



Our vision is to provide an

Inspiring Educational Experience

for all students which is beyond their expectations and therefore forms
the foundation of a happy and fulfilled life

EXCLUSIONS POLICY

Aims

WMAT aims to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by Trustees, Governors, staff, parents and students
- Students in the WMAT schools are safe and happy
- Students do not become NEET (not in education, employment or training)

Legislation and statutory guidance

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

It is based on the following legislation, which outline schools' powers to exclude pupils:

- The Education Act 2002 as amended by the Education Act 2011.
- The Education and Inspections Act 2006.
- The Education (Provision of Full-time Education for Excluded Pupils) (England) Regulations 2007.
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulation 2012 as amended 2013.
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) (Amendment) Regulations 2014.

This policy complies with our funding agreement and articles of association. It should be read in conjunction with other student policies as appropriate.

The Trust Vision

WMAT is committed to the philosophy and practice of inclusion.

This will be achieved by:

- Designing a curriculum to promote a full range of learning, thinking and life skills
- Providing a broad, balanced and relevant curriculum
- Using flexible and responsive teaching and learning styles
- Equipping pupils with the skills, knowledge and attitudes necessary to succeed as responsible and valued members of society
- Developing a close partnership within and with the whole community, including all stakeholders

We aim to be an inclusive Trust and offer equality of opportunity and diversity when needed to all groups of pupils within our schools.

These groups include:

- Boys and girls
- Pupils from minority faiths, ethnicities, travellers, asylum seekers, refugees
- Pupils who have English as an additional language
- Pupils who have special educational needs
- Pupils who have a disability
- Pupils who are academically more able
- Pupils who are looked-after children
- Pupils who are at risk of disaffection or exclusion, young carers, sick children, children from families under permanent or temporary stress
- Pupils who are gender fluid
- Pupils who are LGBT

We aim to provide a differentiated curriculum that meets the needs of all pupils, individuals and groups by:

- Setting suitable learning challenges
- Responding to pupils' diverse learning needs
- Overcoming potential barriers to learning and assessment

We aim to provide happy, healthy and safe schools by:

- Recognising, reflecting and celebrating the skills, talents, contributions and diversity of all our pupils and staff members
- Providing high quality pastoral care, support and guidance, driven by the leadership team
- Safeguarding the health, safety and welfare of pupils and staff
- Listening and responding to the concerns of learners and parents
- Taking care to balance the needs of all members of the school community

We are mindful that the government does not regard exclusion to be justified for:

- A breach of uniform or appearance, except for persistent defiance
- Minor incidents, such as failure to complete homework or to bring in money owed
- Poor academic work
- Lateness or truancy
- Pregnancy
- Misdeeds by a child who has special educational needs, except for very serious offences

We will do everything possible to avoid the need for exclusion by:

- Carrying out early intervention strategies, especially in the case of a pupil with SEN to ascertain that the pupil is receiving appropriate provision and support
- We will consider the use of multi-agency assessment of pupils who demonstrate persistent disruptive behaviour
- We will check whether there are mental health or family problems
- We may request an early review of a pupil's education, health and care (EHC) plan – or we may ask for an interim/emergency review

If nevertheless it becomes necessary to exclude a pupil, the current DFE statutory guidelines and regulations will be stringently followed.

The Decision to Exclude

A decision to exclude a student will be taken only:

- For a major first offence, such as serious actual or threatened violence, sexual abuse or assault, supplying banned substances or carrying an offensive weapon. A decision on exclusion will not be postponed because a police investigation is underway. Our decision will be taken on the evidence available to the school at the time. The Headteacher/Principal will give particular consideration to the fairness of exclusion if s/he is aware that some evidence is being withheld by the police.

- In response to a serious breach or persistent breaches of the school's behaviour policy
- Where allowing the student to remain in school would seriously harm the education, safety or welfare of the student or other students and staff in the school
- When the behaviour of pupils outside school is such that it can be considered as grounds for exclusion

Only the Headteacher/Principal, CEO, or acting Headteacher/Principal, can exclude a student from a WMAT school on disciplinary grounds. A permanent exclusion will be taken as a last resort.

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

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- Allow the student to give their version of events
- Consider if the student has special educational needs (SEN)

In line with the principles of administrative law, any decision the Headteacher/Principal makes to exclude a pupil must be:

- Lawful
- Rational
- Reasonable
- Fair
- Proportionate

When establishing the facts in relation to a possible exclusion, the Headteacher/Principal will always apply the civil standard of proof, that is, on the balance of probabilities. They will take care to ensure that a decision to exclude does not involve any kind of discrimination as defined by the Equality Act 2010.

The excluding school:

- Will always have due regard to its public sector equality duty
- Will be mindful of the prevent duty
- Will not exclude any pupil for non-disciplinary reasons
- Does not use the practice of off-rolling as a measure to deal with behavioural problems

The Headteacher/Principal does however have the right to direct a pupil for education off-site to improve behaviour, or to arrange a 'managed move' for the same reason. This will only be considered when there has been full consultation and agreement with parents and the receiving institution. The threat of exclusion will never be used to influence parents to remove their child from the school.

Where practical, the Headteacher/Principal will give the pupil an opportunity to present his/her case before taking the decision to exclude.

When considering exclusion, the Headteacher/Principal will take into account:

- Possible short term mitigating circumstances, such as bereavement, mental health issues etc.
- Where it comes to light that the pupil has been subject to bullying
- Whether the pupil comes into a category that is known to be a particularly vulnerable group (for example, pupils with SEN, free school meals (FSM) pupils; looked-after children; certain groups or a group with disproportionately high levels of exclusion; traveller children) and whether all preventative strategies have been fully used
- Whether a pupil has already had a number of fixed-term exclusions which appear to have been ineffective

The Headteacher/Principal may withdraw an exclusion that has not been reviewed by the governing board.

Any student/pupil who commits a serious or persistent breach of the new COVID-19 protection rules may be sanctioned by the Headteacher/Principal using the full range of sanctions available, dependent on the seriousness of the breach, up to and including in extreme cases, permanent exclusion.

Definition

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.

Roles and responsibilities

The Headteacher/Principal

Informing the Parents

The Headteacher/Principal will immediately provide the following information, in writing via email, text or letter using the last known contact details, to the parents of an excluded student:

- The reason(s) for the exclusion
- The length of a fixed-term exclusion or for a permanent exclusion, the fact that it is permanent
- Information about parents' right to appeal and make representations about the exclusion to the Governing Body, how these representations may be made and how the student may be involved in this
- Where there is a legal requirement for the Governing Body to meet to consider the exclusion, that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend
- Arrangements to provide education for the pupil during the first five days of the exclusion

Consideration will be given to translating the letter if the parent's first language is not English.

The Headteacher/Principal will also notify parents without delay and at least by the end of the afternoon session on the day their child is excluded that for the first five (5) school days of an exclusion, or until the start date of any alternative provision where this is earlier, 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 following information will be included when notifying parents of an exclusion:

- The start date for any provision of full-time education that has been arranged
- The start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- The address at which the provision will take place
- Any information required by the pupil to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably attainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

If the fixed term exclusion is extended or converted to a permanent exclusion, the Headteacher/Principal will write again to the parents explaining the reasons for the change and providing any additional information required.

Informing the CEO, Local Governing Body and Local Authority

The Headteacher/Principal will immediately notify the Local Governing Body, WMAT CEO and Local Authority of:

- Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the pupil missing a public examination

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

For all other exclusions, the Headteacher/Principal will notify the CEO, Local Governing Body and Local Authority once per term. If a request is made, schools must also provide exclusion information to the RSC.

The Local Governing Body

Responsibilities regarding exclusions is delegated to the Governors Disciplinary Committee comprising of at least three (3) Governors. A Clerk to the Disciplinary Committee will be appointed.

The Governors Disciplinary Committee has a duty to consider the reinstatement of an excluded student. The Chair of the Committee will have the casting vote in all cases where an even number of governors are considering the case.

The Governors Disciplinary Committee has no power to increase the severity of the exclusion. It can only uphold the exclusion or direct the pupil's reinstatement, either immediately or on a particular date.

In the case of a fixed term exclusion that does not bring the pupil's total number of days of exclusion to more than five days in a term, the Governing Body cannot direct reinstatement and is not required to arrange a meeting with parents.

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. A LA representative will be invited to attend the Disciplinary Committee meeting.

Disciplinary Committee/Considering the reinstatement of a student

The Governors Disciplinary Committee will consider the reinstatement of an excluded student within fifteen (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 pupil'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 Governors Disciplinary Committee will consider the reinstatement 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.

Where an exclusion would result in a student missing a public examination, the Governors Disciplinary Committee will consider the reinstatement of the student before the date of the examination.

The Governors Disciplinary Committee can either:

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

Conduct of the meeting

The meeting will be conducted as follows:

- No party to the review will be alone with the committee before, during or after the meeting

- The Clerk makes all introductions and explains the reason for the meeting and the powers held by the committee either to uphold an exclusion or re-instate the pupil
- The school representative, usually the Headteacher/Principal will present the school's case
- S/he can be questioned by all the other parties
- The parents will give their reasons for appealing the decision to exclude
- A friend/advisor may present the parents' case
- The parents and the pupil, if present, will have the opportunity to have anything to add
- The other parties may question the parent and/or comment on what the family has said
- The LA representative will provide information on support for pupils in the LA and how similar incidents have been dealt with by other schools and can be questioned on these but may not comment on the specific case being discussed.
- The school summarises its case
- The parents or their representative summarise their case
- All the parties except the committee and the Clerk leave

In reaching a decision, the Governors Disciplinary Committee will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Headteacher/Principal 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 minutes will be made available to all parties on request. The outcome will also be recorded on the student's educational record.

The Governors Disciplinary Committee will notify, in writing, the Headteacher/Principal, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the Governors Disciplinary Committee's decision will also include the following:

- The fact that it is permanent and the reason for the decision
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
 - The date by which an application for an independent review must be made
 - 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 school to appoint an 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 must make clear if they wish for an SEN expert to be appointed in any application for a review
 - 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 the Equality Act 2010 routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place.
- Where the Governors Disciplinary Committee declines to reinstate the student, parents will also be advised of the relevant sources of free and impartial information that will allow them to make an informed decision on whether and, if so, how to seek a review of the decision. This will include:
 - A link to the DfE's statutory guidance on exclusions;

- A link to guidance on making a claim of discrimination to the First-tier Tribunal (Special Educational Needs and Disability) or the County Court
- A link to sources of impartial advice for parents such as the Coram Children's Legal Centre or ACE Education
- A link to local services such as the traveller education service or local parent partnership

If the committee decides to overturn the exclusion the decision as to whether there is to be an immediate reinstatement or a later date for this to occur will be conveyed to all parties. A note of the Governing Board's views on the exclusion will be placed on the pupil's school record with copies of relevant papers.

Independent Review

If parents apply for an independent review, in the case of a permanent exclusion, the school will arrange for an independent panel to review the decision of the Local Governing Body not to reinstate a permanently excluded student.

Applications for an independent review must be made within fifteen (15) school days of notice being given to the parents by the Governors Disciplinary Committee of its decision to not reinstate a student.

A panel of 3 members will be constituted as per DfE guidelines. The panel will consist of:

- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor/trustee or volunteer
- A current or former school governor/trustee who has served as a governor/trustee for at least 12 consecutive months in the last five years, provided that they have not been teachers or Head Teachers during that time
- A Headteacher/Principal or individual who has been a Headteacher within the last five years.

Panel members can not include be included in the review panel if they:

- Are a member/trustee of the academy trust or governing body of the excluding school
- Are the Headteacher/Principal of the excluding school
- Are an employee of the academy trust or the governing body of the excluded schools (unless they are employed as the Headteacher/Principal at another school)
- Have or at any time had had any connection with the academy trust, governing body, parent or students, or the incident leading to the exclusion
- Have not had the required training within the last two years

A Clerk will be appointed to the panel. This will not be the same clerk who was appointed for the review of the decision to exclude.

The independent panel will decide one of the following:

- Uphold the Local Governing Body decision
- Recommend that the Local Governing Body reconsiders reinstatement
- Quash the Local Governing Body decision and direct that they reconsider 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.

If requested by the parents in their application for an independent review panel, the trust must appoint a SEN expert to attend the panel and cover the associated cost of appointment.

The panel may decide to adjourn a hearing if there is an on-going Police investigation and/or criminal proceedings associated with the exclusion. The panel will reconvene at the earliest opportunity but may adjourn more than once if necessary.

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 Governing Body 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.

If the parents go on to make a discrimination claim which is upheld by either a first-tier tribunal or the county court, the pupil must be re-instated.

Returning from a fixed-term exclusion

Following a fixed-term exclusion, a re-integration meeting will be held involving the student, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

- A reintegration plan will be implemented on all occasions
- Inclusion

Monitoring Arrangements

The Monitoring Officer in each school monitors the number of exclusions every term and reports back to the Headteacher/Principal. They also liaise with the local authority to ensure suitable full-time education for excluded students. This information will be included in the Headteacher/Principal report to the CEO and Board of Trustees.

This policy will be reviewed by the Board of Trustees on an annual basis.

Links with other policies

This exclusions policy is linked to the:

- Behaviour policy
- School SEND policies and reports

APPENDIX 1

Independent Review Panel Training

WMAT must ensure that all members of an independent review panel 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/Principals, Local Governing 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

Appendix 2



