

# The Milton Keynes Academy

## Exclusion Procedure and Guidance

### 1. Introduction

Occasionally, for serious incidents of poor behaviour, such as verbal or physical abuse to another member of the Academy community the Principal may resort to excluding students. Formal exclusion is the only legal means by which a student may be removed from the Academy site for a breach of the Behaviour Policy. Informal or unofficial exclusions are illegal even if they are done with the knowledge of the parent for no matter how short a period. Leave of absence may be granted by the Academy but will not be imposed under duress.

The law also allows the Academy to send a student home to change his/her clothes to comply with uniform rules without an exclusion as long as parents are notified in advance. The time allowed will be no longer than is necessary for clothes to be changed and the absence from the Academy recorded as authorised. However, if the student continues to breach uniform rules to avoid school, the student's absence may be recorded as unauthorised.

### 2. The Decision to Exclude

Examples of possible mitigating factors are:

- Provocation eg as a result of persistent bullying or racial abuse
- The student's general medical and emotional condition
- New to the Academy (possible unawareness of the behaviour code)
- Coercion or being encouraged by others
- A relatively minor role in the incident compared to others
- An impulsive act or one committed in the heat of the moment
- A first offence
- Previous behaviour and character of the student suggesting that repetition is unlikely
- An apology for the behaviour
- Showing repentance and willingness to assume responsibility
- Voluntary co-operation with the investigation
- Admission of the offence
- Readiness to make restitution towards the victim(s)

Examples of possible aggravating factors are:

- Failing to heed warnings about similar behaviour in the past
- Previous warnings about the risk of exclusion
- Premeditated offence
- Use of a weapon
- A history of similar incidents
- Witness intimidation
- The victim(s) sustaining physical injury requiring medical attention
- The victim being particularly vulnerable eg a much younger or weaker student
- Significant support from the Academy in the past to modify his/her behaviour
- Encouraging others to behave inappropriately in relation to the offence
- Showing no contrition or no willingness to accept responsibility
- Not co-operating with the investigation, or worse, actively seeking to frustrate it

Permanent exclusion should be a last resort and will usually be taken in response to a history of persistent, disruptive behaviour where a wide range of strategies to modify the student's conduct has been attempted without success. Such strategies would include Academy based interventions and external agencies.

Where a student is at serious, but not imminent risk of permanent exclusion a managed move to another school may be considered. If a managed move is rejected by the parents, the Principal will put this in writing to them so that there is evidence that the strategy was suggested if a permanent exclusion is imposed at a future point.

Where an investigation is necessary the Principal will ask a senior member of her team to carry out this task and report back. Before reaching a final decision as to the sanction the Principal will:

- Review the evidence that has been submitted
- Consider relevant mitigating and aggravating factors
- Review the Students' Folder
- Consult with senior members of her team
- Meet with the student and their parents
- Inform the Chair of Governors

Taking these steps ensures that the eventual decision is sound and demonstrates that the Principal has been reasonable and not acted in the 'heat of the moment'.

### **3. Interviewing a Student**

There will usually be only two adults present, one to ask questions and one to take notes. However another adult may be present to support the student eg a parent or member of staff. This adult should not contribute to the pressure on the student but help the student to put their case.

Questions will maintain a neutral tone, Questions will be recorded as well as the answers given.

A record will be kept of all dates and times of interviews as well as any comings and goings from the room.

Students and their supporters will be given the opportunity to amend errors or point out omissions in the notes taken. Once the text is agreed it should be signed by all parties.

Students will write a statement in their own words. Where the student has weak literacy skills or is refusing to co-operate, an adult may take down dictated text for the student. If the veracity of a student's statement is in question as it is at odds with other information available, the student will be asked to write a further statement with corrections or more detail. Statements will be signed, dated and the time noted.

If interviews are prolonged the student's physical and emotional needs will be considered. Time will be allowed for toilet breaks, fresh air and for food and drink.

Witness statements will be attributed as the accused person should know the source and substance of the evidence. However, if the Academy has a concern for the health and safety of a witness the Principal may allow the statement to remain anonymous. It will be a matter for someone reviewing the decision to exclude how much weight they wish to attach to an unattributed statement.

### **4. 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, ie 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' past behaviour to prove the likelihood of his 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, eg possession of a controlled substance or general disobedience.

## 5. Parent's Responsibilities

If a parent sends an excluded student to the Academy or refuses to collect them, guidance suggests that the duty of care remains, as the Academy must have due regard for the student's safety. There is now a duty on parents to ensure that an excluded student is not in a public place during school hours without reasonable justification, or a fixed penalty could be imposed. Parents may also be warned in the exclusion letter that this failing to comply with their duties in this regard may form part of a case for a parenting order to be issued by the magistrate's court.

## 6. Fixed Term Exclusions

For the first five days of a fixed term exclusion the Academy will set work appropriate to the student's age and ability and make arrangements for this to be collected and returned for marking. Where a student is given a fixed exclusion of six days or longer the Academy has a duty to arrange suitable off-site full-time educational provision from and including the sixth day of exclusion as day one. With reference to permanent exclusions the Academy will set work as described above for the five days following a permanent exclusion.

The Principal may impose a fixed-period exclusion which may lead to a permanent exclusion, depending on the outcome of an on-going investigation and/or further consideration of the case. If this is a possibility it will be mentioned in the letter to parents notifying them of the fixed-term exclusion. If a permanent exclusion is subsequently imposed, this is a separate exclusion event. Thus if a permanent exclusion follows a five day fixed-term exclusion, the responsibility of the Academy for the first five days of the permanent exclusion would be to set and mark work as described above and not find suitable alternative provision.

## 7. Permanent Exclusions

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, including the use of a Pastoral Support Programme (PSP)" (DfEE circular 10/99). 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 (DfEE circular 10/99) which prevents other students from learning or presents a health and safety risk to themselves and other.
- Selling/supplying drugs on Academy premises.

When the Principal recommends permanent exclusion to the Governors she 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 and safety of staff/students.

## 8. The Exclusion Procedure

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

The governing body must review certain exclusions. Any governor sitting on a governors' disciplinary committee must have received adequate training within the last three years. Governing bodies should secure the services of a properly trained clerk for exclusion hearings.

### The procedure is as follows:

- The student is kept in isolation during investigation of the incident.
- Written details of the incident collected from those involved before any decision is made.
- Letter prepared for parents including a return date.
- Parent/carer telephoned by senior member of staff to explain the incident and to arrange for the student to be sent home.
- Student takes letter home, with one copy posted.
- Letter displayed in staff room to keep staff informed. Teachers are responsible for setting work for excluded students and should ensure suitable work is handed into the Principal on request.
- Parent/carer and student attend return from exclusion meeting with senior member of staff. A record of the meeting to be kept in the student's Folder.
- When appropriate the student is placed on report, with monitoring and review procedures agreed.
- When appropriate, an apology given to staff/student.
- Exclusion entered on the Academy's Exclusion Record.
- When appropriate, a referral made through the Inclusive Learning Group.
- For students at risk of permanent exclusion a PSP is begun.
- All exclusions are monitored by the Governors termly.

## 9. The Exclusion Report

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

1. A profile sheet including basic information about the student.
2. An overview of the case including a detailed account of the reason(s) for the exclusion.
3. The fact that the current DCSF exclusions guidance has been adhered to.
4. Where relevant, that a full range of behaviour modification strategies has been attempted without lasting success.
5. An explicit statement as to what mitigating and aggravating factors apply in this case.
6. An indication of how the sanction that has been applied is consistent with the Academy's Behaviour Policy.
7. A statement to explain how the Academy's expectations with regard to behaviour are communicated to students and parents.
8. 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.
9. The alternative sanctions that were considered (if applicable).
10. An indication of the consultations that took place before the decision to exclude was finally reached.
11. Where applicable, the fact that the student and their parents were warned of the risk of permanent exclusion.
12. In the case of a student with SEN, or a looked-after or disabled student, that the relevant DCSF guidance was considered before the decision to exclude was taken.
13. That in reaching the decision, equal opportunity legislation was complied with.

14. In the case of permanent exclusion, the perceived consequences of allowing the student to remain at the Academy, in terms of the education and welfare of the student or others in the Academy and the impact on good order and discipline.
15. 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.
16. 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 PSP and reports of reviews that have taken place, and letters to parents.
17. 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.
18. 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.
19. A copy of the Academy's Behaviour Policy highlighting the part which indicates that exclusion imposed is a sanction that might be applied in the circumstances alleged.

When drafting an exclusion report avoid references which assume the reader is familiar with the Academy. Thus abbreviations need to be explained as do situations where an understanding of the layout of the Academy is crucial to the case. A plan of the Academy should be supplied if location is important to the case.

The Exclusion Report should be circulated to all parties in good time before a hearing. Five days is reasonable.

It will be helpful to have the excluded student's Folder available if questions or challenges to the accuracy of the Exclusion Report arise that require reference to its content. However, it would not be appropriate to extract fresh evidence from the file at the time of the hearing to support the Academy's case that had not been included in the Exclusion Report as the parents might reasonably claim that they had not been given a fair chance to prepare a defence.

As the Principal alone has the power to exclude, the governing body may not increase the severity of an exclusion, eg by extending its period or imposing a permanent exclusion in place of a fixed-term exclusion. Neither may they impose a lesser sanction. They may only either uphold the decision or order re-instatement, either immediately or by a particular date.

## **10. 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 Local Authority may be able to assist in drawing up an appropriate plan and in providing the necessary resources.

The re-integration plan should involve a statutory interview which must be arranged during or following the expiry of a fixed period exclusion. This requirement applies to permanent exclusion as well. The interview 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, eg 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 in a format similar to a PSP, 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.

## **11. Policy Ownership, Monitoring and Review**

The responsibility for ensuring that the Academy adheres to this policy and that this policy is periodically reviewed rests with: Principal of the Milton Keynes Academy.