



# James Bateman Middle School

## School

# James Bateman Middle School Exclusions Policy

**Approved by:** Mrs S Maguire

**Last reviewed on:** 23/03/2023

**Next review due by:** March 2024

## Contents

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

---

## Aims:

Our Trust aims to ensure that:

- the exclusions process is applied fairly and consistently
- the exclusions process is understood by governors, staff, parents and pupils
- pupils in school are safe and happy
- pupils do not become NEET (not in education, employment or training)

## 1. 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:

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil 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 pupils
- Section 579 of the [Education Act 1996](#), which defines 'school day'
- The [Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) \(Amendment\) Regulations 2014](#)
- [Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement Guidance for maintained schools, academies, and pupil referral units in England September 2022](#)

This policy complies with our funding agreement and Articles of Association.

## 2. The Decision to Exclude:

The Trust is committed to following all statutory suspensions and exclusions procedures to ensure that every child receives an education in a safe and caring environment. A decision to exclude a pupil will be taken only:

- in response to serious or persistent breaches of the school's behaviour policy, **and**
- if allowing the pupil to remain in school would seriously harm the education or welfare of others

Only the headteacher, or acting headteacher, can exclude a pupil from school. A permanent exclusion will be taken only as a last resort. In cases involving child-on-child abuse the decision will ultimately sit with the headteacher, but the DSL will take a leading role and lend their professional judgement, supported by other agencies as required.

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

- consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- allow the pupil to give their version of events with the support of advocates (such as a parent or social worker), if needed - unless their age or understanding mean it's not appropriate to do so
- consider if the pupil has special educational needs (SEN)
- inform the pupil of how their views were taken into consideration in reaching a decision

Our schools are aware that off-rolling is unlawful. Ofsted defines off-rolling as: *"...the practice of removing a pupil 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 pupil."*

### **3. 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.

### **4. Roles and Responsibilities:**

#### **4.1 The Trust Board**

The Trust Board is responsible for the Exclusions policy and will review it annually and revise as necessary. The Trust has delegated to its local governing bodies, responsibilities regarding school exclusions.

#### **4.2 The headteacher**

##### Informing parents

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

- the reason(s) for the suspension or exclusion
- the length of a fixed-term suspension or, for a permanent exclusion, the fact that it is permanent
- information about parents' right to make representations about the exclusion to the governing body and how the pupil may be involved in this
- where there is a legal requirement for the governing body to meet to consider the reinstatement of a pupil, 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 headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 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.

Schools will set and mark work for pupils in the first 5 days following a suspension and may

use online pathways - like Google Classroom or Oak National Academy - to meet this need. Schools will work with the LA to arrange alternative provision (AP) from the first day of suspension or exclusion for pupils who are LAC or have a social worker. Where this isn't possible, the school will take reasonable steps to set and mark work for the pupil including the use online pathways can be used.

For a fixed-period exclusion of more than 5 school days, the governing body will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion. 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 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 local authority

- All suspensions and exclusions, regardless of length
- All cancelled suspensions and exclusions
- For permanent exclusions: if the pupil lives outside of the school's LA, also inform the pupil's home LA

#### Informing the pupils social worker if they have one

The child's social worker, the DSL and the pupil's parents should be involved as early as possible in any behaviour issues that could give rise to a suspension or exclusion. The social worker should be informed of:

- All suspensions and exclusions
- Any cancelled suspensions and exclusions

The social worker will understand a pupil's background and be able to provide important information about the child's experiences and welfare. They should attend meetings to review suspensions or exclusions, as far as possible and **must** be invited to participate in any governing board meetings and independent review panels (IRPs).

#### Informing the virtual school head (VSH) if the child is a LAC

If the child is a previously LAC, the school should engage with their parents and the school's Designated Teacher (DT). If the child is a LAC, the DT should also bring the VSH into the conversation, to consider the factors affecting the child's behaviour and consider what further assessments and support need to be put in place to prevent a suspension or exclusion (the VSH, DT and others should work together here). The VSH should be informed of:

- All suspensions and exclusions
- Any cancelled suspensions and exclusions

The VSH will understand a pupil's background and be able to provide important information

about the child's experiences and welfare. They should attend meetings to review suspensions or exclusions, as far as possible and **must** be invited to participate in any governing board meetings and independent review panels (IRPs).

#### Informing the local governing body and CEO

The headteacher will immediately notify the governing body and CEO of:

- a permanent exclusion, including when a fixed-period exclusion is made permanent
- 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 or National Curriculum test

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

#### **In cases where a child is permanently excluded**

The DSL of the excluding school will transfer the pupil's child-protection file to the new school separately from the main pupil file, securely and with confirmation of receipt:

- Within 5 days for an in-year transfer, or
- Within the first 5 days of a new term

The DSL at the school receiving an excluded pupil needs to be aware of the file along with any other relevant staff members.

#### **4.3 The local governing body**

Responsibility regarding exclusions is delegated to the governing body.

The governing body has a duty to consider the reinstatement of an excluded pupil (see section 6).

Within 14 days of receipt of a request, the governing body will provide the secretary of state with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the governing body will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

Provision does not have to be arranged for pupils in the final year of compulsory education who do not have any further public examinations to sit.

#### **4.4 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.

### **5. Considering the Reinstatement of a Pupil:**

The governing body will consider the reinstatement of an excluded pupil 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 pupil's total number of school days of exclusion to more than 15 in a term

- it would result in a pupil missing a public examination

If requested to do so by parents, the governing body will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil 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 pupil missing a public examination, the governing body will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the governing body will consider the exclusion and decide whether or not to reinstate the pupil.

The governing body can either:

- decline to reinstate the pupil, or
- direct the reinstatement of the pupil immediately, or on a particular date

In reaching a decision, the governing body will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties. It 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 pupil's educational record.

The governing body will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the governing body's 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 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 pupil's SEND are considered to be relevant to the exclusion
  - ✓ that, regardless of whether the excluded pupil has recognised SEND, parents have a right to require the academy trust to appoint a SEND expert to attend the review
  - ✓ details of the role of the SEND expert and that there would be no cost to parents for this appointment
  - ✓ that parents must make clear if they wish for a SEND 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 these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

## 6. An Independent Review:

If parents apply for an independent review, the Trust will arrange for an independent panel to review the decision of the governing body not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the governing body of its decision to not reinstate a pupil.

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 governor's 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 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/trustee of the Trust, or a governor 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 the governing body, 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, governing body, parents or pupil, 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 review panel will decide one of the following:

- uphold the governing body's decision
- recommend that the governing body reconsiders reinstatement
- quash the governing body's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

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

## 7. School Registers:

A pupil'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 pupil 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 governing body will



wait until that review has concluded before removing a pupil's name from the register.

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

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

## **8. Returning from a Fixed-Term Exclusion:**

- Following a fixed-term exclusion, a re-integration meeting will be held involving the pupil, parents and a member of senior staff / head of house / other staff member, as deemed appropriate by the school. The reintegration strategy will offer the pupil a fresh start and support them to re-engage with their learning and will be communicated clearly at the reintegration meeting, preferably with the parents present. Where necessary, the school will work with multi-agency partners to identify any SEND and/or health needs. The school will consider a range of measures - academic, pastoral, internal and external - to support the pupil's successful reintegration based on need

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

- agreeing a behaviour contract
- putting a pupil 'on report'
- where a part-time timetable for behaviour management; is deemed appropriate, it will be for the shortest time possible and reviewed regularly
- implementation of a Pastoral Support Plan for pupils that have reached the threshold for Behaviour points or are at risk of permanent exclusion
- where appropriate, referrals made to counselling or other outside agencies to support pupils with improving and managing their behaviour

## **9. Monitoring Arrangements:**

The headteacher monitors the number of exclusions every term and reports back to the governing body. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by Trust Board every 2 years. At every review, the policy will be shared with the governing board.

This change for governing boards involves a clarified duty to monitor pupil movement.

Governing boards receive termly attendance data, including suspensions and exclusions and movements off-site. In addition, they should consider:

- Analysis of data for patterns, e.g. where a large number of pupils with specific characteristics are affected by pupil moves, and when this has happened
- The cost implications of educating pupils off-site
- Whether the data reflects that the school's behaviour policy is being implemented effectively and consistently
- The impact of interventions in place to support pupils at risk, to prevent suspensions and exclusions
- Variations in the rolling average of permanent exclusions to understand why it's happening and what can be done to prevent it

- The review of pupils that are moved off-site

The CEO will report on exclusion rates across the Trust.

## 10. Links with other policies

This exclusions policy is linked to each school's:

- Behaviour policy
- SEN policy and Information Report
- Safeguarding policy

<b>Policy Adoption and Revision Details</b>				
<b>Policy Adoption:</b>	<b>March 2022</b>	<b>Effective date:</b>	<b>24/03/2022</b>	<b>Version 1</b>
<b>Review</b>	<b>March 2023</b>	<b>Review Date:</b>	<b>24/03/2023</b>	<b>Version 2</b>
<b>Review</b>	<b>March 2024</b>	<b>Review Date:</b>		

### 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 headteachers, 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