



**BRIGANTIA**  
LEARNING TRUST

Creating excellence together

# Wincobank Nursery & Infants Academy Exclusions policy



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## Contents

1. Aims .....	2
2. Legislation and statutory guidance .....	2
3. The decision to exclude .....	3
4. Definition .....	3
5. Roles and responsibilities .....	3
6. Considering the reinstatement of a student.....	4
7. An independent review .....	5
8. Academy registers .....	6
9. Returning from a fixed-term exclusion.....	6
10. Monitoring arrangements.....	7
11. Links with other policies.....	7

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### 1. Aims

Our academy aims to ensure that:

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

### 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 the following legislation, which outline schools' powers to exclude students:

- › Section 52 of the Education Act 2002, as amended by the Education Act 2011
- › The School Discipline (Student Exclusions and Reviews) (England) Regulations 2012
- › Sections 64-68 of the School Standards and Framework Act 1998

In addition, the policy is based on:

- › Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for excluded students
- › Section 579 of the [Education Act 1996](#), which defines 'school day'
- › The [Education \(Provision of Full-Time Education for Excluded Students\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Students\) \(England\) \(Amendment\) Regulations 2014](#)

This policy complies with our funding agreement and articles of association.

### 3. The decision to exclude

Only the Executive Principal, can exclude a student from the academy. A permanent exclusion will be taken as a last resort.

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

“...the practice of removing a student from the academy roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the academy roll, when the removal is primarily in the interests of the academy 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 academy’s behaviour policy, **and**
- › If allowing the student to remain in the academy would seriously harm the education or welfare of others

Before deciding whether to exclude a student, either permanently or for a fixed period, the Executive 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)

### 4. Definition

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

## 5. Roles and responsibilities

### 5.1 The Executive Principal

#### Informing parents

The Executive Principal will immediately provide the following information, in writing, to the parents/carers 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’/carers’ right to make representations about the exclusion to the Board of Trustees and how the student may be involved in this
- › Where there is a legal requirement for the Board of Trustees 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

The Executive Principal will also notify parents/carers by the end of the afternoon session on the day their child is excluded that for the first 5 academy days of an exclusion, or until the start date of any alternative provision where this is earlier, parents/carers are legally required to ensure that their child is not present in a public place during academy hours without a good reason. Parents/carers 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 student to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable 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.

### **Informing the Trust and local authority**

The Executive Principal will immediately notify the Trust and the local authority (LA) of:

- › A permanent exclusion, including when a fixed-period exclusion is made permanent
- › Exclusions which would result in the student being excluded for more than 5 academy 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 academy is located, the Executive 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 Trust will be supplied with copies of communications to parents/carers.

## **5.2 The Trust**

Responsibilities regarding exclusions is delegated to an Exclusion Panel made up of three people. This panel will be made up of 3 Trustees. Where this is not possible the Trust CEO and or any other member of the Trust Leadership Team or Academy Advisory Member not previously involved in the case can be asked to make up the panel of three members.

The Exclusion Panel has a duty to consider the reinstatement of an excluded student (see section 6).

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.

## **5.3 The LA**

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 Exclusion Panel will consider the reinstatement of an excluded student within 15 academy 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 academy 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/carers, the Exclusion Panel will consider the reinstatement of an excluded student within 50 academy days of receiving notice of the exclusion if the student would be excluded from academy for more than 5 academy days, but less than 15, in a single term.

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

The Exclusion Panel can either:

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

In reaching a decision, Exclusion Panel will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Executive 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 outcome will also be recorded on the student's educational record.

The Exclusion Panel will notify, in writing, the Executive Principal, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, Exclusion Panel decision will also include the following:

- The fact that it is permanent
- Notice of parents'/carers' 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 academy trust 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/carers must make clear if they wish for an SEN expert to be appointed in any application for a review
  - That parents/carers may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents/carers may also bring a friend to the review
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- That if parents/carers 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/carers apply for an independent review, the academy trust will arrange for an independent panel to review the decision of the Board of Trustees' Exclusion Panel not to reinstate a permanently excluded student.

Applications for an independent review must be made within 15 academy days of notice being given to the parents/carers by the Exclusion Panel of its decision to not reinstate a student.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governors category and 2 members will come from the headteacher category.

- 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 or volunteer
- School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or head teachers (or equivalent) during this time
- Head teachers (or equivalent) or individuals who have been a Headteacher (or equivalent) within the last 5 years

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

- Are a member/trustee of the academy trust, or Academy Advisor of the excluding school
- Are the Headteacher (or equivalent) of the excluding school, or have held this position in the last 5 years
- Are an employee of the academy trust, 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, academy, Academy Advisory Council; 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)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the Exclusion Panel's decision
- Recommend that the Exclusion Panel reconsiders reinstatement
- Quash the Exclusion Panel's 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.

## 8. Academy registers

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

- 15 academy days have passed since the parents/carers 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/carers 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 academy 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 re-integration meeting will be held involving the student, parents/carers, a member of senior staff and other staff, where appropriate.

The following measures may be implemented amongst others when a student returns from a fixed-term exclusion:

- Agreeing a behaviour contract
- Putting a student 'on report'
- Internal isolation

## **10. Monitoring arrangements**

The Trust Leadership Team monitors the number of exclusions every term and reports back to the Board of Trustees (Education & Standards Committee). They also liaise with the local authority to ensure suitable full-time education for excluded students.

This policy will be reviewed by the CEO every year. At every review, the policy will be shared with the Board of Trustees.

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

This exclusions policy is linked to our

- Behaviour policy
- SEN policy and information report

## Appendix 1: Independent review panel training

The academy trust must 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 head teachers, governing 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