

# **Permanent Exclusion Policy**

**September 2015 - September 2017**



## **Permanent Exclusion Procedures**

DfE guidance clearly explains the procedures to be followed if exclusion is applied. These procedures should be followed precisely.

### **Permanent Exclusion**

Permanent exclusion is the “final step in the process for dealing with disciplinary offences when a wide range of other strategies have been tried and failed. It is not usually used, but can be, for one-off incidents. It is used in very serious cases of:

- Violence, including threatened violence
- Persistent, malicious disruptive behaviour including open defiance and refusal to agree with school policies which prevents other students from learning or presents a health and safety risk to themselves and others
- Selling/supplying drugs on Academy premises
- Physical assault upon a member of staff
- Serious physical assault upon another student
- Use or possession of illegal substances
- Possession of knives
- Actual, intended or threatened use of a potentially dangerous weapon/implement on the Academy site
- Posing a serious and/or repeated health and safety risk
- Sexual misconduct

**For students known to be at risk of permanent exclusion, a range of measures may be implemented as appropriate:**

- Agreeing an individual behaviour plan / pastoral support plan with parents
- Assessment of social, emotional and learning needs
- Alternative curriculum options (e.g. part-time college provision)
- Allocation of a learning mentor or counsellor
- Interview with the Governors
- Attendance at a Student Referral Unit (PRU)
- Managed move to another Academy/school
- 6 week placement at another school

When the Principal/ Head Teacher recommends permanent exclusion to the Governors she/he will be satisfied that all the following criteria are met:

- There has been a serious breach of the Academy’s Discipline Policy
- There have been similar incidents in the past (unless this is a serious single incident)
- Strategies have been used to support the student to change/improve behaviour



- If the student remained at the Academy there would be serious harm to the education, welfare or safety of staff/students

### **Proof**

The standard of proof currently applied in school exclusions is the balance of probabilities. However, the more serious the allegation, the more convincing the substantiating evidence needs to be, i.e. the evidence should indicate that it is distinctly more probable than not that the student has done what he/she is alleged to have done. This does not amount to requiring a criminal standard of proof ('beyond reasonable doubt') but it does mean that the Principal may need to rely on evidence of the student's past behaviour to prove the likelihood of committing this serious offence. Thus, if a student is permanently excluded for bringing a knife into the Academy and threatening to stab someone, previous incidents of threatening behaviour or the possession of a weapon would be relevant, but not disciplinary matters of another nature, e.g. possession of a controlled substance or general disobedience.

### **Permanent Exclusion Procedures**

- The Principal/ Head Teacher makes the decision
- A letter will be sent to parents with an explanation of their rights and a copy to the Local Governing Body
- Work must be provided for the student until any appeals have been heard and a final decision is reached
- This will only be used if all other sanctions have failed and a managed move is not appropriate. It might also be used for single one off dangerous offences such as Arson, Physical assault or supplying an illegal substance
- A Governors Disciplinary meeting (LGB) will be convened to deliberate on the exclusion. The parents, student and Academy will be expected to attend.
- The Disciplinary committee will consist of 3 governors (Excluding staff)
- The Principal/ Head Teacher, supported by relevant staff, will present the case for permanent exclusion. This will include a written report which will be shared with the parents, student and Governors in advance of the meeting. At the meeting the parents and student will be able to make representations to the Academy and Local Governing Body.

### **The panel can:**

- Uphold the permanent exclusion
- If the Governors uphold the decision to permanently exclude, the parents do have the right to lodge an appeal to the independent Appeal Panel.
- Decide that the permanent exclusion was incorrect but the relationship between the school and family has broken down. In this case the student could be offered a new school by the LA



- If a student is re-instated the parents and student will meet the relevant staff as soon as possible after the disciplinary hearing. A programme of re-integration will be agreed to ensure that all involved do their best to achieve a successful return to the Academy(see additional details below)

The MAT board of Directors must review exclusions on a termly basis. Governing Bodies should secure the services of a properly trained clerk for exclusion hearings.

### **The Exclusion Report**

In advance of the Disciplinary Committee the Principal /Head Teacher will prepare an exclusion report with numbered pages which explains why the student was excluded. The report will include:

- A profile sheet including basic information about the student
- An overview of the case including a detailed account of the reason(s) for the exclusion
- The fact that the current DfE exclusions guidance has been adhered to
- Where relevant, that a full range of behaviour modification strategies has been attempted without lasting success
- An explicit statement as to what mitigating and aggravating factors apply in this case
- An indication of how the sanction that has been applied is consistent with the Academy's Behaviour Policy
- A statement to explain how the Academy's expectations with regard to behaviour are communicated to students and parents
- A statement to the effect that the decision is consistent with the way that similar cases have been dealt with in the past and that others who may have been involved in the present exclusion have been dealt with in a manner proportionate to their involvement
- The alternative sanctions that were considered (if applicable)
- An indication of the consultations that took place before the decision to exclude was finally reached
- Where applicable, the fact that the student and their parents were warned of the risk of permanent exclusion
- In the case of a student with SEN, or a looked-after or disabled student, that the relevant DfE guidance was considered before the decision to exclude was taken
- That in reaching the decision, equal opportunity legislation was complied with
- Where appropriate a comment from the Principal of her duty of care and the need to balance the needs of the individual against the needs of the whole-Academy community
- A list of the interventions that have taken place to modify the student's behaviour, including a table to show any fixed-term exclusions that have been applied, with dates, duration and reasons. This should be augmented with appropriate evidence, such as a copy of the support plans and reports of reviews that have taken place, and letters to parents



- A behaviour log containing brief details of past incidents with the relevant dates and actions taken. Do not include a behaviour log for a student charged with a one-off offence, unless the previous behaviour is similar to that which led to the exclusion
- Details of any investigation that has taken place including, where appropriate, witness statements which should normally be attributed and dated, and diagrams and photographs where relevant
- A copy of the Academy's Behaviour and Rewards Policy highlighting the part which indicates that exclusion imposed is a sanction that might be applied in the circumstances alleged

As the Principal /Head Teacher alone has the power to exclude, Governors can only either uphold the decision or order re-instatement, either immediately or by a particular date.

### **Re-instatement**

If Governors re-instate an excluded student it may be appropriate for a separate meeting to take place between the Principal and the Chair of Governors. If the student is to be re-instated the process of re-integration will require careful planning. Having established that the student is prone to the sort of behaviour that led to their exclusion in the first place, the Academy may be considered as not having fulfilled its duty of care to the student if it does not take steps to reduce the likelihood of such behaviour reoccurring. This would make it difficult to justify a further exclusion for the same offence. For example, if a student were re-instated after a drug related offence, it would be appropriate to offer counselling as part of the re-integration plan. Care will need to be taken in drawing up a plan that is supportive but which could not be construed as victimising the student.

The re-integration plan should involve a statutory interview which provides an opportunity to discuss the re-integration plan and emphasise to parents the importance of working co-operatively with the Academy. It may be appropriate to draw up a parenting contract if this forms part of the re-integration plan but should the parents refuse to engage, this would not constitute grounds to delay re-instatement. It would be appropriate to point out that the student might be subject to further exclusion if their behaviour does not improve, but also to stress explicitly that the student will be treated fairly.

A re-integration plan may also involve carrying out a risk assessment and implementing measures to reduce identified risks, e.g. if a student is re-instated following an assault upon another student. In such cases there are issues of duty of care toward both students (and perhaps to staff).

The Academy will formalise re-integration plans, where actions, expectations and consequences are made clear in writing, Should a further exclusion be necessary, the Academy's case will be supported if it can be demonstrate that a sound integration plan was put in place and rigorously applied. Such a plan may also go some way to reassuring staff.



## **Appeal Hearings**

Parents whose child is excluded permanently from a school in the Sidney Stringer Multi Academy Trust have the right to appeal against the decision to uphold the exclusion. This appeal is made to the Independent Appeal Panel. The right of appeal is unrestricted subject to the time limit.

An appeal must be lodged in writing to the Clerk to the Appeal Panel within 15 school days from the date the parent receives notice of the decision. The panel will meet as soon as possible but in any event within 15 school days of the notification of appeal.

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

## **Arranging an Appeal Hearing**

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 re-instate the permanently excluded student. The letter will give the name and contact details of the Clerk to the Independent Appeal 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.

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.

The Independent Appeal Panel will comprise of three members, plus a clerk appointed by the Governing Body.

No Governor, employee of the Sidney Stringer Multi Academy Trust or person who has had any connection with the Sidney Stringer Academy Trust or with the excluded student or with the incident leading to the exclusion, shall serve on the Appeal Panel. The members of a three member Panel will be: a person with current or recent (within the previous 5 years) experience of school leadership; a person with current or recent (within the previous 5 years) experience of school governance with at least one year's unbroken service and who has not been a teacher or Principal within the previous 5 years; and a lay member who takes the Chair. The members of a three member Panel will be one person with school leadership experience, one person with school governance experience and a lay member. A lay member is a person without personal



experience in the management of any school or the provision of education in any school disregarding any experience as a governor or in any other voluntary capacity.

The Appeal Panel may not reinstate students purely on the basis of 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 Appeal Panel will rather consider afresh the question of whether the student should be reinstated.

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

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

- The parent (or the student if aged 18 or over), who may be represented by a legal or other representative
- The Principal/Head Teacher , who may make oral representations
- A nominated member of the Local Governing body who may make oral representations
- A legal or other representative of the Discipline Committee

The Principal /Head Teacher 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 five working days in advance of the hearing. The student, if the parent requests, will normally be allowed to attend the hearing and speak on his own behalf.

### **Role of the Clerk**

The Appeal 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 endeavors 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.

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.

### **Procedure at the hearing**

The appeal hearing will not be held at the school that the pupil has been excluded from. The Appeal Panel will do everything possible to establish an atmosphere of informality where the parties can present their cases effectively.



The remit of the Appeal Panel is to consider whether the student should have been excluded and whether the student should be re-instated. In considering an appeal, the panel will decide whether the student actually did what he or 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 he was alleged to have done, and 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 Sidney Stringer Academy, as well as those of the excluded student
- The Academy's published 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

To reach a decision, the panel may need to hear evidence from those directly or indirectly involved, including the student. The governing body 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 governing body will be given an opportunity to respond.

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 Academy and its local 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.

The panel members may also ask questions 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.

The clerk may be called on to give legal or procedural advice to the Appeal Panel during the course of the hearing and when they retire to consider their decision. 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 a second language or who have literacy problems, and who may not have understood all the paperwork.

If the Appeal 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.



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 Appeal Panel.

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 takes place other than in the presence of all the panel members.

### **Evidence and Witnesses**

Where the Academy'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.

The Appeal Panel cannot compel witnesses to attend and any witnesses must therefore appear before it voluntarily. The Appeal 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 Principal/Head ) who investigated the incident and interviewed students. The Principal has the right to make written representations to the panel and to appear and make oral representations.

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 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 with their parents' consent. All written witness statements must be attributed and signed, except in cases where the Academy 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.

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 hearing.

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 Appeal Panel in good time before the hearing. If substantial new issues are raised



for the first time at the hearing, an adjournment may be necessary to allow all parties to consider the issues.

An appeal panel may uphold the decision to exclude; direct immediate reinstatement or reinstatement at some future date; or may decide that because of exceptional circumstances or other reasons it is not practical to give a direction requiring reinstatement, but that it would otherwise have been appropriate to give such a direction. An Appeal 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 re-instatement should be reasonable in all the circumstances. The Appeal Panel cannot attach conditions to the re-instatement of a student.

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.

### **Record of the proceedings of an Appeal Panel**

The clerk to an Appeal Panel should take minutes of the proceedings, the attendance, the voting and record the decision in a format approved by the Appeal Panel.

### **After the Hearing**

The decision of the Appeal Panel is binding on all parties. The Appeal 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.

If the Appeal Panel upholds the permanent exclusion, the clerk should immediately report this to the student's home LA. The clerk should also advise the parent to contact the LA about arrangements for their child's continuing education. The Principal should remove the student's name from the Academy's roll the day after the conclusion of the exclusion appeal. Where the Appeal Panel direct re-instatement they should immediately inform the Principal/Head of their decision and specify the date on which the student must be readmitted.

Details of exclusions may not be deleted from the student record, where the 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 Local Governing Body to decide what details of the exclusion are included in the student's school record: copies of the principal/Head correspondence should be included and possibly the minutes of the hearings, if the panels respectively agree to this.

