



Windsor Academy Trust

Policy: Exclusions and Suspensions Policy

Policy: Exclusions and Suspensions Policy	
Responsible Committee:	Education, Performance and Standards Committee
Date approved by the Board of Directors:	13 July 2023
Implementation date:	July 2023
Next review date:	July 2024

Contents

	Page
1. Aims and Principles	3
2. Legislation and statutory guidance	3
3. Suspension and Permanent Exclusions	3
4. Preventing suspension and permanent exclusion	5
5. The Equality Act (2010) and Special Educational Need	5
6. The decision to exclude	5
7. Evaluating evidence	6
8. Communication	6
With parents	6
With social workers and/or VSH	7
With Windsor Academy Trust and the Local Authority	7
9. Withdrawing a suspension or permanent exclusion	8
10. Provision of education for excluded students	8
11. Duty of the trust to consider exclusions	8
12. Permanent Exclusion – Parental Disputes	10
13. School registers	13
14. Monitoring arrangements	13

1. Aims and Principles

- 1.1 WAT will ensure that all its schools are calm and orderly environments where pupils are, and feel, safe. Sometimes, suspensions and exclusions are needed to maintain a calm, orderly and safe environment.
- 1.2 All WAT schools will use suspensions and exclusions in line with the statutory guidance issued by the Department for Education (DfE) taking effect on 1 September 2022. Suspensions and exclusions are serious measures.
- 1.3 Throughout this policy, 'exclusion' means a permanent exclusion and 'suspension' means exclusion for a fixed period of time.

2. Legislation and statutory guidance

- 2.1 This policy is based on [statutory guidance](#) from the Department for Education: 'Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement'. The DfE's statutory guidance takes account of various other pieces of legislation and regulations.

3. Suspension and Permanent Exclusion

- 3.1 We will only use suspensions and permanent exclusions in response to a breach or breaches of the school's behaviour policy.

Suspension

- 3.2 A suspension is where a student is not allowed to attend school for a fixed period of time. There is a limit of 45 school days in an academic year for suspensions. The law does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion. In exceptional cases, usually where further evidence has come to light, a further suspension may be issued to begin immediately after the first period ends; or an exclusion may be issued to begin immediately after the end of the suspension. Where a student has received multiple suspensions or is approaching the legal limit of 45 school days of suspension in an academic year, the headteacher should consider whether exclusion is an effective measure to help pupils behave well.

Permanent Exclusion

- 3.3 A permanent exclusion is where a student is not allowed to return to school and is taken off the school roll.
- 3.4 We will only ever use a permanent exclusion when absolutely necessary, and:
 - in response to a serious breach or persistent breaches of the school's behaviour policy; and
 - where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others such as staff or pupils in the school.
- 3.5 The behaviour of a student outside school **can be** considered grounds for an exclusion.
- 3.6 No policy can cover every circumstance and each case will be judged on its merits. The following list provides *examples* of what may constitute a serious breach (in or out of school). The list is neither exhaustive nor definitive:

- repeated visits to internal exclusion (refocus) for persistent breaches of the academy's code of conduct;
- serious violence, actual or threatened, against a student or member of staff;
- bringing onto academy premises or being found in possession of anything that constitutes an offensive weapon or illegal substance;
- bullying/cyberbullying or other harmful online behaviour;
- bringing 'outsiders' onto academy property;
- sexually inappropriate behaviour, sexual abuse or assault ;
- threatening others – physical or verbal;
- cursing or inappropriate gestures – particularly towards an adult;
- deliberate involvement in or instigation of conflict;
- verbal aggressiveness towards a peer or adult;
- willful disobedience or serious disrespect to an adult;
- stealing;
- knowingly possessing stolen property;
- vandalism and destruction of property;
- consistently disrupting learning;
- misusing fire alarms or extinguishers;
- smoking (including shisha pens or e-cigarettes) or drinking alcohol, using or distributing drugs or other illegal substances;
- cheating in a test or exam;
- wearing, displaying or graffiting 'gang' affiliated items and phrases;
- any other one-off behaviour event considered by the headteacher to be serious.

4. Preventing suspension and permanent exclusions

4.1 WAT schools are committed to taking action to limit the number of suspensions and exclusions that take place. Therefore, all WAT Schools will:

- identify any patterns that suspensions and exclusions form and seek to take action on those patterns;
- have a reintegration strategy to ensure that a pupil gets a fresh start following a suspension or off-site direction.

5. The Equality Act (2010) and Special Educational Need

5.1 We have a statutory duty not to discriminate against pupils on the basis of protected characteristics. We will give particular consideration to pupils who are more vulnerable, based on national figures, to be excluded, and those groups who, in our schools, are vulnerable to exclusion.

5.2 For disabled children, we will make reasonable adjustments to policies and practices as appropriate. We will not create policies or use practices that discriminate against pupils with protected characteristics by unfairly increasing their risk of suspension or exclusion. We will comply with our statutory duties in relation to SEN when administering the suspension/exclusion process. This includes having regard to the SEND Code of Practice.

5.3 Where we have concerns about the behaviour, or risk of suspension/exclusion, of a child with additional needs, a pupil with an EHC plan or a looked after child, we will, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This will involve assessing the suitability of provision for a pupil's SEN. Where a pupil has an EHC plan, we will evaluate whether there is a need to request an early annual review or interim/emergency review.

6. The decision to exclude

6.1 Only the headteacher, or acting headteacher, can exclude a student from school.

6.2 We will only ever use exclusion when absolutely necessary, and:

- in response to a serious breach or persistent breaches of the school's behaviour policy; and
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others such as staff or pupils in the school.

6.3 When considering an exclusion or suspension, the headteacher will consider:

- all the relevant facts and evidence, including taking into account any contributing factors (for example bereavement, mental health, bullying),
- whether the incident(s) leading to the exclusion were provoked and whether this forms some mitigation,
- where possible, the student's version of events.

6.4 Before deciding whether to exclude a student, the headteacher will consider:

- an off-site direction
- a managed move
- alternative provision
- a student's special educational needs and/or disabilities, including whether any reasonable adjustments are needed or have been made.

6.5 This does not mean that all of the above courses of action will be taken before a permanent exclusion, but that each will have been considered.

7. Evaluating evidence

7.1 When establishing the facts in relation to a suspension or exclusion decision the headteacher must apply the civil standard of proof; i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt.' This means that the headteacher should accept that something happened if it is more likely that it happened than that it did not happen.

8. Communication:

With parents

8.1 Schools have a duty of care to take reasonable steps to ensure students' welfare. Therefore, the headteacher or her/his delegate will inform parent(s) of an exclusion before a student is sent off-site.

8.2 The headteacher will immediately provide the following information, in writing, to the parents of a suspended or permanently excluded student:

- the reason(s) for the suspension or permanent exclusion
- the length of a suspension/permanent exclusion, the fact that it is permanent
- information about parents' right to make representations about the suspension/permanent exclusion to the Local Advisory Bodies and how the student may be involved in this
- where there is a legal requirement for the Local Advisory Bodies 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

- students over 18 have to be informed and have the right to appeal on their own behalf
- that, while their child is suspended/permanently excluded, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason and that 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.

With social workers and/or VSH

- 8.3 If a pupil has a social worker, or if a pupil is looked-after, the headteacher must also, without delay after their decision, notify the social worker and/or VSH, as applicable.

With WAT central team and the Local Authority

- 8.4 WAT headteachers need the confirmation of the CEO in any decision to permanently exclude.

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

- any permanent exclusion (including where a suspension is followed by a decision to permanently exclude the pupil);
- any exclusion which would result in the pupil being excluded for a total of more than five school days (or more than ten lunchtimes) in a term, and;
- any exclusion which would result in the pupil missing a public examination or national curriculum test;
- 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.

9. Withdrawing a suspension or permanent exclusion

- 9.1 The headteacher may cancel any exclusion that has already begun, but this should only be done where it has not yet been reviewed by the governing board. Where an exclusion is cancelled, then:

- parents, the governing board, and the LA should be notified without delay and, if relevant, the social worker and VSH;
- parents should be offered the opportunity to meet with the headteacher to discuss the circumstances that led to the exclusion being cancelled;
- schools should report to the governing board once per term on the number of exclusions which have been cancelled. This should include the circumstances and reasons for the cancellation enabling governing boards to have appropriate oversight and;
- the pupil should be allowed back into school.

10. Provision of education for excluded students

- 10.1 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.

- 10.2 Where a student receives consecutive suspensions, these are regarded as a cumulative period of exclusion for the purposes of this duty.
- 10.3 Schools are responsible for recording exclusions on the school's relevant Management Information System (MIS) in a timely manner and keeping careful track of suspensions that total more than 15 days in a term.

11. Duty of the Local Academy Bodies to Consider Exclusions

- 11.1 An exclusions panel set up by the Local Advisory Bodies must review permanent exclusions and some suspensions, depending upon a number of factors. These requirements are set out in a diagram on page 38 of the relevant [guidance](#). The Local Advisory Bodies has a duty to consider the reinstatement of an excluded student.

Considering the reinstatement of a student

- 11.2 The Local Advisory Bodies must consider the reinstatement of an excluded student within 15 school days of receiving the notice of the exclusion if:
- the exclusion is permanent;
 - a suspension 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.
- 11.3 If requested to do so by parents, the Local Advisory Bodies 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.
- 11.4 The Local Advisory Bodies can consider representations made by parents in other circumstances, but cannot direct reinstatement and is not required to arrange a meeting with parents.
- 11.5 Where an exclusion would result in a student missing a public examination, the Local Advisory panel will consider the reinstatement of the student before the date of the examination. If this is not practicable, the Local Advisory Bodies will consider the exclusion and decide whether or not to reinstate the student.
- 11.6 The Local Advisory Bodies will decide who sits on the exclusion panel which will typically consist of 3 members from the Local Advisory Bodies or Local Academy Bodies of other schools in the Trust. 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 Bodies members with no prior involvement in the exclusion.
- 11.7 Parent and staff Local Advisory Bodies LAB members will typically not be used for these panels, though may be in some circumstances.
- 11.8 The Local Advisory Bodies can either:
- decline to reinstate the student, or;
 - Direct the reinstatement of the student immediately, or on a particular date.
- 11.9 In reaching a decision, the Local Advisory Bodies 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.

- 11.10 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.

After the consideration of reinstatement

- 11.11 The Local Advisory Bodies will notify, in writing, the headteacher, parents, the CEO and the Local Authority of its decision, along with reasons for its decision, without delay (within 2 working days).
- 11.12 Where an exclusion is permanent the Local Advisory Bodies decision will also include the following:
- the fact that the exclusion 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.

12. Permanent exclusion - Parental disputes

- 12.1 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 Bodies not to reinstate a permanently excluded student. The central team will maintain a register of possible panel members, as recommended in the statutory guidance.
- 12.2 Applications for an independent review must be made within 15 school days of notice being given to the parents by the Local Advisory Bodies of its decision to not reinstate a student.

- 12.3 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

- 12.4 A panel of 3 members will be constituted, with representatives from each of the categories below. The panel is constituted of one LAB or trust director member, one headteacher 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 Bodies member or volunteer,
 - current or former school governors, Local Advisory Bodies members or trust directors who have served for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time;
 - a headteachers or someone who has 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 Bodies 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 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 trust, school, Local Advisory Bodies, parents or student, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality.

Appointing a clerk

- 12.5 Windsor Academy Trust will appoint a clerk for the panel. See part 10 of the DfE Exclusions guidance for details of the clerk's functions.

The independent panel will decide on one of the following actions:

- to uphold the Local Advisory Bodies decision
 - to recommend that the Local Advisory Bodies reconsiders reinstatement or
 - to quash the decision to permanently exclude and direct that the Local Advisory Bodies reconsiders reinstatement (only when the decision is judged to be flawed).
- 12.6 The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.
- 12.7 Please refer to the DfE Statutory Guidance for further details of the conduct and duties of the independent panel.

Independent review panel training

- 12.8 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.

12.9 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 Bodies 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.

Attendance of Social Workers and Virtual School Heads to LAB/IRP Meetings

12.10 Social workers will be invited to attend the LAB/IRP meetings to share information. This should include helping to identify how the pupil's circumstances may have influenced the circumstances of the pupil's suspension or permanent exclusion and ensuring that safeguarding needs and risks and the child's welfare are taken into account.

12.11 The VSH should be invited to attend the LAB/IRP meeting to share information where the pupil is a looked-after child. This should include helping the governing board to understand the pupil's background and circumstances. They should also be able to advise the board on the possible contribution that the pupil's circumstances could have made to the suspension or permanent exclusion.

13. School registers

13.1 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.

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

13.3 Where alternative provision has been made for an excluded student and they attend it, register codes will be used in line with the relevant government guidance.

14. Monitoring arrangements

14.1 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.

14.2 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.