

October 2010

Dear Colleague

## **CONSULTATION ON DRAFT GUIDANCE – INCLUDED, ENGAGED AND INVOLVED PART 2: A POSITIVE APPROACH TO MANAGING SCHOOL EXCLUSIONS**

I invite you to consider and comment on the draft guidance on exclusion, 'Included, Engaged and Involved Part 2: a positive approach to managing school exclusions'. It will replace 'Circular 8/03 Exclusion from School' when finalised.

The purpose of the guidance is to develop and clarify national policy on exclusion from schools in the context of national and local government responsibilities and aims for children and young people. The overarching aim is to support whole school communities, learning establishments and their partners to keep all children fully included, engaged and involved in their education, wherever it takes place.

The guidance will provide an opportunity for learning establishments and local authorities to reassess their local policy and procedures in line with national policy and emerging best practice. In addition, an annex is included which clearly summarises the legislative position around exclusion from school in Scotland.

**The consultation period ends on 29 December 2010.** You can access the consultation document, questionnaire and respondent information forms on the Scottish Government website at: <http://www.scotland.gov.uk/Consultations/Current> and we would be very grateful for your views and feedback.

Responses should be sent by post to Exclusions Guidance Consultation, Support for Learning Division, Victoria Quay, Edinburgh, EH6 6QQ or by email to [exclusionsguidance@scotland.gsi.gov.uk](mailto:exclusionsguidance@scotland.gsi.gov.uk).

Yours faithfully

Russell Cockburn

# Included, Engaged and Involved Part 2: a positive approach to managing school exclusions



## RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

### 1. Name/Organisation

Organisation Name

Title Mr  Ms  Mrs  Miss  Dr  *Please tick as appropriate*

Surname

Forename

### 2. Postal Address

<input type="text"/>		
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Postcode	Phone	Email

### 3. Permissions - I am responding as...

<input type="checkbox"/> Individual	/	<input type="checkbox"/> Group/Organisation
<i>Please tick as appropriate</i>		

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please tick as appropriate*  Yes  No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please tick ONE of the following boxes*

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

*Please tick as appropriate*  Yes  No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

*Please tick as appropriate*  Yes  No

## CONSULTATION QUESTIONS

**Question 1: Introduction. Do you have any comments on this section of the document?**

Comments

**Question 2: Purpose and guidance of structure. Do you have any comments on this section of the document?**

Comments

**Question 3: Policy Context. Do you have any comments on this section of the document?**

Comments

**Question 4: Key Principles. Do you have any comments on this section of the document?**

Comments

**Question 5: Prevention, Early Intervention and Staged Intervention. Do you have any comments on this section of the document?**

Comments

**Question 6: Consideration of Individual Circumstances. Do you have any comments on this section of the document, including Looked After children and young people, those on the child protection register or for whom there are previous or current concern and those with additional support needs?**

Comments

**Question 7: Paragraph 88 indicates an increase in the number of exclusions of learners within special schools. Should there be more specific guidance on exclusion from special schools?**

Comments

**Question 8: Decision Making, Managing Exclusions and Re-engagement. Do you have any comments on this section of the document?**

Comments

**Question 9: Paragraphs 137-141: should we provide more guidance or exemplification around written notification to parents/carers?**

Comments

**Question 10: Paragraphs 149-152: should we provide more guidance or exemplification on timescales to provide written confirmation of reason for exclusion and right to appeal within or after 8 days?**

Comments

**Question 11: Paragraph 166-174: should we provide more guidance or exemplification on timescales and types of provision of alternative education provision while excluded?**

Comments

**Question 12: Annex B – Legislative position on exclusion. Do you have any comments on this section of the document?**

Comments

**Question 13: Annex D – Approaches to improving relationships and promoting positive behaviour. Do you have any comments on this section of the document?**

Comments

**Case studies and exemplification. Do you have any comments on the case studies and exemplification in the document and do you have any suggestions for additional good practice examples?**

Comments

**Document overall: Do you have any general comments about the document as a whole?**

Comments

We invite responses to the consultation by **29 December 2010**.

Please reply by email to: [exclusionsguidance@scotland.gsi.gov.uk](mailto:exclusionsguidance@scotland.gsi.gov.uk)

Or post your response to:

Exclusions Guidance Consultation  
Support for Learning Division  
Victoria Quay  
Edinburgh  
EH6 6QQ

**Please send your completed respondent information form with your reply (see 'Handling your response' below)**

If you have any queries about how to reply, please contact a member of the team on 0131 244 0960 or email us at [exclusionsguidance@scotland.gsi.gov.uk](mailto:exclusionsguidance@scotland.gsi.gov.uk)

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

The Scottish Government now has an email alert system for consultations (**SEconsult**: <http://www.scotland.gov.uk/consultations/seconsult.aspx>). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). SEconsult complements, but in no way replaces Scottish Government distribution lists, and is designed to allow stakeholders to keep up to date with all Scottish Government consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

### **Handling Your Response**

We need to know how you wish us to handle your response and, in particular, whether you are happy for us to make your response public. Please complete and return the respondent information form which comes with this questionnaire. This will help us to treat your response appropriately. If you ask for your response not to be published, we will regard it as confidential, and we will treat it as such.

The Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002. This means we have to consider any request made to us under the Act for information relating to responses made to this consultation exercise.

### **Next steps in the process**

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library (see the attached Respondent Information Form), these will be made available to the public in the Scottish Government Library by January 2011. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552.

Responses can be copied and sent to you, but a charge may be made for this service.

### **What happens next ?**

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us publish a finalised version of 'Included, Engaged and Involved Part 2: a positive approach to managing school exclusions'. We aim to conclude the final guide early in 2011.

### **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please contact a member of the team on 0131 244 0960 or e-mail us at [exclusionsguidance@scotland.gsi.gov.uk](mailto:exclusionsguidance@scotland.gsi.gov.uk).

# included, engaged and involved

part 2: a positive approach to managing school exclusions

a consultation document

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RESPECTED & RESPONSIBLE

# included, engaged and involved

part 2: a positive approach to managing school exclusions

a consultation document

Support for Learning Division  
Learning Directorate  
The Scottish Government  
Area 2C South  
Victoria Quay  
Edinburgh EH6 6QQ



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# contents

<b>Ministerial Foreword</b>	<b>v</b>
<b>1. Introduction</b>	<b>1</b>
Background	1
Picture of exclusion in Scotland's Schools	2
<b>2. Purpose and Structure</b>	<b>4</b>
Terminology	6
Status of document	6
<b>3. Policy Context</b>	<b>7</b>
National outcome 5	7
National outcome 4	8
National outcome 8	8
<b>4. Key Principles</b>	<b>11</b>
<b>5. Prevention, Early Intervention and Staged Intervention</b>	<b>13</b>
Early intervention and staged intervention	13
Universal	16
Stage 1: Supporting individual needs within school	19
Support provision within school	20
Stage 2: Support needs met beyond the school within local school clusters and wider local authority	25
Local learning partnership and community cluster approaches	26
Maintenance of links with extended support provision	28
Planned part-time (split placement) package	31
Consideration of use of colleges (in schools and college based)	32
Stage 3: Provision beyond the local authority	35
<b>6. Consideration of Individual Circumstances</b>	<b>36</b>
Introduction	36
Looked After Children and Young People	38
Who are Looked After children and young people?	38
Designated managers in educational and residential establishments	40
Impact of exclusion	41



Planning and decision making around exclusion for Looked After children and young people	42
Children and young people on the child protection register or for whom there are current or previous child protection concerns	43
Children and young people with additional support needs	45
Children and young people with disabilities	47
Exclusion and referral to the Children’s Hearing System	49
<b>7. Decision Making, Managing Exclusions and Re-engagement</b>	<b>50</b>
Introduction	50
Decision making	50
Sending home without excluding	53
Consideration of individual circumstances	53
Managing exclusions	54
Communication with parents/carers	54
Communication with learners	54
Communication about the decision to exclude – legal capacity	55
Communication about the decision to exclude – Looked After children and young people	55
Procedures immediately following the decision to exclude	56
Communication about the reason for exclusion and right of appeal	56
The right of appeal against a decision to exclude	57
Communication with colleges and other part time provision beyond the school	58
Duration and timing of exclusion	58
Where exclusion affects exams	59
Recording the decision to exclude	59
Consideration of alternative educational provision during exclusion and timescales	59
Re-engagement	62
Removal from register	63
Admission to a new school following removal from the register	63
Consideration of use of part-time hours	64
Communication and engagement with families and/or carers	64
Mediation	65
Communication with staff on exclusion policies and individual cases	67
Local authority support for implementation and monitoring	68
<b>Annex A: Exclusion from schools – Scottish Government National Statistics</b>	<b>71</b>
<b>Annex B: Current legislation, regulations and procedures</b>	<b>76</b>
<b>Annex C: Included, Engaged and Involved Steering Group</b>	<b>89</b>
<b>Annex D: Approaches to improving relationships and promoting positive behaviour</b>	<b>90</b>

# Ministerial Foreword

In 2007, we published *Included, Engaged and Involved part 1* focusing on improving attendance at schools so that all children and young people could benefit from their education. I am pleased to reflect on all the improvements since then – not least the progress on *Curriculum for Excellence* which will transform how children and young people as learners participate and benefit from their education. And because it takes more than schools to keep all our young people included, engaged and involved in their education, I am also pleased to reflect on the progress to implement *Getting it Right for Every Child* which represents a positive shift in culture, systems and practice to make sure we all work together in a consistent and integrated way to support children and young people on their journey through life. We want all our children and young people to be healthy, achieving, nurtured, active, respected, responsible, included and above all safe. These are the basic requirements for our children and young people to grow, develop and become successful learners, confident individuals, effective contributors and responsible citizens.

We have seen a huge drop in exclusions over the last few years and we have seen an improvement in the perception of behaviour in schools. I think this represents the concerted efforts by local authorities, learning establishments, and their partners to improve outcomes for children and young people, including those who are most at risk of disengaging from education.

I hope this consultation will capture your views on what is working to create peaceful, positive and inclusive learning environments for all learners, and what is working to improve outcomes for those children and young people at risk of exclusion, as well as what more we should be doing so that we can develop guidance which inspires and supports everyone to getting it right for every learner.



**Keith Brown MSP**

Minister for Skills and Lifelong Learning





# 1. Introduction

1 The purpose of this guidance is to develop and clarify national policy on exclusion from schools in the context of national and local government responsibilities and aims for children and young people. The overarching aim is to support whole school communities, learning establishments and their partners to keep **all** children and young people fully included, engaged and involved in their education, wherever this takes place ; and, to improve outcomes for those children and young people at risk of exclusion. This is based upon a shared approach of agencies working together, and responding to the needs of children and young people early and effectively, in line with the principles of *Getting it Right for Every Child (GIRFEC)*.

2 The journey through *Curriculum for Excellence* is as vital as the outcomes, but the outcomes include young people fully prepared for the rest of their lives. Our policies and work in partnership during this stage of children and young people's lives reflect and determine our whole society now and in the future. This document is part 2 of guidance focusing on including, engaging and involving children and young people in their education. *Included, Engaged and Involved: part 1 attendance and absence in Scottish schools*,<sup>1</sup> 2007 deals with the promotion of attendance and management of absence in schools.

## Background

3 In Scotland, the power exists to exclude children and young people from school where it is considered that in all the circumstances to allow the child or young person to continue attendance at school would be seriously detrimental to order and discipline in the school or the educational well being of the learners there. Exclusion is therefore rooted in the behaviour policies of schools and local authorities, where it has traditionally been seen as both the ultimate sanction and a deterrent to serious indiscipline, in the context of the well being of the whole school community.

4 The power to exclude rests with local authorities under regulation 4 of the Schools General (Scotland) Regulations 1975 as amended and as such, it is the responsibility of local authorities to devise and implement policies and procedures on exclusion. Their role is strategic, enabling, and supportive. In addition, section 14(3) of the Education (Scotland) Act 1980 places a duty on education authorities to make alternative education provision.

<sup>1</sup> Included, Engaged and Involved: part 1 attendance and absence in Scottish schools, 2007, Scottish Government



5 It is open to an education authority to devolve power to exclude to senior management within a school and in general, local authorities devolve decision making on exclusions to school headteachers and senior management. 99% of exclusions in Scotland are temporary; 1% of learners are permanently removed from the register of a school. The local authority remains responsible for the education of **all** children and young people, including those who have been removed from the register of one school.

6 Exclusion is usually a short-term measure with the vast majority of exclusions (90%) for less than one week and the average length of exclusion 3 days.<sup>2</sup>

7 The legislative framework for longer-term approaches to additional support needs including behaviour are set out in the Standards in Scotland's Schools etc Act 2000 and the Additional Support for Learning Acts 2004 and 2009. While there is a presumption for mainstreaming, the legislation allows, in exceptional circumstances, for children to be educated where their needs are best met, e.g. specialist units within schools or off-site provision or specialist schools. Standards in Scotland's Schools etc Act 2000 section 15 states that children will be educated in mainstream schools unless, in exceptional circumstances, placement would:

- › Not be suited to the ability or aptitude of the child;
- › Be incompatible with the provision of efficient education for the children with whom the child would be educated; or
- › Would result in unreasonable public expenditure being incurred which would not ordinarily be incurred.

### Picture of exclusion in Scotland's Schools

8 The *Behaviour in Scottish Schools Research*<sup>3</sup> 2009 indicated that 3% of primary headteachers surveyed frequently used, and 16% sometimes used, exclusion; while 29% of secondary headteachers surveyed frequently used, and 48% sometimes used, exclusion. Following a 24% drop in the number of exclusions during 2007/08 and 2008/09, exclusions figures published in January 2010 were at their lowest since national statistics were first collated in 1998/99. Less than 1% of all exclusions are removal from register. Removals from register have also dropped significantly by 65% and in 2008/09 dropped to under 100 exclusions.

<sup>2</sup> Exclusions from Schools, 2008/09, Scottish Government National Statistics Publication

<sup>3</sup> Behaviour in Scottish Schools Research November 2009, Scottish Government Social Research, University of Edinburgh

9 Numbers of those more likely to be excluded also dropped but the gaps between those with risk factors remained. Annual national statistics on exclusions from schools indicate that boys; children and young people who are Looked After; have additional support needs; and/or are from areas of deprivation are more likely to be excluded. Exclusions peak at S3. Further details on the national picture of exclusion across Scotland is attached at Annex A.

10 Reasons for exclusions range from general or persistent disobedience to verbal abuse, physical abuse and substance abuse. Nationally, 29 reasons are currently recorded as reasons for exclusion, with a further 12 reasons split between incidents against staff or incidents against learners.<sup>4</sup>

11 The *Edinburgh Study of Youth Transitions and Crime*,<sup>5</sup> a longitudinal tracking study, found that one of the most important predictors of criminal record status was school exclusion by the 3rd year of secondary education. Those in this category were almost two-and-a-half times more likely than those not excluded in this period to have a criminal record by age 19. The reasons for, and impact of exclusion go far beyond engagement with education.

12 The drop in exclusions represents significant, concerted efforts by schools and local authorities to implement a range of approaches and solutions to positively engage young people in their education and improve relationships and behaviour. It is essential that this guidance and all key stakeholders consider what can be learned and applied from these reductions in exclusions to improve the inclusion of those most at risk of exclusion. This includes the breadth, flexibility and personalisation afforded by *Curriculum for Excellence*,<sup>6</sup> as well as an entitlement to support.

13 This guidance provides an opportunity to reassess and realign the use of exclusion in schools with current policy and best practice. This includes a focus on prevention, early intervention and response to individual need, incorporating staged interventions.

4 Exclusions from Schools, 2008/09, Scottish Government National Statistics Publication

5 Criminal Justice Transitions (no 14) – Edinburgh Study of Youth Transitions and Crime

6 <http://www.ltscotland.org.uk/understandingthecurriculum/>





## 2. Purpose and Structure of Guidance

14 This guidance does two things:

- › develops policy on exclusions in the context of current joint aims and priorities for children and young people including the national outcomes, *Curriculum for Excellence* and *Getting it Right for Every Child (GIRFEC)*
- › summarises current legislation and regulations on exclusions and other relevant legislation and regulations including The Education (Additional Support for Learning) (Scotland) Act 2004 and The Education (Additional Support for Learning) (Scotland) Act 2009.

15 This guidance is therefore structured as follows:

- › policy context
- › key principles
- › policy and best practice on:
  - › prevention, early intervention and staged interventions
  - › consideration of individual circumstances
  - › decision making, managing exclusions and re-engagement
- › annual national statistics on exclusions from schools – key findings (Annex A)
- › current legislation, regulations and procedures (Annex B)
- › Included Engaged and Involved Steering Group (Annex C)
- › approaches to improving relationships and promoting positive behaviour (Annex D)

**16** This guidance is aimed at all staff, practitioners, stakeholders and agencies involved in keeping children and young people included, engaged and involved in their education including all the community planning partners beyond schools. The scope covers the compulsory years of education from 5 to 16 years and young people up to 18, although policy from very early years; and transitions into destinations of further education, training and employment are integral.

**17** Although the law in Scotland on exclusion in schools does apply to early years establishments, the use of exclusion in early years is not expected. Staff in early years establishments may however find this guidance useful as a guide to good practice in promoting positive behaviour and prevention of serious situations developing which may act as a barrier to the full engagement of very young children and early years education.

**18** *Curriculum for Excellence* is delivered in a range of learning establishments and by a range of partners beyond the school. This includes colleges, special schools and third sector placements and provision. Scotland's 43 colleges of further and higher education provide flexible learning to people at all stages of their learning lives, including 35% of 16 year old students and 38% of 17 year old students.<sup>7</sup> In addition, school college activities include part-time vocational programmes in S3 and S4, taster or short term courses in S1 and S2, and for a significant number of disaffected young people in school-college programmes. While colleges have their own exclusion policies and procedures, this guidance is also relevant to colleges in terms of their promotion of positive relationships and behaviour; their approach to exclusion; and their school partnership work with learners at risk of disengagement and exclusion.

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<sup>7</sup> National Issues Local Solutions Key Facts 2009, Scotland's Colleges



## Terminology

**19** The terms schools and learning establishments can include colleges and placements provided by partners. Similarly, the terms teacher or staff could also include college lecturers or practitioners, community development learning staff, or other third sector providers. References to *Curriculum for Excellence* can be taken to apply wherever learning takes place.

**20** The term exclusion refers to an exclusion for a fixed period. The term ‘removal from the register’ refers to an exclusion which is permanent.

**21** The term learner has been used throughout this document and is intended to apply to all children and young people in education. The legal annex continues to refer to pupils, pupils with legal capacity and young persons.

**22** The term parent<sup>8</sup> or parent/carers includes those with parental responsibility, including those providing a foster or residential placement, or the local authority where full parental responsibility rests with them.

## Status of document

**23** This document is published for consultation. Once finalised, it will replace *circular 8/03 Exclusion from School*.

**24** This guidance has been developed under the auspices of the *Included, Engaged and Involved Steering Group* (Annex C). It is issued by the Scottish Government. It makes references to law and legislation but is not an authoritative statement of the law. Interpretation of the law is a matter for legal advisers and ultimately the courts. Those involved in exclusion may wish to take legal advice regarding any particular set of circumstances.

<sup>8</sup> “Parent” is defined in section 135(1) of the Education (Scotland) Act 1980 as including “guardian and any person who is liable to maintain or has parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to, or has care of, a child or young person.”

## 3. Policy Context

25 The Scottish Government has a single purpose – to create a more successful country where all of Scotland can flourish through increasing sustainable economic growth. The Scottish Government and local government have agreed a set of 15 national outcomes which include that:

- › our children have the best start in life and are ready to succeed
- › our children and young people are successful learners, confident individuals, effective contributors and responsible citizens
- › we have improved the life chances for children, young people and families at risk.

26 In support of these national outcomes the Scottish Government and local government are committed to delivering the *Early Years Framework*<sup>9</sup> along with *Equally Well*<sup>10</sup> and *Achieving Our Potential*;<sup>11</sup> *Curriculum for Excellence*; and more choices and more chances for those at risk of missing out on employment or further learning on leaving school; underpinned by *GIRFEC* in order that services are integrated around the needs of children and young people. Exclusion can be an indicator of need or risk within a child or young person's life which impacts upon their wellbeing; the 8 indicators of which are that they are safe, included, responsible, respected, active, nurtured, achieving, and healthy.

### **National outcome 5: Our children have the best start in life and are ready to succeed.**

27 The *Early Years Framework* seeks to maximise positive opportunities for children to get the start in life that will provide a strong platform for the future success of Scotland by investing in a positive early start for all children; and to address the needs of those children whose lives, opportunities and ambitions are constrained by poverty, poor health, poor attainment and unemployment.

28 Parents, carers and families are by far the most important influences on children's lives. Learning starts, and is supported throughout the school years, by parents and carers in the home environment. Schools do their best work for children when they develop positive partnerships with parents. The Scottish Schools (Parental Involvement) Act 2006 requires local authorities to promote the involvement of parents in their children's education and to have a strategy in place that addresses the needs of all parents. The active involvement of parents

9 The Early Years Framework, 2009, Scottish Government

10 Equally Well Implementation Plan, 2008, Scottish Government

11 Achieving Our Potential: A Framework to tackle poverty and income inequality in Scotland, 2008, Scottish Government



in the life of the school can help promote a learning community in which learners can engage positively with school staff and their peers. The Scottish Government has produced a toolkit for schools *Parents as partners in their children's learning*<sup>12</sup> which looks at the different ways parents and carers can be involved in their child's learning.

**National outcome 4: We want children and young people to become confident individuals, successful learners, effective contributors and responsible citizens.**

29 *Curriculum for Excellence* is the totality of experiences which are planned for children and young people through their education, wherever they are being educated. The starting point for learning is a positive ethos and climate of mutual respect and trust based upon shared values across whole school communities including parents. All members of staff should contribute through open, positive, supportive relationships where children will feel that they are listened to and feel safe and secure; and where staff model behaviour which promotes effective learning and well being within the school community.

30 Through *Curriculum for Excellence* we can help to create the learning environments needed for positive relationships and behaviour with opportunities for more engagement, motivation and enjoyment. Equally, *Curriculum for Excellence* cannot be delivered without good relationships and positive behaviour. In addition to high quality learning and teaching, *Curriculum for Excellence* provides the breadth, flexibility and personalisation necessary to keep all children and young people included, engaged and involved in their education. Health and wellbeing are the responsibility of all practitioners across *Curriculum for Excellence* and provide an opportunity to focus on social, emotional and behavioural skills and wellbeing essential for learning and throughout life.

**National Outcome 8: We have improved the life chances for children, young people and families at risk.**

31 *Curriculum for Excellence* should therefore meet the needs of those children and young people at risk of becoming excluded or disengaged from their education and improve their life chances. Prevention, early intervention, and staged interventions throughout learning are central.

<sup>12</sup> Parents as Partners in Their Children's Learning: Toolkit, 2006, Scottish Government

**32** *Curriculum for Excellence* will ensure that all children and young people can participate in learning, whatever their circumstances. It aims to provide a coherent, inclusive curriculum for all young people, with more choices and chances for those who need them and are at risk of moving into a negative destination after school. All young people, but particularly those who need more choices and chances, will benefit from different approaches to learning and opportunities to access learning in different contexts and using a range of provision delivered within the classroom, the school and beyond the school, to ensure all children and young people are encouraged, motivated, supported and engaged in learning.

**33** *Determined to Succeed (DtS)*<sup>13</sup> and other strategies for enterprise education, are developing enterprise and employability skills in all our young people, making sure they are equipped to participate in a global economy. Work with employers is a core element of *DtS* and *Curriculum for Excellence* to ensure learning is relevant, experiential and engaging. Other support available includes college or vocational placements, social development programmes, split or part-time provision, local authority educational provision or provision through the Third Sector. *16+ Learning Choices*<sup>14</sup> will ensure all young people have an offer of an appropriate place in post-16 learning before leaving school or any other episode of learning in the Senior Phase of *Curriculum for Excellence*.

**34** The Education (Additional Support for Learning) (Scotland) Act 2004 as amended provides the legal framework underpinning the system of supporting children and young people with additional support needs throughout their education, short or long term and whatever the reason. Education authorities and appropriate agencies such as NHS boards, Skills Development Scotland, all colleges of further education and all institutions of higher education in Scotland, are under a duty to have regard to the Code of Practice<sup>15</sup> when carrying out their functions under the Act. Sub-sections 1(A) and (1B) of that Act deem that all looked after children and young people have additional support needs unless the local authority determines that they do not require additional support to benefit from their education.

<sup>13</sup> *Determined to Succeed: A Review of Enterprise in Education*, 2002, Scottish Government

<sup>14</sup> *16+ Learning Choices: Policy and Practice Framework: supporting all young people into positive and sustained destinations*, 2010, Scottish Government

<sup>15</sup> *Supporting Children's Learning Code of Practice (Revised edition)*, 2010, Scottish Government



35 Corporate parenting provides both an opportunity and a statutory duty on all parts of a local authority to co-operate in promoting the care and welfare of children and young people who are looked after by them. The extended corporate family provides support to Looked After children and young people through health, police, housing, community planning partnerships, further and higher education, independent agencies and the voluntary sector.

36 Underpinning the Scottish policy context and activity to improve outcomes for all Scotland's children and young people, is the Scottish Government's commitment to support and promote children's rights and the United Nations Convention on the Rights of the Child (UNCRC). The key principles of the UNCRC are that:

- › All rights apply to all children without discrimination and children should be protected from discrimination (Article 2);
- › In all actions concerning children, the best interests of the child shall be a primary consideration (Article 3);
- › Every child has the right to life, survival and development (Article 6);
- › Every child who is capable of forming their own views has the right to express those views freely in all matters affecting them (Article 12);
- › In addition, children have the right to an education that is directed to "the development of the child's personality, talents and mental and physical abilities to their fullest potential" (Article 29).

37 This includes the right to an education which helps children develop their skills and personality fully, teach them about their own and other people's rights, and prepare them for adult life, and the right to say whatever they believe as long as it does not harm or offend other people. With that comes the responsibility to respect the rights and freedoms of others.

## 4. Key Principles

In response to the policy context and priorities of national and local government, this guidance is based on a set of key principles:

- › Under *Curriculum for Excellence*, all learners are entitled to experience a broad general education; need to be included, engaged and involved throughout their learning, wherever that might take place; and where health and wellbeing is a responsibility of all.
- › Schools and learning establishments need to be safe and secure for everyone in the learning community, including staff, learners and parents. Staff and practitioners should feel confident and supported in their management of relationships and behaviour.
- › Prevention of the need for exclusion is paramount and includes the identification of children and young people at risk of exclusion and the assessment, planning and provision of support to prevent this happening.
- › Positive behaviour and relationships need to be framed within clearly developed and communicated policies through which schools and learning establishments can set expectations and boundaries. Exclusion is ultimately a very short-term option – schools, learning establishments and local authorities must have policies, procedures and provision to address issues around challenging behaviour constructively in the longer term.
- › Exclusion is an extremely serious option of last resort with an impact often on our most vulnerable children; to be used within an overall ethos of prevention, early intervention and support for children and young people; and consistently applied policies for promoting positive relationships and behaviour in schools.
- › Every case referred for exclusion should be considered on an individual basis taking account of the individual circumstances of the child or young person. Consideration of other options should be undertaken; and consideration of additional risk factors such as additional support needs and Looked After children and young people should also be undertaken.
- › Within a framework of staged interventions and additional support for learning, the stages of intervention should be exhausted prior to the need to exclude, although on occasions it may be necessary to exclude for a severe or unpredicted incident. Consideration of exclusion should always trigger the need to introduce or re-evaluate stages of intervention. Risk assessment of the child or young person may be necessary in some cases.





- › The exclusion should be for as short a period as possible as continuity of education is paramount. Entitlements under *Curriculum for Excellence* to personal support and meeting additional support needs should be maintained. The duration of time should be used to constructively resolve the situation; identify and plan new support or provision; and safeguard a successful return, in partnership with learners and their parent(s) or carer(s), and where appropriate other relevant key workers.
- › Where there has been serious negative behaviour, resolution for everyone affected is equally important to a successful re-integration. Consideration of the impact of the incident or behaviour leading to an exclusion on other children, young people and staff should be undertaken and appropriate follow up support and resolution implemented; reintegration should consider the needs of all parties.

## 5. Prevention, Early Intervention and Staged Intervention

**38** This section of guidance focuses on prevention of the need for exclusion. An appropriate curriculum which is broad and relevant, with good teaching and learning as set out in *Curriculum for Excellence* is the starting point for engaging and motivating learners. Promoting positive behaviour and maintaining peaceful and positive learning environments can be achieved through a whole range of strategies, provision and stages of additional support. A range of support within the classroom, within schools and beyond schools can ensure that the behaviour of an individual child or young person does not disrupt their own or others' learning. This does not imply that inappropriate behaviours should be accepted or considered acceptable.

### Early intervention and staged intervention

**39** Every child is entitled to support to enable them to gain as much as possible from the opportunities which *Curriculum for Excellence* can provide, wherever they learn. Support should be appropriate, proportionate and timely. Early and staged intervention provide a framework for additional support where behaviour, for whatever reason, becomes more challenging. Every local authority will have their own model of staged intervention from universal to the most targeted support.

**40** Each stage will include identification and assessment of learning need, appropriate planning mechanisms, and types of provision which may be put in place. Movement between the stages usually follows the exhaustion of the provisions at the level below. It is likely that evidence of such provisions will be required before moving to the next level, although in some cases acceleration through the stages, or intervention at a later stage may be required to meet the individual needs of the child or young person.

**41** At each stage of intervention, practitioners should reflect on a series of questions that should shape how they respond to concerns:

- › What is getting in the way of this child or young person's wellbeing?
- › Do I have all the information I need to help this child or young person?
- › What can I do now to help this child or young person?
- › What can my agency do to help this child or young person?
- › What additional help, if any, may be needed from others?



42 Identifying and assessing need can be supported by using the *My World Triangle*<sup>16</sup> as a systematic way of considering how the child or young person is growing and developing, what the child or young person needs from others, and the impact of the wider world on the child or young person; as well as the wellbeing wheel which considers the 8 indicators of wellbeing.

43 Education plans may include:

- › **Personal learning planning** – process by which children, young people and parents are involved in discussions with schools about the goals of learning, including those for personal development. Its focus is in line with all children’s and young people’s entitlement to “frequent and regular opportunities to discuss their learning with an adult who knows them well and can act as a mentor”<sup>17</sup>
- › **Individualised Educational Programme (IEP)** – written document which outlines the steps to be taken to help children and young people with additional support needs to achieve specified learning outcomes.
- › **Co-ordinated Support Plan (CSP)** – a statutory plan to help identify, and ensure provision of services for children or young people whose additional support needs arise from one or more complex factors or multiple factors, which have a significant adverse effect on their school education and are likely to last at least a year, and which require significant additional support to be provided by an education authority or at least one other non-education service or agency (see s.2(1)(d)(i) of the 2004 Act).

44 A learner may be assessed for a co-ordinated support plan, in accordance with the Education (Additional Support for Learning) Act 2004 (as amended by the Education (Additional Support for Learning) (Scotland) Act 2009) at any point within staged intervention if the criteria for a plan are met. Some learners will be the subject of more than one plan, for example Individualised Educational Programmes and Looked After Children Child Plans. In these circumstances, particularly where there is multi-agency intervention, there should be a single overarching plan recognised by the local authority. Individualised educational programmes emerge from integrated assessment frameworks. Information required in statutory plans such as the Co-ordinated Support Plan should be readily identifiable and able to be presented separately if necessary.

<sup>16</sup> A Guide to Getting it Right for Every Child, Scottish Government, 2008

<sup>17</sup> Curriculum for Excellence: Building the Curriculum 3, 2008, Scottish Government

45 Staged interventions comprise a range of stages from universal through to more targeted support models locally adapted across local authorities. The *Behaviour in Scottish Schools Research 2009*<sup>18</sup> found that all local authorities operated a form of staged intervention whereby increasing levels of support were made available to learners with behavioural needs. Systems varied but a common theme was in locating responsibility for learners with schools, supported by specialist help from local authority officers. The emphasis was on building capacity at local level to support learners rather than referring them on. There was a sense of ownership and devolution of responsibility for learners needs with locally based support on a daily basis with wider support and specialist help. Many authorities were operating or intending to operate devolved services so that specialists support was organised on an area basis rather than centrally.

46 Respondents found it difficult to separate promoting positive behaviour and dealing with negative behaviour. General approaches of promoting a positive ethos, establishing positive relationships and praise and reward systems, as well as good learning and teaching, were complemented by targeted support for children and young people with needs, with multi-agency approaches for tackling often complex problems.

47 Within various models of staged interventions a range of stages can be identified including:

- › universal: whole school ethos and classroom climate
- › stage 1: support needs met within school, e.g. personal support staff, parents, additional support staff, and specialists
- › stage 2: support needs met beyond the school within local school clusters and wider local authority provision
- › stage 3: extended provision beyond the local authority.

<sup>18</sup> Behaviour in Scottish Schools Research November 2009, Scottish Government Social Research, University of Edinburgh



## Universal

48 The ethos and values within schools are fundamental to, and permeate, every aspect of school life. To enable all children and young people to be included, engaged and involved in their education, schools should develop an inclusive ethos where everyone's contribution to the school community is valued and everyone belongs. School ethos and values heavily influence school policies and procedures, school rules and relationships. These also underpin positive relationships at all levels across whole learning communities.

49 All primary and secondary headteachers who responded to the *Behaviour in Scottish Schools Research 2009*<sup>19</sup> indicated that they promoted positive behaviour through whole school ethos and values.

50 This is also reflected by the *Improving the Odds, Improving Life Chances*<sup>20</sup> report which states that "Inspectors established that of all the features identified by learners, teachers and senior managers as key to improving the odds, the most important was the quality of the relationships between staff and learners throughout the school or department. The characteristics of high quality relationships were mutual respect and trust, high expectations and aspirations, and self-belief: a shared 'can do' attitude." School leadership has a crucial role in the development and implementation of school ethos, as do school staff in the provision of positive role models of the values of the school. Children and young people cite positive role models as treating people fairly and equally within classrooms.

<sup>19</sup> Behaviour in Scottish Schools Research November 2009, Scottish Government Social Research, University of Edinburgh

<sup>20</sup> Improving the Odds, Improving Life Chances, 2008, HMIE

51 There are a number of aspects which contribute to the creation of a positive ethos in schools, starting with the implementation of whole-school approaches to positive relationships. These can include:

- › shared values and inclusive culture
- › ensuring that staff and learners are involved in decision making in matters that affect them
- › sharing information and successes with the whole school, for example, through regular assemblies, information, flat screens, and events
- › atunement through positive and consistent welcoming and settling of learners into the school and their classrooms
- › the health and wellbeing experiences and outcomes within *Curriculum for Excellence*
- › restorative, solution focused, nurturing or motivated schools

52 The climate of the classroom, effective classroom management and high quality learning and teaching, all have a significant impact on the promotion of positive relationships. Where learners have a clear understanding of what is expected of them in terms of both behaviour and learning, through engagement, explanation and clarity of expectations and where teachers are attuned to the class and are present to welcome the class in a calm, orderly fashion and settle them to work quickly, there appears to be an improvement in classroom behaviour.

53 The universal stage represents good active learning and teaching practice that may be expected within any classroom or learning environment. The identification of learning needs and planning to meet those needs rests with the class teacher. The class teacher may need to differentiate and adapt the learning environment and curriculum to meet the range of needs within the class group as a whole. Teachers may seek advice and support from other appropriate staff from within the school and from visiting professionals but teachers will be responsible for implementation of recommendations. Teachers will not be teaching or making decisions in isolation, but working within an agreed whole school ethos, behaviour policy and approach or approaches to promoting positive behaviour. Teachers can be supported by behaviour co-ordinators and behaviour support teams.



54 Staged interventions sit within wider whole school approaches and curricular programmes to promote and manage positive behaviour. These approaches can be used universally across whole school environments and targeted towards personalised support for learners. They include, but are not limited to:

- › solution oriented approaches
- › restorative approaches
- › motivation based approaches
- › social and emotional wellbeing programmes
- › nurturing approaches

Further information on these approaches; and support for implementation can be found at Annex D.

55 The *Behaviour in Scottish Schools Research 2009*<sup>21</sup> confirmed the use of a wide range of support and provision for children and young people, delivered by teaching and management staff, additional support staff, behaviour co-ordinators and support teams, and specialists. Secondary headteachers who responded to the research indicated that they frequently or sometimes used:

- › curriculum programmes in social and emotional skills and well being (97%)
- › anti bullying policy (96%)
- › buddying / peer mentoring (94%)
- › break time supervision (97%)
- › restorative practices (75%)
- › solution oriented approaches (79%)
- › reward systems (92%)

56 Local authorities have a key role in the provision of support and training for schools. The *Behaviour in Scottish Schools Research 2009* also confirmed the important role of local authorities to provide policy frameworks, support and training to staff.

<sup>21</sup> Behaviour in Scottish Schools Research November 2009, Scottish Government Social Research, University of Edinburgh

57 The development of a positive ethos and culture; and the implementation of approaches to improve relationships, emotional health and wellbeing, and behaviour, is equally relevant across all learning establishments. For example, colleges have their own behaviour policies and may use *The Motivated College*<sup>22</sup> or *Engaging or Enraging Toolkit*<sup>23</sup> as tools to develop and maintain motivational and peaceful learning environments. More information and links can be found on the Scotland's Colleges website.<sup>24</sup>

### Stage 1: Supporting individual needs within school

58 Within stage 1 the responsibility for identifying and planning to meet the needs of the learner remains with the class teacher. However, it is necessary to have a strategy for provision of support where all available classroom options have been exhausted. In this case referral to an in school assessment/co-ordinating team, such as a school liaison group comprising personal care and support and behaviour support staff, to consider other options available within school for the provision of appropriate support, may be required.

59 The team should consider which planning mechanism is most appropriate for the support being provided, for example an Individualised Educational Programme. Support and advice may be provided by visiting professionals, classroom assistants, and learning support provision. Parents and carers should be involved in the development of planned support.

60 It may be appropriate for an Individualised Educational Programme to be developed to support the planning and delivery of additional support to learners. The purpose of the plan is to provide a coherent structure to the achievement of learning outcomes and the support to be provided towards achieving them.

61 The flexibility provided by *Curriculum for Excellence* should be utilised to ensure a broad general education which is engaging, as well as personalised to meet the needs of the child or young person. 96% of secondary headteachers who responded to the *Behaviour in Scottish Schools Research 2009*<sup>25</sup> indicated that they frequently or sometimes use broad curriculum options such as vocational opportunities, personal and social development programmes, ASDAN awards, Princes Trust XL, Duke of Edinburgh, HE/FE college placements to promote positive behaviour.

22 <http://www.scotlandscolleges.ac.uk/curriculum/the-motivated-college/the-motivated-college.html>

23 <http://www.scotlandscolleges.ac.uk/curriculum/more-choices-more-chances/mcmc-useful-information.html>

24 <http://www.scotlandscolleges.ac.uk/curriculum/more-choices-more-chances/mcmc-professional-learning-opportunity.html>

25 Behaviour in Scottish Schools Research November 2009, Scottish Government Social Research, University of Edinburgh





**Gracemount High School, City of Edinburgh Council:****Curriculum for Excellence**

Learners who are more engaged and involved in learning and school life are more likely to have improved attendance and more likely to enjoy positive behaviour and relationships.

Gracemount High School in Edinburgh has developed a dance academy as part of their approach to broadening learning and teaching through *Curriculum for Excellence*. Following the development of the dance academy, dance has been formally added to the school curriculum and learners can work towards formal qualifications in this subject or can continue to work within the academy as a leisure activity.

This approach has led to increased engagement with learning and the school community, improved attendance and decreased absence and more positive relationships.

These elements combine to lead to less likelihood of risk of exclusion and improved achievement.

**Support provision within school**

**62** In planning support for learners at risk of exclusion school staff may consider the use of on-site provision such as enrichment groups, support classes and time within support bases and where appropriate nurture groups. This planned support enables the learner to work intensively towards specific goals, for example learning techniques which support improved behaviour, or purposeful conversations using restorative or solution oriented approaches. The support provided helps the child or young person to remain in class, hopefully reducing the likelihood of the move towards being excluded from school. Wider whole school approaches such as restorative or solution oriented approaches can contribute positively to discussions, collaborative planning and decision making at this stage. Support from a range of staff can be planned and delivered through a team around the child model. It is essential to work with a range of partner providers at every stage of intervention.

**63** In May 2010, HMIE published *Out of Site, Out of Mind?*,<sup>26</sup> a report on provision for young people with behavioural needs. It noted that in the best practice, designated bases in mainstream schools provide a supportive ethos for young people in danger of being excluded. They provide them with appropriate experiences, and clear targets designed to help them progress steadily within the curriculum and improve their behaviour. In the best practice, staff monitor young people's progress closely against these targets and help them return as soon as possible to mainstream classwork.

**64** Secondary headteachers who responded to the *Behaviour in Scottish Schools Research 2009*<sup>27</sup> indicated that they frequently or sometimes used:

- > time out (81%)
- > targeted small group work (86%)
- > learner or behaviour support bases (74%)

**65** Primary headteachers who responded to the *Behaviour in Scottish Schools Research 2009* indicated that they frequently or sometimes used:

- > time out (79%)
- > targeted small group work (62%)
- > learner support bases (14%)

**66** Nurture groups are being used more frequently within primary schools and are more effective when operated within a nurturing school ethos or context of nurturing principles. They have also been introduced in secondary schools.

<sup>26</sup> *Out of Site, Out of Mind?*, 2010, HMIE

<sup>27</sup> *Behaviour in Scottish Schools Research* November 2009, Scottish Government Social Research, University of Edinburgh



### **Nurture Group - Primary 9 - North Muirton Primary School, Perth and Kinross Council**

Primary 9, the Nurture Class in North Muirton Primary was set up in the autumn of 2006 to meet the needs of children in the early years who had difficulties settling into school. These children have missed out on the early learning experiences that promote good development and a readiness to learn.

#### **Morning Group**

There are up to six infant children in Primary 9 for morning sessions only. The children are offered short to medium term placement depending on their specific needs. The children in Primary 9 are picked up from their own class by the Nurture Teacher and Nurture Early Childhood Practitioner. They go out for playtime with their friends unless there are particular reasons why this is difficult. They take part in appropriate activities with their class, e.g. P.E., Art, Music, and rejoin their class for the afternoon where other support is provided. Class Teachers and Nurture Staff plan and work closely together to make this work.

Preparing and sharing food, the most fundamental expression of care, is an important part of the morning. Breakfast together round a big table creates wonderful opportunities for communication and language development and social learning through intensive interaction with a few adults and other children. Often there are visitors for breakfast including parents, staff and other agencies.

#### **Afternoon Groups**

Afternoon sessions offer opportunities for a wide range of older children to benefit from Nurturing approaches. The Primary 9 setting offers support, play and activities at a developmentally appropriate level with a high level of positive adult attention. Social skills, listening and talking and work on expressing feelings are targeted in a natural way through practical activities such as baking, craft, team activities and play.

A core group of children attend two sessions a week, but many other children spend time in Primary 9 as helpers, or are asked to volunteer to help organise particular events, e.g. a birthday party. Currently up to 30 children a week are involved in some way in Primary 9.

#### **Parents**

One of the key elements of success is the way parents are engaged right from the start. Nurture Staff make time to see parents and carers and offer friendship and support to parents. Outings are planned for parents and children, e.g. picnics and walks.

The establishment of a Nurture Class in our school has without doubt enhanced the whole school by fostering a nurturing environment that is of benefit to all children whether they attend Primary 9 or not. Teaching staff benefit from the expertise and support of the Nurture staff on a day-to-day basis.

Our children become happier and more motivated to learn by spending time in Primary 9, and parents and carers feel comfortable about spending time in school with their children.

### Hillpark Secondary School, Glasgow City Council

Following the P7/S1 liaison meetings with Hillpark and its associated primary schools, a number of very vulnerable young people were identified and concerns were raised about their ability to cope within the secondary environment. In an attempt to provide support at an early stage for the young people, a Transition group based on nurture group principles was set up by Support for Learning Staff. The group was supported for the first six weeks of S1 and met every morning and at other regular slots in the week for pastoral care and emotional health and wellbeing. Thereafter, pupils were supported by support for learning staff in mainstream classes.

All pupils within the group coped well throughout S1 and none were excluded. Feedback from parents on this initiative was excellent.

### Rethink Cards

A number of schools use Rethink cards which enable a learner who feels that they are at risk of 'kicking off' to remove themselves from a classroom environment prior to an incident taking place. Learners who are receiving support from behaviour support staff are given a card which can be shown to the class teacher when the learner recognises that they are experiencing emotions which may lead to a larger behavioural incident. The learner is excused from class and must attend the behaviour support base to work with the staff on how they are feeling. The learner is then expected to return to class, ready to continue working.

The frequency and reasons for the use of the cards is monitored by behaviour support staff to ensure appropriate use and to support the understanding of what may trigger certain behaviours.



**67** Many staff work with young people who exhibit challenging behaviour. Setting a policy at local authority level on de-escalation, restraint and physical intervention will help to clarify for school staff what the appropriate levels of intervention are when handling disciplinary matters. However, the vast majority of children and young people in our schools will never require any form of restraint or physical intervention.

**68** Conflict and aggression can be minimised by using effective de-escalation techniques and by assessing environments around the school using tools such as the environmental checklist used in Framework for Intervention (FFI). Confident, trained staff working within a supportive working team climate will feel they can handle day-to-day situations effectively and will feel happy to call on the support of colleagues.

**69** Above all, it is the combination of strategies and approaches including multi agency and partnership working under strong leadership that can lead to reductions in the need to exclude.

**Douglas Ewart High School, Newton Stewart, Dumfries and Galloway Council**

Major factors contributing to a significant fall in exclusions over a period of 4 years have been:

- › an emphasis on appropriate learning and teaching approaches
- › the introduction of a house system
- › development of a system of rewards for positive behaviour
- › a curriculum designed to meet individual needs, including work experience and involvement of agencies where appropriate.

The headteacher provided strong leadership; the school had developed very strong partnerships with learners, parents and a considerable number of outside agencies including police and social work; staff development for class teachers emphasised self empowered learning and the creation of flexible learning communities; and close monitoring and tracking of individual young people's progress played an important role.

## Stage 2: support needs met beyond the school within local school clusters and wider local authority

**70** The focus of stage 2 is where the needs of the young person cannot be met fully within the resources available at the school. In considering the needs of learners at risk of exclusion many schools and local authorities are able to employ the wider resources available to them across local authority services. This includes wider children's services, other education services, and leisure services to bring together key representatives such as career staff, youth and community, social work, health, police, voluntary sector, who are able to consider the learner's needs from a range of differing perspectives and to bring individual expertise to the planning and implementation of an action plan to support the learner. Therefore authority wide specialist and partner resources may be accessed to ensure provision of support and continuity of learning. This support is likely to be required following the exhaustion of provision from within the school's own resources. Previous learning plans will help evidence this.

**71** Support will be co-ordinated through an authority based multi-agency team for the assessment of such needs, for example a Community Assessment Team, Joint Assessment Team, Learner Support Group, Learner Assessment Group. Support provided may include special school or special unit provision or support from the Youth Support team, social work services, youth and community services, health, the police and the voluntary sector. Where young people attend provision outwith schools, the provision should be appropriate to their learning needs and should be of as high a quality as would be offered in schools.

**72** Under *Getting it Right for Every Child*, the role of the named person is to take initial action if a child needs extra help, formalising the activities universal agencies are undertaking routinely in their day-to-day work. Using the *National Practice Model*<sup>28</sup>, the named person will help to decide what actions to take and how to work more efficiently with others. Where a child needs help from two or more agencies, the lead professional will co-ordinate multi-agency planning and make sure that the different services provide a network of support around the child in a seamless, timely and proportionate way. More detail on named persons and lead professionals can be found in the *GIRFEC* implementation document, *Messages from pathfinders and learning partners*.<sup>29</sup>

28 A Guide to Getting it Right For Every Child, Section 4: *Getting it Right for Every Child: the approach in practice*, 2008, Scottish Government

29 A Guide to Implementing Getting it Right for Every Child: Messages from pathfinders and learning partners, 2010, Scottish Government



## Local learning partnership and community cluster approaches

**73** In these circumstances it may be appropriate for a referral to be made to the relevant 'learning partnership' or 'community/cluster' groups of secondary and associated primary schools for the assessment and establishment of necessary support. Examples of support may include community link workers, support assistants, or counselling staff. Planning mechanisms which may be used within this stage may be Individualised Educational Programmes and where appropriate co-ordinated support planning. Educational planning should also be recorded in the Child's plans where appropriate. Further personalisation of the curriculum to meet the learning needs of the learner should be incorporated within learning targets and planned learning outcomes.

**74** The benefits of a cluster, community or collegiate approach include the sharing of school resources and decision making, with wider responsibility for and support from other schools.

### **West Dunbartonshire Council – Pupil and Family Support Service**

Early Education and Childcare Centres, Primary and Secondary schools in West Dunbartonshire Council can access additional support for vulnerable children and young people through the learner and family support service. The service aims to increase, through appropriate support and interventions, the life chances and opportunities of children and families most excluded within their community.

Referrals are made to the co-ordinator for each school cluster through the Joint Agency Team or directly by primary headteachers. There are 3 to 4 support workers for each cluster based within the secondary school.

The role of the support worker may fulfil many diverse roles. As well as working with the learner, they may also work with and support the learner's parents/family and the school, as well as liaising with other agencies as appropriate.

### **Birmingham**

The South Collegiate in Birmingham comprises 14 schools, one Further Education College and one Learner Referral Unit. The Collegiate takes a shared approach to decision making and provision of support for learners at risk of exclusion, or excluded from school, in partnership with the local authority. The aim of the approach is to ensure the best possible support and provision for children and young people from across the range of resources available to South Collegiate.

The partnership includes representatives from headteachers of schools within the collegiate who all share a common understanding of the provisions and support available. The circumstances of each individual case are discussed and suggestions made as to the provisions which may be best suited to the individual needs from within the resources available across the Collegiate. Headteachers may offer a place within their school, or suggest behavioural or other support which has worked well for a learner in similar circumstances. Continuity of access to the curriculum is an important feature of this approach, and provisions which support vocational learning linked to the curriculum are also available. A decision is taken on each case and a plan put in place for the learner.

Collegiate partnerships are also especially useful for area cluster or authority managed moves policies.

### **Falkirk Council – Intra-authority transfers**

The Secondary School Improvement Partnership in Falkirk Council involves all secondary headteachers. A sub-group is responsible for monitoring exclusions and developing strategies to support staff in schools and establishments to improve relationships and promote positive behaviour.





75 Managed moves could also be used beyond clusters of schools within a local authority area or even across local authorities.

#### West Lothian Council's Hostings (Alternatives to Exclusions) Policy

When a pupil is finding it difficult to maintain a placement in their mainstream school, one strategy that can be used is a "hosting" arrangement between two educational establishments. It is likely that the pupil will be at stage 3a, at least, of the Continuum of Provision. This means that school staff will already have been creative in providing support and resources at Stage 1, 2, and 3 of the continuum.

The objectives of "hosting" are to:

- › sustain children in mainstream education and reduce any loss of time to a minimum
- › provide a "fresh start" for a pupil and, therefore, enhance the likelihood of success in the new school

If it is decided that a pupil can no longer receive his/her education in a particular mainstream school the **base school**, and it is recommended that he receive his/her education in another school the **host school**, then the **base school** will retain responsibility for the pupil in the first instance, as all the knowledge and expertise regarding him/her rests with the **base school**.

#### Maintenance of links with extended support provision

76 It is essential that a designated link teacher, e.g. from learner or personal support maintains links with the young person and the provider of full or part time placements to ensure continued provision of personal support by the school or placement partner. Young people who remain on the school roll remain the responsibility of the school and their IEP or CSP needs to consider reintegration and return dates. Clearly identifying responsibilities and in complex cases assigning a lead professional to monitor progress is essential. Authorities should be mindful of their responsibilities to Looked After children and young people in the prevention of their exclusion.

77 *Out of Site, Out of Mind?*<sup>30</sup> noted that in best practice observed, day special schools and off-site bases were supported very well by their education authorities. Schools and bases which had strong leadership were characterised by clear aims and values, supportive social and learning environments for children and young people, good quality relationships throughout including teamwork amongst staff, and effective partnerships with parents and other agencies.

78 In the best practice, staff in off-site bases worked closely with staff from the young people's mainstream school. Effective coordination between the base and the mainstream school ensured that both could build effectively on young people's prior achievements. An important measure of an off-site base's success in supporting young people lay in the degree to which they helped them return successfully to full-time mainstream education.

#### **South Lanarkshire Council - Robert Smillie Primary School**

Robert Smillie Primary School was one of the authority's first pilot nurture group schools. The aim of the nurture group is to provide enhanced provision for a small group of children identified as having social and emotional needs and who would benefit from nurture group intervention. The children are identified using the Boxall profile, the Goodman's self-esteem checklist and teacher observations.

#### **The nurture group**

The nurture group provides support for children at Robert Smillie Primary School and for children within the learning partnership who are transported to the provision. The nurture group operates on a part-time basis. Nurture group staff work alongside class teachers in the mainstream classrooms for a short time every morning. This daily session involves very high quality and dynamic learning experiences with all children actively involved in their learning. All staff supporting all children work effectively together to extend learners' needs. Class teachers have overall responsibility for the child. The highly effective joint planning ensures there is consistency of approaches to support learners within both the nurture group and the mainstream setting.

30 *Out of Site, Out of Mind?*, 2010, HMIE



### Impact on children

- › Children have grown in confidence; and their learning within literacy, numeracy and aspects of personal and social development has accelerated.
- › The influence of the nurture group impacts on children throughout the school as teachers work cooperatively and share expertise to improve practice.

The integral approach of the nurture group ensures children throughout the school are confident to self-refer and access the provision as they need it.

Children in the early years are more engaged in their learning through activities to support transition from mainstream to the nurture class.

### Features contributing to success

- › Joint planning for children is led by class teachers. Collectively they focus on interdisciplinary themes, discrete subject areas, the ethos and life of the school and opportunities for personal achievement.
- › The dynamic, creative and innovative approaches of nurture group staff.
- › Approaches to develop skills in literacy, numeracy, health and wellbeing.
- › Responsive planning to tasks and activities which stimulate children's imagination and engage them in their learning.

### *The impact of nurture groups in primary schools*

- › Use of the school's home-link worker to involve parents of children in the nurture as partners in their child's learning.
- › The use of the nurture room as an integral part of the whole school.

79 *A Climate for Learning*,<sup>31</sup> published by HMIE in 2005 recognised that off-site provision combined with school provision to provide a programme of learning was particularly effective. It is essential that schools and local authorities maintain a working relationship to ensure effective educational provision through monitoring and quality assurance. The most effective practice emerged where the underlying principle of the learning package was that learners should remain the responsibility of mainstream schools and that in most circumstances plans should include a full return to the mainstream school. HMIE have identified emerging good practice within off-site provision but there is not yet a consistent approach across authorities.

#### North Ayrshire Council – Extended Outreach

The extended outreach team in North Ayrshire Council provides a support programme involving teachers, project workers and community workers to secondary aged young people at risk of exclusion. The programme is individualised and scaffolded around the needs of the young person within their base school. Some of the learning may take place outwith the school campus, however, very close links are maintained with key personnel within the school.

### Planned part-time (split placement) package

80 In prevention of exclusion schools may consider the use of planned packages of support based on a split placement basis, where a learner attends school for part of the week and a specialist provision for the remainder of the school week. However, schools should continue to ensure that learners attend school or another learning environment for the widely accepted norm of 25 hours in primary schools and 27.5 hours for secondary schools as described in *Guidance Circular 4/2002: Length of the school week: learners in special schools and units*.<sup>32</sup> Local authorities should monitor the use of part-time placements.

31 *A Climate for Learning*, 2005, HMIE

32 *Circular 4/2002: Length of School Week: Pupils in Special Schools And Units*, 2002, Scottish Government



## Consideration of use of colleges (in schools and college based)

**81** Schools and colleges should work in partnership to ensure all young people have a broad range of learning options in their Senior Phase of education. Partnership working between schools and colleges offers young people the opportunity to develop their knowledge and skills in contexts that are suited to their individual needs and aspirations. This may offer the learner an opportunity to become re-engaged with and motivated by learning whilst learning new skills which may be brought back to the class and school environment. Consideration should be given to the emotional maturity of the young person to cope with this environment. An HMIE report on school-college partnership programmes in Scotland *Expanding Opportunities*<sup>33</sup> found that learners undertook a wide variety of practical learning activities and almost all learners worked well in practical classes, and engaged constructively with learning.

**82** Effective partnerships between schools and further education establishments can support the delivery of personalised learning to support improved motivation and learning. Through developing a personalised learning experience which engages learners at risk of disaffection, or who are already experiencing disaffection, learners engagement with education may be improved, bringing benefits to motivation, confidence and learning.

### **JET example – vocational opportunities, City of Edinburgh Council**

JET stands for Job + Education + Training. It is a work-based learning programme, where learners work towards a National Progression Award in Enterprise and Employability. Learners attend a work placement one day a week and sit standard grade or intermediate exams.

**83** Attendance at partnership provision should be monitored, in line with national guidance on attendance, *Included, Engaged and Involved: Part 1*.<sup>34</sup> Therefore it is essential that good records of attendance and absence are maintained and that schools are informed of any concerns or inappropriate behaviour.

<sup>33</sup> Expanding Opportunities, A report on school-college partnership programmes in Scotland, 2008, HMIE

<sup>34</sup> Included, Engaged and Involved part 1: Attendance and absence in Scottish schools, 2007, Scottish Government

84 In all circumstances involving support and intervention from extended support resources, schools retain responsibility for their children and young people and should be directly involved in developing and monitoring progress within the schools review, planning and assessment framework. There should be continuity of personal support in line with the entitlement to support which is outlined in *Building the Curriculum 3*.<sup>35</sup> The principle of what is in the best interests of the child or young person remains and the school will retain responsibility and continue personal support for that young person, including access to careers guidance, skills guidance and planning.

#### **Crannog - Additional support to help young people access the curriculum**

Crannog is an additional support provision run by Aberlour Childcare Trust in partnership with Dumfries and Galloway Council. The service is delivered across Dumfries and Galloway from bases in Dumfries, Annan, Castle Douglas and Stranraer. The service works with children and young people who are at high risk of being Looked After Away from Home; at high risk of school exclusion who are excluded from school.

Referral to Crannog is made through Dumfries and Galloway Council's Area Review Groups and Youth Justice Screening and Resource Groups.

The Area Review Groups are jointly chaired by Education and Social Work, are geographically based and include representatives from Educational Psychology, Schools, Social Work and Community Adolescent Mental Health Service and voluntary sector. Crucially these groups help to monitor the progress of young people towards the objectives within their plan.

Each young person referred to Crannog, receives an individualised assessment and action plan that is often part of a Coordinated Support Plan and or a Looked After Children's Plan.

<sup>35</sup> Entitlement to review of learning and planning of next steps; gaining access to learning activities which will meet their needs; planning for opportunities for personal achievement; preparing for changes and choices and support through changes and choices; pre-school centres and schools working with partners.



Young people remain on the roll of the base school and Crannog works with a wide range of partners to help promote engagement with education and reduce barriers to learning. This may be a part-time placement between mainstream classes at their base school and support provision to address wider issues/concerns in the learner's life.

Learning is delivered through a social education curriculum comprising:

- › social care and skills development;
- › educational provision;
- › inter agency planning and coordinated support.

Social care and skills development may include: anger management; assertiveness; problem solving; conflict resolution; self-esteem development; communication skills; interpersonal skills and family work.

Educational provision includes: reintegration to school and educational programmes; access to standard grades; ASDAN award scheme; support with schoolwork; supported transition to another provision, e.g. home tuition, work experience, college.

Inter Agency planning and coordinated support includes advocacy, report writing, representation at Children's hearings, Looked After reviews and other planning fora.

### Stage 3: Provision beyond the local authority

**85** The next stage is where it is considered that the needs of the child go beyond the provision which may be made within the authority. In these circumstances placements may be made to specialist provisions which are out with the resources available to the authority. For example, provision may be made by a learning centre or school managed by a voluntary organisation, or other local authority. This may be a day or residential placement.

**86** The assessment of need at this level is likely to be made by a multiagency group with an overview of all of the resources available within and outwith the authority. It is essential that appropriate planning and monitoring arrangements are in place to ensure continuity and quality of learning for all children and young people. As part of ongoing monitoring a return to authority and community based resources should be considered wherever possible.

#### **North Ayrshire Council – External Placements Monitoring Officer**

North Ayrshire Council has allocated to a principal teacher within its Extended Outreach Team the role of external placement monitoring officer. The monitoring officer has weekly contact with the external day providers and receives reports on pupil attendance, engagement, attainment and achievement. These reports are shared with colleagues in Psychological Services. This enhanced monitoring identifies issues at an early stage so that where required reviews can be called promptly and new support plans developed. The monitoring officer and case psychologist oversee the implementations of any variation to support arrangements.

#### **East Ayrshire Council – Prioritisation Group**

The prioritisation group within East Ayrshire Council is a monitoring group comprising senior officers from educational and social services, chaired by the principal psychologist, which meets on a two weekly basis. Referrals for day and residential external providers are closely scrutinised before an agreement is reached to make the referral. The referrals have detailed information pertaining to the case, evidence of the support already given from the authority and clear reasons why only an external placement is appropriate to meet individual needs. The case is closely monitored by the group as well as individual case managers throughout the duration of the placement. Service level agreements are put in place and plans for future re-integration discussed.





## 6. Consideration of Individual Circumstances

### Introduction

87 This section of the guidance considers the impact of exclusion on children and young people who are especially vulnerable and at risk. Against a 24% drop in exclusions over 2007-2009, vulnerable children and young people are still more likely to be excluded. Although rates are also going down for those groups, significant gaps remain and are not getting smaller. Children and young people are more likely to be excluded where:

- › they have a disability (1.6 times more likely)
- › they are looked after (8.5 times more likely)
- › they are from the most deprived areas (7.7 times more likely)
- › they have an additional support need (ASN) variable across type of need and provision
- › the additional support need is social, emotional and behavioural.<sup>36</sup>

88 There was an increase of 8% (from 1,090 to 1,179) during 2008/09 in the numbers of exclusions of learners with additional support needs in *special schools* and the rate of exclusion increased from 171 to 183 cases of exclusion per 1,000 pupils.<sup>37</sup>

89 Excluding a learner from school is an extremely serious step. It can impact significantly upon a learner's learning and in all circumstances it is necessary to consider whether the exclusion will contribute to an improvement or change in the behaviour of a learner which is leading to exclusion. Annual national statistics on exclusion from school<sup>38</sup> show that around 60% of learners who are excluded will only be excluded on one occasion. The most common reasons for exclusion are general and persistent disobedience (32%) and verbal abuse of staff (27%).<sup>39</sup> However, that does not mean that exclusion is the only option in many cases, and there may be other options such as restorative approaches in schools which could deal with those sort of issues.

<sup>36</sup> Exclusions from Schools 2008/09, Scottish Government National Statistics Publication

<sup>37</sup> As at 34

<sup>38</sup> *ibid*

<sup>39</sup> *ibid*

**90** A significant number of learners receive multiple exclusions throughout the year. In 2008/09, 2,068 learners were excluded more than three times.<sup>40</sup> In all cases, schools should consider the impact and desired outcomes sought from an exclusion, as well as the impact on the school community. Schools and authorities with learners who are receiving multiple exclusions should consider carefully the impact exclusion from school is having on the behaviour of the learner concerned. Regardless of whether the decision to exclude is taken, schools and authorities should consider the need to activate or review staged intervention processes to assess and plan support for the learner with the aim of improved behaviour and maintenance of school provision. Schools and authorities may wish to consider the number of exclusions which would be such a trigger or the severity of repeated incidents leading to exclusion which would provide a catalyst for intervention. Particular care and consideration is required around individual circumstances.

**91** Where there are multiple exclusions for one child or young person, or a lengthy exclusion, it is good practice for cases to be referred to the local authority in order to support decision making. Good practice includes local authority policies which specify where multiple exclusions; the cumulative length of multiple exclusions; or a lengthier exclusion should be referred for joint decision making and meeting with relevant support agencies.

#### **East Ayrshire Council – Multiple exclusions**

When the total periods of exclusion exceeds 15 days in any school session, the case is sufficiently serious that it must be reported fully to the Head of Service.

The Head of Service: Schools or his/her professional representative, will then arrange to meet the learner, his/her parents, the Head Teacher or, exceptionally, the appropriate member of the senior management team and the relevant support agencies.

#### **South Ayrshire Council – length of exclusion**

In order to support headteachers in the decision making process, a number of authorities have asked headteachers to notify the authority prior to the final decision regarding an exclusion being made where the length of exclusion being considered is more than 5 days.

**92** Decisions to exclude should be taken in consideration of the interests of individual learner, other learners and staff. However, alternative approaches may also have a more positive impact on other learners and staff, as well as the potentially excluded learner such as the use of time out or chill-out facilities or short-term support bases or a restorative meeting to resolve and repair the situation.

<sup>40</sup> As at 34



## Looked After children and young people

### Who are Looked After children and young people?

**93** Looked After children and young people are those who are subject to a supervision requirement through the Children's Hearing system or some form of compulsory intervention, either at home where they continue to live with their family or away from home, e.g. foster care, kinship care, or residential care. As at 31 March 2009 there were 15,288 children looked after by local authorities. 39% of Looked After children and young people in Scotland remained at home with their family; around 20% were looked after by friends or relatives; 29% were looked after by foster carers and 10% were in residential care. Children move between all of those sectors.<sup>41</sup> Becoming Looked After away from home may enable a child or young person to be living in an improved environment where they feel safe and cared for, where they have a sense of stability and routine and are being looked after themselves rather than looking after themselves. Because of their unique circumstances, children and young people who are Looked After are entitled to more from the state than other young people – that is enshrined in legislation in the Children (Scotland) Act 1995 and the Adoption and Children (Scotland) Act 2007.

**94** Outcomes for Looked After children and young people remain poor compared to children and young people not Looked After:

- › around 77% had at least one qualification at SCQF level 3+ compared to 97.4%<sup>42</sup>
- › 59.3% had both English and Maths at SCQF level 3+ compared to 93.2%<sup>43</sup>
- › school attendance is around 88.2% compared to 93.4%<sup>44</sup>
- › exclusion rates are 8.5 times higher.<sup>45</sup>

**95** There can still be a perception that young people are Looked After because they have done something wrong. Most children and young people are Looked After for reasons of care and protection. Very few are as a result of offending behaviour and those who are have generally experienced care and protection issues before they start offending.

41 Statistics Publication Notice Health and Care Series: Children Looked After Statistics 2008/09, Scottish Government

42 SQA Attainment and School Leaver Qualifications in Scotland: 2008-09, Scottish Government

43 As at 40

44 Statistics Publication Notice Education Series: Attendance and Absence in Scottish Schools 2008/09, Scottish Government

45 Statistics Publication Notice: Education Series: Exclusions from Schools 2008/09, Scottish Government

96 The term “corporate parenting” refers to the local authority’s duty under the Children (Scotland) 1995 Act to safeguard and promote the welfare of children and young people who are Looked After. Corporate parenting is the formal and local partnerships needed between all local authority departments and services to meet the needs of Looked After children and young people. Just as good parenting is at the heart of bringing up children, corporate parenting is at the heart of bringing up children in care including education services. What this means is that everyone responsible for the up-bringing of children in care needs to talk to each other and co-operate to meet children’s needs. Corporate family members who are around all the time include teachers, primary health care and social workers and lead professional, if different. Extended corporate family members could include specialist health and education services, careers, skills development, further and higher education colleges, partners in the delivery of *Curriculum for Excellence* wherever that takes place, police, voluntary sector. Again, the lead professional is crucial for co-ordinating multi-agency planning of different services and support around the child or young person.

97 Looked After children and young people are not a homogenous group with the same backgrounds or needs. When children or young people become Looked After, it is essential that there is robust and flexible planning for their future from the outset. Stability is crucial to children’s development and happiness and the system should support stability through minimising moves. All children must have a child’s plan in place which is reviewed at regular intervals by the local authority and which, amongst other things, must include information about:

- › why the child is being looked after;
- › the child’s health history and current state of health;
- › the child’s education history and current arrangements for provision of education;
- › personality and social development;
- › interests and recreational activities; and
- › any services to be provided to meet the care, education and health needs of the child.

The contents of the child’s plan are defined in Schedule 1 and Schedule 2 of the Looked After Children (Scotland) Act 2009.



**98** Corporate parenting is not only a responsibility but an opportunity. Being a good corporate parent means:

- › accepting responsibility for the council’s Looked After children and young people
- › making their needs a priority
- › seeking for them the same outcomes any good parent would want for their own children.

**99** All staff in education have an important role as corporate parents and unique opportunities to support and guide Looked After children and young people through their everyday interactions. Teachers are often cited by young people as the most influential or constant person in their lives.

*“The child in care can go through quite a traumatic time. There can be all sorts of feelings of rejection, which can lead to disruptive behaviour in school. However, for a lot of these kids, school is the one stable thing in their lives. They know where they are and what they are doing. They often feel safe in school because things stay constant and they know how we will react.”<sup>46</sup>*

- › A child or young person who has become Looked After is likely to have had some difficult experiences in that process. Their experiences may bring challenges to their well being and learning. For example, they may have experienced or be experiencing instability, separation or anxiety.

### Designated Managers in Educational and Residential Establishments

**100** All educational establishments, including schools, residential schools, colleges and nurseries, should appoint a designated senior manager with specific responsibility for Looked After children and young people. The designated senior manager has a key role in guiding and supporting learning establishment staff and linking with the wider multi-agency network. Staff in all learning establishments should be aware of who is undertaking the designated senior managers role.

<sup>46</sup> These Are Our Bairns: A Guide for Community Planning Partnerships on being a good corporate parent, 2008, Scottish Government

**101** Recent guidance *Core tasks for Designated Managers in Educational and Residential Establishments in Scotland*<sup>47</sup> provides detailed advice on the role of designated senior managers in relation to communication, meeting Looked After children and young people's needs, advocacy, learning and development, and ensuring an educationally rich environment. Aspects of this role may be delegated to individual teachers or staff for individual Looked After children or young people. However, overall responsibility remains with the designated senior manager.

**102** Some Looked After children and young people may have some form of joint educational plan encompassing additional support needs. The Education (Additional Support for Learning) (Scotland) Act 2004 as amended 2009 includes that all Looked After children and young people will be deemed to have additional support needs unless assessed otherwise. Assessment and planning for all Looked After children and young people could include an assessment of risk of behaviour likely to lead to a possible exclusion; support and provision to prevent this arising; and plans including who to contact in the event of this situation arising. This will also depend upon identifying and accessing support including specialists and agencies within and beyond the local authority.

### Impact of Exclusion

**103** The exclusion of Looked After children and young people is an extremely serious step and requires very serious consideration. This means that their already potentially challenging circumstances are likely to be further exacerbated and an additional loss of learning is likely. Exclusion from school may also have a significant impact upon their home lives. An exclusion from school may be the catalyst to a change in placement due to the need to find an alternative school, which can both unsettle and disrupt the learners' learning. The need to ensure appropriate care and supervision for the child or young person whilst they are excluded may be a significant pressure on a parent or carer. The pressure to deal with the learners' ongoing behaviour 24 hours a day for the period of the exclusion may also bring significant pressure to a placement. These issues should be considered by a multi-agency team as part of the decision to exclude a Looked After learner.

<sup>47</sup> Core tasks for Designated Managers in educational and residential establishments in Scotland, 2008, Scottish Government



## Planning and decision making around exclusion for Looked After children and young people

**104** School staff should consider very carefully the decision to exclude a Looked After child or young person and if at all possible should avoid taking the decision to exclude them. Staff should discuss any potential decision to exclude a Looked After child or young person with the designated social worker and lead professional, if different, prior to the exclusion taking place. Staff should refer to the Child's Plan, assessment, support and provision agreed for that child, and contingency planning in the event of a potential exclusion.

**105** In considering exclusion, school staff must ensure that appropriate arrangements are in place to ensure the care and wellbeing of any Looked After learner before they are excluded and sent home during school hours. If appropriate arrangements are not in place the learner should remain in school during school hours until such time as arrangements are in place.

**106** As with any other child, the local authority as the child's corporate parent; is responsible for ensuring the health, wellbeing and educational prosperity of the child; should wish for the most positive outcome for them; and should do all that it can to support him or her. A key question that all parents would ask, and that school staff as corporate parents should ask, "Is this good enough for my child?". A number of local authorities have developed a set of core questions for reflection when exclusion is being considered. This shows a positive impact upon how situations are managed. These include:

- › what interventions have been effected?
- › is exclusion a last resort?
- › what will exclusion achieve, and would an alternative be successful?
- › what is the likely impact upon the young person, and their wider circumstances?
- › does the young person require effective adult (and / or peer) support?
- › if so who can best provide this?
- › what are the views of their lead professional, Social worker, residential designated senior manager or key worker, foster carer?
- › what will the impact be on a foster or residential placement?
- › what impact will this have on the planning mechanisms in place such as the Child's plan, an Individualised Educational Programme or Co-ordinated Support Plan?

**East Ayrshire Council – Looked After Children and Exclusion**

Looked after children and young people away from home are children who are residing outwith the family home and placed with either children’s carers or in a residential setting. These children will be supervised by a social worker and be subject to looked after away from home reviews. School staff will be invited to participate in reviews and school records should indicate that the child is looked after away from home. It is the responsibility of the Head Teacher, if considering exclusion, to raise their concerns at an early stage with the responsible social worker in order to formulate or amend the Child’s Plan to support the child or young person. Where exclusion is being considered the case social worker, the carer (either children’s carer or residential unit) and the Education Directorate should be informed and their opinion sought in advance of the exclusion.

### Children and young people on the child protection register or for whom there are current or previous child protection concerns

**107** Child protection concerns may arise from a number of differing reasons: from concerns about potential abuse or neglect to behaviours by the child or young person themselves which may put them at risk. It is essential that staff in all educational establishments (including early years, schools and colleges) know which senior staff are aware of who is or has been on the child protection register or for whom there are concerns.

**108** In cases where a school or college is considering the need to exclude a learner who may be on the child protection register or for whom there are current or previous child protection concerns, the member of staff with responsibility for child protection within the school or college, and/or the child protection co-ordinator should be informed and where the decision to exclude may be taken social work services must be informed of the decision. It is essential that this is done prior to the child or young person being sent home in order to ensure their health and wellbeing immediately, and throughout the period of exclusion from school. A child or young person for whom there are child protection concerns should not leave school premises during school time until this has been carried out. In all cases where a decision to exclude is being taken schools should be prepared to undertake a risk assessment to ensure that the child will not be placed at further risk whilst excluded from school, and that alternative provision should be available without undue delay.





**109** The national guidance on protection of children in school, *Safe and Well*<sup>48</sup> indicates that when considering the exclusion of a learner for whom there are concerns relating to child protection, the following should be considered:

- › check that there are appropriate arrangements for the care of a child or young person before they are sent from the school premises
- › consider whether there are family or other circumstances that mean support is required if a child is excluded
- › find out whether the child concerned is on a Child Protection Register, or compulsory measures of care, in which case Social Work **must** always be informed
- › undertake a risk assessment to ensure that the child will not be placed at further risk while they are excluded from school
- › where there are child protection concerns, consult the education authority to seek alternative educational provision for the learner while excluded from school, without delay
- › consider appropriate arrangements for re-integration into school after the exclusion. For children and young people who have experienced abuse or neglect, stability and consistency in schooling is essential. If an exclusion is necessary, reintegration into the same school is often in the best interests of the child.

**110** As with any other vulnerable child or young person, alternatives to exclusion which enable the ongoing wellbeing and stability of the child or young person should be explored and exhausted with exclusion from school being a last resort.<sup>49</sup>

<sup>48</sup> Safe and well: Good practice in schools and education authorities for keeping children safe and well, 2005, Scottish Government

<sup>49</sup> Protecting Children and Young People: What you can do to help if you are worried about a child or young person <http://www.scotland.gov.uk/Resource/Doc/35596/0023644.pdf>

## Children and young people with additional support needs

**111** The Education (Additional Support for Learning) (Scotland) Act 2004 (as amended 2009) places specific duties on education authorities and other appropriate agencies to provide adequate and efficient additional support to ensure that all children and young people for whose school education they are responsible are able to benefit from school education. The *supporting children's learning code of practice*<sup>50</sup> which supports the implementation of the Act states that an additional support need may be of short or long duration, and may arise for any reason, for example due to the learning environment, family circumstances, a disability or health need, and social and emotional factors. Examples of learners who may receive additional support are those who are being bullied, those with social, emotional and behavioural needs, those with English as an additional language, those from asylum seeking families, and those from Gypsy/Traveller families. Regardless of the reason for the need for additional support, education authorities must make arrangements for the identification of individual additional support needs, make adequate and efficient provision for them, and keep under consideration the needs identified and the adequacy of the support provided for them. In many cases children and young people will have complex needs spanning more than one of these or other types of situations.

**112** It is essential that the personal needs of each learner are considered, therefore, to determine whether or not learners may need additional support.

**113** In considering the exclusion of a learner who receives additional support, school staff should take account of the potential impact of the loss of both their learning and support provision. Staff should be aware of the arrangements in place with other agencies, such as social work services and health services in making provision and take account of the impact of any disruption to the provision of these services to the learner, and to the services themselves. Learners should be allowed to continue to access any therapeutic support such as physiotherapy, speech and language therapy or occupational therapy as ongoing and necessary support and intervention.

**114** School staff should be aware that a period of exclusion from school creates a transition point for children and young people to return to school, which can be particularly challenging for some learners with additional support needs. In considering an exclusion from school, transition planning should be factored into the plans for return to school.

<sup>50</sup> Supporting Children's Learning Code of Practice (Revised edition), 2010, Scottish Government



**115** As part of their duties to make adequate and efficient provision and keeping that provision under review, education authorities and schools use a range of planning mechanisms. For some learners with additional support needs an Individualised Educational Programme will be in place which will contain details of learning targets and support provided towards the aim of the plan. For those who meet the criteria, a co-ordinated support plan will contain the details of learning outcomes and support provided across multi-agencies towards specific learning aims. School staff, and where appropriate, multi-agency partners will require to take account of an exclusion within learning targets. The plan may require adjustment to reflect aspects of the exclusion, which may include the incident leading to exclusion and any subsequent follow-up actions.

**116** The provisions of the additional support for learning legislation include those children and young people who have social, emotional and behavioural needs. Exclusion statistics indicate that this group of children and young people have by far the highest rates of exclusion amongst learners with additional support needs with 273 learners per 1000 in primary, 674 learners per 1000 in secondary, and 610 learners per 1000 in special schools.<sup>51</sup> These rates are significantly increased in comparison to other additional support needs.

**117** In considering the exclusion of children and young people with social, emotional and behavioural needs schools and authorities should take account of the ongoing support which learners are receiving to support their additional needs and to ensure continuity of provision throughout any exclusion to support their learning needs. Integrating personal and behaviour support may be effective in ensuring that children and young people in need of support for social and emotional factors have consistent access to that support provision and are less likely to be removed from it.

**118** Whole school approaches, in combination with more specific and targeted emotional health and wellbeing programmes for children and young people with social, emotional and behavioural needs are important.

**West Dunbartonshire Council – Groupwork**

Following discussion at the Joint Agency Team meeting with West Dunbartonshire, a referral can be made to the authority's groupwork and family support team to provide individual support and/or issue based groupwork.

<sup>51</sup> Exclusions from Schools, 2008/09, Scottish Government National Statistics Publication

## Children and young people with disabilities

**119** In considering the exclusion of a learner with a disability as defined by the Equality Act 2010 schools and education authorities should ensure that they comply with the provisions of that Act in relation to discriminatory behaviour in the context of exclusion from school. The Disability Discrimination Act 1995 Code of Practice<sup>52</sup> indicates that responsible bodies must not discriminate against a learner with a disability by excluding him or her for a reason related to the learner's disability. New guidance on the Equality Act 2010 as applied to education in Scotland is currently being developed for publication.

### Case Study

A learner who has autism pushes in at the front of the dinner queue and is told by a teacher not to 'barge in'. The learner clearly becomes anxious but does not leave his place in the queue even after the teacher insists that he doesn't 'jump the queue'. The learner becomes more agitated and lashes out, hitting the teacher. The incident leads to the learner being excluded.

#### **Is the less favourable treatment for a reason related to the learner's disability?**

The reason for the exclusion, hitting the teacher, may be related to the learner's disability. Particular features of his autism are that he has difficulty in managing social situations, he has difficulty in understanding the purpose of a queue, he has difficulty in understanding figurative language, such as 'barge in' and 'jump the queue', and he has difficulty in managing escalating levels of anxiety. If the hitting is related to these features of his autism, then the less favourable treatment, the exclusion, is for a reason related to the learner's disability.

#### **Is it less favourable treatment than someone gets if the reason does not apply to him or her?**

It is less favourable treatment than someone would get if they had not hit the teacher.

<sup>52</sup> The Disability Discrimination Act 1995 Code of Practice



**Is it justified?**

The less favourable treatment is likely to be justified in terms of the order and discipline in the school. Any assault is likely to constitute a material and substantial reason justifying exclusion. However, there may be reasonable steps that might have been taken to **prevent** the incident happening in the first place.

For staff there might have been training:

- › about autism and how the disability manifests itself;
- › on strategies to avoid difficulties, for example, avoiding negative instructions and symbolic language such as ‘barging in’ and ‘jumping the queue’; and
- › on strategies to overcome difficulties if they do arise.

For the learner there might have been:

- › particular training for social situations, such as queuing; and
- › the development of strategies for communicating that he is upset or confused.

**If reasonable steps of this type could have been taken but were not, it may not be possible for the school to justify the exclusion.**

**If steps of this type were taken but the incident still happened, the school is likely to be able to justify the exclusion.**

Example 5.17E, p 47, Disability Discrimination Act 1995 Code of Practice for Schools<sup>53</sup>  
Further guidance for teachers on dealing effectively with autistic spectrum disorder is available from The Autism Toolbox.<sup>54</sup>

<sup>53</sup> The Disability Discrimination Act 1995 Code of Practice

<sup>54</sup> The Autism Toolbox: An Autism Resource for Scottish Schools, 2009, Scottish Government

**120** The example above highlights some issues of practice in relation to children and young people with autistic spectrum disorder in relation to exclusion. School and authority staff may also wish to consider the need to carry out risk assessment in relation to the needs of children and young people with additional support needs. Communication with supply and other staff who do not regularly work with learners who have particular behaviours related to an additional support need is essential to ensure consistency in practice and responses to behaviours to prevent further escalation of challenging behaviours which may lead to exclusion.

### Exclusion and referral to the Children’s Hearing System

**121** Where considering whether a child or young person should be excluded because of disruptive behaviour for example, physical assault on learners or staff, deliberate damage to buildings or equipment, consideration of referral to the Children’s Reporter may be appropriate. The referral of a child or young person to the Reporter would suggest there is a need to intervene on a compulsory basis because the child is deemed “at risk” and his/her behaviour is giving serious cause for concern and should be addressed or challenged. Where police have been involved, they will automatically refer the child or young person to the Children’s Reporter.

**122** There may be other reasons for a child’s behaviour – children and young people who display particularly challenging behaviour may be the victims of neglect or abuse and/or be the witnesses of domestic abuse. The individual circumstances of the learner should be considered as part of the decision on whether to make a referral to the Children’s Reporter in line with local authority procedures. The grounds for bringing a child or young person before a hearing are set out in section 52(2) of the Children (Scotland) Act 1995.



## 7. Decision Making, Managing Exclusions and Re-engagement

### Introduction

**123** The legal framework for exclusion: Regulations 4 and 4A of the Schools General (Scotland) Regulations 1975 as amended, sets out the circumstances in which a learner may be excluded. The regulations sit within the wider context of the Education (Scotland) Act 1980, the Standards in Scotland's Schools etc Act 2000, and the Education (School and Placing Information) (Scotland) Regulations 1982; as well as requiring to be considered within the context of the Education (Additional Support for Learning) (Scotland) Act 2004 as amended. This chapter continues to outline policy and practice in relation to decision making and managing exclusion and removal from register, and reintegration. The current relevant legislative and regulatory position is summarised at Annex B.

### Decision making

**124** An education authority may only exclude a learner from school if the authority:

- › considers that in all circumstances to allow the learner to continue attendance at the school would be likely to be seriously detrimental to order and discipline in the school or the educational wellbeing of the learners there; or
- › is of the opinion that the parent of the learner refuses or fails to comply, or to allow the learner to comply, with the rules, regulations or disciplinary requirements of the school.

**125** The decision to exclude a learner from school can be a difficult one for school and authority staff. In those situations of last resort, it is useful to identify what the purpose of the exclusion is and what positive outcomes can be achieved by an exclusion; and again, if they can be achieved by any other means such as a restorative or solution oriented meeting; an opportunity to engage with parents or carers; an opportunity to introduce or review educational plans; or a period of cool down or reflection in a learner support base. Regular use of the support base for particular learners should be monitored and reviewed as part of staged intervention.

**126** A number of local authorities have developed a set of core questions when exclusion is being considered. This shows a positive impact upon how situations are managed. These include:

- › what interventions have been effected?
- › is exclusion a last resort?
- › what will exclusion achieve, and would an alternative be possible?
- › what is the likely impact upon the learner, and their wider circumstances?
- › does the learner require effective adult (and/or peer) support?
- › if so who can best provide this?

**127** As part of the process of making the decision on whether or not an exclusion from school is appropriate school staff may wish to involve the learner's parents or carers in discussions which aim to bring about the same effect as an exclusion from school, i.e. a positive change in learner behaviour or recognition of harmful behaviours. This may be particularly appropriate where staff are concerned that the learner's behaviour or actions may not benefit from an exclusion as such, but certainly require some formalised response.

**128** In these circumstances it may be appropriate for a restorative approach to be used to support the restoration of relationships between learners' and staff involved in or affected by any behaviours or incidents as part of discussions. Alternatively, it may be beneficial to use solution oriented meetings whereby the focus of the meeting is to find solutions and pathways through challenges and difficult situations. The process enables participative, solution finding approaches where the end goal is uncertain, where there are many people involved and where people feel generally 'stuck'.

**129** Another approach which can be considered is the use of the range of measures that would usually be triggered by an exclusion but without actually excluding, e.g. contacting and meeting parents, carrying out a risk assessment and planning. The purpose of this approach is to bring positive outcomes which may be achieved by an exclusion such as the involvement of parents into the process prior to the decision to exclude, as a preventative measure.





### Hillpark Secondary School, Glasgow City Council

The learner pupil support centre within Hillpark Secondary School delivered a service to young people who were unable to cope within the mainstream school. Pupils would be referred to the centre for a variety of reasons such as poor attendance, disruptive behaviour and as an alternative to exclusion. The centre was staffed by a variety of staff from a number of subject areas across the school and provided the school with a 'time-out' facility for young people.

Following a review of the pupil support centre and an in-depth analysis of exclusion patterns and statistics, the school developed a new relationships and behaviour policy and in the process re-designed the structure and service delivered by the learner support centre to meet the needs of the young people and the needs of the school. The new provision has the following features:

- › A dedicated, specialist teacher for the pupil support centre
- › Young people can be referred to the pupil support centre as an alternative to exclusion
- › Where appropriate, young people have an individualised support and re-integration programme
- › The programmes are reviewed regularly and usually time limited
- › The support is co-ordinated by pastoral care, pupil support and DHTs
- › Flexible options and pathways
- › CPD for staff in promoting positive relationships and behaviour
- › Pupils are given individualised targets which are monitored and reviewed by behaviour support staff as part of a programme of early intervention
- › Pupils who require support are identified at the start of each session and are provided with behaviour management programmes by a variety of external agencies.

**130** The power to exclude a learner and therefore the legal responsibility for school exclusion rests with local authorities. In practice, decisions on exclusion are initially delegated to schools with the majority of decisions on exclusions made within school by the senior management team. Decisions on removal from register are in practice made by education authorities where the recommendation has been made by the senior management team or headteacher within a school. This enables a consistency in approach across an authority and joint consideration of educational provision and placement.

**Falkirk Council – decision making**

Within Falkirk Council, in order to support headteachers in their decision making process regarding exclusions, the decision to remove a young person from the register can only be made by the Director of Education.

**131** In taking the decision to exclude a learner school staff and education authorities have a duty to take account of the child or young person’s views as part of the decision making process where the learner wishes to express a view. In practice, this might mean that someone not directly involved in the behaviour or incident leading to the exclusion asks the learner for their views, and why they should not be excluded.

**Sending home without excluding**

**132** Any decision to exclude a learner which does not conform with the legislative framework provided by the Schools General (Scotland) Regulations 1975 is illegal and may leave the authority open to legal challenge by the parent or the learner themselves. A complaint may also be raised under section 70 of the Education (Scotland) Act 1980.

**133** Schools and education authority staff should therefore be aware that learners being sent home for periods of time to ‘cool off’ or ‘cool down’ or for longer term assessment and planning **must** be formally excluded, including where parents have given permission for their child to return home. Learners must not be sent home from school for reasons relating to behaviour or an incident without being excluded.

**West Dunbartonshire Council – “cool off”**

Where it is deemed appropriate in West Dunbartonshire Council that a young person needs to be sent home for a ‘cool off’ period, this is recorded as an exclusion. Careful consideration is given to the length of time required for the ‘cool off’ and often a half-day exclusion is all that is required.

**Consideration of individual circumstances**

**134** Schools and education authorities will also wish to ensure that any decision to exclude complies with duties relating to anti-discrimination, including duties to prevent discrimination on the basis of race, disability and gender. In addition, under the provisions of the Equality Act 2006, educational establishments should prevent discrimination on the basis of religion and sexual orientation. Schools and authorities should be aware of legislation relating to Human Rights and other relevant legislation. Therefore schools and authorities should ensure an ongoing awareness of developments in the law in this area.



**135** It is essential that in considering excluding a learner school staff and the senior management team take into account the specific circumstances of the case in balance with the consideration of the individual circumstances of the child themselves. This is particularly significant where the learner is vulnerable or may be at risk.

### Managing exclusions

**136** However, where all alternatives have been unsuccessful or where a learner's behaviour has been so extreme then exclusion may be the appropriate response.

### Communication with parents/carers

**137** The authority must, on the day on which a decision to exclude a learner (where the learner is under 16 years) is taken, inform the learner's parent or carer either in writing or verbally of:

- › the decision to exclude; and
- › the date, time and place where the headteacher, or teacher or official of the education authority, shall be available to discuss the decision to exclude. This meeting must be within 7 days of the decision to exclude.

**138** Where a parent or carer has been informed of the decision to exclude verbally, it is good practice for the details to be confirmed in writing or where appropriate in an alternative communication format.

**139** Annual national statistics on exclusions from schools show that temporary exclusions last one week or less; with the average length around 3 days. In order to make sure there is sufficient review, assessment and preparation for return to school, successful reintegration and introduction of new or additional support; it may be necessary to meet with parents/carers more quickly or urgently.

### Communication with learners

**140** Where the learner is a young person (over school age who has not yet attained the age of 18) the authority must, on the day on which a decision to exclude a learner inform the young person either in writing or verbally of:

- › the decision to exclude; and
- › the date, time and place where the headteacher, or teacher or official of the education authority, shall be available to discuss the decision to exclude. This meeting must be within 7 days of the decision to exclude.

141 It is not required to inform or involve parents/carers of a young person, but it is good practice.

### Communication about the decision to exclude – legal capacity

142 In Scotland, there is a presumption that a child aged 12 years and over has legal capacity to instruct a solicitor in connection with any civil matter. Children with that legal capacity have the same rights of appeal as a parent or learner who is a young person. Therefore a decision to exclude a learner who is aged 12 years and over and under 16 should also be communicated directly to the learner in addition to their parent/carer; and the learner involved in the discussion/meeting.

143 In the case of learners who are under 16 and are not considered to have legal capacity, the learner's parent should be informed of the decision to exclude and the meeting to discuss the decision should be with the parent or carer.

144 Regardless of age, the views of the child or young person should be sought and taken into account on a decision which will significantly affect them. For example, the child or young person could be asked if they think there is a reason why they should not be excluded.

### Communication about the decision to exclude – Looked After children and young people

145 A Looked After child or young person may be the subject of a supervision requirement with no condition of residence, which would mean that they remain at their normal residence, i.e. the family home. In these circumstances parental responsibility may remain entirely with his/her parents or may be shared with the local authority. Alternatively, a Looked After child or young person may be the subject of a supervision requirement with a condition of residence. In these circumstances the child or young person is cared for away from their normal place of residence, e.g. in a foster care placement, residential/children's unit, a residential school, a secure unit or a kinship placement. In these circumstances parental responsibility may be shared with the local authority or the local authority may have entire responsibility where a parental responsibility order is in place.

146 There are particular responsibilities and considerations for the corporate parent regarding the exclusion of a Looked After child or young person, including the implications for the placement; the emotional impact on a child or young person who may already have attachment issues and may have experienced considerable lack of stability. School staff should be able to answer the question "Is this good enough for my child?" positively to ensure that the welfare of the child is paramount in making decisions.



**147** As part of the local authority's duties to safeguard and promote the health and wellbeing of Looked After children and young people the decision to exclude a learner who is Looked After should be taken in consultation with the child's social worker and lead professional, if different. Where a decision to exclude is taken this should be communicated by the designated senior manager or staff member with responsibility for Looked After children within school to the lead professional nominated within the child or young person's care plan. The meeting to discuss the exclusion should be held with those who hold parental responsibility. This may be parents, carer or the key worker or a combination of all.

### Procedures immediately following the decision to exclude

**148** In addition to the above, school staff must contact parents or carers prior to the learner being required to leave school premises during school time to ensure the safety and wellbeing of the child or young person. In the case of a learner who is Looked After, the school should ensure that appropriate arrangements for the care of the child or young person are in place prior to the learner leaving the school premises.

### Communication about the reason for exclusion and right of appeal

**149** As indicated, the authority must notify the parent or carer; or a young person in writing or alternative format where appropriate, of:

- › the reason(s) the learner was excluded;
- › the right of appeal and how appeals can be initiated; and
- › any other information considered relevant or appropriate.

**150** It is not a requirement to set conditions for return to school, but a school can set conditions depending upon the individual case. It may be appropriate to develop and agree conditions with the parents and learner as part of a re-integration meeting; and as part of a review of staged interventions including the identification of respective roles and responsibilities.

**151** It is good practice to also notify the learner where the learner is a pupil with legal capacity, and the parent where the learner is a young person.

152 The Regulations provide two timescales for providing this notification:

- › Where the learner has been excluded for a period exceeding 7 days, or where the parents (or learner where applicable) have not, within 7 days of first being informed of the decision to exclude, indicated to the headteacher that they do not intend to appeal the decision (whether or not the learner has been re-admitted to the school), the subsequent written notification must be issued within 8 days of the decision to exclude.
- › In any other circumstances, the education authority may issue the subsequent written notification within 8 days of the decision to exclude, or thereafter.

### The right of appeal against a decision to exclude

153 Section 28H of the Education (Scotland) Act 1980, and section 41 of the Standards in Scotland's Schools etc. Act 2000 provide the right of appeal against a decision to exclude a learner. An appeal is referred to the Education Appeal Committee within the education authority in the first instance. A further right of appeal against the decision of an Education Appeal Committee lies to the sheriff court.

154 The 1980 Act provides parents and young persons with rights of appeal against a decision to exclude. Where the young person excluded is a young person, the right of appeal lies solely with the young person, not with the young person's parent. The Standards in Scotland's Schools etc. Act 2000 confers *these same rights* to learners who are pupils with legal capacity to instruct a solicitor (broadly those pupils over 12 with sufficient maturity and understanding of what it means to do so, although pupils under the age of 12 may also have that understanding and therefore also the capacity to instruct a solicitor). Even where a pupil does have legal capacity to instruct a solicitor, his or her parent may appeal on their behalf. Where a learner may have legal capacity but may have communication difficulties which may be aided by a communication aid, such an aid should be provided under the additional support for learning legislation.

155 In order for the process of appeal to function effectively it is necessary for education authorities to provide parents or the young person, and where appropriate learners with legal capacity, with information about the procedures involved, the type of evidence which may be heard and the support which they can bring with them to the committee hearing.



## Communication with colleges and other part-time provision beyond the school

**156** Where a young person has a placement at a college or other provision, it is good practice to let the college or placement know if a learner has been excluded. This should include the reason and the purpose of the exclusion in order that the placement can consider any related issues such as safety. However, on this basis it is not necessary to expect the college or other placement to also exclude the young person and indeed there may be clear benefits to continuing a positive placement and aspect of the young person's education. The young person should be aware of what colleges and extended providers or placements are told about the exclusion.

## Duration and timing of exclusion

**157** The length of a period of exclusion is not defined in legislation and is accordingly a matter for the discretion of the education authority. The exclusion should be for as short a period as possible. It is good practice for the local authority to set a limit of duration for exclusions beyond which there is a need to refer back to local authority level. The guiding principle is that the exclusion should be as short as possible and should be used to constructively resolve the situation with all those affected; plan for any new support or provision; and safeguard a successful return, in partnership with learners and their parent(s) or carer(s). This will be in relation to individual circumstances and include time to successfully resolve and arrange reintegration.

**158** In response to very serious incidents such as serious physical assault, use of weapon or dealing in illegal substances, there may need to be additional interventions such as contact with police, referrals, and case conferences within the staged intervention approach described earlier. There may also need to be a risk assessment.

**159** Where the timing of a decision to exclude a learner means that it falls near the end of a school term it is good practice to resolve the exclusion and re-admission processes within the same term if at all possible.

**160** A learner or parent's decision to appeal against exclusion should in itself have no effect on the length of the exclusion, or any conditions attached to the learner's return. A learner can return to school after a period of exclusion regardless of the appeal process and timing.

**161** In the circumstances where the exclusion meeting has resulted in an agreed resolution between the learner, their parents and the school, a return to school prior to the end of the exclusion period may be appropriate. This decision should be taken by the headteacher.

## Where exclusion affects exams

**162** In some circumstances a learner's behaviour or the occurrence of an incident may lead to exclusion around the time where a learner is due to be presented for examinations. Every effort should be made to ensure that the learner is able to sit their exams as planned, or within an alternative location in the school. Where this is not possible schools should make arrangements to enable the learner to sit their exams within another centre or location. Schools should contact the Scottish Qualifications Authority (SQA) for advice and to progress any arrangements should this be required.

## Recording the decision to exclude

**163** The decision to exclude a learner can be included in the learner's progress record. Where included, there are requirements as to what should be recorded. It is important within the context of ongoing assessment and planning for the learner's needs and individual circumstances that appropriate information is recorded.

**164** Where an appeal has been made to the education appeal committee and/or to the sheriff court in relation to an exclusion the decision of the appeal committee or sheriff must also be noted within the record. The parent or the young person should be informed of the terms of entry in the record as soon as practicable after the information is included.

**165** Where the decision of an education appeal committee or sheriff court has been to annul the exclusion, this information should be deleted from the learner's progress record and this information should not be disclosed as part of the learners' progress record.

## Consideration of alternative educational provision during exclusion and timescales

**166** Education authorities have a duty under section 14(3) of the Education (Scotland) Act 1980 to make alternative education provision for excluded learners **without undue delay**. The duty is to either:

- › Provide school education for (the excluded learner) in a school managed by them; or
- › Make arrangements for (the excluded learner) to receive such education in any other school the managers of which are willing to receive (the excluded learner); or
- › Make special arrangements for the excluded learner to receive education other than at a school.





**East Ayrshire Council – designated teacher**

In order to provide some continuity of provision for a young person looked after away from home, a designated teacher within East Ayrshire Council will prioritise workloads and schedules in order to provide direct support to the young person during this vulnerable exclusion period.

**167** It is essential that alternative provision is put in place during an exclusion to ensure the continuation of educational provision and engagement of the learner. This supports the continuing inclusion, engagement and involvement of learners in education which itself improves life chances and outcomes for the most vulnerable learners.

**168** Where it appears to the Children’s Hearing that an education authority is failing in its duty to make this alternative provision, the Children’s Hearing may require the Principal Reporter to refer the case may be referred to the Scottish Ministers under Section 70 of the Education (Scotland) Act 1980 (as amended).

**169** The annual national statistics publication on exclusion from school indicate that around 86% of those excluded **do not** receive educational provision whilst they are excluded while around 13% receive other provision which includes work sent home.<sup>55</sup> This indicates that learning ceases during the exclusion and the impact of this is likely to increase disaffection from school and increase learners’ difficulty in re-integrating into classes and homework on their return.

**170** Alternative provision in the form of homework, learning in an alternative school or educational establishment which will contribute to continuity and which is of a similar standard to the education provided prior to exclusion should be put in place as soon as practicable within the context of the vast majority of exclusions being for the minimum period required to resolve the situation and in relation to the individual circumstances of the case. In practice, alternative provision will need to be in place within days rather than weeks; although it may be necessary to allow for an immediate cool-down on the actual day of exclusion.

<sup>55</sup> Exclusions from Schools, 2008/09, Scottish Government National Statistics Publication

**171** Any special arrangements should, in the first instance, involve providing learners with the same classwork and homework for completion, marking and return which they could expect had they not been excluded. Unless the exclusion is of only a few days duration, it will not be sufficient simply to provide excluded learners with homework or classwork if they do not also receive sufficient teaching to enable them to understand the material. Any arrangements should therefore involve contact with learners on a regular basis. There is a responsibility on learners and parents to make sure the provision arranged is carried out and used during a period of exclusion.

**172 Consideration as to the amount of contact time required needs to be given on an individual basis.** Younger children who are less well able to work on their own, children with pre-existing difficulties in learning, children working towards examinations and those whose families may be less able to support their learning, might be considered to have greater needs for direct teacher contact. The division and spread of allocated contact time should also be based on individual need. The reason(s) for a learner being excluded should be taken into account when deciding levels of contact, in order to ensure the security of all those involved.

**173** The duty to provide education never stops. The legislation does not specify within how many days alternative education provision should be provided as the purpose is to **continue** providing education to learners not attending school. It is reasonable to expect alternative education provision after 3 days, and not 10 days as previously advised. The duty is on local authorities to provide alternative education, but the school can provide work and has a responsibility to do this. It will not be practically possible to deliver the same standards of curriculum provision during an exclusion, within the context that 99% of exclusions are 10 days or less. Equally, it is not acceptable that 86% of those excluded do not receive alternative educational provision of some form.

**174** However, around 1% of exclusions are more than 10 days (in 2008/09 there were 400 exclusions more than 10 days<sup>56</sup>) and it is imperative that alternative education is provided in those cases.

<sup>56</sup> Exclusions from Schools, 2008/09, Scottish Government National Statistics Publication



## Re-engagement

**175** Following a period of exclusion, it is necessary to arrange the readmission of the learner to school. It is good practice to meet with the learner to discuss their return to classes and the work which they will have to complete, if appropriate. It is recognised that too much focus on work to be caught up on may however be de-motivating.

**176** It may be necessary to implement a range of support provision to put together a package of individualised support to meet the needs of the learner. In the circumstances where a learner is accessing extended support provision as part of meeting their learning needs, it is essential that appropriate assessment, planning and review are carried out jointly between the two education providers to ensure a consistent approach.

**177** Re-integration meetings with children and young people and their parents/carers may include agreeing to a support plan, including agreeing an understanding of future behaviour, expectations and responsibilities. However, it is not required to seek guarantees or contracts of behaviour with parents although conditions with which pupils and/or parents are required to comply, or to undertake to comply, may be set as conditions precedent to the pupil being readmitted to the school.

**178** Re-admission should take into consideration preparing and meeting the needs of staff, children and young people affected by the behaviour/incident which led to the exclusion and follow up support. It may be appropriate to hold a restorative meeting with staff and learners involved in the incident/behaviour leading to exclusion to restore and repair relationships and trust as part of the return to school. Schools which use restorative or solution oriented approaches are in a strong position to use those approaches for re-integrating learners, dealing positively with other learners and/or staff affected, and achieving resolution of the situation. Further information on restorative approaches is included in Annex D.

**179** Other forms of follow up support for staff and other learners include:

- › feedback on how the incident/learner(s) has been dealt with
- › informal meetings
- › formal meetings within school
- › protected time to recover, discuss or debrief
- › meeting at local authority level (e.g. head of service, quality improvement officer, educational psychologist)
- › a confidential help line or counselling support

**180** The *Behaviour in Scottish Schools Research 2009*<sup>57</sup> found that teachers and support staff generally felt supported and confident that senior management would help with behaviour management difficulties. Informal support from colleagues was also valued. Where teachers had experienced a serious incident the most common type of follow up support for teachers was feedback on how learners had been dealt with and/or a restorative or informal meeting. Counselling was hardly ever used and some incidents were not followed up at all. It is essential that schools and local authorities support all staff who report serious incidents so the resolution takes into consideration the needs of staff affected as well as the child or young person.

### Removal from register

**181** In 2008/09, less than 100 learners were removed from the register.<sup>58</sup> In the context of local authorities' continuing duty to provide education, and the range of approaches and options for learners at risk of removal from the register, it is imperative that everything possible is considered to avoid such a situation. It is important that removal from register does not represent a failure to assess and implement the range of approaches and options available, including managed moves or transfers across school clusters or local authorities, with learner and parent involvement in decision making.

**182** In very exceptional circumstances it may be that the school believes that the learners' behaviour is such that it may merit the learner's removal from the register of the school and therefore referral to the education authority for consideration.

### Admission to a new school following removal from the register

**183** Where the decision to exclude a learner has been to remove the learner from the register, education authorities must arrange for an alternative educational provision to be made. This is usually in the form of attendance at another establishment. Arrangements for transfer of the learner to a new establishment should be made expediently to ensure minimal risk to educational provision for the learner. As with exclusions alternative provision must be made during any period of exclusion. **Schools must ensure timely transfer of educational records and plans to support the effective transition of the learner to their new educational provision.**

<sup>57</sup> Behaviour in Scottish Schools Research November 2009, Scottish Government Social Research, University of Edinburgh

<sup>58</sup> Exclusions from Schools, 2008/09, Scottish Government National Statistics Publication



**184** Following the learner's return to school after exclusion, support provision and planning mechanisms should be reviewed. Schools and education authorities should go back into the staged intervention process as outlined earlier.

### Consideration of use of part-time hours

**185** As part of an initial support package on return to school it may be appropriate, particularly where a crisis situation has developed for the learner to return to school on a phased, part-time basis for a short period of time during re-admission. However, phased returns should be very short and may support learners who are reluctant to attend. If no additional support is provided during the part of the school day when the learner is not attending, this should be recorded as exclusion. Any such plans should be considered within the staged intervention framework and documented within the appropriate planning mechanism. These arrangements should be considered as an interim step to expedite a prompt return to full time education and should have a clear timescale attached. The length of this arrangement should be kept to an absolute minimum with an expectation of return to full time education built in. Where a learner is receiving a part-time timetable their attendance should be marked as attendance and time absent should be considered exclusion, as the educational programme is a consequence of exclusion. The HMIE report *Expanding Opportunities*<sup>59</sup> found that most colleges reported attendance and behaviour problems to school staff, usually on a daily basis. However, there were occasions when a less direct approach meant delays in information being passed to schools.

### Communication and engagement with families and/or carers

**186** In addition to the formal communication processes around the exclusion itself, school staff may wish to continue to be in touch with families/carers following the return to school to ensure that any ongoing concerns may be dealt with quickly and consistently. This ongoing relationship between school and home may also enable any wider concerns resulting from the exclusion itself, for example around the ongoing placement of a Looked After child or young person, to be raised and appropriate support put in place by other agencies. Regular communication by phone or email can support this process.

<sup>59</sup> Expanding Opportunities, A report on school-college partnership programmes in Scotland, 2008, HMIE

**187** *Parents as partners in their children's learning*<sup>60</sup> is a toolkit which looks at the different ways parents and carers can be involved in their child's learning and provides guidance on involving all parents in school life. For some parents, their own experience of school or a history of difficulties between themselves and the school may lead to reluctance to engage with school both prior to, and in dealing with, exclusion. Regular communication with parents by telephone or email should help to overcome this. Also, home-school link workers and/or social work services may support the development of a new or renewed relationship with school, which will in turn benefit all involved. Solution oriented or restorative meeting may be used to positively engage and support parents.

#### **Use of solution oriented re-admission meeting**

Multi-agency meetings are frequently held by schools prior to exclusions, often called Joint Assessment Teams or School Liaison Groups. Following exclusions such meetings are often termed re-admission Meetings. The purpose of such meetings is often cited as providing opportunities for the child/young person, parents, school and others to identify ways of understanding and shaping behaviour so that possible future exclusions become unnecessary. Historically, such meetings have often been tightly chaired within an information-sharing context while meetings are now characterised by a participative style and a solution-finding context. Several forms of solution oriented meeting are now used across the country. This case study illustrates the 7-step solution oriented meeting process, piloted in Highland Council over the past 8 years, and now adopted by several other councils throughout the country.

#### **The Process**

The 7-step solution oriented meeting is based on the Rational Approach to Decision Making Model, enhanced by solution oriented and creative thinking techniques. Typically its duration is 30-45 minutes, it is conducted by an outcome-neutral facilitator and places the child and family at the centre of the solution-finding process. It is highly visual and participative and concludes with an action plan.

## **Mediation**

**188** In the circumstances where relationships between school or authority staff and parents/carers have become difficult, mediation may be a useful tool in discussion and reaching an agreement around a specific issue or circumstance. Mediation may be used, where both parties agree, to work together towards an agreed solution. Where exclusion from school may relate to an additional support need mediation may be requested and provided through the framework of the Additional Support for Learning legislation.

<sup>60</sup> Parents as Partners in Their Children's Learning: Toolkit, 2006, Scottish Government



### The Case Study

The following description is fictional but based on aggregated elements from a number of solution oriented meetings which have taken place in Scotland over recent years.

Callum is 14, lives with his mother, and after a lifetime of living in Wales has recently moved to an east coast town to live with his maternal grandmother. Within 2 weeks of arrival in his new school he has been excluded, for a short fixed time-period, for swearing at a teacher.

At the solution oriented re-admission meeting the facilitator opened the meeting by referring to a range of qualities and competencies which Callum was recognised as possessing. An exercise which identifies the forces which drive change forward and those which pull change back was then used to draw out the elements in Callum's life which could make successful return to school more likely and those elements which could act against a successful return to school.

The facilitator moved onto identification through collating, on a flipchart, responses to **Question 1**.

#### Question 1

**“What are the issues, really, which we need to address in order to ensure that Callum's readmission to school is successful?”**

**These issues are how to.....”**

Approximately 10 issues were identified through a brainstorming process supported by solution oriented and creative thinking questions.

Participants, through a physical and participative voting process, now identified which was the most salient of these issues for Callum and the school at this point in time for the preferred future of successful readmission to school. In this case “how to assist Callum to feel that he belongs in the High School” was voted as being the most important issue for successful readmission.

Utilising the flipchart again, the facilitator then asked

#### Question 2

**“In how many ways might we address the issue of how to assist Callum to feel that he belongs in the High School.....?”,**

Again, family and school participated in generating solutions, approximately 15 suggestions were noted, and selection of the most promising suggestions was achieved through a voting process.

The headteacher now had the basic components of an action plan to successfully assist Callum to return to school, an action plan which was jointly owned by Callum, his mother and school staff.

Over the next 5 days -

- › Callum's class used a "Circle of Friends" approach to work out a rota of peer support for him over the school day
- › An appointment with Callum's GP was arranged to enable him to have the opportunity to share worries he had over his mother's serious ill-health
- › A meeting was facilitated between Callum and the teacher who had been sworn at in order to repair the relationship
- › Callum agreed to meet with the school's educational psychologist for stress management sessions
- › Transport was organised to bring Callum in to evening school activities from his very remote home
- › Grandmother agreed to Callum's mother being the school's only family contact reducing confusions around contact

Callum's return to school was successfully managed. He had two further short-term exclusions the following year but overall was considered to be an included and well-liked member of the school community. He is currently in his final year of training to become a quantity surveyor.

### Communication with staff on exclusion policies and individual cases

**189** It is important to communicate school policies on exclusion so that all staff are aware of overall principles as well as more specific school aims. In the context of individual confidentiality staff, including supply staff, ought to be proactively provided with information so that they are aware and understanding of individual situations.





## Local authority support for implementation and monitoring of exclusions

**190** Local authorities set policy frameworks to support local policy development and implementation. Exclusion policies should be part of a wider strategy or policy on support, relationships and behaviour. To support implementation, local authority good practice will include developing a policy framework covering the range of issues outlined such as flexible, personalised packages of support; school to school transfers; risk assessment procedures; physical intervention and restraint, and follow-up support for staff where there has been a serious incident, in the context of policies for improving relationships, promoting behaviour, and providing support for all children and young people.

Fife Council has a Behaviour and Discipline Strategy founded on the features that make a school effective in terms of behaviour and relationships. This is supported by a number of development strands, including *cool in school*, restorative approaches, and self regulation. It also includes a suite of policies including:

- › Behaviour and Relationships in Schools
- › Approved Flexible Packages
- › Host School Transfer of Pupils
- › Risk Assessment and Management of Pupil Behaviour
- › Physical Intervention in Schools: Policy and Procedures
- › Exclusion

**191** Local authorities can and do delegate decision making powers on exclusion to the senior management of schools; and they have a duty and responsibility to assist and support headteachers in decision making. Schools are increasingly working in partnership with local authorities to deliver a broad curriculum and flexible, personalised learning packages, across a range of provision and placements; and managed moves to other schools or learning centres. Local authority quality improvement officers also have a key role to monitor levels of exclusion including those children and young people who are excluded on a number of occasions and for longer periods of time, so that joint planning and support can be used to prevent further exclusion.

**192** Local authorities should be aware of lengthy or repeated exclusions as well as general awareness of the exclusion rates of all their schools. Local authority policies may require joint working where, for example, exclusions are over a certain length; certain repetition; or of Looked After children, in order to support joint planning, interventions and provision.

**193** Arrangements for monitoring consistency of decision making in exclusion from school are a matter for schools and local authorities themselves. Review of the information collected by schools will offer insights into the types of incidents and where collected, locations of incidents enabling schools to identify hotspots where exclusion frequently occurs. Collecting information on types of learners excluded (for example, Looked After children or by ethnicity) will enable monitoring of trends and may point to areas of inconsistent treatment or where more support work is needed.

**194** It is vital that local authorities understand how exclusion levels across learning establishments vary in order to identify trends and patterns which reflect school policies and practice; and constantly analyse prevalence, increases or decreases in numbers. Local authorities should also support learning establishment to address any prevalent or increasing trends.

#### **Examples of local authority monitoring**

A number of local authorities have put in place specific measures to monitor and track exclusions within all schools. The exclusion statistics are published twice a year and shared with all head teachers. The information is presented in a graph so that patterns can be easily identified. Senior education managers visit the school regularly to discuss exclusion patterns and offer advice and CPD opportunities to support the school.

Individual schools use SEEMIS as a tool to help them analyse exclusion patterns. The system can easily identify particular periods in the day, days of the week, times of the year which gives senior management teams helpful information so that they can provide the appropriate support at these particular flash points.



195 Nationally the Scottish Government has collected and published annual statistics on exclusions from school since 1998/99. This has enabled analysis of levels and patterns of exclusion within local authorities across Scotland. This information has been used to support the development of national policy and guidance. The latest national statistics on exclusion from school are available from <http://www.scotland.gov.uk/Publications/2008/01/28122247/exclusions>

196 Guidance and a data specification on this national collection are published by ScotXed and can be found at: <https://www.scotxed.net/jahia/Jahia/cache/offonce/lang/en/pid/386;jsessionid=47715EFABBE87F37480FD61BD27C514B>

197 The Scottish Government has just completed (September 2010) a user consultation survey on school statistical publications, including proposals to cease the national collection of statistics on exclusion. The proposal seeks to reduce the 'form-filling' burden placed on teachers and pupils by central government. It is however recognised that local authorities may wish to continue their own administrative or statistical collections for their own purposes – however the Scottish Government is keen to ensure that collections reflect specific and understood requirements for data and are not simply burdens placed on the school system by central government. In light of this aim, there is also a proposal to reduce the frequency of national statistical collections on attendance and absence to every 2 years.

## Annex A

### Exclusion from Schools – Scottish Government National Statistics

**Table 1a: Cases of exclusion by type of exclusion, 2003/04 to 2008/09**

	2003/04 <sup>(1)</sup>	2004/05	2005/06	2006/07	2007/08	2008/09
<b>Exclusions in total</b>	<b>38,912</b>	<b>41,974</b>	<b>42,990</b>	<b>44,794</b>	<b>39,717</b>	<b>33,917</b>
Temporary exclusions	38,736	41,703	42,726	44,546	39,553	33,830
Removed from register	176	271	264	248	164	87

**Table 1b: Number of cases of exclusion per 1,000 pupils, 2003/04 to 2008/09**

	2003/04 <sup>(1)</sup>	2004/05	2005/06	2006/07	2007/08	2008/09
<b>Exclusions in total</b>	<b>53.3</b>	<b>58.1</b>	<b>60.4</b>	<b>63.9</b>	<b>57.5</b>	<b>49.9</b>
Temporary exclusions	53.0	57.8	60.0	63.5	57.3	49.7
Removed from register	0.2	0.4	0.4	0.4	0.2	0.1

(1) Some of the 2003/04 figures in other tables include grant maintained schools, so they may not add to this published total.

**Table 2a: Cases of exclusion by gender, 2003/04 to 2008/09**

	2003/04 <sup>(1)</sup>	2004/05	2005/06 <sup>(2)</sup>	2006/07	2007/08	2008/09
<b>Primary</b>						
<b>Total</b>	<b>4,478</b>	<b>5,319</b>	<b>5,779</b>	<b>6,018</b>	<b>5,616</b>	<b>4,953</b>
Boys	4,155	4,845	5,253	5,525	5,188	4,537
Girls	323	474	525	493	428	416
<b>Secondary</b>						
<b>Total</b>	<b>33,472</b>	<b>35,513</b>	<b>36,136</b>	<b>37,566</b>	<b>32,905</b>	<b>27,704</b>
Boys	25,906	27,109	27,312	28,323	24,985	20,933
Girls	7,566	8,404	8,824	9,243	7,920	6,771
<b>Special</b>						
<b>Total</b>	<b>976</b>	<b>1,142</b>	<b>1,075</b>	<b>1,210</b>	<b>1,196</b>	<b>1,260</b>
Boys	860	1,039	985	1,103	1,077	1,116
Girls	116	103	90	107	119	144



**Table 2b: Cases of exclusion rate per 1,000 pupils by gender, 2003/04 to 2008/09**

	2003/04 <sup>(1)</sup>	2004/05	2005/06 <sup>(2)</sup>	2006/07	2007/08	2008/09
<b>Primary</b>						
<b>Total</b>	<b>11.0</b>	<b>13.4</b>	<b>14.8</b>	<b>15.7</b>	<b>15.0</b>	<b>13.4</b>
Boys	20.0	23.9	26.4	28.3	28.2	25.0
Girls	1.6	2.4	2.7	2.6	2.3	2.3
<b>Secondary</b>						
<b>Total</b>	<b>105.1</b>	<b>111.7</b>	<b>114.4</b>	<b>119.9</b>	<b>106.5</b>	<b>91.3</b>
Boys	161.9	170.0	172.4	180.4	161.7	137.6
Girls	47.1	53.0	56.1	53.1	51.3	44.8
<b>Special</b>						
<b>Total</b>	<b>134.3</b>	<b>162.9</b>	<b>158.6</b>	<b>182.5</b>	<b>187.3</b>	<b>195.0</b>
Boys	175.7	217.7	213.6	243.4	246.3	250.6
Girls	48.9	46.0	41.5	51.0	59.1	71.8

(1) the 2003/04 Secondary school figures include 7 temporary exclusions from mainstream grant maintained schools. The 2004/05 to 2008/09 figures do not include grant-aided schools.

(2) one Primary school exclusion where gender was not reported

**Table 3a: Cases of exclusion by stage from 2003/04 to 2008/09****Primary schools**

	Total	P1	P2	P3	P4	P5	P6	P7
2003/04	4,478	80	178	322	492	851	992	1,562
2004/05	5,319	130	245	402	717	938	1,284	1,603
2005/06	5,779	134	225	400	714	1,151	1,321	1,833
2006/07	6,018	156	305	400	653	1,062	1,534	1,908
2007/08	5,616	152	225	398	589	968	1,358	1,926
2008/09	4,953	137	246	339	567	824	1,167	1,673

**Secondary schools**

	Total	S1	S2	S3	S4	S5	S6
2003/04 <sup>(1)</sup>	33,465	5,180	8,948	11,032	7,342	807	156
2004/05	35,513	5,413	9,708	11,809	7,558	890	135
2005/06	36,136	5,570	9,444	12,400	7,723	865	134
2006/07	37,566	6,312	9,942	12,497	7,652	993	170
2007/08	32,905	5,139	8,723	10,912	7,202	801	128
2008/09	27,704	4,643	7,123	9,108	5,966	722	142

**Special schools**

	Total
2003/04	976
2004/05	1,142
2005/06	1,075
2006/07	1,210
2007/08	1,196
2008/09	1,260

**Table 3b: Cases of exclusion by stage per 1,000 pupils, 2003/04 to 2008/09****Primary schools**

	Total	P1	P2	P3	P4	P5	P6	P7
2003/04	11.0	1.4	3.2	5.7	8.5	14.5	16.6	25.5
2004/05	13.4	2.4	4.4	7.1	12.6	16.3	21.9	26.9
2005/06	14.8	2.6	4.2	7.2	12.6	20.3	22.9	31.4
2006/07	15.7	3.0	5.8	7.5	11.8	18.8	27.1	33.2
2007/08	15.0	3.0	4.4	7.6	11.0	17.5	24.2	34.1
2008/09	13.4	2.6	4.9	6.6	10.9	15.4	21.2	29.9

**Secondary schools**

	Total	S1	S2	S3	S4	S5	S6
2003/04 <sup>(1)</sup>	105.1	83.0	145.1	184.7	121.5	17.1	5.8
2004/05	111.7	89.1	155.5	190.1	128.2	19.0	5.0
2005/06	114.4	94.6	155.3	197.7	126.2	19.0	5.0
2006/07	119.9	109.6	169.1	204.5	124.2	20.9	6.5
2007/08	106.5	90.7	151.1	184.6	119.5	16.8	4.7
2008/09	91.3	83.4	125.3	157.2	102.2	15.4	5.1

**Special schools**

	Total
2003/04	134.3
2004/05	162.9
2005/06	158.6
2006/07	182.5
2007/08	187.3
2008/09	195.0

(1) Unlike in tables 2, 4, 5 and 6, the 2003/04 does not include the 7 temporary exclusions from mainstream grant maintained schools.

**Table 4: Cases of exclusion by deprivation indicator, 2007/08 and 2008/09**

	2007/08		2008/09	
	number	rate per 1,000 pupils	number	rate per 1,000 pupils
Most deprived 20% (SIMD2006)	17,308	117	14,416	100
Least deprived 20% (SIMD2006)	2,008	15	1,756	13



**Table 5a: Cases of exclusion (temporary and removals) amongst pupils Looked After by local authorities, 2003/04 to 2008/09**

	2003/04 <sup>(1)</sup>	2004/05	2005/06	2006/07 <sup>(2)</sup>	2007/08 <sup>(3)</sup>	2008/09
<b>Total Looked After</b>	<b>1,396</b>	<b>2,601</b>	<b>3,046</b>	<b>3,787</b>	<b>3,938</b>	<b>3,853</b>
Looked After at home	643	1,878	2,259	2,505	2,444	2,402
Looked After away from home	753	723	787	1,282	1,494	1,451
Not looked after by local authority data not available	35,647	39,373	39,944	40,900	35,778	30,064
	1,883					

**Table 5b: Number of cases of exclusion per 1,000 pupils amongst pupils Looked After by local authorities, 2003/04 to 2008/09<sup>(1)</sup>**

	2003/04 <sup>(1)</sup>	2004/05	2005/06	2006/07 <sup>(2)</sup>	2007/08 <sup>(3)</sup>	2008/09
Looked After at home	242	339	337	368	522	433
Looked After away from home	264	323	333	358	359	325
<b>Total Looked After</b>	<b>253</b>	<b>354</b>	<b>341</b>	<b>380</b>	<b>445</b>	<b>384</b>
Not looked after by local authority	49	53	55	60	52	45

Rate has been calculated on the basis of looked after status recorded at time of exclusion and is the rate within the particular group.

(1) The 2003/04 figures include 7 temporary exclusions from mainstream grant maintained schools.

(2) data not available for 107 removals from register in Glasgow where looked after status was unknown.

(3) data not available for one removal from register in Glasgow where looked after status was unknown.

**Table 6a: Cases of exclusion (temporary and removals) amongst pupils with additional support needs, by provision type, 2003/04 to 2008/09**

	2003/04 <sup>(1)</sup>	2004/05	2005/06 <sup>(2)</sup>	2006/07	2007/08	2008/09
<b>Primary</b>						
With ASN	940	1,282	1,258	1,668	1,537	1,573
Without ASN	3,123	3,716	3,896	4,310	4,048	3,346
Data not available	415	321	605	40	31	34
<b>Secondary</b>						
With ASN	2,804	3,339	3,943	4,928	4,890	4,911
Without ASN	29,264	30,735	30,867	32,000	27,828	22,612
Data not available	1,404	1,439	1,326	638	187	181
<b>Special</b>	976	1,142	1,075	1,210	1,090	1,179
Data not available					106	81

**Table 6b: Number of cases of exclusion per 1,000 pupils amongst pupils with additional support needs, by provision type, 2003/04 to 2008/09<sup>(1)</sup>**

	2003/04 <sup>(1)</sup>	2004/05	2005/06 <sup>(2)</sup>	2006/07	2007/08	2008/09
<b>Primary</b>						
With ASN	69	88	81	105	93	89
Without ASN	8	10	10	12	11	9
Data not available					##	##
<b>Secondary</b>						
With ASN	290	309	328	372	366	343
Without ASN	95	100	102	107	94	78
Data not available					##	##
<b>Special</b>						
Data not available	134	163	159	183	171	183
					##	##

(1) The 2003/04 figures include 7 temporary exclusions from mainstream grant maintained schools.

(2) there are 20 cases missing from this table which are included in tables 1,2,3,4 and 5.





## Annex B

### Current legislation, regulations and procedures

#### **CONTENTS**

**Introduction and general principles**

**Regulations**

**Pupils with additional support needs**

**Procedures**

**Length of exclusion**

**Recording an exclusion**

**Right of appeal against the decision to exclude**

**Alternative education provision**

**Special arrangements other than at a school**

**Family circumstances**

**Parental roles and responsibilities**

**Terminology**

**Bibliography**

## Legislative position on exclusion

### Introduction and general principles

1. The power to exclude a pupil from school rests with the relevant education authority. The Scottish Government considers that for this, and for other professional and administrative reasons, each education authority should operate under locally produced exclusion guidelines.

**This annex seeks to summarise the legislative position around exclusion to help inform the contents of these local guidelines.** It is not intended to replace those local guidelines, nor should it be relied upon as an exhaustive consideration of the legal duties which may, now or in the future, be imposed on education authorities.

2. The power to exclude a pupil from a school and the circumstances under which a pupil may be excluded are set out in Regulations 4 and 4A of the Schools General (Scotland) Regulations 1975 (“the 1975 Regulations”), as amended [S.I. 1975/1135: the relevant amending Regulations are the Schools General (Scotland) (Amendment) Regulations 1982 (S.I. 1982/56) and the Schools General (Scotland) Amendment (No. 2) Regulations 1982 (S.I. 1982/1735)].

3. The power to exclude - and therefore legal responsibility for exclusion - rests with the education authority. It is, however, open to an education authority to delegate the power to exclude to senior management level within a school.

4. It is the responsibility of the authority to devise and implement policies and procedures on exclusion, which should take account of this guidance. These policies must follow the requirements of appropriate legislation and should provide a helpful and supportive framework within which individual schools can work effectively with pupils and parents to maintain positive behaviour and safety in the school.

5. Exclusion policy should be seen in the wider context of an authority’s duties to:

› under section 1 of the Education (Scotland) Act 1980:

“...secure that there is made for their area adequate and efficient provision of school education...”.

› under section 2(1) of the Standards in Scotland’s Schools etc. Act 2000 (“the 2000 Act”):

“ ... secure that the education is directed to the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential.”



› under section 2(2) of the 2000 Act:

“...have due regard, so far as is reasonably practicable, to the views (if there is a wish to express them) of the child or young person in decisions that significantly affect that child or young person, taking account of the child or young person’s age and maturity.”

› under section 28 of the Education (Scotland) Act 1980:

“...have regard to the general principle that, so far as is compatible with the provision of suitable instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parent/s.”

6. Therefore, in any relevant procedures, including appeals, the views of the pupil as well as those of the parent/s should be accurately represented and appropriately taken into account. As the views of pupils may diverge from their parent/s, it is clearly not sufficient to assume that the views of the parent/s automatically reflect those of the child or young person.

7. For reasons of accountability, and in the interests of all pupils, their families and school staff, it is important also that authorities make their locally produced guidelines available publicly in a form which is easily understandable.

8. Exclusion policies should also be part of a local authority’s policy framework on promoting positive relationships and behaviour in schools. Under the Education (School and Placing Information) (Scotland) Regulations 1982<sup>(1)</sup> local authorities must provide information on their general policy or practice with regard to discipline and school rules and arrangements for enforcing school attendance; and make available at each school information to parents on their policy on discipline, school rules and enforcement of attendance.

### Regulations

9. Regulation 4 states that an education authority **shall not exclude** a pupil from school unless the authority:

- › “are of the opinion that the parent of the pupil refuses or fails to comply, or to allow the pupil to comply, with the rules, regulations, or disciplinary requirements of the school”; or
- › “consider that in all the circumstances to allow the pupil to continue attendance at the school would be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there.”

10. **Education authorities, when deciding whether exclusion is necessary, must have regard to the particular facts and circumstances surrounding individual incidents and/or pupils.**

(1) S.I. 1982/950, schedule 1, Part II, paragraph 2(k).

11. Exclusion from school of a pupil other than in conformity with the terms of the 1975 Regulations has no statutory backing. Failure to comply with the Regulations in such circumstances may render the authority open to legal challenge by the parent/s, or the pupil (where the pupil is a young person or is a child with legal capacity in terms of the Age of Legal Capacity (Scotland) Act 1991) or to action by Scottish Ministers under section 70 of the Education (Scotland) Act 1980, as amended.

12. School exclusions must also operate within the duties imposed by anti-discrimination, human rights and other relevant legislation. Therefore, education authorities and schools should keep fully aware of developments.

### **Pupils with additional support needs**

13. The circumstances in which pupils with additional support needs may be excluded are the same as for other pupils. However, additional considerations apply where the pupil has additional support needs. Education authorities remain under an obligation to make adequate and efficient provision for such additional support as is required by the excluded child or young person, whether that support is expressed in a document such as a co-ordinated support plan or otherwise. The support may include, for example, allied health professional support or educational psychology. The exclusion does not affect the education authority's duty to provide these services whether on school premises or an alternative venue. Therefore, such provision should continue notwithstanding the exclusion. Consultation with any other service providers in order to maintain provision to an excluded pupil should take account of the needs of other service users with whom the pupil interacts when receiving the service.

14. In reaching a decision to exclude, education authorities have to consider whether they could comply with section 4 of the Education (Additional Support for Learning) (Scotland) Act 2004 ("the 2004 Act")<sup>(2)</sup> which requires the authority to make "adequate and efficient" provision as long as it does not result in unreasonable public expenditure. There will therefore be a need to consider the particular facts and circumstances of each case.

15. Under section 2 of the 2004 Act, a pupil with a co-ordinated support plan has additional support needs arising from complex or multiple factors that are likely to continue for more than a year and that require significant additional support. A co-ordinated support plan must name the school which the pupil concerned should attend - the basis of the nomination being that the school has the expertise and resources to meet the pupil's additional support needs. In these circumstances, exclusion will be particularly problematic for the pupil concerned.

<sup>(2)</sup> As amended by the Education (Additional Support for Learning) (Scotland) Act 2009 (asp 7)



16. For example, it might be that the pupil's additional support needs cannot be catered for appropriately, unless the pupil attends either the nominated school or is immediately transferred to an alternative, suitable school. The pupil may have particular support needs during a period of exclusion if alternative provision is either home based (for example, home tuition) or has a different pattern of attendance than previously, which may place considerable stress on the parents or other family members. This may have a severe impact on the ability of parents to comply with their duty under section 30 of the 1980 Act to provide efficient education, whether that be at another school run by the same or a different authority, or an independent or grant-aided special school where the pupil has been placed at the expense of the local authority.

17. Accordingly, where a pupil with additional support needs is at risk of exclusion, an authority should seek to balance the case for exclusion with the need to take all reasonable steps to secure that appropriate provision is made for the pupil's additional support needs. However, this additional consideration would not prevent exclusion where this is deemed absolutely necessary.

18. Under section 10 of the 2004 Act, an authority is required to carry out statutory review procedures to change the nominated school, or any other details, on a co-ordinated support plan.

### Procedures

19. Regulation 4A of the 1975 Regulations makes provision for the procedures to be followed in exclusion.

20. The authority must, on the day upon which a decision to exclude a pupil is taken, intimate in writing or orally to the pupil's parent or the young person (defined in section 135(1) of the Education (Scotland) Act 1980 ("the 1980 Act") as "a person over school age who has not attained the age of 18 years"):

- › the decision to exclude; **and**
- › the date, time and place where the headteacher, or teacher or official of the education authority, shall be available to discuss the decision to exclude. This meeting must be within 7 days following the day of the decision to exclude.

21. Where intimations are oral, it is good practice to then confirm details in writing.

22. Intimation of exclusion must be made to the parent or young person and the meeting to discuss the exclusion must also be with the parent or young person. It is good practice to inform and involve parents of a young person in consultation with the young person.

23. Section 41 of the 2000 Act extended the right of appeal in section 28H of the 1980 Act to pupils with legal capacity. (The Age of Legal Capacity (Scotland) Act 1991 states that a person under the age of 16 has legal capacity to instruct a solicitor where they have sufficient maturity and understanding, and there is a general presumption that children aged 12 years and over have that capacity.) It is good practice for the education authority to send intimation to pupil as well as the parent so that the pupil has full knowledge of the decision since they may also have the right of appeal, as well as their right to express a view. It is good practice to keep parents of a young person informed and involved.

24. In the case of pupils who are under 16 the intimation should be to the parent and the meeting to discuss the decision should be with the parent. The child may attend the meeting if both the education authority and the parent(s) agree.

25. While not required by the relevant legal provisions, it is also good practice for schools to contact parents prior to the pupil being required to leave school premises. In all cases, the school should check that appropriate arrangements for the care of a child or young person are being made, before they are sent from school premises.

26. The authority may, and in certain circumstances must notify the parent or young person in writing of:

- › the reason(s) the pupil was excluded;
- › the conditions, if any, with which the parent and/or the pupil must comply, or undertake to comply before being re-admitted;
- › the right of appeal and how appeals can be initiated; and
- › any other information which the education authority considers appropriate.

27. It is not a requirement that pre-return conditions be set but return to school can be made the subject of conditions on a pupil or parents, depending upon the individual case. Conditions or other information may for example be a support plan or action plan setting out respective roles and responsibilities.

28. It would be good practice to also provide notification to pupils since they may also have the right of appeal. However, this is not a legislative requirement. Parents of a young person could be copied in to notification.



29. The regulations provide two timescales for providing this subsequent written notification:

- › The education authority may issue the subsequent written notification within 8 days of the decision to exclude, or thereafter to the parent of a pupil or to a young person to whom the circumstances in the following paragraph do not apply.
- › Where the pupil has been excluded for a period exceeding 7 days, or where the parents (pupil or young person where applicable) have not, within 7 days of first being informed of the decision to exclude, indicated to the headteacher that they do not intend to appeal the decision (whether or not the pupil has been re-admitted to the school), the subsequent written notification must be issued within 8 days of the decision to exclude.

30. In light of the requirement under the 2000 Act, section 2(2) to take account of the child or young person's views, as well as section 28H of the 1980 Act, as amended, education authorities may consider it good practice to involve all excluded children in the procedures for notification under the 1975 Regulations.

#### **Length of exclusion**

31. The length of an exclusion is not defined in the legislation and accordingly is a matter for the discretion of the education authority. However, the local authority remains responsible for the education of the pupil, and for the provision of alternative education provision while excluded.

#### **Recording an exclusion**

32. Regulation 10(1A) of the 1975 Regulations provides that, where a pupil's progress record contains information relating to a decision to exclude, certain other information is also to be recorded. Regulation 10(1A) requires any decision of an appeal committee to be recorded and also a requirement to inform the parent/young person of the terms of the entry. However, information about exclusion is not something which must be included on the record, although there are requirements where such information is included. It is therefore also possible to remove the record of exclusion from a learner's progress record, but any record of an appeal decision must also be removed.

#### **Right of appeal against the decision to exclude**

33. The right of appeal is conferred by section 28H of the 1980 Act, as extended by section 41 of the 2000 Act. An appeal against exclusion may be made, in the first instance, to an education appeal committee, set up by the education authority under section 28D of the 1980 Act. A further appeal against the decision of the education appeal committee may be made to the sheriff court. The Education (Appeal Committee Procedures) (Scotland) Regulations 1982 [SI 1982/1736] regulate the procedures of appeal committees, which includes committees hearing appeals against exclusion.

34. Section 28H of the 1980 Act conferred on parents of pupils and pupils themselves where they are young persons a right to refer a decision to exclude to an Appeal Committee. Section 41 of the 2000 Act puts pupils with legal capacity to instruct a solicitor *in the same position as a young person* (see paragraph 23). *Either* the young person, or a child with the legal capacity to instruct a solicitor, or the parent may appeal. A parent and pupil may not both appeal but a parent can appeal on behalf of a child with legal capacity to instruct a solicitor.

35. Appeal Committees are required to give notice to the appellant and to the education authority of the date of the hearing in terms of regulation 8 of the Education (Appeal Committee Procedures) (Scotland) Regulations 1982 (S.S.I. 1982/1736). They must also give the appellant a statement of the appellant's rights to appear/be represented, to be accompanied, to lodge written representations and to allow the appellant's case to rest on written representations.

#### Alternative education provision

36. Section 14(3) of the 1980 Act places a duty on education authorities to make alternative education provision for excluded pupils. The duty is to, **without undue delay**, either:

- › provide school education for [the excluded pupil] in a school managed by them; or
- › make arrangements for [the excluded pupil] to receive such education in any other school the managers of which are willing to receive [the excluded pupil]; or
- › make special arrangements for the excluded pupil to receive education other than at a school.

37. The purpose of section 14(3) is to ensure that excluded pupils are given every chance to continue their studies, even in situations where their behaviour has been such that they have to be removed from a school. The duty on education authorities to provide education continues, even when the pupil has been excluded and the duty to provide alternative education for excluded pupils must be discharged without undue delay. Without continuation of their studies the likelihood is that such pupils will fall further behind in their education and become even more distant from both learning as a process and school as an institution.

38. Where a child or young person is to be placed at another school either as part of an exclusion or following removal from register, education authorities should not only arrange, but also co-ordinate, all aspects of this onward placement, in the best interests of the child or young person. Parents and pupils should be included in any decisions regarding placement at another school.





39. There is no legislative timescale defining “undue delay” as the purpose is to **continue** the education authority’s duty to provide education for children or young people who are not attending school. Education authorities should set their own policies on the provision of alternative education for excluded pupils which should include details of who will provide the alternative education as well as where and when it will be provided.

#### Special arrangements other than at a school

40. **When the education authority must make special arrangements for alternative education other than at school, it should seek to provide, as far as possible, the quality, quantity and range of education which was previously available to the excluded pupil in school, prior to their exclusion.** The need for any such special arrangements should arise only in exceptional cases, and only as an interim measure prior to the pupil receiving full-time education in a school setting.

41. Particular consideration should be given where a child is looked after by the authority. The authority and social work services should collaborate to ensure that reference to the child’s Care Plan is made, and the child’s appropriate involvement in a structured programme of learning is urgently considered, to meet the educational requirements of their Child’s Plan.

#### Consideration of family circumstances, parents and pupils

42. Authorities may find it appropriate to determine, in consultation with social work services, the potential risk involved where children may be exposed to stressful home situations. At some times consultation may need to be intensive. The Scottish Government’s *A Guide to Implementing Getting it Right for Every Child*, June 2010, gives further guidance on co-ordination of needs assessment and intervention. **Social work services should always be informed of a decision to exclude where the pupil concerned is on the Child Protection Register or is a Looked After Child, and as far as possible, provision put in place to ensure the ongoing monitoring of the welfare of the child, as well as provision for their educational needs as described in the child’s plan.**

#### Parental roles and responsibilities

43. Parents also have responsibilities. A parent of a child of school age has a duty under section 30 of the 1980 Act to provide efficient education for the child suitable to his or her age, ability and aptitude. This they must do either by causing their child to attend a public (education authority) school regularly, or by other means. Parents continue to be subject to this duty where their child is excluded and therefore they should co-operate with the education authority in making any alternative provision necessary, including any special arrangements.

44. A parent also has an advocacy role, in promoting the views of their child. This is particularly crucial where their child is at risk of being, or has been, excluded. It is good practice to inform parents of how they might gain the support of another adult, professional or organisation, which might assist them or advocate on their behalf, to ensure that the child or young person receives the support he/she needs when he/she needs it. Children's Rights Officers also have an important role to play in supporting children who are being looked after by the local authority. Although a child of legal capacity, or a young person, has the right to appeal, the role of the parent in supporting the child or young person and promoting their views should be recognised and supported during this process.

### Terminology

The terms 'temporary exclusion' and 'permanent exclusion' are currently used by some education authorities and schools as a matter of practice, and for recording purposes. **The legislation does not make such a distinction. In legislative terms, a pupil is merely excluded.**

### Exclusion

Terms used to describe the exclusion have included 'temporary exclusion' 'suspension', 'informal exclusion', 'cooling off period' and 'sending a pupil home'. **All such instances are forms of exclusion and must be recorded as such.**

### Removal from the register

Previous terms used to describe the above have included 'permanent exclusion' and 'expulsion'. Education authorities and schools should no longer use these terms.

The term 'exclusion/removal from the register' should be used in the ScotXed documentation when a pupil is excluded from a school and the pupil's name is removed from the school register, the education authority having decided that the pupil should not return to that school.

### Parent/s

For the purposes of this guidance, the definition of 'parent' is as in section 135(1) of the 1980 Act: and includes a guardian or any other person who is liable to maintain, or has parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995 in relation to, or has care of, the child or young person.

### Child

As in section 135(1) of the 1980 Act: a person who is not over school age.



**Legal Capacity**

The Age of Legal Capacity (Scotland) Act 1991, section 2(4A) and (4B) states that a person under the age of 16 has legal capacity to instruct a solicitor in connection with any civil matter where they have a general understanding of what it means to do so and a child of twelve or more is presumed to be of sufficient age and maturity to have that understanding. Such a person also has legal capacity to sue or to defend in any civil proceedings. Section 41 of the 2000 Act extended appeal rights under section 28H of the 1980 Act to a pupil with such legal capacity.

**Young Person**

As in section 135(1) of the 1980 Act: a person over school age who has not yet attained the age of 18 years.

**Children with Additional Support Needs**

A child or young person has additional support needs if they require additional or different education provision from that which is normally provided for children or young persons of their age, to help them learn effectively. For more information see chapter 2 of “Supporting Children’s Learning Code of Practice (Revised edition)”.

**Looked After children and young people**

Section 17(6) of the Children (Scotland) Act 1995 provides that a child who is looked after by a Local Authority is a child-

- (a) for whom the Local Authority is providing accommodation under s25 of the 1995 Act;
- (b) who is subject to a supervision requirement;
- (c) who is subject to an order made, or authorisation or warrant granted by virtue of Chapter 2, 3 or 4 of Part II of the 1995 Act (e.g. child assessment order, child protection order);
- (d) who is subject to an order which has been made in England, Wales or NI and which, by virtue of regulations made under s33 of the 1995 Act, is to be treated as a corresponding Scottish order;
- (e) in respect of whom a permanence order has been made.

The majority of children and young people who are considered to be Looked After will come into one of the following two categories.

- **Looked After at home**, where the child or young person is subject to a *Supervision Requirement* **with no condition of residence** through the Children's Hearing system. The child or young person continues to live in their normal place of residence (i.e. often the family home). A child can also be looked after but remain at home under the terms of a permanence order which is granted by the court under the Adoption and Children (Scotland) Act 2007. This is an order which gives the local authority the right to determine where the child shall reside but the order can vest parental responsibilities and rights in other individuals so the child's parents could retain some of those parental rights and the local authority could decide that the child may reside at home.
- **Looked After away from home** (i.e. away from their **normal** place of residence), where the child or young person is subject to a *Supervision Requirement* **with a condition of residence** through the Children's Hearing system, or is provided with accommodation under section 25 (voluntary agreement) or is the subject of a permanence order under section 80 of the 2007 Act. The child or young person is cared for away from their normal place of residence, e.g. in a foster care placement, residential/children's unit, a residential school, a secure unit or a kinship carer.



## Bibliography

### Legislation

*Age of Legal Capacity (Scotland) Act 1991*

*Children (Scotland) Act 1995*

s17 (6)

*Data Protection Act 1998*

*Education (Appeal Committee Procedures) (Scotland) Regulations 1982 [SI 1982/1736]*

*Education (Scotland) Act 1980, as amended.*

s1, 14(3), 28, 28D, 28H, 30, 60(2), 62(3), 70, 135(1)

*Schools General (Scotland) Regulations 1975, as amended [SI 1975/1135]*

Regs. 4, 4A, 10(1A), 10(3).

*Schools General (Scotland) (Amendment) Regulations 1982 [SI 1982/56]*

*Schools General (Scotland) Amendment (No 2) Regulations 1982 [SI 1982/1735]*

*Standards in Scotland's Schools etc. Act 2000*

s2 (2), 15, 40, 41.

*United Nations Convention on the Rights of the Child*

Arts. 3.1, 12.

*Education (Additional Support for Learning) (Scotland) Act 2004 as amended by the Education (Additional Support for Learning) (Scotland) Act 2009*

## Annex C

### Included, Engaged and Involved Steering Group

The development of this guidance was overseen by the Included, Engaged and Involved Steering Group. This group includes the following representatives:

- › Mike Gibson, Scottish Government (Chair) replaced by Maggie Tierney
- › Steve McCreadie, Aberlour Child Care Trust
- › Carol Kirk, Association of Directors of Education
- › Bill Eadie, Association of Directors of Social Work
- › Mary Duffy, Morag Treanor, and Jessica Cundy, Barnardo's
- › Bryan Livingstone, Care Commission
- › Veronica Rankin, Educational Institute for Scotland replaced by Steve McCrossan
- › Brian Stewart and Douglas Hutchison, Her Majesty's Inspectorate of Education
- › Elsie Aitken, Headteacher, Longridge Primary School, West Lothian
- › Liz Ervine, Headteacher, Sprinburn Academy, Glasgow City Council
- › Robert Nicol, CoSLA



## Annex D

### Approaches to improving relationships and promoting positive behaviour

#### Introduction

**198** The Scottish Government, in partnership with local government and other agencies, has supported the development of a range of approaches which encourage the creation of peaceful learning environments and promote positive behaviour based on improved relationships, positive behaviour, engagement and motivation, and curricular programmes on positive social and emotional wellbeing. In addition, the Scottish Government has established the Positive Behaviour Team, a team of experienced educational professionals working regionally across Scotland, to provide training, advice and support to schools, learning establishments and local authorities across a range of approaches.

**199** This section contains descriptions of practice which promote positive behaviour and can be adopted within learning establishments, with support where needed from the Scottish Government's Positive Behaviour Team. A body of evidence, both qualitative and quantitative, is emerging that points to the positive impact of those practices and approaches if adopted across learning establishments and particularly where actively supported by headteachers and senior leadership teams.

#### Restorative approaches

**200** Restorative approaches are based on a philosophy which places relationships, respect and responsibility at the heart of effective practice. The skills and processes which are key elements of Restorative approaches are considered by schools, early years establishments and other learning settings as more effective in addressing issues of discipline and conflict than more traditional approaches based on rewards and sanctions.

Training in Restorative approaches may include:

- › developing a restorative ethos through activities such as peer support and circle time
- › developing restorative conversations when staff / peer mediators intervene in a situation
- › for schools where restorative approaches have been embedded coherently in practice, developing more restorative meetings and conferences involving all those affected by an incident including families where appropriate
- › consideration of restorative meetings in circumstances where young people have presented very challenging behaviour

Many schools (primary and secondary) across Scotland have, over the last few years, successfully introduced a range of Restorative approaches and report improvements in school discipline. This was reflected in research recently carried out by Glasgow and Edinburgh Universities which reported on the effectiveness of Restorative approaches in three Scottish Local Authorities.

In addition to offering an effective means of promoting positive relationships within the school community, Restorative approaches also provide further support for children and young people to become successful learners, confident individuals, effective contributors and responsible citizens.

### Solution Oriented Approaches

**201** Solution oriented approaches provide staff with opportunities to explore aspects of their working environment and relationships within it. When a problem has been identified SOAs enable the individual to identify the skills, strengths and resources that they already have which can help them to find their own solutions. The approach aims to build individual capacity for effective problem solving and reflective practice.

SOA encourages a pragmatic approach through focusing upon:

- › the future – acknowledging the problem and seeing beyond it
- › what people can do.... not what they can't do
- › what is working well now
- › situations when the problem is either less or not there
- › working with others to generate solutions

Training in solution oriented approaches may include:

- › exploration of the key principles
- › identification of applications to be used in day to day practice
- › planning and organising a solution oriented meeting including multi-agency meetings, pre and post exclusion meetings and professional development reviews

Solution oriented approaches have been used in schools for a number of years with regard to informing day to day practice and can also be used as a tool to inform the strategic planning process.





### Being Cool in School

**202** *Being Cool in School* is a curricular programme for developing emotional literacy and teaching pro-social behaviour in young people.

Developed by teachers in Fife Council, it proactively helps children to:

- › cope positively with everyday situations
- › show sensitivity
- › respect themselves and others.

This approach asks the question: why do we take good behaviour for granted? Whilst positive behaviour is not always obvious, its absence is highly noticeable in the form of acting out behaviours, or withdrawal and isolation, poor self-image, and inability to cope when things go wrong.

*Being Cool in School* demonstrates that positive behaviour can be learned and practiced. By adopting this approach schools can provide all children with learning opportunities to develop these skills.

Packs are available for infants, middle and upper primary. *What's Going On?* has been developed for S1/S2 learners.

### Creating Confident Kids

**203** *Creating Confident Kids* is a comprehensive health and wellbeing curriculum programme which has been designed to highlight the importance of emotional literacy within the learning process and to enable children to develop their emotional wellbeing.

Developed by staff within the City of Edinburgh Council, it recognises that all children begin with an in-built potential to understand and handle the world of emotions. Experiences help children make sense of this and develop skills in making best use of emotions.

The programme is delivered sequentially through a whole-school community approach, early years to P7, and aims to help develop emotional and social competence in all children.

*Creating Confident Kids* is based on four emotional literacy domains;

- › self-awareness
- › self-management
- › empathy
- › relationship management.

These domains are considered through a thematic approach which includes 'Fresh start', 'Friendships', 'Reaching goals' and 'Feelings' and are taught throughout the school year.

The programme has been shown to have a positive effect on outcomes for children including:

- › self-esteem
- › educational progress
- › behaviour in class
- › interpersonal skills, e.g. in groupwork
- › personal responsibility

### **Framework for Intervention (FFI)**

**204** Framework for Intervention (FFI) is a systemic approach to the management of low level disruptive behaviour in the classroom and in the wider community of the school or establishment. It uses a peer support model, enabling teachers and other staff to support each other in forming solutions. The approach is based around the use of environmental checklists which can also be used for classroom audits, whole school and learning environment audits including areas such as the playground.

Training can include the following:

- › Introducing FFI to your school
- › Solution oriented approaches for peer mentoring
- › Restorative approaches and peer mediation

The checklists can also be used by probationer teachers, supply teachers and returning teachers.

### **Nurturing approaches and nurture groups**

**205** We are aware of the importance of attachment and positive nurturing experiences on childhood development. Some children arrive at school without having had opportunities to develop positive, nurturing relationships with a significant adult and as a result suffer from poor



attachments and an inability to thrive emotionally, therefore being unable to meet the social and intellectual demands of the curriculum.

Schools which have adopted nurturing approaches recognise this gap experienced by some children and have developed principles and practices which contribute to the growth of a nurturing environment, where all children and young people have opportunities to thrive emotionally and educationally. These may be characterised by:

- › Learning needs being understood in terms of development
- › Social and emotional development being assessed
- › Every young person feeling a sense of belonging to the community of the school and their class
- › The environment of the classroom meeting the identified social and emotional development needs of all children
- › The environment of the classroom being conducive to formal and informal learning
- › Opportunities for engagement and positive role modelling
- › Emotional literacy being a key part of the Health and Wellbeing curriculum and also evident across the whole school

### **Nurture Groups**

**206** Where children have been identified as having significant social, emotional and behavioural needs, they may benefit from a small group learning environment such as a nurture group.

The emphasis within a nurture group is on emotional growth. This provides a focus on broad based experiences in an environment which promotes security, routines, clear boundaries and carefully planned learning opportunities.

Training may include:

- › attachment theories
- › resilience
- › brain development
- › establishing and maintaining a nurture group
- › developing a nurturing ethos within schools and early years establishments

Nurturing approaches continue to grow in primary schools and early years establishments and are now increasingly in evidence in secondary schools in Scotland.

### Motivation based approaches

**207** *The Motivated School* programme provides a comprehensive framework for staff in schools to consider what motivates young people and (adults) to learn. It hinges on the interaction between learning environment and learner characteristics, challenging us to think differently about managing learner disaffection. The aim is to optimise the learning environment, whilst progressing learners towards greater autonomy and self motivation. The approach gives staff advice on how to motivate children displaying different levels of motivation.

Training may include the following:

- › motivation
- › developing practical motivational skills
- › the motivated classroom

*The Motivated School* links directly with the *Social, Emotional Learning Framework (SELF)* which enables schools to rigorously assess and monitor learners' individual learning needs and plan for them appropriately.

### The Journey to Social and Emotional Wellbeing

**208** We are increasingly aware of the significance of social and emotional wellbeing both with regard to its impact upon child development and upon the learning process.

This interactive programme, encourages staff to consider their own emotional wellbeing, why it is fundamental to how we function as significant adults in our work with young people, and how we can support our young people to develop as successful learners, effective contributors, responsible citizens and successful learners.

Key components of the programme are:

- › Experiences and outcomes for health and wellbeing
- › Early childhood development
- › Brain development
- › Emotional health and wellbeing
- › Building relationships
- › Positive interventions



The programme supports staff to consider their individual journeys and provides opportunities to share thinking and experiences with regard to effective practice towards improving relationships within the learning environment.

This course relates coherently with experiences and outcomes for health and wellbeing within *Building the Curriculum 3* and helps underpin the key concepts of all the other approaches.

### **Confident Staff Confident Children**

**209** Developed by staff within the City of Edinburgh Council's *Growing Confidence* project, this course leads participants on a professional journey to explore what influences positive mental health and emotional wellbeing. It provides an opportunity to consider how we can best promote this in ourselves and in the children and young people we work with.

The course draws upon the latest research in neuroscience and psychology and covers key areas sequentially, building upon emerging knowledge.

The course is interactive providing participants with a range of opportunities to share their own thoughts and experiences within a number of key areas including:

- › Brain development
- › Attachment and relationships
- › Resilience
- › Developing empathy
- › Thinking – feeling – doing
- › Minding our own wellbeing
- › Insights and inspiration

*Confident Staff, Confident Children* aims to increase staff understanding and confidence around emotional health and wellbeing and to explore, explain and confirm why what we do makes a difference to the lives of our children and young people.

### **Building Positive Relationships**

**210** Support staff provide a valuable contribution to improving behaviour in schools and working with some of our most vulnerable children and young people. They are often at the forefront of dealing with behaviour in schools.

Support staff need opportunities to extend their knowledge, skills and confidence to effect change within their current practice through the development of positive relationships.

Support staff should be given the opportunity to:

- › reflect on practice;
- › be more effective practitioners by redefining skills;
- › further develop knowledge, understanding and confidence;
- › become equipped with effective practical strategies to support the delivery of everyday duties; and
- › be familiar with the range of programmes currently used in schools, e.g. restorative approaches and solution oriented approaches





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