

South Bank Multi Academy Trust

Exclusion Policy

Approved by Trustees: 10th July 2019

Review Timetable: 3 years

Renewal Date: March 2022

Person Responsible: Headteacher / Head of School & Pastoral

1. Statement

- 1.1 South Bank Multi Academy Trust does not off roll pupils, however challenging pupil behaviour is a significant concern for schools. Dealing with disruptive pupils puts pressure on staff and requires clear policies and procedures to deal with it.
- 1.2 Recent legislation has tried to empower schools to deal with challenging behaviour, whilst also recognizing the devastating effect that exclusion can have upon pupils and their families.
- 1.3 South Bank Multi Academy Trust (SBMAT) encourages good behaviour as the main focus of reducing challenging behaviour. Approaches used in SBMAT schools are outlined in Appendix 2.
- 1.4 In some cases, however, the best attempts of the school will not lead to change and sanctions will need to be imposed.
- 1.5 The Governors of each SBMAT school have stated that they consider that the use of the Headteacher's power to exclude from school can be essential for the purposes of establishing and maintaining good order and discipline. They believe that its use should be reasonable and proportionate. Within these limits, they support the Headteacher in using his/her discretion in the exercising of these powers.

2. Purpose

- 2.1 This policy and procedure document is intended to give a clear indication to staff, parents and students the kinds of circumstances within which the Headteacher will use their powers to exclude and the procedures that will be followed in exercising

them.

- 2.2 Governors will rely on this in reviewing the actions of the Headteacher in excluding students.

POLICY

3. Fixed Term Exclusions

- 3.1 While always having regard to the circumstances of a particular case the Headteacher will be likely to use fixed term exclusions in the following kinds of cases. This list is not meant to be exhaustive with regard to offences for which fixed term exclusion may be used, but gives an indication of the kinds of behaviour where it is believed to be an appropriate, proportionate sanction:
- Sustained challenge to the authority of a member of staff.
 - Bullying, harassment or abuse, including text or cyber bullying (examples here also incorporate those on the grounds of gender, race, ethnicity, religion or sexual orientation).
 - Threatening or violent behaviour to pupil or staff.
 - Persistent defiance or disruption / breaches of the school behaviour policy.
 - Using drugs or alcohol on the school site.
 - Conduct likely to bring the school into disrepute.
- 3.2 The above also include measures that might be implemented for behaviour that takes place off the school site e.g. on the way to and from school, as well as in school.
- 3.3 For most of the above the first response would be internal exclusion, however, the school reserves the right to use fixed term exclusions where appropriate.
- 3.4 The length of the exclusion will be proportionate to the gravity of the offence. A decision to exclude a pupil for a fixed amount of time should be taken where the behaviour is of a serious nature, including persistent disruptive behaviour, but is not serious enough to warrant permanent exclusion.
- 3.5 Fixed-term exclusions should be for the shortest time necessary. Ideally, they should be for no longer than one to five days, as this allows the school to make a point about how serious the behaviour is, without there being adverse educational consequences.

4. Long Fixed Term Exclusions

- 4.1 Long fixed term exclusions will generally be used to enable support to be obtained in assessing moving or reintegrating a student with severe problems where the alternative would be permanent exclusion.

5. Lunchtime Exclusion

- 5.1 Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period.
- 5.2 Lunchtime exclusions are counted as one half of a school day.
- 5.3 Taking into account the child's age and vulnerability, the Headteacher or teacher in charge should ensure that a parent/carer has been contacted and is available, if appropriate, to arrange collection and supervision of the pupil during the lunchtime exclusion.
- 5.4 It is not expected that lunchtime exclusions should run for longer than a week and if this is the case, alternative strategies for dealing with the behaviour should be found.
- 5.5 Pupils on free school meals may need to be provided with a packed lunch.

6. Permanent Exclusion

- 6.1 Permanent exclusion will be reserved for offences that will have a seriously damaging effect on the life of the school, the well-being of other students or of staff and/or seriously and persistently interfere with teaching and learning in the school.
- 6.2 This sanction should only be used as a last resort in line with the 2017 statutory guidance on exclusion from the DfE. A pupil should only be permanently excluded following a serious breach or persistent breaches of the school behaviour policy and if the education or welfare of pupils and others at the school would be harmed by the continued presence of the pupil in the school.
- 6.3 Excluding a pupil is a very serious matter and should usually only be taken when all other strategies have been tried. However, there are exceptional circumstances when it would be appropriate for a Headteacher to permanently exclude a pupil for a single offence. These might include:
 - Serious violence, threatened or actual, against another pupil or member of staff, which creates fear and anxiety among staff or students.
 - Persistent defiance of school authority or disruption of teaching and learning.
 - Sexual abuse or assault.
 - Persistent bullying, harassment or abuse (as above).
 - Supplying an illegal drug or dealing in drugs on the school site or where students are the responsibility of the school e.g. on a school trip, travelling to/from school.
 - Carrying an offensive weapon.

7. Modifying an Exclusion

- 7.1 The law does not allow for extending a fixed-period exclusion or 'converting' a fixed-

period exclusion into a permanent exclusion, however,

- in exceptional cases, usually where further evidence has come to light, a further fixed-period exclusion may be issued to begin immediately after the first period ends;
- or a permanent exclusion may be issued to begin immediately after the end of the fixed period.

7.2 It is essential that if new evidence has come to light the excluded student is given the opportunity to respond to it before the exclusion is extended or made permanent. The student has also been reported to the police and the result of that investigation provides additional evidence to the school.

PROCESS

8. Making the Decision

- 8.1 In most circumstances the Headteacher will need to give time and thought to the decision to exclude a pupil, unless there is an imminent threat to the safety of the pupil concerned or others. Before the decision to exclude is made, the Headteacher should:
- Feel certain that the pupil did commit the misdemeanour from available evidence.
 - Give the pupil an opportunity to have his or her say and explain actions.
 - Check whether the incident was provoked by bullying or by racial or sexual harassment and take into account any breach of the school's policy on equal opportunities.
 - Consult others if it seems necessary, taking care not to approach anyone who may subsequently be involved in the case, e.g. a member of the discipline committee.
 - Keep a written record of the action taken, the records of other staff and witnesses statements.
 - Be able to show that reasonable adjustments for managing behaviour which is related to a pupil's disability have been made.
- 8.2 Where the decision is taken to send the pupil home, the Headteacher should:
- Record the details of the exclusion.
 - Ensure that he or she is meeting his or her duty of care towards the pupil and that the parents have been informed.
 - Take into account child protection issues.
 - Ensure that the pupil's human right to education is not contravened.
- 8.3 Parents should be notified immediately where at all possible by phone call, this should then be followed with a confirmation letter. This notice should include:
- A description of the type of exclusion and how long it applies for.
 - The reasons for the exclusion.
 - The parents' right to make representations to the governing body.
 - The person the parent should contact if they wish to make representations.

- The school days on which the parent is required to ensure that their child is not present in a public place during school hours without justification.
- The arrangements made by the school to enable the pupil to continue his or her education during the first five school days of an exclusion, including the setting and marking of work.
- The school days on which the pupil will be provided with suitable alternative full time provision.
- Arrangements for the reintegration interview where the exclusion is for up to five days (for longer exclusions separate notification can be sent nearer the date of the proposed interview).
- The latest date by which the governing body must meet to consider the circumstances in which the pupil was excluded (except where the exclusion is for a total of not more than five school days in any one term and would not result in them missing a public examination).
- The parents' right to see and have a copy of his or her child's school record.
- The date when the pupil should return to school (fixed-term).
- The number of lunchtimes for which the pupil is excluded and arrangements for free school meals (lunchtime exclusions).
- The date the exclusion takes effect (permanent).
- The name and telephone number of an officer of the LA who can provide advice.
- The telephone number of the Advisory Centre for Education.

8.4 Within one school day the governing body must be informed of any permanent exclusions, exclusions which would result in the pupil being excluded for more than 5 school days in any one term or exclusions that would result in the pupil missing a public examination.

9. Investigation

- 9.1 The following must be observed when conducting an investigation:
- The investigation will not be undertaken by the person who will decide on exclusion unless circumstances dictate this.
 - Witness statements will be recorded, signed and dated.
 - Anonymity will not be promised unless this is the only way to obtain a statement. The statement will be signed and dated in the normal way but the name will be withheld. N.B. It is important that all parties recognise that less reliance can be placed on anonymous statements.
 - The person accused of any offence will be given the opportunity to give his/her version of events.
 - The school does not have the burden of criminal proof.

10. Decision

10.1 The decision to exclude will only be taken by the Headteacher or, in his absence, an Associate Headteacher or Deputy Headteacher. The power to exclude cannot be

delegated.

- 10.2 The decision will be taken on all the evidence available at the time.
- 10.3 The decision will be taken on the balance of probability. Where the offence alleged is a criminal act the standard of proof will be that it is 'distinctly more probable than not' that the student committed it.

11. Informing

- 11.1 The following will be communicated without delay by letter and telephone message as appropriate to:
- The persons having parental responsibility for the student.
 - The Clerk to the Governors.
- 11.2 If an exclusion will prevent a student from taking a public examination then the Chair of Governors will be informed immediately so that he can review the decision or convene a meeting of the Disciplinary Committee before the examination takes place.

12. Work for Excluded Students

- 12.1 Where exclusions are for more than one day, members of staff who teach excluded students will provide work for these students to do at home and (dependent on the school) make it available as instructed by the pastoral staff responsible for those students.

13. Full-Time Education

- 13.1 The Headteacher will make provision for the full-time education of students from the sixth day of exclusion.

14. In Exceptional Circumstances

- 14.1 There may be times when a Headteacher is justified in removing a pupil from a school site other than by exclusion. A pupil may be accused of a criminal offence that took place off site or when the school was not in session and there is insufficient evidence to warrant an exclusion. In such a case there may be compelling reason to remove the pupil from the school, pending a police investigation and the Headteacher may authorise leave of absence with the agreement of the parents.
- 14.2 Such a measure should be carefully documented so that it could not be construed as an illegal exclusion.
- 14.3 If the parents do not agree the pupil can be educated elsewhere using the power of

the governing body to require pupils to "attend at any place outside the school" to receive their education (Education Act 2002).

- 14.4 A further example of a reason why a pupil might be removed from the school other than by exclusion, is when he or she might pose an immediate and serious risk to other members of the school community because of a diagnosed disease. Clearly, it would be necessary to consult a health professional when considering such action.

15. Specific Issues

15.1 Pupils with Educational Health Care Plan and Looked After children

15.1.1 Every attempt should be made to avoid exclusions of pupils with additional needs. This includes pupils with EHC plans and looked after children. The Headteacher should, as far as possible, avoid permanently excluding any pupil with an EHC plan or a looked after child.

15.1.2 Where a school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with an EHC plan or a looked after child, it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEN. Where a pupil has an EHC plan, schools should consider requesting an early annual review or interim/emergency review.

15.2 Disabled pupils

15.2.1 Guidance from the Equalities Act, the Disability & Discrimination Code of Practice and the SEND Code of Practice makes it clear that "it is unlawful to exclude a disabled pupil for a reason related to [his or her] disability without justification".

15.2.2 Schools will make reasonable adjustments for managing behaviour that is related to a pupil's disability.

15.2.3 All sanctions will be proportionate against any misdemeanours and evidenced.

15.2.3 Where a disabled pupil is excluded, it can only be justified, says the guidance, "if there is a material and substantial reason for it and the Headteacher can show that there were no reasonable steps that could have been made to avoid the exclusion".

15.3 Governors' Discipline Committee

15.3.1 The Discipline Committee will be convened in accordance with current regulations by the Clerk to Governors. If it is not possible to obtain Governors from the individual school for a Discipline Committee, then Governors from within the MAT may be used.

15.3.2 It will be clerked and advised by the Clerk to Governors or a person with experience in clerking such meetings.

15.3.3 The Clerk will ensure that all members of the Committee are reminded of the legal framework for their hearing.

15.3.4 The conduct of the meeting will be in the hands of the Chair of the Committee, in accordance with the rule of natural justice and having regard to any guidance issued by the Secretary of State.

15.3.5 The decision will be taken by the Governors' meeting alone with their Clerk after all parties have had the opportunity to state their case and respond to the point put by other parties.

15.3.6 The process will be documented to evidence the decision rationale.

15.3.7 The Committee will expect to see

- notes, records, behaviour logs, emails, details of all communications with parents/carers to inform their deliberations
- evidence of proportionality and reasonable adjustments that have been made in the case of any disability or any potential/indicative disability including patterns of behaviour that could indicate a disability even though there may not have been a formal diagnosis
- a high level of justification and what other sanctions were put in place
-

15.3.8 The Committee will be very aware of any potential discrimination and will ensure this does not happen

15.4 Reintegration

15.4.1 Students returning to school after exclusion should be subject to a reintegration procedure organised by a senior member of the pastoral team. This will normally involve the parents.

15.4.2 A student who is returned to school by the Independent Appeals Panel but, who is regarded as presenting a threat to the good order and discipline of the school or to members of the school community, may be kept in isolation from the remainder of the school community until such times as it is thought appropriate to make a phased return into the school proper.

15.5 Parenting Contracts/Parenting Orders

15.5.1 In accordance with government guidance Governors will consider the use of a Parenting Contract or applying for a Parenting Order, where a student has had more than three fixed term exclusions in any one term.

16. Other relevant policies/documents

- Anti-Bullying Policy.
- Behaviour (Rewards & Sanctions) Policy.
- Disability Equality Scheme.
- Equality Policy.
- Inclusion Policy.

And

- SEN Policy.
- Equality Act 2010
- Equality Act 2010 (Disability) Regulations
- Equality and Human Rights Commission Technical Guidance
 - Para 5.34 on legitimate aim
 - Para 6.26 on reasonable adjustment
- DfE Guidance – the Equality Act and Schools 2014
- Children and Families Act 2014
- SEND Code of Practice

Appendix 1

PX check list for Governor Panels

To be read and used in conjunction with the BrowneJacobson training materials

Background documentation (for reference)

- Equality Act 2010
- Equality Act 2010 (Disability) Regulations
- Equality and Human Rights Commission Technical Guidance
 - Para 5.34 on legitimate aim
 - Para 6.26 on reasonable adjustment
- DfE Guidance – the Equality Act and Schools 2014
- Children and Families Act 2014
- SEND Code of Practice

To read

Evidence for Equality and Human Rights Commission Technical Guidance

- Para 5.34 on legitimate aim
- Para 6.26 on reasonable adjustment

Questions for the Panel to consider when reading preparatory papers, to ask in the PX panel meeting and to discuss in their deliberations

1. Does the student have Special Needs? See slide 5 for definitions
2. Has the school used it's best endeavours to secure special needs provision?
3. Has the school (slide 9)
 - Removed or minimised disadvantage
 - Taken steps to meet needs
 - Encouraged participation
4. Has the school recognised, or thought there might be, an impairment even though there is no medical diagnosis (Slide 10)?
5. Has there been
 - direct discrimination (slide 15)
 - indirect discrimination (slides 16), 17)
 - failure to meet reasonable adjustments (slides 18, 19, 20)
 - discrimination rising from disability (slide 21)
 - harassment (slide 22)
 - victimisation (slide 23)

6. Can the school show evidence that there was a legitimate aim and that the means to achieve it was proportionate (slides 24, 25).
 - What alternative measures were available? Were they used? Does the school have evidence?
 - Is the evidence robust enough to justify a PX? What other sanctions were used before getting to this stage? Were they proportionate?
7. If the student has a tendency to physical abuse, (slide 26)
 - do they have a recognised condition?
 - has the school recognised that they might have a recognised condition?
8. Are relevant policies drafted to give some flexibility as needed? (slide 27)
9. Has the student's needs been properly assessed? Does the school have evidence? (slide 27)
10. And was this used to inform reasonable adjustments? Does the school have evidence? (slide 27)
11. Has the school shared concerns, the Behaviour Log and relevant Policies with parents, kept them informed at all times around incidents, strategies and application of the Policy. Is there evidence of this?
12. Has the school kept records and logs of all incidents including (slide 27) and is this fully evidenced?
 - Witness statements
 - Communication/ interaction with parents – emails and other correspondence, phone calls, sharing of policies
 - Behaviour logs
13. Have the Panel seen all appropriate evidence as detailed above and robustly challenged the school as appropriate? Has the Panel been sufficiently curious?
14. Has the Panel considered whether further investigation is necessary?
15. Has the Panel considered whether the student has special needs or a disability or whether they could have such?
16. Has the Panel tested out their queries with the student, parents and school at the Panel meeting?

Appendix 2

Behavioural approaches used within South Bank Multi Academy Trust schools can include:

- Praise and Rewards
- Positive approaches to behaviour management in the classroom
- Pastoral Support from a key worker,
- Counselling,
- Report cards
- Pastoral Support Programmes
- My Support Plans
- Access to the Inclusion Support Classroom
- On Call and Student Remove
- Home-school agreements,
- Working with the City of York Behaviour and Attendance Partnership