SERIOUS DISCIPLINARY INCIDENTS POLICY (INCLUDING MTS POLICY ON EXCLUSION and APPEALS AGAINST EXCLUSION)

Policy Custodian: *Head Master*
Dated: *June 2021*
Next Review: *June 2022*

Related Policies
This policy should be read in conjunction with the following other policies:

- Promoting Good Behaviour Policy
- Safeguarding Policy
- School Rules & Regulations
- Restraint Policy
- Anti-Bullying Policy
- E-Safety Policy

Background
The Serious Disciplinary Incidents Policy is based upon:

- The DfE guidance *Behaviour and Discipline in Schools* (January 2016).
- The Equality Act 2010, which includes issues related to pupils with special educational needs/disabilities.
- *Searching, Screening and Confiscation; advice for head teachers, school staff and governing bodies* – January 2018.

Overview
On rare occasions, it is necessary for the School to resort to a punishment beyond those sanctions detailed in the Promoting Good Behaviour Policy, as a mark of severe disapproval, in order to give the boy an opportunity for reflection to consider the seriousness of an incident, and/or to protect the safety and well-being of the School Community as a whole. These punishments include:

Fixed-Term Exclusion (also known as **suspension**). The pupil is excluded from School for a specified period.

Permanent Exclusion. The pupil is excluded from the School permanently.

The range of offences which may result in Suspension or Permanent Exclusion are varied in their nature. They may be a single instance of a serious breach of school discipline; alternatively, it may be necessary to respond to a succession of examples of lower level misconduct by a period of temporary exclusion. A punishment is given only after detailed investigation and consultation.

Procedure
The authority to suspend or permanently exclude boys rests with the Head Master or, in his absence, the Second Master. However, investigations into offences that may lead to Suspension or Permanent Exclusion will normally be led by the Second Master or appropriate Head of Section, keeping the Head Master informed of progress as needed. All investigations will be fair and thorough, considering

each case individually. Investigations will be appropriately recorded and logged. They will be conducted in a timely manner appropriate to the actual misdemeanour and will be concluded as quickly as possible. In some instances a pupil may be required to stay away from the school for as long as an incident is being investigated. In all events, the pupil concerned will be interviewed as part of the investigation and will have the opportunity to provide his version of events. If there are witnesses they too will be asked for their version of events if appropriate. Where possible this process will be handled sensitively and any information and records treated confidentially. During the investigation the relevant tutor or Head of House will be consulted in order to "represent" and look after the particular interests of the boy, providing evidence about his character and his record of conduct at the School.

Once this investigation has concluded the Second Master or Head of Section will present their findings to the Head Master and recommend a course of action. The Head Master will then make his decision about punishment. At this stage, the Chairman of Governors will be consulted if a Permanent Exclusion is proposed. The pupil concerned will meet with the Head Master following the investigation and prior to any decision regarding exclusion. The purpose of that meeting is to offer the pupil a right to reply to the investigation's conclusions.

A parent will always be contacted prior to a Suspension and in most cases the Suspension will start the following school day. In some cases parents may be asked to come in for a meeting, and/or be asked to collect their son. Every case will be documented by a follow up written communication which is placed on the boy's file. When the boy returns to School, having served his punishment, he is welcomed back into School life as a full part of the School Community and every effort is made to ensure that return is a smooth as possible. All pupils that have been suspended will be required to attend a reintegration meeting as soon as possible on their return to School. This will be arranged by the Head of Section and will normally involve a member of the pastoral team who has not been involved in the investigation (e.g. the School Chaplain, Assistant Head of Pupil Welfare etc.). The school will ensure that no pupil will, through exclusion, miss a public examination.

Parents will always be asked to come into School for a meeting in cases involving a potential Permanent Exclusion. They may bring a third party for support, but may not bring any legal representation. At this meeting the Head Master will outline the range of disciplinary sanctions which he considers are open to him. He will take into account any further statement which the pupil and/or others present on his behalf wish to make. The pupil's disciplinary record will be taken into account. Then, or at some later time, normally within 24 hours, the Head Master will give his decision with reasons.

All instances of exclusion will be presented to the Governing Body at each Governing Body meeting and the Head Master must be prepared to justify his decision, regardless of whether the pupil or parents have invoked the Appeals against Exclusion process.

Searching pupils

The School staff may search a pupil with their consent for any item. Appropriate consideration will be given to factors that may influence the pupil's ability to give consent. If the pupil refuses, sanctions will be applied in accordance with this policy.

In relation to prohibited items, as defined in the school rules, the Head Master, and staff authorised by the Head Master, may search a pupil or a pupil's possessions, without their consent, where they have reasonable grounds for suspecting that a pupil has a prohibited item in their possession. Such action will be taken in accordance with the DfE guidance: Screening, Searching and Confiscation (January 2018).

Equality
In line with the Promoting Good Behaviour Policy, the School will make reasonable adjustments for managing behaviour which is related to a pupil's diagnosed special educational need or disability. The School will ensure that a pupil with a disability or special educational needs is able to present their case fully, where their disability or special educational needs might hinder this. Any protected characteristics affecting the pupil (e.g. religious requirements) will also be considered.

Malicious allegations against staff
Where a pupil makes an accusation against a member of staff and the accusation is shown to have been deliberately invented or malicious, the Head Master will consider whether to take disciplinary action in accordance with this policy, which may include Permanent Exclusion.
Where a parent has made a deliberately invented or malicious allegation the Head Master will consider whether to require that parent to withdraw their child or children from the school on the basis that they have treated the school or a member of staff unreasonably and broken the terms of their contract with the school.

In accordance with the DfE's guidance *Keeping Children Safe In Education* (2021), the School will consider a malicious allegation to be one where there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.

Appeals against Exclusions

Exclusion of five days or less
In line with the state sector, for exclusions of five days or less, a pupil or parent has the right to make a written representation in a letter to the Chairman of Governors, but does not have the right to a formal appeal. The Chairman of Governors will consult with the Head Master, and will bring the letter to the notice of the Governing Body at its next full meeting. He will then respond in writing to the comments of the parent.

Parents will be notified of their right to make such representations in any exclusion letter but should be aware that, in the case of short exclusions, the punishment may have been served before consideration of their representations. If their representations lead to an amendment to the exclusion imposed, the exclusion will be erased from a pupil's school record,

Exclusions of more than five days, including Permanent Exclusions
For exclusions of more than five days, parents have the right to a formal appeal to the Governing Body of the School. An appeal can be made on the grounds that there is new evidence that was not available at the time of the decision or that the punishment is unreasonable. The Head Master will offer the pupil and his parents the right of appeal to the Governors over the exclusion and will, within 48 hours of the meeting, send the parents a letter confirming details of the exclusion. If the parents wish to appeal against the exclusion they must indicate this to the Head Master within 48 hours of receiving a formal letter of exclusion and must, within seven days, inform the Clerk to the Governors in writing of their intention to appeal. An appeal can be made on the grounds that there is new evidence that was not available at the time of the decision or that the punishment is unreasonable. Copies of the appeals procedure ('Exclusions of more than five days – Appeals Against') are available in Appendix A or from the Clerk to the Governors at Merchant Taylors' School or can be found on the School's website.

Head Master

APPENDIX A

EXCLUSION FOR MORE THAN 5 DAYS – APPEALS AGAINST

Parents wishing to appeal against a decision by the School to exclude a pupil for more than five days should follow the procedure outlined below.

1. Parents should indicate to the Head Master their intention to appeal within 48 hours of receiving a formal letter of exclusion. Within seven days they must inform the Clerk to the Governors of their intention to appeal by writing to: Clerk to the Governors, Bursar's Office, Merchant Taylors' School, Sandy Lodge, Northwood, Middlesex HA6 2HT.

2. The Clerk shall immediately inform the Chairman of Governors and the Head Master that an appeal has been received.

3. The Head Master may, at his absolute discretion, decide to reinstate the pupil pending the outcome of the appeal.

4. The Clerk shall, in consultation with the Chairman, arrange for a panel of three Governors to hear the appeal as soon as practicable, and not later than twenty working days from receipt of the letter indicating the appeal. The panel shall consist of Governors who have no prior knowledge of the matter to be considered.

5. The panel should meet in advance of the hearing to satisfy themselves that they have all the necessary information, that they are aware of the correct procedures and have considered how they will approach the hearing.

6. The Clerk shall contact the parents to inform the parents whether there will be an oral hearing or whether the panel will choose to simply consider the written submissions of those involved. The choice will be at the discretion of the appeal panel. Should the panel choose to hear the appeal in person, the parents must make a written statement that sets out the grounds for their appeal, the written evidence they wish to submit to the hearing, whether they wish to call any witnesses to the hearing and whether they wish to bring a friend or representative to the hearing. Parents may not bring any legal representation to the hearing.

7. If the parents wish to call a pupil as a witness then they must advise the Clerk in advance and the panel should decide whether that is appropriate. If the appeal panel agree the request, the panel should decide in advance what measures should be put in place to allow for his age and maturity.

8. The Clerk shall require the Head Master to provide, in advance, all relevant documentation and to indicate if he wishes to call any witnesses to the hearing.

9. The appeal panel reserves the right to dismiss an appeal at this stage it if is felt that the grounds for the appeal are spurious, manifestly unreasonable or do not meet the criteria that there must be new evidence that was not available at the time of the decision or that the punishment is unreasonable.

10. The Clerk shall give the parents and the Head Master not less than seven calendar days' notice in writing of the date and place of the appeal, and supply them with copies of all relevant documentation.

11. The appeal hearing shall be in private, and everything said at the appeal hearing shall remain confidential. The details of the procedure to be followed at a hearing are outlined in Appendix B. The exact procedure will depend on whether the hearing is to be oral or otherwise.

12. Failure of the parents to attend a hearing without good cause or due notice shall not invalidate the proceedings or any decision that the panel may reach.

13. The appeal panel will determine the appeal and issue a written report as soon as possible after the hearing, and certainly within three days. The parents will be sent a letter confirming the decision.

Head Master

APPENDIX B

Procedure for hearing an appeal

1. Members of the appeal panel will agree one of their number to act as Chairman
2. The Clerk will take notes of the meeting
3. The Head Master presents his case including the evidence and the reasons for concluding that the exclusion is appropriate
4. Any witnesses called by the Head Master will give their evidence
5. Questions to the Head Master from the Panel and the Parents
6. The parents or their representative present their case
7. Any witnesses called by the Parents will give their evidence
8. Questions to the Parents from the Panel and the Head Master
9. Parents are invited to make any further relevant points
10. Parents and Head Master leave the hearing
11. The Panel will reach a decision and the Governors' decision is final
12. The Clerk notifies both parties in writing of the Panel's decision within three days
13. If the appeal hearing is not an oral one, steps 3 and 6 will rely on written submissions, and steps 4, 5, 7, 8 and 9 will be omitted.