

Included, Engaged and Involved Management of Exclusion in Highland Schools

Updated February 2024

Introduction

Every learner 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 provides a framework for additional support where behaviour, for whatever reason, becomes more challenging.

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 must develop an inclusive ethos where everyone's contribution to the school community is valued and everyone has a sense of belonging. 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.

Guiding Principles

These guidelines are rooted in a philosophical framework which recognises that:-

- The foundation for all learning establishments is an ethos of universal nurture, early intervention and support against a background which promotes positive relationships, learning and behaviour.
- Everyone in a learning establishment should feel they are in a safe and nurturing environment.
- All children and young people have a right to education; and education authorities have a duty to provide this education.
- All children and young people have the right to have their views heard.
- All children and young people need to be included, engaged and involved in their learning.
- All children and young people have the right to get the support they need to benefit fully from their education and fulfil their potential.
- Exclusion should be the last resort with the aim of improving outcomes for the child/young person.
- Where exclusion is used, it should be as a proportionate response, where there is no appropriate alternative and the wellbeing of the child or young person should be the key consideration.
- Exclusion must be for as short a period as possible, from as little as 0.5 days.
- The time during and after the exclusion period should be used constructively to resolve the situation and ensure positive and appropriate support is in place for all.
- School exclusions must also operate within the duties imposed by anti-discrimination, human rights and other relevant legislation (Section 7: Equality Act 2010).

Section 1	Introduction Guiding Principles	Page 1
Section 2	General Approaches and Practice that Foster Inclusion 2.1 Positive Whole School Culture & Ethos 2.2 Support Systems 2.3 Early/Staged Intervention	Page 3
Section 3	The Use of Exclusion and Consideration of Individual Circumstances in the Exclusion Process 3.1 Special Circumstances (i) Pupils with Additional Support Needs (ii) Looked After Children (iii) Pupils on the Child Protection Register (iv) Pupils living in school residences (v) Children and young people who are living in areas of socioeconomic deprivation (vi) Children and young people who have been excluded multiple times	Page 6
Section 4	Operational Management of Exclusion Procedures 4.1 Regulations 4.2 Before taking the decision to exclude 4.3 Authority to exclude 4.4 Notification 4.5 Education Provision During the period of Exclusion 4.6 Dealing with Serious Offences 4.7 Recording an exclusion 4.8 Resolutions and ways forward following Exclusion	Page 9
Section 5	Appeals Procedures 5.1 Who has the right to appeal 5.2 The Appeals Process	Page 13
References		Page 13
Appendix 1a, 1b	Key considerations before decision to exclude	Page 14
Appendix 2	Key considerations once the decision to exclude has been made	Page 17
Appendix 3	Key considerations for return to school after exclusion	
Appendix 4	Highland Letters of exclusion	Page 19

Appendix 5	Reasons giving rise to Exclusion – SEEMiS Codes	Page 21
------------	---	------------

CONTENTS

SECTION 2 - GENERAL APPROACHES AND PRACTICE THAT FOSTER INCLUSION

2.1 Positive Whole School Culture and Ethos

A school's culture, ethos and values are fundamental in promoting nurturing relationships and positive behaviour. An inclusive, nurturing ethos where everyone's contribution is valued and encouraged should be promoted. Schools with a positive ethos nurture development, promote learner participation, encourage achievement, celebrate success and have high expectations of every child and young person.

Where pupils enjoy a positive and purposeful learning experience which meets their individual needs, treats them with respect and promotes their active involvement in decision-making, the challenging behaviour which often leads to exclusion can be significantly reduced. All schools should seek to develop best practice approaches in promoting positive relationships in explicit and carefully structured ways.

A vital component of a positive school ethos is an actively inclusive approach. A key characteristic of schools which have been successful in minimising exclusion is the explicit adoption of the aim of meeting the needs of all pupils who are part of their school community, whatever their ability, background or social circumstances. This aim can be reflected in a wide range of aspects of the operation of the school, including:

- the development of effective systems of support for individual pupils, integrated with well-designed systems for promoting positive relationships;
- a commitment to providing an appropriately differentiated curriculum for all pupils, which ensures they are motivated, achieve success and are appropriately challenged;
- the organisation of lessons to ensure that all pupils are both challenged and supported; and
- recognition that taking account of different learning styles can make teaching more accessible and motivating for pupils.

2.2 Staged Intervention

Staged Intervention procedures should be used to identify and meet the needs of all children who require support. The aim is to identify and meet needs at the earliest opportunity to promote, support or safeguard wellbeing and improve outcomes. All stages of intervention require robust assessments using all aspects of the National Practice Model in a proportionate manner and, where appropriate, with multi-agency partners that lead to effective planning for children and young people. Early Intervention is crucial in reducing the need for exclusion. **The pupil's and parent/s should be involved at an early stage** and schools should take care to develop positive, constructive relationships with the parent/s, despite the difficult circumstances which

might prevail, in order to provide the best chance of mutual support in resolving the issues.

Where appropriate, the named person will involve the family team, additional support needs services or voluntary organisations to engage at an early stage, perhaps initially on a consultative and advisory basis, leading to more direct support or intervention if necessary:

- ensuring that, at an early stage, schools and other agencies share information about pupils in difficulty, and consider what steps need to be taken to support those pupils and their families;
- co-ordinating a full range of appropriate assessments involving teachers and professionals from other agencies and integrating these within a child's plan to provide a picture of the whole child.
- jointly -planning, undertaking and reviewing programmes of intervention to address underlying difficulties identified;
- joint placement and review of pupils in specialised provision; and
- ensuring appropriate collaboration with regard to pupils in residential provision or children who are being 'looked after' by the local authority in children's home or other contexts.

It is essential that all professionals work in a cohesive, holistic and purposeful manner, **with the aim of restoring the child or young person to mainstream education where this is a realistic target.**

Note: Sending a child home without parental consent and not recording this as an exclusion (often referred to as a 'cooling off' period), is **unlawful** and may leave the local authority open to legal challenge by either the parent or young person.

2.3 Pro-active planning, de-escalation and risk assessment

All education authorities have a duty of care to all children and young people. All children can experience challenging situations, and some will require additional support pertaining to their social, emotional and behavioural development. All behaviour is communication. Staff knowledge and detailed assessment of a child or young person should be used to predict and plan for the type of situations which may cause distressed or challenging behaviours. Some children may require Positive Behaviour Plans and Individual Risk Assessments. Emphasis should be upon proactive, preventative planning in order to promote and model positive behaviours, and thereafter upon effective de-escalation strategies.

Particular attention should be paid to the needs of all pupils as they go through **key transition stages**, such as attending a school or other educational establishment for the first time, including the transition from primary to secondary school.

Appropriate teachers, and in some cases support staff, should have access to **relevant information** about pupils which may assist with learning and teaching. Education authorities must have regard to their duties under the Data Protection Act 1998 and the rights of young people to confidentiality must be respected. However, within the framework of relevant legislation, school policies should make provision for classroom teachers, as trusted professionals, to have access to appropriate information on the personal circumstances of a

pupil where this is likely to have an impact on that pupil's personal and social development, and hence on their learning. Disclosure to teachers should be in accordance with agreed procedures and teachers so informed must then have due respect to the confidential nature of the information.

SECTION 3 – THE USE OF EXCLUSION AND CONSIDERATION OF INDIVIDUAL CIRCUMSTANCES IN THE EXCLUSION PROCESS

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 to the educational wellbeing of the learners there” or

“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”.

Exclusion is therefore acknowledged within wider policies on relationships and behaviour in 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 wellbeing of the whole school community.

The power to exclude rests with local authorities under regulation 4 of the Schools General (Scotland) Regulations 1975 as amended. In addition, section 14(3) of the Education (Scotland) Act 1980 places a duty on local authorities to make alternative education provision when a learner is excluded. In Highland, the power to exclude is generally devolved to senior management within a school (ref see 4.5). The local authority remains responsible for the education of **all** children and young people. This responsibility remains with the school in which the pupil is enrolled (ref see 3.8)

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.

Exclusion can be an acceptable action, but it should only be used **as a last resort or in certain clearly prescribed circumstances**. Where exclusion is used it should be as a proportionate response where there is no appropriate alternative.

The school must act in accordance with Highland Council policies and procedures as well as operating within relevant legislation. The school should acknowledge the importance of using a staged approach and addressing problems early, through promoting positive relationships and positive behaviour management strategies, through preventative approaches, early intervention and support, involvement of parents/carers, and request for assistance to external agencies if appropriate. The school should also address the approach underlying its policy on exclusions which should be inclusive i.e. one in which all pupils are treated individually.

It is recommended that schools monitor and analyse the use of exclusion data and other statistics as part of their regular processes of self-evaluation and review, to inform their practice

and appropriate interventions.

Schools need to have regard to the continuing educational needs of pupils who have been excluded, in collaboration with other services and agencies e.g. Pupil Support Service, Psychological Service, and the Family Teams. The Local Authority remain responsible for the education of all pupils and therefore the school will have a responsibility to provide curricular support where appropriate, even when excluded. Where an alternative educational package requires to be provided, even for a short period of time, teaching resource may require to be transferred from the school to support the pupil's continuing education.

3.1 Special Circumstances

Before excluding a pupil, schools should take account of individual circumstances in every case. There are, in addition, certain groups of pupils whose circumstances must have special consideration:

i) Pupils with Additional Support Needs

The circumstances in which learners with Additional Support Needs may be excluded are the same as for other learners. However, additional considerations apply where the learner has Additional Support Needs. Local authorities remain under an obligation to make adequate and efficient provision for such additional support as is required by the excluded learner, whether that support is expressed in a document such as a Co-ordinated Support Plan or in a Child's Plan. The support may include, for example, allied health professional support or educational psychology. The exclusion does not affect the local 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 learner should be undertaken by the Named Person/Lead Professional.

In reaching a decision to exclude, local authorities have to consider whether they could comply with section 4 of the Education (Additional Support for Learning) (Scotland) Act 2004 ("the 2004 Act")(2) 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.

It is important to take a multi-disciplinary approach to the consideration of the need for exclusion with regard to children with Additional Support Needs. Where possible, this should involve discussion about difficulties at school, involving the parents/carers and where appropriate the young person, in addition to other professionals, **well in advance** of exclusion being considered as an option. In particular, 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. The school should therefore seek to balance the case for exclusion with the need to take all reasonable steps to ensure appropriate provision is made for the pupil's additional needs. This additional consideration would not prevent exclusion where this is deemed absolutely necessary however.

Accordingly, it should be normal practice to involve appropriate support services including the relevant educational psychologist. Where other professionals, e.g. social workers, family support workers, children's service workers, have a significant role in providing education, care and support for the child, **their views should be sought when a decision to exclude is being considered, and when planning educational provision during the period of exclusion.**

For pupils where an assessment process is taking place towards the possible opening of a Co-ordinated Support Plan the above procedures should also be applied.

Any decision to exclude **MUST** take account and be in line with the authority's equalities duty, it's duties under the ASL legislation and where one exists, it's duty to provide the services stipulated within the Co-ordinated Support Plan. (See link below)

https://www.equalityhumanrights.com/sites/default/files/equalityact2010-technicalguidance-schoolsinscotland-2015_0.pdf

ii) **Looked After Children**

Research indicates that looked after children are significantly more likely to be excluded from school. **Effective and timeous collaboration between services is therefore central to good practice with pupils who are looked after by the local authority.** Where possible, this should involve appropriate inter-agency discussion regarding difficulties at school **well in advance** of exclusion being considered as an option.

Those children who are looked after and accommodated in residential or foster care will have particular care needs that require to be taken account if there is the possibility of exclusion. **In all cases, prior to possible exclusion, the Designated School Manager should involve the child's Lead Professional in discussion and consideration of the implications of exclusion on the home or care placement to ensure appropriate arrangements can be made. An Area Education Manager must be contacted to approve an exclusion of a looked after child.**

iii) **Pupils on the Child Protection Register**

Consultation with the Lead Professional prior to a decision about exclusion is essential for any pupils on the Child Protection Register to ensure appropriate arrangements can be made.

iv) **Pupils living in school residences**

It should be noted, that although children living in school residences are not looked after, there are specific issues which require to be considered if exclusion is being considered for such a pupil. It is essential, in such circumstances, that appropriate discussion takes place with Residence Manager and the parents/carers of the pupil. If the behaviour of a pupil means they are to be excluded from the Residence, they are not automatically excluded from school. Alternative arrangements will be made in consultation with the school & parents, to support continued attendance at school.

In certain exceptional circumstances it may be appropriate for a pupil to be excluded from school due to behaviour within the setting of a school residence. This would apply as a last resort and where the said behaviour could reasonably be described as giving rise to a situation where allowing the pupil to continue their 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. In such cases the Headteacher will be required to work closely with the local Residence Manager. Invariably it will be the Residence Officer who will first alert the Headteacher and Area Additional Support Needs Manager or Area Care and Learning Manager to issues of this kind, to discuss possible supports, alternative strategies or interventions from external agencies where appropriate.

v. **Children and young people who are living in areas of socioeconomic deprivation**

National statistics highlights that children and young people living in areas of socioeconomic deprivation are still over represented in the numbers of children and young people who are excluded from school. Children and young people who are living in areas of deprivation are more likely to have experienced a wide range of adverse living circumstances which impact on their wellbeing. Schools need to take account of how this may be impacting on children and young people's behaviour and be aware that exclusion can be an additional stress factor. Schools need to consider that an exclusion may also have an immediate detrimental impact on the wellbeing of children and young people. This might include their missing out on free school meals and being prevented from accessing the security and continuity of the school environment.

vi. **Children and young people who are excluded on multiple occasions**

Where multiple exclusions of a child or young person have taken place it should highlight to the school that the support provision being used/in place is not working. In these instances schools should seek additional support in line with their authorities' staged intervention policy.

SECTION 4 – OPERATIONAL MANAGEMENT OF EXCLUSION PROCEDURES

4.1 Regulations

Exclusion **must** be the very last resort. The grounds for exclusion and the procedures to be followed are contained in the Schools General (Scotland) Regulations 1975 (as amended 1982). Regulation 4 states that an Education Authority shall not exclude a child or young person from school unless the Headteacher of educational establishments:

"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;

"considers 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."

The following guidance outlines the procedures to be followed in the event of an exclusion and provides a series of actions to aid decision making of Headteachers or other Senior Leadership Team members, if they have been delegated this responsibility by their Headteacher. In situations where responsibility to manage a situation is delegated, the Headteacher will retain overall accountability.

In all instances the following scenarios are considered forms of exclusion and should be recorded as such:

- **where parents are requested by their child's school not to present their child at school; or**
- **where parents are requested by their child's school to take their child home from school for all or part of the day.**

4.2 Before taking the decision to exclude

Before taking the decision to exclude in relation to any incident the following questions should be carefully considered:

- is the child or young person safe if excluded?
- does the child or young person have Additional Support Needs; do they have a disability: are they care experienced; are they on the Child Protection Register?
- is exclusion the last resort or are there other additional supports for the child or young person that could still be tried?
- are there other partners that could provide additional interventions for the child or young person to reduce the need for exclusion?
- were agreed support arrangements, contingencies and protocols followed fully?

- does the frequency and seriousness necessitate exclusion?
- how have other children and young people and staff been affected and how could this be resolved?
- Would the exclusion increase risk of behaviours escalating and create a longer-term impact for the child or young person, and their wider circumstances?

When a child or young person’s behaviour starts to escalate to the extent that the Headteacher is considering exclusion, schools should use the checklists in Appendix 1a & b and Appendix 2 to support decision making of senior leaders considering any exclusion. The checklist in Appendix 2 is for specific circumstances e.g., care experienced, disabled or additional support needs.

Appendix 1a & b - Key considerations before decision to exclude is taken
 Appendix 2 - Key considerations once the decision to exclude has been made

Each child and young person and situation must be looked at individually. It is important to identify what the purpose of the exclusion is and what positive outcomes for the child or young person can be achieved by excluding them from education. This might include:

- Time to review the risk assessment and planning in place
- To undertake further assessment to identify any additional needs or support
- To provide time for the young person to be supported to recognise the harmful behaviours that led to the situation and create a plan to overcome them

Failure to comply with the grounds set out above 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.

4.3 Authority to exclude

An exclusion should not exceed 5 days (one calendar week) without discussion with an Area Education Manager.

Length of Exclusion	Authority to exclude
1 - 5 days (resolved within 5 days or earlier)	Headteacher, Depute
6 -10 days (resolved within 10 days or earlier)	Headteacher, Depute in discussion with Area Manager
11 + days	Headteacher with agreement of the Area Manager

Where a school seeks to exclude a pupil for more than 10 days it is necessary for the Headteacher to get agreement on this from the Area Education Manager especially if alternative arrangements are required for continuing educational provision. Any change in educational placement and/ or off roll will require a review of the Child’s Plan and agreement of the area education manager. **Exclusions of more than 11+ days should be resolved at the earliest possible opportunity and**

the needs kept under review so that there can be no ‘drift’ in their situation.

No pupil will be removed permanently from the school role without the agreement of the Head of Service.

4.4 Notification

On the day upon which a decision to exclude a child or young person is taken, intimate in writing or orally (where intimations are oral they must be confirmed in writing) to the child’s parent or if the learner is a young person, 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, other teacher at the school or officer of the Education Service, will be available to discuss the decision to exclude. This meeting **must** be within seven calendar days following the day of the decision to exclude.

The school must, notify the parent/carer or young person in writing (by post or handed to the parent or young person directly):

- (a) the reason(s) the pupil was excluded
- (b) the right to refer the decision to exclude the pupil to an appeal committee under section 28H of the 1980 Act and the right to appeal this committee’s decision to the sheriff and how appeals can be initiated; and
- (c) any other information which the education authority considers appropriate.

The date the decision to exclude is taken, is counted as the first day of exclusion. Both start date and end date are inclusive. It should be ensured that an exclusion does not continue through school holidays.

Template letters included at Appendix 4 **must** be used explaining the position to the parents/carers and young person which includes a reference to the right of appeal. The pro forma letter set out in appendix 4 should be sent to any pupil over the age of 12 and any pupil under 12 who is deemed capable of understanding the contents of the letter, as they may have a separate right of appeal and have a right to give their views. The letters must include information on the right of the appeal.

A child or young person should be actively involved and participate in all stages of the process. A core principle of the UNCRC is a commitment to ensuring that children and young people have the opportunity to participate in the decisions that affect them. The UNCRC defines participation as “ongoing processes, which include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and shape the outcome of such processes”

It is 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 the child or young person are being made, before they are sent from school premises.

4.5 Education Provision During the period of Exclusion

Schools require to make education provision for excluded learners **without undue delay**. There is no legislative definition of 'undue delay'. However, the objective is to ensure the child or young person **continues to receive an education while excluded**. It is reasonable to expect alternative education provision to be in place after 3 days.

Appropriate learning activities must be provided along with details of a named contact in school who can provide guidance. This could be provided in the form of an e-mail address/telephone number of a school contact who can address any concerns relating to the course work.

There is also a responsibility on learners and their parents/carers to make sure the provision arranged is completed during any period of exclusion

Any existing involvement in non-school based learning should continue. These include college placements, therapeutic support, or mentoring. It may be necessary to provide any such support in an environment outwith the school building during the period of exclusion.

Where special arrangements for alternative education for the learner are being made, other than at school, as far as possible, the quality, quantity and range of education which was previously available to the excluded learner in school, prior to their exclusion should be provided. The need for any such special arrangements should arise only in exceptional cases and only as an **interim** measure prior to the learner receiving full-time education, ideally within a school setting.

4.6 Dealing with Serious Offences

In a small number of cases pupil behaviour may require an immediate response by the Headteacher. It could include:

- (a) physical, verbal, racist or sexual threats to staff and / or fellow pupils
- (b) an unprovoked physical assault on staff and / or pupils
- (c) incidents which put the health and safety of staff and pupils at serious risk
- (d) drugs related incidents

Where a criminal offence has been alleged, Headteachers should contact the area education manager.

4.7 Recording an Exclusion

Copies of the Exclusion letter, as per pro-forma (see Appendix 4), should be sent to the Area Education Manager and Area Business Support. The exclusion should also be recorded in SEEMIS on the day of the exclusion. Appendix 5 contains the relevant SEEMiS codes

Where the pupil is Looked After Away From Home the letter should be sent to the foster carers or Manager of the Children's Centre in which he/she is accommodated, with a copy to the Lead Professional, who will inform appropriate parties eg. the birth parent(s), the Children's Reporter etc.

4.8 Resolutions and Ways Forward Following Exclusion

Prior to a child or young person returning to school, appropriate approaches and strategies should be developed to prepare the child or young person, parent(s), staff and peers to enable them to return to school in a positive way.

It is good practice to meet with the child or young person and their parent(s) to discuss their return to school and to agree the most appropriate supports moving forward. Return to school planning with the child or young person and their parent(s) may include arrangements for further planning including some discussion about the roles and expectations for all those involved, including the child or young person. This planning can take place through a formal meeting or as part of on-going discussions with all those involved. Identified supports leading on from a risk assessment, should also be discussed and put into place, where appropriate. **It is not, however, a legal requirement to have a pre-return meeting, seek guarantees or contracts of behaviour with parents or young people before a return to school.** Re-admission should take into consideration preparing and meeting the needs of staff and other children and young people affected by the behaviour/incident which led to the exclusion and their need for follow-up support. It is good practice to hold a restorative or solution oriented meeting(s) with staff and the children and young people involved to help repair and restore relationships and trust as part of the return to school. On-going support and monitoring should be provided by appropriate staff, to ensure that the child or young person's wellbeing needs are being met.

In order to support the child or young person appropriately and enhance the transition back to school, it may be necessary in exceptional circumstances to implement a package of support that could be achieved using a flexible or part time timetable with an agreed timescale as to when this will end. Any such arrangements should be for a short, agreed period with the aims and conditions around this recorded in any support plan. **Such arrangements should not extend for more than 4 weeks.** This should also be recorded in SEEMiS with a new code which has now been created for children and young people who are returning to school on a part time basis following a period of exclusion. The new code introduced is:

Description	Code Short Code	Short Code
Part Time Timetable (Exclusion related)	PTX	Y

When using this code, the time outwith school will be classed as '**authorised absence**'. All partners including parents and the child or young person should be involved in the development of this temporary, short-term arrangement. The child's plan should reflect the steps taken by the school to provide the child or young person with their statutory entitlement of hours, ensuring that their learning needs are met.

Following the child or young person's return to school after exclusion, support provision and planning mechanisms should continue to be regularly reviewed.

SECTION 5 – APPEALS PROCEDURES

If a child/young person is excluded then parents and the young person will be informed about their right to appeal. If an exclusion is appealed then it is the responsibility of the Headteacher of the school, and an Area Education Manager to represent Highland Council at the appeal hearing. If you wish to appeal against the decision to exclude, you should write to the Area Education Manager.

5.1 Who has the right to appeal?

- Parent only, where the child or young person is under 12 years.
- Parent and/or child or young person, where the child or young person is over 12 but under school leaving age.
- Young person only, where he/she is over school leaving age.
- Parent of the young person, where the young person is not capable of appealing on own behalf due to learning disabilities.

5.2 Appeals Process

An appeal from the parent and/or child or young person will be submitted in writing to the area education manager, who in turn submits this to the Corporate Governance Service.

In terms of the relevant Education legislation an Education Appeal Committee can comprise of either 3, 5 or 7 members. In the majority of circumstances an Education Appeal Panel usually consist of 5 members:

- Three local elected member on the relevant committee.
- Two lay members.

An appointed chairperson with experience in education will also attend. The Headteacher, or person who made the decision to exclude, is normally required to be the principal witness for the Education & Learning Service.

The Corporate Governance Service must acknowledge the appeal within 5 days and advise the education authority accordingly. The Education Authority will then notify the school. An Appeal Hearing is to be held within 28 days of the appeal being lodged. The parents or pupil over 12 years of age, and younger pupils deemed to have legal capacity, will be notified of the hearing date at least 14 days in advance.

A decision to appeal should in itself have no effect on the length of the exclusion or on any conditions attached to the pupil's return.

Once an appeal is lodged, the child may return to school following the period of exclusion, without parental assurance or conditions of return being met, pending the outcome of the appeal.

The powers of the Health and Education Chamber (Additional Support Needs Tribunal Scotland) have been extended to include cases related to discrimination in education, including exclusions of pupils with Additional Support Needs for reasons related to their disability.

REFERENCES

Standards in Scottish Schools etc Act (2000), Scottish Government

Additional Support for Learning (Scotland) Act (2004) and as amended (2009), Scottish Government

Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions (2017), Scottish Government

DRAFT

APPENDIX 1a & b

Checklists of Key considerations to be made prior to exclusion

The following checklists are intended as a useful tool to support schools and local authorities prior to, during and after exclusion and should be adapted to fit local context. These checklists should be used together in order to ensure support is provided at the appropriate time to meet the wellbeing needs of children and young people.

APPENDIX 1a

Appendix 1a Prior to an exclusion checklist - (to be used alongside Appendix 1b checklist where appropriate)

Key consideration questions	Consideration given	Comment
Has the child or young person been excluded before? What was impact of this?		
Have the following been engaged to help prevent exclusion? <ul style="list-style-type: none"> • Child or young person; • Parents/carers; • Key education staff, and • Other professionals (eg Social work, Educational Psychologist) 		
Has there been clear assessment of the child or young person and their needs?		
Have additional support/interventions been provided for the child or young person?		
Have alternative arrangements been made for the child or young person prior to the exclusion? eg. curriculum alternatives, temporary placement in base, use of virtual learning.		
How can the staged intervention process and school partnerships be utilised to further support this child or young person?		
Has the incident that precipitated the consideration of exclusion been reviewed with all staff who were present to explore fully what happened?		
Has another professional from within the school who is not directly involved, been consulted on the situation in order to provide a different perspective?		
Has the child or young person been consulted on their views of the situation?		
Has Pupil Support/Guidance/Key worker, or if available, has the lead professional been consulted on how to move forward?		

Has the possible impact of exclusion on the child or young person been considered in light of individual circumstances?		
Does the child or young person's recent presentation constitute a wellbeing concern?		
What might the impact of an exclusion be on a child or young person's wider circumstances?		
What impact might an exclusion have on the planning processes?		
Has a risk assessment been completed for the child or young person where appropriate?		
What are the hoped for outcomes of an exclusion? Are there other alternatives that might achieve this?		
Has there been consideration given to length of exclusion to ensure it is proportionate and in best interests of child/young person?		
Does the exclusion comply with the regulation 4 of the 1975 Act?		
Have the rights of the child or young person been considered, with regard to articles of UNCRC?		
Have all other options been considered before deciding on exclusion as a necessary step?		

APPENDIX 1b

Individual Circumstances - (to be used alongside Appendix 1a checklist where appropriate)

Individual Circumstance	Additional consideration	Consideration given	Comments
Looked After child	Social worker/Lead professional consulted prior to decision		
	Education Manager or lead professional (where one exists) consulted on plan regarding particular issues		
	Appropriate arrangements made with regard to support/care and wellbeing at home		
	Decision made as to whether exclusion to go ahead		
Child on Child Protection Register/child protection concerns previously raised	Child Protection Development Officer and Social Worker/Lead Professional consulted		
	SEEMiS checked for child protection message		
	Education Authority consulted about appropriate provision		
	Appropriate arrangements for return into school considered		
Child with Additional Support Needs	Other professionals involved with child consulted on continuation of any additional input		
	Confirmation sought that child or young person is not being excluded for reasons associated with disability		
	Ensure that child or young person is not being excluded for reasons associated with a protected characteristic		
	Account is taken of impact of exclusion on child or young person's learning and support provision		
	Consideration is given to review of any Child's Plan or Coordinated Support Plan		
	Transition planning is taken into account with regard to return to school		
Children from an area of socio/economic deprivation	Consideration should be given to the impact on child's wellbeing, e.g. free school meals		

APPENDIX 2

Decision to exclude has been made (this checklist should be used after completion of Appendix 1a (and 1b where appropriate))

Action to be taken	Action Taken	Comment
Child or young person is informed he/she is to be excluded.		
Immediately inform parents/carers verbally.		
Looked after children and children or young people on Child Protection Register/child protection concerns – communication with all potential carers as well as any person who may have parental rights and responsibilities.		
Looked after children and children or young people on Child Protection Register/child protection concerns – decision communicated to lead professional, Social Worker, Key Worker, Foster Carer, Educational Psychologists and area education manager.		
Make arrangements for child or young person to be sent or taken home. Child or young person not to leave school until safety, health and wellbeing assured and appropriate arrangements are in place.		
If parents/carers cannot be contacted child or young person must be supervised at school until suitable arrangements can be made.		
If verbal contact made, follow up by written confirmation of exclusion on same day exclusion takes place. Include reason for exclusion and information on Right of Appeal.		
Inform of date, time and place where Headteacher or official of authority is available to discuss the exclusion.		
If child or young person is of legal capacity inform them in writing of exclusion and right of appeal		
Record of exclusion filled out – incident report form		
Ensure exclusion is recorded accurately on SEEMiS		
All documents relating to exclusion to be retained in Pupil's Progress Record		
Appropriate educational provision to be provided and monitored, e.g. course work, access to library, online learning		

Arrangements for the child or young person to access any existing support made (outwith school if necessary)		
A contact person should be allocated for parent/carer and child or young person to liaise with re. educational provision		
Parent/carer should be informed of their responsibility to ensure child or young person is provided with appropriate education throughout the period of exclusion.		
Parent/carer should be provided with information on support to assist them or advocate on behalf of child or young person.		
Notify area education manager .		
If exclusion is lengthy or multiple, refer to <u>area education manager</u> local authority for support in decision making.		
If parent/carer and/or child or young person exercise their right of appeal, meet with parent/carer and child or /young person <u>and/or advocate for the child</u> to discuss.		
Referral to Scottish Children's Reporter if appropriate.		

APPENDIX 3**Checklist to support return to school after exclusion**

Action to be taken	Action Taken	Comment
School meet or discuss with parent/carer and child or young person – re-admission to school not dependent on this taking place		
Appropriate planning takes place to ensure support if provided		
Risk assessment completed where appropriate		
Needs of staff and other children and/or young people taken into account – solution orientated/restorative meeting held if appropriate		
Flexible package of support agreed and implemented where appropriate.		
Any changes to timetable for limited period recorded on SEEMiS		
Staged intervention process continued and adapted in light of exclusion		
Consideration given to discussion at multi-agency forum		
Pupil Support/Guidance/Key Worker or lead professional (where one exists) updated		
Monitoring and review arrangements put in place to ensure continued support		

APPENDIX 4 - Highland Letters of Exclusion

For children under 12 years of age (Letter A)

Letters of Exclusion should be addressed to the parents/carers and should be provided on the day of exclusion.

For children/Young People 12 years or older but under school leaving age (Letter A)

Letters of Exclusion should be addressed to the parents/carers and copied to the child/young person and should be provided on the day of exclusion.

For Young People over statutory school leaving age (Letter B)

Letters of Exclusion should be addressed to the young person and should be provided on the day of exclusion. There is no legal requirement to contact parents. However, if the young person agrees, then parents should be copied. For young persons with ASN or considered vulnerable the parents should be contacted.

DRAFT

LETTER A



Please ask for:

Email:

Date:

cc: Area Education Manager

Dear **insert name(s)**

EXCLUSION: (insert PUPIL'S NAME (DOB), CLASS)

I regret to advise you that **insert name** has been excluded from attendance at **insert school name** school, from **insert start date and end date** both dates inclusive.

The grounds for exclusion are set out in Schools General (Scotland) Regulations 1975. Regulation 4 and 4A stipulate two grounds for exclusion. In this instance, the following ground applies:

(delete as appropriate)

A

we are of the opinion that the parent of the child or young person refuses or fails to comply, or to allow the child or young person to comply, with the rules, regulations or disciplinary requirements of the school.

B

we consider that, in all the circumstances, to allow the pupil to continue his/her attendance at the school would be likely to be seriously detrimental to the order and discipline in the school or the educational wellbeing of the pupils there.

The decision to exclude has been taken for the following reasons:-

• insert reason(s) ___details relating to the circumstances leading to exclusion, including reference to other actions taken previously in managing the behaviour of this particular pupil

Please be advised that **insert name** must not attend school or be within the school grounds, and will not take part in any school activities, until the end of the exclusion. Appropriate learning will be made available for **insert name** to complete at home. Should you need to discuss this further, please contact **insert named contact** on **insert email or phone number**.

As you will appreciate this is a very serious matter. I would like to meet with you and **insert name** on **insert date, time and place** for the return to school. If this is not convenient, please contact me as soon as possible to schedule an alternative appointment.

I advise you that, in terms of Section 28H of the Education (Scotland) Act 1980 and the Standards in Scotland's Schools etc. Act 2000, Section 41, there is a right of appeal, which can be exercised by the parent/carer or the pupil, against the decision to exclude. If you wish to appeal against the decision to exclude, you should write to the Area Education Manager at:

(insert Name and Appropriate Area Office address and include e-mail address for submitting appeal).

A copy of this letter will be held in your child's progress record. This letter comprises the only reference to the exclusion which will be retained within the progress record.

Decisions on any appeal, including the decision of an Appeal Committee not to annul the exclusion will be included in your child's progress record. If the decision to exclude is annulled, no reference to exclusion in your pupil record will be disclosed.

Yours sincerely,

(insert signature)

Headteacher

cc. Area Education Manager,
Area Business Support

To be included as part of exclusion letter

Information for Pupils, Parents and Carers - Exclusion Appeal

What Leads to an Exclusion?

There are only 2 circumstances in law where a pupil can be excluded are. These are:

- "where the parent of a pupil refuses or fails to comply, or to allow the pupil to comply, with the rules, regulations or disciplinary requirements of the school"; or
- "where a pupil's continued attendance at the school is likely to be seriously detrimental to order and discipline at the school or the educational well-being of the pupils"

Notification Process

The school will always inform the parents of the length of exclusion and the reasons for the exclusion in writing. In these letters you will be asked to come into school to discuss the exclusion. It is extremely important that you attend such meetings, or telephone to make other arrangements. Parents and teachers are partners in this respect, and parents play a vital role in helping their children with problems at school. Regardless of such invitations parents are always very welcome to approach the schools directly to discuss issues which are important to themselves and their children. Please feel free to do so should there be anything you want to talk over.

Appeals Process

Parents, or pupils over 12 years of age, (and younger if the pupil is deemed mature enough to understand the decision to exclude), have a right to appeal against the decision to exclude. You can do this:

- At the time the child is excluded from school.
- After the meeting with the Headteacher to discuss the exclusion.

- After a meeting with the Area Education Manager to discuss the exclusion.

There is no legal deadline for appealing an exclusion, but it is usually best to submit the appeal as soon as possible to try and resolve the situation quickly.

If you appeal, this will lead to an Appeals Committee Hearing.

A decision to appeal will have no effect on the length of the exclusion or on any conditions attached to the pupil's return.

Who can I discuss this with?

You can discuss an exclusion further with the Headteacher. You can also contact the Area Education Manager whose contact details are on the exclusion letter.

DRAFT

LETTER B



Please ask for:

Email:

Date:

cc: Area Education Manager

Dear **insert name**

EXCLUSION: (insert YPs NAME (DOB), CLASS)

I regret to advise you that you have been excluded from attendance at **insert school name** school, from **(insert start date and end date)** both dates inclusive.

The grounds for exclusion are set out in Schools General (Scotland) Regulations 1975. Regulation 4 and 4A stipulate two grounds for exclusion. In this instance, the following ground applies:

(delete as appropriate)

A

we are of the opinion that the parent of the child or young person refuses or fails to comply, or to allow the child or young person to comply, with the rules, regulations or disciplinary requirements of the school.

B

we consider that, in all the circumstances, to allow the pupil to continue his/her attendance at the school would be likely to be seriously detrimental to the order and discipline in the school or the educational wellbeing of the pupils there.

The decision to exclude has been taken for the following reasons:-

- **insert reason(s) ___details relating to the circumstances leading to exclusion, including reference to other actions taken previously in managing the behaviour of this particular pupil**

Please be advised that you must not attend school or be within the school grounds, and will not take part in any school activities, until the end of the exclusion. Appropriate learning will be made available for you to complete at home. Should you need to discuss this further, please contact **(insert named contact)** on **(insert email or phone number)**.

As you will appreciate this is a very serious matter. I would like to meet with you on **(insert date, time and place)** for the return to school. You may choose to bring a parent, carer or supporter with you. If this is not convenient, please contact me as soon as possible to schedule an alternative appointment.

I advise you that, in terms of Section 28H of the Education (Scotland) Act 1980 and the Standards in Scotland's Schools etc. Act 2000, Section 41, there is a right of appeal. If you wish to appeal against the decision to exclude, you should write to the Area Education Manager at:

(insert Name and Appropriate Area Office address and include e-mail address for submitting appeal).

A copy of this letter will be held in on your progress record. This letter comprises the only reference to the exclusion which will be retained within the progress record.

Decisions on any appeal, including the decision of an Appeal Committee not to annul the exclusion will be included in your progress record. If the decision to exclude is annulled, no reference to exclusion in your record will be disclosed.

Yours sincerely,

(insert signature)

Headteacher

cc. Area Education Manager,
Area Business Support

To be included as part of exclusion letter

Information for Pupils, Parents and Carers - Exclusion Appeal

What Leads to an Exclusion?

There are only 2 circumstances in law where a pupil can be excluded are. These are:

- “where the parent of a pupil refuses or fails to comply, or to allow the pupil to comply, with the rules, regulations or disciplinary requirements of the school”; or
- “where a pupil’s continued attendance at the school is likely to be seriously detrimental to order and discipline at the school or the educational well-being of the pupils”

Notification Process

The school will always inform the parents of the length of exclusion and the reasons for the exclusion in writing. In these letters you will be asked to come into school to discuss the exclusion. It is extremely important that you attend such meetings, or telephone to make other arrangements. Parents and teachers are partners in this respect, and parents play a vital role in helping their children with problems at school. Regardless of such invitations parents are always very welcome to approach the schools directly to discuss issues which are important to themselves and their children. Please feel free to do so should there be anything you want to talk over.

Appeals Process

Parents, or pupils over 12 years of age, (and younger if the pupil is deemed mature enough to understand the decision to exclude), have a right to appeal against the decision to exclude. You can do this:

- At the time the child is excluded from school.
- After the meeting with the Headteacher to discuss the exclusion.

- After a meeting with the Area Education Manager to discuss the exclusion.

There is no legal deadline for appealing an exclusion, but it is usually best to submit the appeal as soon as possible to try and resolve the situation quickly.

If you appeal, this will lead to an Appeals Committee Hearing.

A decision to appeal will have no effect on the length of the exclusion or on any conditions attached to the pupil's return.

Who can I discuss this with?

You can discuss an exclusion further with the Headteacher. You can also contact the Area Education Manager whose contact details are on the exclusion letter.

DRAFT

Appendix 5: Reasons giving rise to Exclusion – SEEMiS Codes

Code	Reason	Code	Reason
34	Fighting	66	Damage to personal property of pupil
35	Spitting	67	Damage to personal property of staff
36	Verbal abuse - staff	68	Theft from pupil
37	Verbal abuse - pupil	69	Theft from staff
38	Fire Raising	70	Threat of sexual violence against pupil
39	Damage to school property	71	Threat of sexual violence against staff
46	Threat to school property	72	Threat of physical violence, no weapon, against pupil
48	Indecent exposure	73	Threat of physical violence, no weapon, against staff
51	Sustained peer exclusion causing significant distress	74	Threat of physical violence – weapon or improvised weapon, against pupil
53	General or persistent disobedience	75	Threat of physical violence – weapon or improvised weapon, against staff
54	Insolent or offensive behaviour	76	Threat to personal property (pupil)
55	Refusal to attend class	77	Threat to personal property (staff)
56	Parental non-co-operation	78	Malicious communications against pupil
57	Substance misuse -alcohol	79	Malicious communications against staff
58	Substance misuse – non alcohol	80	Slander and libel (incl. Website) against pupil
60	Physical assault with no weapon against pupil	81	Slander and libel (incl. Website) against staff
61	Physical assault with no weapon against staff	82	Stalking of pupil
62	Physical assault using weapon against pupil	83	Stalking of Staff
63	Physical assault using weapon against staff	84	Extortion from pupil
64	Physical assault using improvised weapon against pupil	85	Extortion from staff
65	Physical assault using improvised weapon against staff	99	Other

DRAFT