Policy, once other options have been exhausted and if allowing the pupil to remain in School would seriously harm the education or welfare of the pupil or others in the School.

Once guilt has been established, the following questions will be considered before a decision to exclude is taken:

- Does the offence fall within the School's list of offences which may lead to exclusion? Although the list states that it is non-exhaustive, exclusion will be harder to challenge if the offence is contained in the published policy.
- Have pupils been excluded for similar offences in the past? (As a general rule, it is dangerous to exclude a pupil where previous offenders have been let off with, for example, a suspension).
- Has this pupil committed a serious disciplinary offence in the past?

Excluding for a first breach of discipline is far more susceptible to challenge than where a pupil has a proven track record of misbehaviour. The sorts of first offence that may justify exclusion typically involve:

- Violence
- Sexual assault
- Drugs and/or
- Offensive weapons

Even then, a decision to exclude should have regard to all the relevant circumstances.

- Have the relevant domestic circumstances been considered and whether the pupil was provoked, perhaps because of bullying or harassment?

- Are any other pupils involved in the investigation being dealt with in the same way? (Again, it is dangerous to scapegoat one pupil in circumstances where others are to be treated more leniently).

Check for consistency

- Are the interests of the pupil outweighed by those of the School community as a whole? How much harm will it do to the School and those in it if this pupil may remain?

If the answer to any of these questions is “no”, a less draconian sanction may be considered as more appropriate.

Suspension (perhaps accompanied by a final warning) is the logical and less severe alternative. The Principal may consider agreeing to a managed move of the pupil to another school, provided such an alternative can be readily identified.

Another option may be to allow the parents an opportunity to withdraw the pupil rather than having an exclusion imposed.

Both these options should be used with care and are generally to be avoided where there is no confidence in the quality of the relationship between the School and parents going forward. Furthermore, these two sanctions both present an inconsistency in the School’s position – if exclusion is not justified on the evidence then it is logically hard to justify a “lesser” sanction which will involve the removal of the pupil from the School.

The Principal will take advice before offering either of these options.

Appeal Procedure

Fundamental to the fairness of any exclusion process is the right to appeal. A failure to allow this will invariably make the exclusion unfair and hence susceptible to legal challenge. It will also amount to a failure to handle a complaint in the manner prescribed by the 2003 Regulations 2.

Who hears it?

An appeal will be heard by at least two of the Governors and one person who is independent of the running of the School. The appeal must not be heard by the original decision taker and to this end, no Governor who has been directly involved in the matter at hand should hear the appeal. Any Governor with a connection to the pupil should also be excluded from the panel.

Location

The appeal hearing will be held at the School, or if requested, a more neutral location that is convenient for all the parties.

Timing

The risk of lost schooling is a key concern that makes time of the essence. The objective must therefore be to hold any appeal within a reasonable time frame – a benchmark would be to aim to conduct the appeal within five working days.

Purpose

The purpose of the appeal hearing is generally to decide two issues; first, whether the pupil committed the disciplinary offence in question and second, whether permanent exclusion is a reasonable response. If the appeal panel concludes that the answer to the first question is no, the second question ceases to be relevant and the pupil should be re-admitted.

The Appeal Panel should not receive or consider fresh evidence that related to issues not considered when the decision to exclude was taken. Equally, it should not overturn a decision to exclude purely based on there having been a technical defect in the procedure followed, unless that defect was so substantial that justice was not done. It should be made clear from the outset that the appeal decision is final.

The Decision

The decision of the panel shall be that of the majority. The Chair of the Panel shall have a casting vote if the decision is split equally.

The Review Panel shall not be entitled to set aside the decision of the Principal to remove or permanently exclude a pupil nor to substitute some other penalty or sanction.

Where the Review Panel upholds the decision of the Principal it shall confirm the decision to remove or permanently exclude.

Where the Review Panel considers that:

- the Principal did not have before her all the relevant evidence
- the Principal may not have given sufficient weight to any evidence or argument
- not all relevant arguments or submissions were put before the Principal
- the procedures followed were unfair

The Review Panel may require the Principal to reconsider her decision in the light of the findings of the panel.

Following the Hearing

The Panel Chair shall, within two days of the hearing or as soon as reasonably practicable thereafter, notify the parent in writing that the panel:

- has confirmed the Principal's decision, or
- has requested the Principal to reconsider her decision

The Panel Chair shall, within two days of the hearing or as soon as reasonably practicable thereafter, notify the Principal in writing that the panel:

- has confirmed her decision, or
- requires the Principal to reconsider her decision in which case the Panel Chair shall set out in writing what evidence or further evidence, or what arguments or submissions the Principal should additionally consider.

The panel may additionally make recommendations to the Principal relating to her decision, but these shall not be binding on the Principal.

Where the Review is Upheld

Where the Principal is required by the Review Panel to reconsider her decision, she shall reconsider her decision and shall, within three days of being notified in writing of the panel's decision or as soon as reasonably practicable thereafter, notify the parent and the panel Chair in writing of her reconsidered decision. For the avoidance of doubt during this period, the pupil shall continue to remain suspended from the School.

Final Decision

The reconsidered decision of the Principal will be final and will not be the subject of any further review.