



## EXCLUSION POLICY

(updated September 2015)

Lawn Manor Academy prides itself on its inclusive policy. For the vast majority of students there is never a need to invoke an exclusion. All avenues are considered before the decision to exclude is made including the status of the child.

### Introduction

This policy contains guidelines, which will be adapted as necessary, explaining the circumstances under which a student may be excluded on a fixed term or permanent basis from the School. The policy applies to all students at the School. This policy can be made available in large print or other accessible format if required.

This policy takes account of the School's public sector equality duty set out in section 149 of the Equality Act 2010.

**Interpretation:** The definitions in this clause apply in this policy.

**Principal:** references to the Headteacher include the Vice Principal and Assistant Principals.

**Parent:** includes one or both of the parents or a legal guardian.

**Exclusion:** means removal from the Academy for a fixed term or permanently following serious misconduct.

### Policy statement

**Aims:** The aims of this policy are:

- to support the School's behaviour policy
- to ensure procedural fairness and natural justice
- to promote co-operation between the School and parents when it is necessary for the pupil to leave earlier than expected.

**Misconduct:** The main categories of misconduct which may result in exclusion are:

(a) In response to a serious breach of the School's Behaviour for Learning policy;

(b) If allowing the student to remain on the School premises would seriously harm the education or welfare of the student or others in the Academy.

An investigation must take place whereby all parties are given an opportunity to give their version of events. Exclusion must not be issued during the 'heat of the moment'.

Exclusion is an extreme sanction and is only authorised by the Principal.

Exclusion whether fixed term or permanent may be used for any of the following, all of which constitute examples of unacceptable behaviour, and are infringements of the School's Behaviour for Learning Policy:

- Verbal abuse to Staff and others;
- Verbal abuse to students;
- Physical abuse to/attack on staff;
- Physical abuse to/attack on students;
- Indecent behaviour;
- Bullying;
- Homophobic/racial/discriminatory assault or threatening behaviour;
- Damage to property, or computer hacking;
- Misuse of illegal drugs; Misuse of other substances;
- Theft;
- Serious actual or threatened violence against another student or a member of staff;
- Sexual abuse or assault, or supply or possession of pornography;
- Supplying an illegal drug;
- Carrying an offensive weapon or unauthorised firearm or BB Gun;
- Arson;
- Unacceptable behaviour which has previously been reported and for which School sanctions and other interventions have not been successful in modifying the student's behaviour;
- Other serious misconduct which affects the welfare of a member or members of the Academy Community (single or repeated episodes) on or off academy premises.

This is not an exhaustive list and there may be other situations where the Principal makes the judgement that exclusion is an appropriate sanction.

**Behaviour related to a disability:** the School will make reasonable adjustments for managing behaviour which is related to a student's disability. Where exclusion needs to be considered, the School will ensure that a disabled student is able to present his or her case fully where the disability might hinder this and that the review procedure is made accessible for parents.

#### **Exclusion procedure**

Most exclusions are of a fixed term nature and are of short duration (usually between one and three days).

The Department for Education regulations allow the Headteacher to exclude a student for one or more fixed periods not exceeding 45 school days in any one school year.

The School Directors have established arrangements to review promptly all permanent exclusions from the School and all fixed term exclusions that would lead to a student being excluded for over 15 days in a school term or missing a public examination.

The School Directors have established arrangements to review fixed term exclusions which would lead to a student being excluded for over five days but not over 15 days in a school term where a parent has expressed a wish to make representations.

Following the decision to exclude a student, parents are contacted. A letter will be sent by post giving details of the exclusion and the date the exclusion ends. An exclusion leaflet is also sent providing full details regarding parental rights and responsibilities (see attachment). Parents have a right to make representations to the Academy Directors and the Local Authority as directed in the leaflet.

A return to School meeting will be held following the expiry of the fixed term exclusion where appropriate but specifically with regards to exclusions that are for 5 days or more. This will involve the Head of Year plus the support of the Assistant Principal and other staff as deemed appropriate.

During the first 5 days of the exclusion the student must remain at home under the jurisdiction of the parents/guardians. Should a fixed term exclusion continue for a period of more than five school days or, consecutive fixed term exclusions in total exceed five days, the School will take reasonable steps to put in place arrangements to ensure the continuing education of the student. The Assistant Principal will co-ordinate these arrangements with the student's parents or guardians. Parents or guardians should note that there may be a delay in providing work whilst teaching staff are given the opportunity to determine what work should be set. In exceptional circumstance, the student may be placed under a segregated regime on School premises should the Principal decide this to be appropriate

For Looked After Children, the School must provide suitable alternative provision from the first day of an exclusion. (It is not recommended that Looked After Children are excluded unless on the grounds of Health and Safety)

### **Permanent Exclusion**

The decision to exclude a student permanently is a serious one and should only be taken where the basic facts have been clearly established on the balance of probabilities. There are two main types of situation in which permanent exclusion may be considered.

1. The first is a final, formal step in a concerted process for dealing with disciplinary offences following the use of a wide range of other strategies, which have been used without success. It is an acknowledgement that all available strategies have been exhausted and is used as a last resort. This would include persistent and defiant misbehaviour including bullying (which would include racist or homophobic bullying) or repeated possession and or use of an illegal drug on the Academy's premises.
2. The second is where there are exceptional circumstances and in the Principal's judgement it is appropriate to permanently exclude a child for a 'one off offence'. These might include:
  - Serious actual or threatened violence against another student or a member of staff;
  - Sexual abuse or assault;
  - Supplying an illegal drug;
  - \*Carrying an offensive weapon, including: knives, bladed and pointed articles
  - Arson

The School will consider police involvement for any of the above offences. The School will also consider whether it is appropriate to inform other agencies.

*\* Offensive weapons are defined in the Prevention of Crime Act 1953 as “any article made or adapted for causing injury to the person; or intended by the person having it with him for such use by him.”*

These instances are not exhaustive but indicate the severity of such offences and the fact that such behaviour seriously affects the discipline and wellbeing of the School community.

### **General factors the School considers before making a decision to exclude**

Exclusion will not be imposed instantly unless there is an immediate threat to the safety of others in the School or the student concerned. Before deciding whether to exclude a student either permanently or for a fixed period the Principal will:

- Ensure appropriate investigations have been carried out;
- Consider all the evidence available to support the allegations taking into account the Academy’s Behaviour for Learning Policy, Equal Opportunity and Race Equality Policies;
- Allow the student to give her/his version of events;
- Check whether the incident may have been provoked for example by bullying or by racial or sexual harassment.

If the Principal is satisfied that on the balance of probabilities the student did what he or she is alleged to have done, exclusion will be the outcome.

**Search:** We may decide to search a student's space and belongings and ask him / her to turn out the contents of pockets or a bag, if we consider there is reasonable cause to do so. Clothing will not be searched until it has been removed from the wearer and care will be taken to ensure reasonable privacy. This policy does not authorise an intimate search or physical compulsion in removing clothing. Only outer clothing will be searched. If necessary, the police would be called.

**Student Accounts:** A student may be spoken with by a member of staff regarding an incident that has taken place that requires further investigation. This may be followed up with the student being requested to complete a written referral; in some circumstances, this may be dictated to the member of staff. Accounts are written independently under supervision where the risk of corroboration is minimised. Students are requested to sign their accounts to confirm that they are factually correct. The same process is followed by staff where appropriate.

**Ethos:** An investigation and any subsequent meeting will be conducted fairly and in a way which is appropriate to a school, without formal legal procedures.

The Heads of Year (HOYs) or Assistant Principal will consider the incident (s) and the evidence, including accounts made by and / or on behalf of the student(s). Unless the HOY or Assistant Principal considers that further investigation is needed, he / she will decide whether the complaint has been sufficiently proved. The standard of proof shall normally be the civil standard, i.e. 'the balance of probabilities'.

If the complaint has been proved, the HOY or Assistant Principal will outline the range of disciplinary consequences which he / she considers are open to him / her. The student’s disciplinary record may be taken into account. Then, or at some later time, normally within 24 hours, the HOY or Assistant Principal will give his or her decision, with reasons.

**Notification:** The parents will be notified immediately by telephone, where possible, and followed up with a letter including the reasons for the exclusion, the date it will take effect and the period of the exclusion.

The Headteacher will inform the governing body and the relevant local authorities of permanent exclusions, and exclusions which would result in the pupil being excluded for more than five school days in any one term, within one school day of the decision and will provide detailed exclusion reports.

Where the exclusion results in the student missing between five and a half and 15 school days in the term, the parents may request a meeting with the governing body. The letter informing the parents of the exclusion will explain who the parents should contact to arrange this meeting.

The governing body will automatically meet to review permanent exclusions and exclusions which result in the student missing more than 15 school days in the term or a public exam or national curriculum test.

Parents of a student excluded for five days or less may make representations to the governing body about the exclusion but the governing body is not required to meet with the parents and cannot direct reinstatement.

### **Review by the governing body**

Where the governing body automatically meets to review a decision to exclude, a meeting of a committee of at least three governors will be held within 15 school days after the date the governing body received notice of the exclusion. Where parents have requested a meeting to review, it will be held within 50 school days after they received notice of the exclusion. Parents will be invited to the meeting, told in advance of the date and location and will be given the opportunity to make representations at the meeting.

Where an exclusion would result in a student missing a public exam or national curriculum test, the governors will take reasonable steps to meet before the date of the examination. If this is not practical, the chair of the governing body may consider the student's reinstatement independently and decide whether or not to reinstate the student.

The role of the governing body is to:

- uphold the exclusion; or
- direct the student's reinstatement either immediately or on a particular date.

The governing body will consider representations made by the parents and the Principal and will make its decision on the balance of probabilities.

Where the exclusion is upheld by the governing body, the parents will be informed by letter within three working days, explaining the reasons for the decision and details of the review procedure.

### **Independent Review Panel**

**Independent Review Panel (IRP):** The Academy will conduct this procedure for the review of permanent exclusions in accordance with the law and relevant guidance.

**Request for a review:** A request for a review of the decision of the Governors not to reinstate the permanently excluded student must be made in writing setting out the grounds on which it is

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made and whether or not the parents require an SEN expert at the hearing. The letter from the Governors will indicate the latest date by which an appeal may be lodged.

**Timing:** An IRP will meet to consider the appeal no later than the 15th school day after the day on which the application for the review was lodged. Parents will be informed of the date and location of the hearing. The hearing may be adjourned if the panel consider that it would not be appropriate to proceed, for example where additional information is required.

**Composition of the panel:** The IRP will consist of three or five members and will be appointed in accordance with government guidance. A clerk to the panel will also be appointed, who can provide independent advice to all of the parties and will circulate all relevant papers to the parties at least five school days before the hearing. Parents should contact the clerk if they have any questions about this procedure.

**Role of the panel:** The IRP will review the governing body's decision not to reinstate the permanently excluded student taking into account the evidence available, including any fresh evidence. An IRP may decide, on the balance of probabilities, to:

- uphold the decision to exclude;
- recommend that the governing body reconsiders their decision; or
- quash the decision and direct that the governing body considers the exclusion again.

**Conduct of hearing:** The hearing will be conducted in a suitable venue and in an informal manner. Parents may be accompanied by a friend or representative. All parties will have the opportunity to put forward their case.

**Procedure:** The IRP will decide whether the governing body's decision was flawed having regard to the evidence that was available to it at the time of the decision and, where applicable, the SEN expert's view of how SEN might be relevant to the pupil's exclusion. The IRP will apply the following tests:

- Did the Principal and / or governing body act outside the scope of their legal powers in taking the decision to exclude?
- Was the decision of the governing body not to reinstate the pupil so unreasonable that it was not one a sensible person could have made?
- Was the process of exclusion and the governing body's consideration so unfair or flawed that justice was clearly not done?

**Record:** The Clerk to the IRP will take minutes of the proceedings, including details of attendance, the voting and the decision.

**Decision:** The IRP's decision does not have to be unanimous and can be decided by a majority vote. The decision is binding on the student, the parents, the governing body and the Principal. All parties will be informed of the decision without delay and the reasons for it. If the exclusion is upheld, the clerk will immediately inform the relevant local authorities.

**Reconsideration by the governing body:** Where the IRP directs or recommends that the governing body reconsiders their decision, the governing body must reconvene within 10 school days of being given notice of the IRP's decision. The parents, the Principal and the relevant local authority will be informed of the governing body's decision.

**Complaint:** If parents have a complaint about maladministration by the IRP, they should contact the Education Funding Agency (EFA).

### **Alternatives to Exclusion**

A number of options are available as an alternative to exclusion where appropriate. These consist of:

- Restorative justice;
- Mediation;
- Internal Exclusion;
- The use of Churchfields Inclusion Centre;
- Managed move (as a last resort to avoid permanent exclusion)

The threat of a permanent exclusion will never be used as the means to coerce parents to move their child to another school.

### **Lunchtime Exclusion**

Students whose behaviour at lunchtime is disruptive may be excluded from the School's premises for the duration of the lunchtime period. This will be treated as fixed term exclusion and parents will have the same right to gain information and to appeal.

### **Behaviour Outside School**

Students' behaviour outside the School on School "business" for example school trips and journeys, away school sports fixtures or a work experience placement remains under the jurisdiction of the Academy's Behaviour for Learning Policy. Bad behaviour in these circumstances will be dealt with as if it had taken place in the School. For behaviour outside the School but not on school business this policy will still have effect if there is a clear link between that behaviour and maintaining good behaviour and discipline among the student body as a whole and exclusion may be deemed appropriate. If a student's behaviour in the immediate vicinity of the School or on a journey to and from the School is poor and meets the School's criteria for exclusion then the Principal may decide to exclude.

### **Drug Related Exclusions**

In making a decision on whether or not to exclude for a drug-related offence the Principal will have regard to the School's published policy on drugs. The decision will depend on the precise circumstances of the case and the evidence available. In most cases fixed term exclusion will be more appropriate than permanent exclusion. The Headteacher will make a judgment set against the criteria in the School's Drugs Policy. Parents/guardians will always be informed in conjunction with the police.

### **Monitoring and Evaluation**

The number and nature of exclusions and procedures will be reviewed regularly

### **Relevant Documentation**

Exclusion from maintained schools, Academies and Pupil Referral Units in England (2012)

The Exclusion Policy should be read in conjunction with the other relevant policies:-

- Child Protection
- Looked After Children
- Special Educational Needs (SEN)
- Drugs
- Behaviour
- Anti-Bullying
- E-Safety

Policy adopted from Churchfields Academy on 1<sup>st</sup> September 2017

Policy Updated: September 2015

Person Responsible: Assistant Principal Pastoral

Ratified by the Governing Board's Strategy Group: September 2015

Due for Review: September 2018

# Exclusion Leaflet

(Relating to Fixed Term)

In view of the Government's revised guidance with regards exclusions this leaflet is provided as a support mechanism for parents/guardians.

- Headteachers have the right to exclude students for one or more fixed periods not exceeding 45 school days in any one school year.
- Where a decision is made to exclude a student from the School the parent or guardian should be notified ideally by telephone followed up by letter. Where it has not been possible to telephone, a duplicate copy of the exclusion letter sent to parents/guardians will be given to the student to take home to advise of the exclusion and relevant details.
- Where a student is excluded for 1 – 5 days (inclusive), parents/guardians have a duty to ensure that the child is not present in a public place during the period of exclusion unless there is a reasonable justification. The parent/guardian may receive a fixed penalty notice from the Local Authority or even prosecution.
- For fixed term exclusions lasting for 6 days or more, or where, consecutive fixed term exclusions in total exceed five days, the School has a responsibility to provide full time provision from the 6<sup>TH</sup> Day through to the end of the exclusion period. Parents/guardians will be notified as and when appropriate.
- A reintegration interview will be arranged at a suitable date and time if deemed appropriate. The purpose of which is to discuss how best the student's return to the ASchool can best be managed. Failure to attend a reintegration interview will be a factor taken into account by a magistrates court if, on future application they consider whether to impose a parenting order on the parent/carer.
- Parents/guardians have the right to make representations to the School Directors. If you wish to make such representations please write to the Secretary to the Governing Board of Directors c/o Churchfields Academy as soon as possible.
- The School Directors must consider the reinstatement of an excluded student within 15 school days of receiving notice of the exclusion if:
  - The exclusion is permanent
  - It is a fixed period exclusion which would bring the students total number of school days of exclusion to more than 15 in a term or
  - It would result in a student missing a public exam or a national curriculum test
- If requested to do so by the parents/guardians, the School Directors must consider the reinstatement of an excluded student within 50 school days of receiving notice of the exclusion if a student would be excluded from School for more than 5 school days, but not more than 15 in a single term.
- Where an exclusion would result in a student missing a public examination or national curriculum test there is a further requirement for the School Directors, so far as is

reasonably practicable, to consider the exclusion before the date of the examination or test. If this is not practicable, the School Directors may consider the exclusion independently and decide whether or not to reinstate the pupil. These are the only circumstances in which the Chair can review an exclusion decision alone.

Parents/guardians still have the right to make representations to the School Directors.

- In the case of a fixed period exclusion which does not bring the student's total number of days or exclusion to more than five in a term, the School Directors must consider any representations made by parents but it cannot direct reinstatement and is not required to arrange a meeting with parents/guardians.
- Where there is a legal requirement for the School Directors to consider the exclusion, parents /guardians have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend.
- The School will provide work during the period of exclusion (for exclusions 2 days and over). For Y11 students, the expectation will be that the student must concentrate their efforts on any outstanding coursework, revision and home study etc. Please ensure that any work set is completed and returned for marking.
- You may wish to contact Mary Donovan on 463093 (Local Authority representative), if further advice is required. Parents/guardians may find the statutory guidance useful (Exclusion from maintained schools, Academies and Pupil Referral units in England) or contact the Coram Children's Legal Centre: [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com) tel: 08088 020 008.

You should be aware that if you think that the exclusion relates to a disability your child has, and you think that disability discrimination has occurred, you have the right to appeal and/or make a claim to the Special Educational Needs and Disability Tribunal (SENDIST). The address to which appeals should be sent is HM Courts & Tribunals Service, Special Educational Needs and Disability, 1st Floor, Darlington Magistrates' Court, Parkgate DL1 1RU.

- Students must ensure that they do not come on to the School site during the period of exclusion or be seen in the vicinity of the School site. Failure to follow this guidance without an explanation acceptable by the School will lead to an extension of the exclusion period.