



# THE LOUGHBOROUGH Schools Foundation

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Policy Title: **Student Serious Disciplinary Policy**

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Approved By: **Finance, Audit & Risk Committee**

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Point of Contact (Reviewer): **Compliance Manager (Mr G Leeson)**

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## **1.0 INTRODUCTION**

### **1.1 Scope**

- 1.1.1 This policy contains guidelines which may be adapted as necessary, explaining the circumstances under which serious disciplinary allegations will be investigated and sanctions determined. This include the circumstances under which a pupil/student may be excluded, either temporarily or permanently, from Loughborough Grammar School, Loughborough High School, Fairfield Prep School or Loughborough Amherst School. This policy should be read in conjunction with the School's respective Behaviour Management Policy as its purpose is to set out the procedures to be followed in the event that a pupil/student commits serious misconduct and, as a result, a serious sanction may need to be imposed by the School.
- 1.1.2 The School's Behaviour Management Policy sets out the sanctions to be applied to general misbehaviour, whereas this policy covers incidents of serious misconduct, or where misbehaviour has persisted despite sanctions being imposed.
- 1.1.3 It applies to all pupils/students at the Loughborough Schools Foundation (LSF) whether or not in the care of a School, but does not cover cases when a pupil/student has to leave because of ill health, non-payment of fees, or withdrawal by his or her parents.

### **1.2 Interpretation**

- 1.2.1 References to the '*Head*' include Deputies.
- 1.2.2 '*Parent*' includes one or both of the parents, a legal guardian or education guardian.
- 1.2.3 '*Withdrawal*' takes place when a parent voluntarily withdraws a pupil/student. This may happen on the initiative of the parents or the Head. It is always a decision of the parents and is a consensual act. A withdrawal may not therefore lead to a governors' review but may lead to a complaint under the LSF Complaints Policy.
- 1.2.4 The Heads may apply the sanctions of removal, suspension or exclusion.
- 1.2.5 '*Removal*' means that a pupil/student has been required to leave, but without the stigma of exclusion. It is therefore a decision taken by a Head and is contrary to the parents' wishes. A removal takes place when the parents have been asked to withdraw a pupil/student but have indicated unease or an unwillingness to do so. Parents therefore have a right to a governors' review under this policy, or may make a complaint under the LSF Complaints Policy.
- 1.2.6 '*Suspension*' means that a pupil/student is debarred from attending a school for a specific period but may return at the conclusion of that period.
- 1.2.7 '*Exclusion*' is reserved for the most serious cases and normally means that a Head cannot recommend a pupil/student to another school. Parents are entitled to seek a governors' review, or may make a complaint under the LSF Complaints Policy.

1.2.8 The subheadings are for ease of reference and do not form part of the policy.

## 2.0 **POLICY STATEMENT**

### 2.1 **Aims**

2.1.1 The aims of this policy are:

- To support the behaviour and discipline policies of the Schools.
- To ensure procedural fairness and natural justice.
- To promote co-operation between the Schools and parents when it is necessary for a pupil/student to leave earlier than expected.

### 2.2 **Misconduct**

2.2.1 The main categories of serious misconduct, in or out of School, which may result in exclusion or removal are:

- The intent to supply or supply/possession/use (when under the jurisdiction, or not, of the School) of certain drugs and solvents or their paraphernalia or substances intended to resemble them, and alcohol and tobacco.
- Theft, blackmail, physical violence, intimidation, racism, sexism, homophobia, and persistent bullying.
- Misconduct of a sexual nature; supply and possession of pornography.
- The possession or use of unauthorised firearms or other weapons.
- Vandalism and computer hacking.
- Persistent attitudes or behaviour which is inconsistent with the ethos of the Schools.
- Other serious misconduct on or off the premises (either single or repeated episodes), which brings a School into disrepute.

### 2.3 **Other Circumstances**

2.3.1 A pupil/student may be required to leave if, after appropriate consultation, the Head of the school concerned is satisfied that it is not in the best interests of the pupil/student, or of the school, that he or she remains at the school.

## 3.0 **INVESTIGATORY PROCEDURES**

3.0.1 All misbehaviour or disciplinary incidents will be dealt with by the pupil's/student's School, as soon as it is possible to do so.

3.0.2 In the event of an incident of serious misconduct, an investigation may be carried out to establish the facts. An investigation of a complaint or allegation about serious misconduct

will normally be coordinated by the Deputy Head, or an appropriate member of senior staff, and the findings will be presented to the Head for consultation and consideration.

The person who investigates an allegation of serious misconduct will not take the decisions on the outcome.

3.0.3 Parents will be informed as soon as reasonably practicable if a complaint or allegation under investigation is of a nature that could result in the pupil/student being excluded.

### **3.1 Suspension (pending an investigation)**

3.1.1 A pupil/student may be suspended from boarding and/or from the school and required to live at home or with his/her education guardian whilst a complaint is being investigated; alternatively, he or she may be placed under a segregated regime at school premises. When a pupil/student is suspended, teachers will set work to be completed by the pupil/student during their period of absence.

### **3.2 Search and Reports to the Police (and others)**

3.2.1 The appropriate school staff may decide to search a pupil's/student's space, possessions (including electronic devices), desks and lockers and ask the pupil/student to turn out the contents of pockets or a bag, if it is considered 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. If necessary, the police could be called.

3.2.2 The Police will be called to report any activity which the School reasonably suspects may amount to criminal activity.

3.2.3 Other agencies may also be notified where necessary and appropriate to the facts of the case.

### **3.3 Interview**

3.3.1 A pupil/student may be interviewed informally by a member of staff to establish whether there are grounds for a formal investigation. If a pupil/student is interviewed formally about a complaint, arrangements may be made for the pupil/student to be accompanied by a member of staff of their choice. A pupil/student who is waiting to be interviewed may be segregated, but made as comfortable as possible, accompanied or visited regularly by a member of staff, and given access to a toilet, telephone and adequate food and drink.

### **3.4 Ethos**

3.4.1 An investigation and any subsequent meeting will be conducted fairly and in a manner which is appropriate to a school, without formal legal procedures.

## **4.0 DISCIPLINARY MEETING**

### **4.1 Preparation**

- 4.1.1 A formal disciplinary meeting is necessary where the investigation has identified a case for the pupil/student to answer for which expulsion is a possible outcome, and/or the pupil/student has been suspended pending the outcome of the disciplinary process.
- 4.1.2 The Chair of the School Board will be informed of an investigation. A short cooling-off period may take place if the appropriate Head considers that this course would be helpful.

Documents available at the disciplinary meeting with the Head should include:

- A statement setting out the points of complaint against the pupil/student.
- Written witness statements and notes of the evidence supporting the complaint, and any relevant correspondence.
- The investigation report.
- Any relevant information from the pupil's/student's school file and conduct record.
- The relevant school policies and procedures.

Any such documents may be redacted or a summary provided for reasons of confidentiality and/or data protection. A copy of the documentation must be sent to the pupil and his/her parents/guardians 48 hours before the disciplinary meeting.

Any written submission provided by, or on behalf of the pupil/student must arrive at the Head's office no later than two working days before the disciplinary meeting.

## 4.2 Attendance

- 4.2.1 The pupil and his or her parents/guardians will be asked to attend the disciplinary meeting with the Head. The pupil/student should be in attendance throughout the disciplinary meeting and may be accompanied by a member of staff of his/her choice. The Head should be informed of all attendees at least 24 hours before the disciplinary meeting.

## 4.3 Proceedings

- 4.3.1 The process to be followed at the disciplinary meeting shall be determined by the Head. The meeting will be conducted in a manner appropriate to the age, understanding and maturity of the pupil/student involved, taking into account any additional needs of the pupil/student in all circumstances.
- 4.3.2 Notes will be taken by the School during the disciplinary meeting and a copy of the notes will be provided to the parents.
- 4.3.3 The pupil/student will have an opportunity to provide their account of the circumstances surrounding the incident and both the pupil/student and his/her parents will be able to ask questions. The parents will also be able to address the Head on the issue of sanctions.

#### 4.3.4 There are normally three distinct stages of a disciplinary meeting:

- **The Complaint(s)**

The appropriate Head will consider the complaint/s and the evidence, including statements made by and/or on behalf of the pupil/student. Unless the Head considers that further investigation is needed, he or she will decide whether the complaint has been sufficiently proven. The standard of proof shall be the civil standard, i.e. the balance of probabilities. Appropriate reliance may be placed on hearsay evidence but the Head will not normally refer to the pupil's/student's disciplinary record at this stage.

- **The Sanction**

If the complaint or allegation has been proven, the Head will outline the range of disciplinary sanctions which he or she considers are available. He or she will take into account any further statements, which the pupil/student and or others present on his or her behalf may wish to make. The pupil's/student's disciplinary record will be taken into account. The Head will give a written decision about the incident and the appropriate sanction, together with reasons for those decisions, as soon as reasonably practicable.

- **Leaving status**

If the Head decides that a pupil/student must leave the school, he or she will discuss the matter with the parent(s)/guardians before deciding on the pupil's/student's leaving status (see below).

#### 4.4 **Delayed Effect**

4.4.1 A decision to exclude or remove a pupil/student shall take effect 72 hours after the decision was first communicated to a parent. Until then, the pupil/student shall remain suspended and away from school premises. If within 72 hours the parents have made a written application for a Governors' Review, the pupil/student shall remain suspended until the Review has taken place.

### 5.0 **LEAVING STATUS**

#### 5.1 **Explanation**

5.1.1 If a pupil/student is excluded or required to leave, his or her leaving status will be one of the following: 'excluded', 'removed' or 'withdrawal by the parents'.

#### 5.2 **Detail**

5.2.1 Additional points, which may need consideration, are:

- The form of letter which will be written to the parents and, given the provisions of the Data Protection Act, the form of announcement in the School that the pupil/student has left.
- The form of reference, which will be supplied for the pupil/student.

- The entry, which will be made on the school record and the pupil's/student's status as a leaver.
- Arrangements for the transfer of any course and project work to the pupil/student, the parents or to another school.
- Whether (if relevant) the pupil/student will be permitted to return to school premises to sit public examinations.
- Whether (if relevant) the School can offer assistance in finding an alternative placement for the pupil/student
- Whether the pupil/student will be eligible for membership of the associated alumni association and, if so, from what date.
- The conditions under which the pupil/student may re-enter school premises in the future.
- Financial aspects: payment of any outstanding fees and extras; whether the deposit will be returned or credited; refund of prepaid fees.

## **6.0 GOVERNORS' REVIEW**

### **6.1 Request for Review**

6.1.1 If permanent exclusion or removal by a Head has been deemed appropriate, a pupil/student, or his or her parents, may make a written application for a Governors' Review. The application must be received by the Secretary to the Board, within 72 hours of the Head's decision being received by the parent(s), or longer by agreement and must clearly set out the grounds on which they are asking for a review and the outcome that they seek. This right is not available in the event of suspension, unless the suspension has exceeded 11 school days or more, or would prevent the student from taking a public examination.

### **6.2 Review Panel**

6.2.1 The Review will be undertaken by a three-member sub-committee of the Board of Governors. The Panel members will have no detailed prior knowledge of the case or of the pupil/student or parents and will not include the Chair of Governors. The Chair of Governors will select the members of the Review Panel and the members of the Panel will elect a Panel Chair. Parents will be notified in advance of the names of the panel members. Fair consideration will be given to any bona fide objection to a particular member of the panel.

### **6.3 Review**

6.3.1 The Review Panel may, depending upon the circumstances and after consulting the appropriate parents/guardians and the Chair of Governors:

- Stage a hearing under the arrangements described at paragraphs 7.1 to 7.8 (inclusive)

or:

- Reach a decision on the basis of written representations provided by the parties under the arrangements described at paragraphs 8.1 to 8.5 (inclusive).

## **7.0 THE REVIEW HEARING**

### **7.1 The Hearing**

7.1.1 The hearing will take place at the school premises, normally between 3 and 14 working days after a request for appeal has been received, during term time. A Review will not normally take place during school holidays but may do so by the agreement of the parties. A Review Hearing is an internal procedure and all of those who are involved, or who are concerned in the procedure, are required to keep its proceedings confidential, subject to law.

### **7.2 Attendance**

7.2.1 Those present at the Review Hearing will normally be:

- The members of the Review Panel and the Secretary to the Board;
- The Head and any relevant member of staff whom the Head considers should attend in order to secure a fair outcome for the pupil; and
- The pupil/student together with his or her parents and, if they wish, then parents may be accompanied by a friend or relation. The Secretary to the Board must be given 7 days' notice if the friend or relation is legally qualified.

### **7.3 Conduct of Meetings**

7.3.1 The review hearing will be chaired by one member of the Review Panel and will be conducted in a manner appropriate to the age, understanding and maturity of the pupil/student involved, taking into account any additional needs of the pupil/student in all circumstances.

7.3.2 The Secretary to the Board will be asked to take minutes of the hearing and should advise on procedural or legal aspects. A copy of the minutes will be provided to the parents/guardians after the meeting. All those present will be entitled, should they wish, to write their own notes. The meeting will be directed by the Chair who will conduct it so as to ensure that all those present have a reasonable opportunity of asking questions and making appropriate comment. Everyone is expected to show courtesy, restraint and good manners. The Chair may at his or her discretion adjourn or terminate the hearing

### **7.4 Procedure**

7.4.1 The Panel will consider each of the issues raised by the pupil/student or his/her parents so far as they are relevant to:

- Whether the facts of the case were sufficiently proven when the decision was taken to exclude or remove the pupil. The civil standard of proof, namely 'the balance of probabilities' will apply; and
- Whether the sanction was warranted, that is, whether it was proportionate to the breach of discipline or the other events which are found to have occurred, and to the legitimate aims of the School's policy in that respect.

7.4.2 The requirements of natural justice will apply. If for any reason the pupil/student or his/her parents are dissatisfied with any aspect of the meeting they must inform the Chair at the time and ask the Secretary to the Board to note their dissatisfaction and the reasons for it.

#### **7.5 Identification of Witnesses**

7.5.1 If the Head considers it necessary in the interests of an individual or of the school that the identity of any person should be withheld, the Panel Chair may require that the name of that person and the reasons for withholding it be written down and shown to the Panel Members. The Panel Chair at his/her discretion may direct that the person be identified, or not as the case may be.

#### **7.6 Pupil's/Student's Character**

7.6.1 Up to two members of the school staff may speak generally about the pupil's/student's character, conduct and achievements at the school if they are willing to do so.

#### **7.7 Leaving Status**

7.7.1 If, having heard representations from all parties, the Panel is minded to confirm the Head's earlier decision, it is open to the Panel, with the agreement of the Head, the pupil/student and his/her parents to discuss the pupil's/student's leaving status with a view to reaching agreement.

#### **7.8 Decision**

7.8.1 When the Chair decides that all issues have been sufficiently discussed and if by then there is no consensus, he or she may adjourn the meeting; alternatively, the Chair may ask those present to withdraw while the Panel considers its decision. The Panel may uphold or, alternatively, refuse to confirm the conclusions or decisions reached by a Head. In the former event the Panel will confirm the sanction awarded; in the latter event the Panel will determine the sanction. The decision will be notified, with reasons, to the Head and the parents by the Chair of the Review Panel or the Chair of Governors in writing within five working days of the review hearing. If necessary, the Review Panel may seek professional advice before reaching or notifying their decision. In the absence of significant procedural irregularity, the decision of the Review Panel will be final.

### **8.0 CONSIDERATION ON THE BASIS OF WRITTEN SUBMISSIONS**

#### **8.1 Procedure regarding written submissions**

8.1.1 If a Review Panel decides that the circumstances are such that it will consider the complaint or allegation, the Head's decision and the sanction on the basis of written submissions from the parties, the following procedure is to apply:

## 8.2 Attendance

8.2.1 Those present at the Review Meeting will normally be:

- The members of the Review Panel and the Secretary to the Board.

## 8.3 Conduct of Review Meeting

8.3.1 The meeting will be chaired by one member of the Review Panel and will be conducted in a suitable room and in an informal manner. Each of the parties must be given an opportunity to comment in their written representation on the points made by the other party in their representation. The Secretary to the Board will be asked to keep minutes of the meeting and should advise on procedural or legal aspects. A copy of the minutes will be provided to the parents after the meeting.

8.3.2 Each member of the Panel will study the written submissions provided by the various parties before discussing the matter.

## 8.4 Procedure

8.4.1 The Panel will consider each of the issues raised by the pupil/student or his/her parents so far as they are relevant to:

8.4.2 Whether the facts of the case were sufficiently proved when the decision was taken to exclude or remove the pupil/student. The civil standard of proof, namely 'the balance of probability' will apply; and

8.4.3 Whether the sanction was warranted, that is, whether it was proportionate to the breach of discipline or the other events, which are found to have occurred.

## 8.5 Decision

8.5.1 When the Chair decides that all issues have been sufficiently discussed, the Panel will need to consider its decision. The Panel may uphold, or alternatively refuse to confirm the conclusions or decisions reached by a Head. In the former event the Panel will confirm the sanction awarded; in the latter event the Panel will determine the sanction. The decision will be notified, with reasons, to the Head and the parents by the Chair of the Review Panel or the Chair of Governors by letter or telephone. If necessary, the Review Panel may seek professional advice before reaching or notifying their decision. The decision of the Review Panel will be final.

## 9.0 CONFIDENTIALITY

9.0.1 All those participating in the application of this policy including parents and pupils are

required to keep all statements, correspondence, notes and documents confidential except where legally required to disclose them.

## **10.0 AVAILABILITY**

- 10.0.1 This policy is to be “made available” to parents of pupils and parents of prospective pupils (and, on request, to the Chief Inspector, Secretary of State or an independent inspector). The policy can be "made available" by publishing it on the school's website or, where no such website exists, parents should be made aware that they are able to request a copy of the policy from the school. A hard copy should also be made available for inspection at the school on request. This policy shall be reviewed annually.