



MARLBOROUGH COLLEGE

Exclusion for Misconduct Policy

Introduction

- This Policy is set out with the following aims:
- to create the mechanism for appropriate disciplinary measures in the event of misconduct of a serious nature;
- to ensure procedural fairness and natural justice;
- to enhance co-operation between the College and parents/guardians when it is necessary for pupils to be excluded.

Marlborough College aims to promote positive behaviour and strong relationships throughout the whole community. This is, in part, to further the protection and promotion of pupil welfare, which is of paramount importance. It is also, in part, in the belief that positive behaviour enables the smooth and orderly management of the College academic, pastoral and co-curricular offering and thus facilitates the delivery of its aims in these areas, on behalf of pupils.

However, we recognise that pupils will sometimes find themselves in breach of the College's Disciplinary Rules, and that for both their own welfare and safety and that of others, such breaches must be responded to via formal sanctions.

The College reserves the right to treat all serious breaches of the College's Disciplinary Rules on a case-by-case basis. This enables a more flexible approach to discipline based on careful review of individual circumstances. It also protects the privacy of those involved on all sides of disciplinary incidents, by enabling reference to "errors of judgement" or "inappropriate behaviour", as experience shows that no two disciplinary incidents contain exactly the same elements.

Terminology

Pupils may be excluded from the College for a number of reasons, including those which are educational, medical, financial or disciplinary (misconduct). The issues below refer primarily to exclusion for misconduct.

- **Suspension** means the exclusion of pupils from boarding at school, for a short period, usually not exceeding 72 hours, following an investigation of a disciplinary matter, and as part of the sanction system. It can also mean the exclusion of pupils from boarding at school, while investigations into

serious disciplinary offences to be continued, and to allow a period of consideration of a pupil's future at the College.

- **Technical Suspension** is used as part of the College's sanction system. It carries the same status within this system as Suspension, but does not require that a pupil is excluded from boarding. This sanction is used when Suspension is impractical or considered to be detrimental to the future ability of a pupil to continue to thrive, either academically or socially.
- **Withdrawal** means the requirement of parents/guardians that they withdraw pupils from the College. However, the College will continue to provide such support that it is reasonably able to. Removal may follow a serious breach of discipline. It may also be applied to very different circumstances, such as pupils making insufficient progress, or the non-payment of fees by parents.
- **Permanent Exclusion** means the formal and permanent exclusion of pupils.

Misconduct

The main but not exhaustive categories of misconduct, which may result in pupils being excluded from the College include:

- supply/possession/use of alcohol or tobacco, or illegal drugs or solvents, or their paraphernalia, or substances intended to resemble them;
- theft, blackmail, physical violence, intimidation or bullying;
- misconduct of a sexual nature, including the supply or possession of pornography;
- explicit or intimate sexual relations;
- possession or unauthorised use of firearms, bladed items (knives) or other weapons;
- vandalism, including computer hacking;
- conduct showing hostility towards others on grounds of race, nationality, gender, ability or disability, sexual orientation, religion, faith or age;
- showing aggression or engaging in intimidatory behaviour towards other members of the College community, either individually or as part of a group;
- persistent disregard of the College Rules, aims or ethos;
- other serious misbehaviour, either on or off the premises, which may bring the College into disrepute; and
- failure to behave reasonably in academic matters.

Overview of Process

Incidence of serious alleged misconduct will be investigated by senior members of staff, typically the Second Master and Deputy Head (Boarding), in conjunction with a pupil's HM.

If the Second Master considers that a pupil's conduct could result in Suspension, Removal or Expulsion, he/she will liaise with the pupil's HM to ensure that the pupil's parents are kept informed.

The pupil may have a member of staff of his/her choosing accompany him/her to any meetings or hearings during the disciplinary process.

Findings of a disciplinary investigation are presented to the Master for consultation and consideration. For matters involving Suspension or Technical Suspension, the Second Master or Deputy Head (Boarding) may be delegated to convey this decision to a pupil, their HM and parents. For matters

involving Suspension pending consideration of a pupil's future at the College, the Master will conduct a disciplinary hearing in the presence of the pupil and his/her Parents.

Parents/guardians may appeal against a Permanent Exclusion. Please see the separate Policy for Review in cases of Permanent Exclusion.

Other agencies may be notified at any stage of the procedure, as and when necessary and appropriate.

The Initial Disciplinary Procedure

Conducting the Investigation. In the event of a report or suspicion of misconduct, an investigation will be conducted by a senior member of staff. This may include:

- gathering evidence;
- interviews with pupils, members of staff and others;
- taking written statements usually in order to establish a clear order of events;
- segregation of pupils pending interviews; and
- liaison with parents/guardians and, where appropriate or where this is a legal requirement, other agencies (e.g. police, social services).
- **Searches:** In gathering evidence apart from interviews, searches of pupils' room and belongings will only be conducted with their permission and in their presence, unless a search without their consent is deemed necessary, for example in order to protect others or to prevent disorder, criminal activity, or destruction of evidence.
- **Segregation:** It may be necessary to segregate pupils. For the purposes of reliable segregation, the College may confiscate a pupil's mobile telephone for such a period as it reasonably deems necessary.
- **Investigations which may lead to suspension:** It is highly likely that an initial investigation into misconduct will be carried out by a pupil's Housemaster or Housemistress, who will keep the Second Master and Deputy Head (Boarding) informed throughout the process. The HM will contact the pupil's parents/guardians at the earliest stage to inform them that disciplinary investigations are taking place.

If the investigation is straightforward, the HM may discuss the possibility of a brief Suspension or Technical Suspension with the Second Master/ Deputy Head (Boarding) and they may be authorised by the Master to impose such a sanction, contacting the pupil's parents/guardians as required, and following this up in writing.

Any period of Suspension of longer than 72 hours can only be imposed by the Master, usually following contact by telephone with the parents/guardians and an explanation to the pupil. Where the alleged misconduct and potential sanction is regarded as serious, or involves several pupils, it is likely that investigations will be carried by the Second Master / Deputy Head (Boarding), in conjunction with the pupils' HM(s). The HM will ensure that the pupils' parents/guardians are kept informed of the progress of the matter.

At each stage of the investigation, written notes will be kept and these will be submitted, along with a summary of the facts giving rise to the allegation, to the Master, prior to an initial hearing.

When it is considered that the investigation has been completed, but before a hearing before the Master takes place, the Second Master shall review the investigation, considering the following questions in particular;

- Are further enquiries needed?
- Would an objective bystander consider the manner of the investigation fair?
- What is the pupil's disciplinary record in the College?
- Is it appropriate to hold a hearing with the prospect of Removal/Permanent Exclusion before the pupil?

The Master's Office will contact the pupil's parents/guardians before the pupil's meeting with the Master and inform them of the allegation against the pupil, the facts giving rise to the allegation and that the allegation is to be considered by the Master because Suspension, Technical Suspension or Permanent Exclusion may be the outcome. Parents /guardians will be invited to the hearing, if they wish to attend.

The Disciplinary Proceeding

The Master will conduct the disciplinary hearing in a manner appropriate to the age, maturity and understanding of the individual pupil concerned. This will include considering whether the pupil should have a member of staff present to support the pupil and offer assistance during the hearing.

A note will be taken of the disciplinary hearing and any subsequent sanction meeting.

The pupil should be present throughout the disciplinary hearing, which will usually involve:

- The senior member of staff who conducted the investigation setting out the allegation, the facts giving rise to the allegation and the investigation undertaken.
- Questions from the Master to the investigating senior member of staff about the investigation. The pupil having the opportunity to respond to the allegation against him/her, including the opportunity or provide his/her account of event and, if appropriate, ask the investigating senior member of staff or Master to speak with other pupils or witnesses.
- Questions from the Master to the pupil about allegations and/or the pupil's response/account of events.

The Master may at any time suspend or postpone the hearing for any reason, which will be explained to the pupil.

The Master will decide whether the allegation against the pupil has been proved on the balance of probabilities (ie whether it is more likely than not).

If the Master, having considered the evidence including any admission by the pupil, decides that the allegation against the pupil is proved, the Master will consider what sanction is to be imposed and inform the pupil in accordance with the following:

- A sanction other than Permanent Exclusion may be imposed immediately.
- If the Master considers that the misconduct may warrant Suspension but not removal or Permanent Exclusion, a meeting with the pupil will take place, at which the Suspension will be imposed and the reasons for its imposition given.

- If the Master considers that the misconduct may warrant Withdrawal or Permanent Exclusion, a sanction meeting will take place in accordance with the provisions below.

The parents/guardians will be informed of the outcome of the disciplinary hearing and either informed of the sanction imposed or invited to a sanction meeting. Where a meeting has taken place, the parents/guardians will receive written confirmation of the facts of the misconduct and the sanction imposed.

The Sanction Meeting

Given the seriousness of the misconduct, in most cases where a sanction meeting is to be held it will be appropriate for the pupil's parents/guardians to attend the sanction meeting and for the pupil to be temporarily suspended until the sanction meeting. The Master will inform the pupil that a sanction meeting is to be held and (if a Suspension is imposed) that the pupil is suspended until that meeting.

The sanction meeting will usually be held within 3 working days of the conclusion of the disciplinary hearing.

The pupil and the pupil's parents/guardians will be informed in writing of:

- the findings of the disciplinary hearing conducted by the Master;
- the date, time and place of the sanction meeting and the College's expectation that they or the pupil's guardian should attend (if possible);
- any relevant previous disciplinary issues concerning the pupil;
- any other favourable or unfavourable conduct known to the College which will be taken into account;
- the purpose of the sanction meeting and who will be attending;
- the availability of copies of this policy (enclosing a copy if appropriate).

The pupil and/or the pupil's parents/guardians may write to the Master setting out any factors they wish to have considered at the sanction meeting. Any such letter should be sent to arrive at the Master's office at least the working day before the sanction meeting.

The pupil and parents/guardians may be accompanied by a friend or member of staff, and the Master (or his nominee) may similarly be accompanied. If either the pupil, the parents/guardians or the Master wish to be accompanied, he/she/they should notify the others of by whom they will be accompanied at least 24 hours before the meeting.

A senior member of staff will attend the meeting to note the events and to prepare a record of the main points discussed.

The sanction meeting will be conducted by the Master and will usually follow the following format:

- an explanation of how the meeting will be conducted and the role of those present;
- a description of the offence and the disciplinary sanction(s) that could be imposed;
- a summary of the evidence which will include an account of the version of events given by the pupil;
- an opportunity for the pupil and his/her parents/guardians to be heard and ask questions about the disciplinary hearing;

- an opportunity for the pupil and his/her parents/guardians to address the Master on the issue of the sanction to be imposed; and
- an explanation of the appeal procedure that applies if Permanent Exclusion is the outcome.

The Master may adjourn the meeting for a short period before notifying the pupil and parents/guardians of the decision.

The decision will always be confirmed in writing, normally within 3 working days of the Sanction Meeting. The letter will state the decision in relation to the allegation (or each of them), the sanction, when it takes effect, the reasons and (where appropriate) to whom the pupil and/or the parents/guardians may request an appeal against the decision, together with the deadline to do so. The letter may also offer support, if appropriate.

The Master will notify the Chairman of Council of the decision to exclude permanently or require the withdrawal of a pupil, at the appropriate time.

Appeals

Where a pupil has been permanently excluded or where a parent/guardian has been required to withdraw a pupil, the parent/guardian may appeal against the decision. Pending such appeal, the pupil shall remain suspended from the College.

Please see: Policy for Review in cases of Permanent Exclusion

Author: Master

Where found: College Website

Policy Date: Mich 2018

Policy Review: Mich 2020