

Permanent Exclusion and Removal: Appeal Procedure

St Edward's School, Oxford

August 2023

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1 Aims

- 1.1 This is the permanent exclusion and removal: appeal procedure of St Edward's School, Oxford (**School**).
- 1.2 The aims of this policy are as follows:
 - 1.2.1 to support the School's rules and policies on behaviour and discipline;
 - 1.2.2 to ensure procedural fairness and natural justice;
 - 1.2.3 to promote co-operation between the School and Parents when it is necessary for the School to require a pupil to leave earlier than expected; and
 - 1.2.4 to help to promote a whole school culture of openness, safety, equality and protection.
- 1.3 This policy forms part of the School's whole school approach to promoting child safeguarding and well-being, which seeks to involve everyone at the School to ensure that the best interests of pupils underpin and are at the heart of all decisions, systems, processes and policies.
- 1.4 Although this policy is necessarily detailed, it is important to the School that all policies and procedures are transparent, clear and easy to understand for staff, pupils, parents and carers. The School welcomes feedback on how it can continue to improve its policies.

2 Scope and application

- 2.1 This policy applies to the whole School.
- 2.2 The policy applies to all pupils at the School but does not cover cases when a pupil has to leave because of ill-health, non-payment of fees, or voluntary withdrawal by their Parents.

3 Regulatory framework

- 3.1 This policy has been prepared to meet the School's responsibilities under:
 - 3.1.1 Education (Independent School Standards) Regulations 2014;
 - 3.1.2 *National minimum standards for boarding schools* (Department for Education (**DfE**), September 2022);
 - 3.1.3 Education and Skills Act 2008;
 - 3.1.4 Children Act 1989;
 - 3.1.5 Childcare Act 2006;
 - 3.1.6 Data Protection Act 2018 and UK General Data Protection Regulation (**UK GDPR**);
 - 3.1.7 Human Rights Act 1998; and
 - 3.1.8 Equality Act 2010.
- 3.2 The following School policies, procedures and resource materials are relevant to this policy:
 - 3.2.1 Parent contract;
 - 3.2.2 Behaviour policy;

- 3.2.3 Acceptable use policy;
- 3.2.4 Anti-bullying policy;
- 3.2.5 Cyber-bullying policy;
- 3.2.6 Smoking and vaping policy;
- 3.2.7 Alcohol policy;
- 3.2.8 Drugs policy;
- 3.2.9 E-safety policy;
- 3.2.10 Safeguarding policy and procedures;
- 3.2.11 Special Educational Needs and Disabilities (SEND) policy;
- 3.2.12 School rules and pupil handbook.

4 Publication and availability

- 4.1 This policy is published on the School website.
- 4.2 This policy is available in hard copy on request.
- 4.3 A copy of the policy is available for inspection from Sub-Warden during the School day.
- 4.4 This policy can be made available in large print or other accessible formats if required.

5 Definitions

- 5.1 Where the following words or phrases are used in this policy:
 - 5.1.1 References to the **Governing body** are references to the proprietor of the School.
 - 5.1.2 References to **working days** mean Monday to Friday, when the School is open during term time. The dates of terms are published on the School's website. In the event that the application of this definition is likely to introduce excessive delays, due to intervening School holidays, the School's approach is to take sensible and reasonable steps so as to minimise any hardship or unfairness arising from such delays.
 - 5.1.3 References to the **Warden** may include the Sub-Warden.
 - 5.1.4 References to **Parent** or **Parents** includes one or both of the parents, or those with parental responsibility, or care of a child e.g. a legal guardian or education guardian.
 - 5.1.5 References to an **Appeal** and / or **Appeal Hearing** are to the Appeal by a Panel of the Warden's decision permanently to exclude or to require the removal of a pupil, in accordance with this policy.
 - 5.1.6 References to a **Panel** are to a three-member panel selected by the Chair or the Secretary to the Governors to undertake the Appeal.

6 Responsibility statement and allocation of tasks

- 6.1 The Governing Body has overall responsibility for all matters which are the subject of this policy.

- 6.2 To ensure the efficient discharge of its responsibilities under this policy, the Governing Body has allocated the following tasks:

Task	Allocated to	When / frequency of review
Keeping the policy up to date and compliant with the law and best practice	Sub-Warden	As required, and at least termly
Monitoring the implementation of the policy	Sub-Warden	As required, and at least annually
Seeking input from interested groups (such as pupils, staff, Parents) to consider improvements to the School's processes under the policy	Sub-Warden	As required, and at least annually (and triennially for Parents through the parent survey)
Formal annual review	Governing Body	Annually

7 **Staff training**

- 7.1 The School ensures that regular guidance and training is arranged on induction and at regular intervals thereafter so that staff and volunteers understand what is expected of them by this policy and have the necessary knowledge and skills to carry out their roles.
- 7.2 The level and frequency of training depends on the role of the individual member of staff.
- 7.3 The School maintains written records of all staff training.

8 **Record keeping**

- 8.1 All records created in accordance with this policy are managed in accordance with the School's policies that apply to the retention and destruction of records.
- 8.2 The records created in accordance with this policy may contain personal data. The School's use of this personal data will be in accordance with data protection law. The School has published on its website privacy notices which explain how the School will use personal data.

9 **Version control**

Date of adoption of this policy	September 2023
Date of last review of this policy	August 2023
Date for next review of this policy	August 2024
Policy owner (SMT)	Sub-Warden
Policy owner (Governing Body)	Chair of Governors

Appendix 1 Appeal procedure

1 Appeal

- 1.1 A pupil or their Parents may request an Appeal of the Warden's decision permanently to exclude or to require the removal of a pupil or where a decision has been made to impose the disciplinary sanction of fixed-term exclusion on a pupil for eleven working days or more or where such fixed-term exclusion would prevent a pupil from taking a public examination¹.

2 How to request an Appeal

- 2.1 A request for an Appeal should be put in writing to the Bursar or Secretary to the Governing Body using the request form at [Appendix 2](#). The request must be made within five working days of the date of the Warden's letter confirming their decision.
- 2.2 The request should include:
- 2.2.1 a copy of all relevant documents and full contact details;
 - 2.2.2 the grounds on which the Parents are asking for an Appeal and the outcome desired;
 - 2.2.3 a list of the documents which the Parents believe to be in the School's possession and wish the Panel to consider; and
 - 2.2.4 whether the Parents propose to attend the Hearing, and, if so, to be accompanied.
- 2.3 If assistance with the request is required, for example because of a disability, this should be indicated in the request for an Appeal.
- 2.4 The Bursar or Secretary to the Governing Body (as appropriate) will acknowledge the request for an Appeal in writing within three working days of receipt.
- 2.5 Every effort will be made to enable the Appeal to take place within fourteen working days of receipt of the request.

3 Pupil's status pending an Appeal

- 3.1 Following a request for an Appeal, the Pupil will be excluded for a fixed term from School until the Appeal procedure has completed.
- 3.2 While excluded for a fixed term the Pupil shall remain away from School and shall not have the rights to enter School premises or attend School events without written permission from the Warden.

4 Planning the Appeal

- 4.1 The Bursar or Secretary to the Governors (as appropriate) will be responsible for arranging the Appeal which will usually involve an Appeal Hearing at which the Panel

¹ It is custom and practice to offer a review of a decision which results in the pupil missing school for more than 2 weeks as a result of a behavioural sanction.

will consider relevant documents and hear from the Warden, the Parent(s) and the Pupil.

- 4.2 The Bursar or Secretary to the Governors (as appropriate) will send written notification to each party of the process, date, time and place of the Appeal Hearing at least five working days before the date of the Appeal.
- 4.3 Copies of any documents additional to those specified in the request for an Appeal that the Parents wish the Panel to consider should be sent to the Bursar or Secretary to the Governors (as appropriate) to be received at least seven working days prior to the Appeal.
- 4.4 On receipt of new information not previously available to the Warden before their decision was made, the Bursar or Secretary to the Governors (as appropriate) should contact the Chair of Governors who will decide whether to:
 - 4.4.1 include the new information in the bundle; or
 - 4.4.2 omit the information if not relevant to the grounds for Appeal; or
 - 4.4.3 make further enquiries of the Parents or the pupil about the information; or
 - 4.4.4 refer the information to the Warden for their consideration as to whether the decision should be revisited.
- 4.5 The Bursar or Secretary to the Governors (as appropriate) will circulate a copy of the bundle of documents to be considered by the Appeal Panel to the Panel, the Parent(s) and the Warden at least three working days prior to the Appeal Hearing.
- 4.6 The Parents may be accompanied at the Appeal Hearing, for example by a relative or friend. The Appeal is an internal procedure, not legal proceedings, and legal representation is unnecessary.
- 4.7 The Parents are required to notify the Bursar or Secretary to the Governors (as appropriate) if they wish to be accompanied. The Parents should note that the Panel will wish to speak to them directly. Anyone accompanying them will not be permitted to act as an advocate or to address the Appeal Panel unless invited to do so by the Chair of the Panel.
- 4.8 A person will be appointed to take a minute of the Appeal Hearing.

5 Composition of the Panel

- 5.1 The Panel will comprise at least 3 individuals who have no detailed prior knowledge of the case and will not include the Chair of Governors. With the exception of the Chair of Governors, Governors not appointed to the Panel will not be provided with personal information about the case.
- 5.2 The Parents may ask the Bursar or Secretary to the Governors (as appropriate) to inform them who has been appointed to sit on the Panel ahead of the Appeal Hearing. Fair consideration will be given to any reasonable objection to a particular member of the Panel.

6 Role of the Panel

- 6.1 The role of the Panel is to consider:

- 6.2 **Whether, on the facts, the decision-making relating to the breach of School policy/ies and the sanction imposed followed a fair process:** whether an appropriate procedure was followed allowing the facts of the case to be sufficiently proved when the decision was taken permanently to exclude or to require the removal of the pupil. The civil standard of proof, namely, "the balance of probabilities", will apply. Observance of the School's relevant policies and rules will be taken into account but may not be determinative in this respect.
- 6.3 **Whether the sanction was within the range of reasonable responses:** whether it was within the range of reasonable responses in respect of the breach of discipline or the other events that are found to have occurred and the legitimate aims of the School's policy in that respect.
- 6.4 In addressing the matters above, the Panel will consider the documentation provided by the parties, representations made by the parties and any other factors which the Panel considers to be relevant in order to consider whether the sanction was reasonable.
- 6.5 The Panel will determine whether to uphold the Warden's decision or refer the decision back to the Warden with recommendations so that he / she may consider the matter further.

7 **Appeal Hearing**

- 7.1 The Appeal Hearing will be conducted in an informal but fair and unbiased manner.
- 7.2 During the Appeal Hearing, the parties shall have the opportunity to ask questions and make comments in an appropriate manner. The Appeal Hearing is not a legal proceeding and the Panel shall be under no obligation to hear oral evidence from witnesses but may do so and / or may take written statements into account.
- 7.3 All statements made at the Appeal Hearing will be unsworn. The parties will be entitled to write their own notes for reference purposes.
- 7.4 All those present during the Appeal Hearing are expected to show courtesy, restraint and good manners or, after due warning, the Appeal Hearing may be adjourned or terminated at the discretion of the Chair of the Panel. Any person who is dissatisfied with any aspect of the way the Appeal Hearing is being conducted must say so before the proceedings go any further and their comment will be minuted.
- 7.5 The Chair of the Panel may, at their discretion, adjourn the Appeal Hearing if they consider it appropriate to do so. This may include an adjournment for additional information to be obtained, or for the parties to take legal advice on a specific issue arising.
- 7.6 An Appeal Hearing is a private procedure and all those who are concerned in it are required to keep its proceedings confidential, subject to law. The requirement is without prejudice to the parties' right to refer to the Panel's decision in any subsequent legal proceedings.
- 7.7 When the Chair of the Panel is satisfied that sufficient consideration has been given to the documentation provided and any representations made by the parties, he / she will conclude the Appeal Hearing.

8 **Decision**

- 8.1 The Panel's decision and any recommendations will be notified in writing, with reasons, to the Warden and the Parents by the Chair of the Panel or the Chair of Governors within seven working days of the Appeal Hearing.
- 8.2 The Warden will provide their response to those recommendations, if appropriate, in writing within five working days.
- 8.3 In the absence of a significant procedural irregularity, the Warden's decision will then be final.
- 8.4 If the Warden's decision is upheld, then the decision will be final.
- 8.5 If the Warden is asked to reconsider their decision, the pupil will remain excluded for a fixed term until this has been done.

Appendix 2 Form for requesting an Appeal

To

Subject

I / we request to Appeal of the Warden's decision permanently to exclude or to require the removal of the above named pupil. I/we agree that the Appeal will be carried out in accordance with the School's permanent exclusion and removal: Appeal procedure and I / we agree to abide by the terms of that policy.

I / we confirm that I / we have parental responsibility for the above named pupil and that I / we have consulted the pupil who wishes the Appeal to be undertaken and any other person with parental responsibility for the pupil.

I / we understand that we may be accompanied at the Appeal Hearing by a friend or relation.

I / we will inform the Bursar if I / we have any special needs or disabilities requiring additional facilities

The grounds upon which I / we seek an Appeal and the outcome which I / we seek are as set out below.

Grounds for Appeal	
Desired outcome	
Details of accompanying person	
List of all documents which we wish the Panel to consider (please enclose copies if you have them)	

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Signed	Signed
Full name	Full name
Relationship to pupil	Relationship to pupil
Date	Date
Address	Address
Telephone number	Telephone number

(Two signatures required where practicable)