



Windsor Academy Trust

## Windsor High School and Sixth Form

### Exclusions Policy

<b>Exclusions Policy</b>	
<b>Responsible Committee:</b>	Windsor Academy Trust, Performance and Standards Committee
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# 1. Aims and Principles

## RATIONALE

WAT expects its Schools to ensure that exclusion procedures conform with statutory guidance set out by the Department for Education (DfE). At 62 pages long, however, this guidance can be inaccessible and overwhelming for many and so this policy sets forth rights and responsibilities around exclusions with clarity and brevity. This policy supersedes all other school-level handbooks or policy statements as related to exclusions. Exclusions are taken as a last resort and in response to serious and/or persistent breach of the School Behaviour Policy.

## AIMS

WAT Schools aim to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by The Local Advisory Board (LAB), staff, parents and students
- Students in school are safe, happy and engaged in learning and enrichment activities.
- Underlying cases of poor behaviour are fully understood in order to create a positive culture of behaviour and engagement
- Exclusions are taken as a last resort
- Exclusions are carefully monitored to ensure that any trends or patterns are noted that should be addressed proactively, especially in relation to students with characteristics that tend nationally to be associated with high levels of exclusions

## 2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and student referral units \(PRUs\) in England](#).

It is based on legislation which outlines schools' powers to exclude students.

For the purposes of exclusions, school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

## 3. Fixed-Term and Permanent Exclusions

Exclusion can only be for a breach of the school's behaviour policy, which must be widely published to all students and parents, preferably on the school's website. There are two types of exclusion: fixed-term (or fixed-period) and permanent.

There is a limit of 45 school days in an academic year for fixed-term exclusions. The law does not allow for 'converting' a fixed-term exclusion into a permanent exclusion. The school may issue a fixed-term exclusion pending investigation and, where further evidence has come to light, issue a further fixed-term exclusion to begin immediately after the first exclusion ends; or a permanent exclusion to begin immediately after the end of the fixed-term exclusion. Permanent exclusions may only be in response to persistent breaches of the school's behaviour policy or for a 'one-off' serious breach of the behaviour policy, where allowing the student to remain in school will be detrimental to the education and welfare of the student and/or others at the school.

The behaviour of a student outside school can be considered grounds for an exclusion.

## 4. The decision to exclude

Only the headteacher, or acting headteacher, can exclude a student from school. A permanent exclusion will be taken as a last resort and recommended by the headteacher, or acting headteacher, to the Local Advisory Board for their consideration.

Our schools are aware that off-rolling is unlawful. Ofsted defines off-rolling as:

“...the practice of removing a student from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the student.”

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

A decision to exclude a student will be taken only:

- In response to serious or persistent breaches of the school’s behaviour policy
- If allowing the student to remain in school would seriously harm the education or welfare of others

Before deciding whether to exclude a student, either permanently or for a fixed period, the headteacher will:

- Consider all the relevant facts and evidence, including taking into account any contributing factors ( for example bereavement, mental health, bullying) and whether the incident(s) leading to the exclusion were provoked and whether this forms some mitigation. Where appropriate this will include providing the student with an opportunity to give their version of events
- Consider if the student has special educational needs (SEN) and what impact this may have had. Where an excluded student has Special Educational Needs (SEN) or is on the SEN register, it must be demonstrated that the school has regard for the SEN Code of Practice and has provided extensive means of support to help meet the student’s needs. Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a student may have. Any intervention strategies should be discussed with and involve the student’s parents

Where a student has received multiple exclusions or is approaching the legal limit of 45 school days of fixed-term exclusion in an academic year, the Headteacher should consider whether exclusion is providing an effective sanction.

The headteacher should consider what extra support might be needed to identify and address the needs of students from groups with disproportionately high rates of exclusion.

Permanent exclusion should only be used as a last resort where all alternatives have been considered and all strategies to change behaviour have failed. It must be demonstrated that allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school.

## 5. Roles and responsibilities subsequent to any exclusion

### 5.1 The headteacher

#### Informing parents

The headteacher will immediately provide the following information, in writing, to the parents of an excluded student indicating:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is

permanent

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- Information about parents' right to make representations about the exclusion to the Local Advisory Board and how the student may be involved in this
- Where there is a legal requirement for the Local Advisory Board to meet to consider the reinstatement of a student, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend
- Student over 18 have to be informed and have the right to appeal on their own behalf

Pursuant to the duty of care placed on schools to ensure the welfare of students, parent(s) must be advised of an exclusion prior to the student being sent off-site.

While their child is excluded, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged the required information will be given to parents at the appropriate point during the exclusion process.

#### **Informing Windsor Academy Trust and Local Authority:**

- All exclusions must be reported to Windsor Academy Trust centrally at [exclusions@windsoracademytrust.org.uk](mailto:exclusions@windsoracademytrust.org.uk)
- Permanent exclusions must be reported to the local authority immediately to ensure the local authority will be able to fulfil its duty to provide alternative educational provision from the sixth day of the exclusion

The headteacher will notify the CEO, Local Advisory Board and the local authority (LA), immediately (within 24 hours) of:

- A permanent exclusion, including when a fixed-period exclusion is to be made permanent
- Exclusions which would result in the student being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the student missing a public examination

For a permanent exclusion, if the student lives outside the LA in which the school is located, the headteacher will also immediately inform the student's 'home authority' of the exclusion and the reason(s) for it without delay.

In any decision to permanently exclude a student the Headteacher will need the confirmation of the decision by the CEO.

#### **Provision of education for excluded students**

On the sixth day of an exclusion, the school, under the direction of the headteacher (or local authority, in the event of a permanent exclusion) must arrange suitable full-time education for any student of compulsory school age. Provision does not have to be arranged for students in the final year of compulsory education who do not have any further public examinations to sit.

Where a student receives consecutive fixed-term exclusions, these are regarded as a cumulative period of exclusion for the purposes of this duty.

Schools are responsible for recording exclusions on the school's relevant Management Information System (MIS) in a timely manner and keeping careful track of fixed-term exclusions that total more than 15 days in a term.

## 5.2 The Local Advisory Board

### Requirements to consider an exclusion

An exclusions panel set up by the Local Advisory Board must review permanent exclusions and some fixed-term exclusions, depending upon a number of factors (these requirements are set out in: summary of the Local Advisory Board's duties to review the headteacher's exclusion decision, are illustrated in a diagram on P47 of [the Department for Education: Exclusion from maintained schools, academies and student referral units \(PRUs\) in England](#)). The Local Advisory Board has a duty to consider the reinstatement of an excluded student (see section 6).

### 5.3 The Local Authority

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

## 6. Considering the reinstatement of a student

The Local Advisory Board must consider the reinstatement of an excluded student within 15 school days of receiving the notice of the exclusion if:

- The exclusion is permanent
- It is a fixed-term exclusion which would bring the student's total number of school days of exclusion to more than 15 in a term
- It would result in a student missing a public examination

If requested to do so by parents, the Local Advisory Board will also consider parents representations of an excluded student within 50 school days of receiving notice of the exclusion if the student would be excluded from school for more than 5 school days, but less than 15, in a single term.

The Local Advisory Board can consider representations made by parents in other circumstances, but cannot direct reinstatement and is not required to arrange a meeting with parents.

Where an exclusion would result in a student missing a public examination, the Local Advisory Board will consider the reinstatement of the student before the date of the examination. If this is not practicable, the Local Advisory Board will consider the exclusion and decide whether or not to reinstate the student.

The Local Advisory Board will decide who sits on the exclusion panel which will typically consist of 3 members. The panel should be impartial. Anyone who sits on the panel should have no prior connection to the student and wherever possible only include Local Advisory Board members with no prior involvement in the exclusion.

Parent Local Advisory Board LAB members will typically not be used but can sit on the panel as long as they do not know the child or their parents.

Staff Local Advisory Board LAB members may also be used but will most likely know of the child and will therefore not be a preference in choosing the panel.

The Local Advisory Board can either:

- Decline to reinstate the student, or
- Direct the reinstatement of the student immediately, or on a particular date

In reaching a decision, the Local Advisory Board will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the student's educational record.

### **The Local Advisory Boards duty to notify people after consideration of reinstatement**

The Local Advisory Board will notify, in writing, the headteacher, parents, the CEO and the Local Authority of it's decision, along with reasons for it's decision, without delay (within 2 working days).

Where an exclusion is permanent the Local Advisory Board decision will also include the following:

- The fact that it is permanent
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and the following information:
  - The date by which an application for an independent review must be made (i.e. 15 school days from the date on which notice in writing of the governing board's decision is given to parents)
  - The name and address to whom an application for a review should be submitted
  - That any application should set out the grounds on which it is being made and that, where appropriate, reference to how the student's SEN are considered to be relevant to the exclusion
  - That, regardless of whether the excluded student has recognised SEN, parents have a right to require the academy trust to appoint a SEN expert to attend the review
  - Details of the role of the SEN expert and that there would be no cost to parents for this appointment
  - That parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review
- That if parents believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

## **7. An independent review**

If parents apply for an independent review within the legal time frame, Windsor Academy Trust will arrange for an independent panel to review the decision of the Local Advisory Board not to reinstate a permanently excluded student. The Trust centrally will maintain a register of possible panel members, as recommended in the statutory guidance.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the Local Advisory Board of it's decision to not reinstate a student.

Windsor Academy Trust must take reasonable steps to identify a date for the review that all parties, and any SEN expert appointed to give advice in person, are able to attend. However, the review must begin within 15 school days of the day on which the parent's application for a review was made (panels have the power to adjourn a hearing if required)

### **Appointing Panel Members**

A panel of 3 members will be constituted by Windsor Academy Trust, with representatives from each of the categories below. The panel is constituted, with 1 member to come from the school governor/LAB Member/academy trust director category, and 1 member to come from the headteacher category, plus a lay member:

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school Local Advisory Board member or volunteer
- Current or former school governors, Local Advisory Board members or academy trust directors of the academy trust who have served as a Local Advisory Board member governor/director for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time
- Headteachers or individuals who have been a headteacher within the last 5 years

**A person may not serve as a member of a review panel if they:**

- Are a member or director of the academy trust, or member of the Local Advisory Board of the excluding school
- Are the headteacher of the excluding school, or have held this position in the last 5 years
- Are an employee of the academy trust, or of the excluding school (unless they are employed as a headteacher at another school)
- Have, or at any time have had, any connection with the academy trust, school, Local Advisory Board, parents or student, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

**Appointing a clerk**

Windsor Academy Trust will appoint a clerk for the panel.

See P30 of DfE Exclusions guidance for details of the clerks functions

**The independent panel will decide one of the following:**

- uphold the the Local Advisory Board's decision
- recommend that the Local Advisory Board reconsiders reinstatement or
- quash the decision and direct that the Local Advisory Board reconsiders reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

Please refer to the DfE Statutory Guidance for further details of the conduct and duties of the independent panel.

**8. School registers**

A student's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the student and no application has been made for an independent review panel, or
- The parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made, the Local Advisory Board will wait until that review has concluded before removing a student's name from the register.

Where alternative provision has been made for an excluded student and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded students are not attending alternative provision, code E (absent) will be used.

**9. Returning from a fixed-term exclusion**

Following a fixed-term exclusion, a reintegration meeting will be held involving the student, parents, a member of the pastoral team and other staff, where appropriate.



Suitable measures may be implemented when a student returns from a fixed-term exclusion which could include any from the below list which is not exhaustive:

- Agreeing a behaviour contract
- Putting a student 'on report'
- Refocus room
- Managed move
- Alternative provision

## **10. Monitoring arrangements**

The member of the school's senior leadership team responsible for student services/pastoral care is required to monitor the number of exclusions every term and reports back to the headteacher. They may also liaise with the local authority to ensure suitable full-time education for excluded students.

This policy will be reviewed annually by the WAT Performance and Standards Committee, which will make recommendations for approval by the Trust Board of any amendments it proposes.

## **11. Links with other policies**

This exclusions policy is linked to our

- Behaviour policy
- SEN policy and information report

## **Annex 1 : Independent review panel training**

Windsor Academy Trust will ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of a review panel
- The duties of headteachers, Local Advisory Boards and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act

