



## Community Services: Education

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To: Heads of all Educational Establishments

Dear Colleague

**Argyll and Bute Council – Managing Exclusions in Schools**

**NOTE:**

**It is essential that all the guidelines throughout this circular are fully adhered to by relevant staff in schools.**

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## Section One - Context

- 1.1 The following procedures require to be followed by the Education Service in order to comply with legislation and Scottish Government Guidance in relation to exclusions and the Authority's Corporate Parenting responsibilities. The procedures should be followed in conjunction with the Scottish Government guidance detailed in *Included, Engaged and Involved Part 2: a positive approach to managing school exclusions* (IEI2). Head Teachers and Campus Principals should only consider excluding a pupil from school when all other measures have been tried and have failed. Exclusion should only be used as a last resort. It has to be used within an overall ethos of prevention, early intervention and support for learners and consistently applied policies for providing positive relationships and promoting positive behaviour in schools. Head Teachers and Campus Principals should be aware that they may be required to justify taking such action at an appeal hearing, an Additional Support Needs Tribunal or in a court of law. Where exclusion is used it should be as a proportionate response where there is no other appropriate alternative. Additional requirements and expectations apply where consideration is being given to excluding a care experienced child, child with ASN, child with a disability or child on the Child Protection Register.

The number of pupils involved in exclusions in Argyll and Bute schools has dropped over the past few years. Schools should periodically review their exclusion data and carry out reason for exclusion and cohort analyses. This information is readily available on SEEMIS and will be analysed by the education service as part of the process of school review and improvement.

- 1.2 The power to exclude a pupil from school lies with the Education Service. The Education Service may devolve the power to exclude to senior managers in schools. Within this framework the decision to exclude has been devolved and is the responsibility of the Head Teacher or Campus Principal. The Head Teacher or Campus Principal is also responsible for ensuring that the procedures in this Education Management Circular are properly followed. Only on occasions where the Head Teacher or Campus Principal is not present in school is the power to exclude a pupil to be delegated to the member of staff deputising for the Head Teacher or Campus Principal in their absence. **Prior to exclusion the checklist in Appendix 1 should be completed. Checklist 2 should be completed after completion of Checklist 1a ( and 1b where appropriate) and the decision to exclude has been made. Checklist 3 should be completed on return to school from exclusion.**
- 1.3 The procedures apply in Primary, Secondary and Special Schools. However, the relevant circumstances and particular needs of individual pupils should be taken fully into account when considering whether the use of a period of exclusion is reasonable and is an appropriate response. Pages 8 to 17, of the

Scottish Government's *Included, Engaged and Involved Part 2: a positive approach to managing school exclusions* summarise the legislative and procedural basis for exclusion. All schools therefore should be confident in being able to evidence that exclusions are consistent with their use of a planned, proactive and preventative staged intervention approach where concerns are addressed early, positive behaviour management strategies are employed and the involvement of parents/carers is routine. Early intervention and prevention are key elements of our daily practice and ensure we are focused on ensuring we get it right for all our children and young people. Early intervention is crucial in reducing the need for exclusion whilst recognising that all support should be appropriate, proportionate and timely. The staged intervention framework should be followed and a range of approaches from universal through to more targeted and specialist support should be in place where appropriate. All learning establishments in Argyll and Bute should have robust policies and procedures in place to ensure a consistent approach to improving relationships and behaviour across the whole community and they need to include children's rights in accordance with the United Nations Convention on the Rights of the Child (UNCRC). We use a range of approaches in Argyll and Bute education establishments to improve relationships and behaviour. These are centred on the principle that all behaviour is a form of communication. The effective implementation of these approaches can often prevent the need for exclusion. These include:

- Restorative and solution oriented approaches as part of a whole school approach;
- whole school nurturing approaches based on nurturing principles, including nurture groups in early years, primary, and secondary and specialist provision
- Anti-bullying policies and practice which contribute to social and emotional wellbeing including the Mentors in Violence Prevention (MVP) Programme<sup>24</sup> and respectme<sup>25</sup>, Scotland's anti-bullying service; and
- Effective learning and teaching which contributes to developing good relationships and positive behaviour in the classroom, playground and wider school community.

1.4 Before excluding a pupil, schools should take account of the individual circumstances in every case (See also paragraph 3.1). There are, in addition, certain groups of pupils where additional considerations apply:

(a) ***Pupils with Additional Support Needs and Pupils with a disability***

- i) It is important to adopt an appropriate and measured approach when considering the exclusion of a pupil with Additional Support Needs or a disability. This should involve discussion about difficulties at school involving the parents/carers, the young person and other professionals, well in advance of exclusion being considered as an option. A balance requires to be struck between the case for exclusion and the obligation

to ensure educational provision meets a pupil's additional support needs. Schools must take all reasonable steps to ensure appropriate provision is made to support a pupil's additional needs or disability.

- ii) Where a pupil has additional support needs, it should be standard practice to involve appropriate support services including the relevant educational psychologist in the consideration of whether an exclusion is required. Where other professionals, such as social workers, family support workers and children's service workers, have a significant role in providing education, care and support for the child and have a significant involvement in the child planning process their views should be sought when a decision to exclude is being considered and when planning educational provision during a period of exclusion. Such provision during periods of exclusion should be implemented without undue delay (s14(3) of Education (Scotland) Act 1980), should seek to provide, 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. It may be possible to provide the quantity and range required through digital learning.
- iii) Any decision to exclude must take account of and be in line with Argyll and Bute Council's duty under the Equality Act 2010 (and related legislation), the Education Services duties under Additional Support for Learning legislation and, where one exists, the school's duty to provide the services stipulated within a pupil's Co-ordinated Support Plan, Education Single Agency Plan or Multi Agency Child's Plan.
- iv) Where a pupil has a disability, for example, Autism Spectrum Disorder (ASD) or Attention Deficit Hyperactivity Disorder (ADHD), careful consideration should be given to whether excluding the child or young person would result in them being discriminated against on the grounds of their disability. The Equality Act 2010 guidance states that 'excluding a disabled pupil for behaviour which arises as a consequence of their disability is likely to result in unlawful disability discrimination unless you can show that the exclusion was a proportionate means of achieving a legitimate aim'. The guidance also states "you must not exclude a child because of their protected characteristics". In addition there is a duty to disabled pupils to make reasonable adjustments to the procedures if needed.  
This may include:
  - Disregarding behaviour which is a direct consequence of their disability.
  - Making reasonable adjustments to manage the behaviour.
  - Ensuring that a disabled pupil is able to present their case fully where their disability might hinder them.

The 'legitimate aim' of the proposed exclusion should be carefully identified and clearly communicated to all relevant parties. Similarly, the term 'proportionate' is a very important element in this context (see Section 2 – periods of exclusion). There is a legal requirement that policies and procedures should not place disabled children at a disadvantage. Should this be a likely consequence of the policy or procedure then the school must introduce measures to avoid such disadvantage. These measures should be specifically incorporated in any Education Single Agency Child Plan, Multi-Agency Child's Plan or Co-ordinated Support Plan.

On pages 48 and 50, of the Scottish Government's *Included, Engaged and Involved Part 2: a positive approach to managing school exclusions* (IEI2) guidance is offered on education provision for pupils who have Additional Support Needs.

(b) **Care Experienced**

- i) Research shows that children who are care experienced are significantly more likely to be excluded from school. The impact of exclusion can mean that their already potentially challenging circumstances are likely to be exacerbated. Effective collaboration between the Education Service and other services, such as Social Work, is therefore central to good practice with pupils who are care experienced. This should involve appropriate application of GIRFEC principles such as high quality multi-agency discussion regarding difficulties at school well in advance of exclusion being considered as an option. All Looked after Children will have a Social Worker as their Lead Professional and will have a Child's Plan that details their needs and how these are to be met. **Where there is an exclusion being considered for a care experienced child the Head Teacher / Campus Principal must discuss the reasons for this consideration with the Head of Service for Education.**
- ii) Those children who are care experienced:
  - currently looked after;
  - previously looked after;
  - looked after and accommodated whether at home or in residential; foster care;
  - informally looked after;
  - adopted;or in kinship care will have particular care needs and may be affected by stressful and distressing events and circumstances that can impact on their behaviour that require to be taken into account if there is a possibility of exclusion. Schools must ensure that actions they take adhere to the Authority's Corporate Parenting responsibility and the principles of The Promise. In all cases, prior to the decision to exclude being made, the Head Teacher or Campus Principal should involve the

child's Lead Professional, or Named Person if there is no Lead Professional, in discussion and consideration of the child's circumstances and the implications of exclusion on the home to ensure appropriate arrangements are made. On pages 56 and 57, of the Scottish Government's *Included, Engaged and Involved Part 2: a positive approach to managing school exclusions* (IEI2) guidance is offered on education provision for pupils who are care experienced.

Key statements for education staff from The Promise for consideration are:

**The formal and informal exclusion of care experienced children from school must end.**

**Schools in Scotland must be ambitious for care experienced children and ensure they have all they need to thrive, recognising that they may experience difficulties associated with their life story.**

**Scotland must ensure that current definitions that act as the access point for rights and entitlements are inclusive enough to benefit all young people for whom Scotland has had parenting responsibility.**

The local authority has a statutory duty to safeguard and promote the child's welfare. The Authority as the child's corporate parent is responsible for ensuring the health, wellbeing and educational attainment and achievements of the child, should wish for the most positive outcome for them and should do all that it can to support them. **A good set of core questions for reflection when exclusion is being considered which have a positive impact upon how situations are managed include:**

Has the child or young person been excluded before? What was impact of this?

Have the following been engaged to help prevent exclusion?

- Child or young person;
- Parents/carers;
- Key education staff; and
- Other professionals (e.g. 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? e.g. curriculum alternatives, use of virtual learning

How can the staged intervention framework 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 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 regulations as amended?

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?

Has consideration been given to the individual circumstances in relation to if the child or young person has care experience, a disability, an Additional support need or is on the child protection register?

***Where following this discussion the Head Teacher or Campus Principal decides to proceed with an exclusion they must discuss with the Lead Professional:***

- How they will ensure that the child's educational needs will be met while excluded?
- What work needs to be undertaken with the child/young person while excluded to ensure a successful return to school?
- Arrangements to support the child/young person to return to school and to minimise the risk of any further exclusions.

The Head of the Children and Families Service will always be advised by the Lead Professional of any exclusions of a care experienced child/young person at the earliest opportunity.

Further advice and assistance regarding the application of these procedures can be obtained from the Education Head of Service. *Any consideration of excluding a Care Experienced child or young person or a child or young person subject to Child*

*Protection procedures should be brought to the attention of the Education Head of Service, or the Principal Teacher for Care Experienced Children and Young People, prior to a decision being made.*

(c) **Children on the Child Protection Register**

Consultation with Social Work Services, who are the Lead Professionals in all cases at Child Protection level, prior to a decision about excluding is essential for any pupils on the Child Protection Register to ensure appropriate arrangements are made. This should include all the areas identified for Care Experienced Children and Young People and in addition careful consideration must be given to the impact of any exclusion on the safety and wellbeing of the child. 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. **Where there is an exclusion being considered for a child on the child protection register the Head Teacher / Campus Principal must discuss the reasons for this consideration with the Head of Service for Education.**

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 dismissed from the school premises
- Consider whether there are family or other domestic circumstances which mean support is required if a child is excluded
- Clarify 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 (appendix 10)
- 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

The Head of the Children and Families Service should always be advised by the Lead Professional of any exclusions of a child on the Child Protection Register at the earliest opportunity. In all cases there needs to be a discussion with the child or young person to ensure an understanding of what the decision will mean for them and an opportunity to have their say needs to be facilitated.

(d) ***Children residing in Hostels and Lodgings***

- i) It should be noted, that although children living in school hostels or lodgings are not regarded as care experienced, there are specific issues which require to be addressed if exclusion is being considered for such a pupil. It is essential in such circumstances that appropriate discussion takes place with hostel managers and the parents/carers of the pupil.
- ii) 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 Hostel. 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 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 Head Teacher or Campus Principal will be required to work closely with the local Hostel Manager and the social work department as the managing service for all school hostels in Argyll and Bute.
- iii) In normal circumstances it will be the Hostel Manager who will first alert the Head Teacher or Campus Principal and the child's Named Person about issues of this kind, to discuss possible supports, alternative strategies or interventions from external agencies where appropriate.

1.5 Further advice and assistance regarding the application of these procedures can be obtained from the Education Head of Service. Any decision to exclude a Care Experienced child or young person, a child with a disability, a child with ASN or a child subject to Child Protection procedures should be brought to the attention of the Education Head of Service, prior to the period of exclusion beginning.

## **Section 2 - Imposing periods of exclusion**

2.1 When a pupil's presentation, conduct or behaviour pattern has reached a degree of seriousness which leads to a school exclusion being considered, the following procedures should be followed. In applying these procedures, sensitivity and care for the welfare of the pupil should always be displayed and there should also be opportunities for the child's view to be heard throughout the process.

2.2 Where the Head Teacher or Campus Principal has delegated the responsibility for investigating an incident to an appropriate member of staff, or has accepted the results of an investigation carried out prior to the Head Teacher or Campus Principal being aware of the incident, the Head Teacher or Campus Principal should ensure that, in considering exclusion:

- (a) the incident has been carefully and thoroughly investigated to a standard commensurate with the possible imposition of exclusion as a last resort;
- (b) they can demonstrate that exclusion was imposed as a means of achieving a legitimate aim and identify that aim;
- (c) the pupil or pupils to whom an exclusion may be applied has or have had during the investigation a fair and impartial investigation conducted within a reasonable period of time;
- (d) there is a clear written record of the investigation detailing relevant actions and findings supported by written statements from the staff involved in managing and/or witnessing the incident;
- (e) The pupil has had the opportunity to discuss the circumstances giving rise to the consideration of an exclusion
- (f) The parent has had the opportunity to discuss the circumstances giving rise to the consideration of an exclusion
- (g) telephone contact is made with the parent or carer and the intent to exclude is intimated and arrangements made for collecting the pupil if that is deemed appropriate.

2.3 When the decision to exclude has been taken by the Head Teacher or Campus Principal, the pupil should be formally advised by the Head Teacher or Campus Principal of:

- the decision to exclude
- the length of the exclusion imposed
- the grounds/reasons for the exclusion

The pupil should:

- be afforded the opportunity to make comment
- have their comments appropriately recorded
- have the exclusion recorded in their pastoral notes
- have their exclusion recorded in the exclusion record system
- have the exclusion recorded in their chronology as a significant event

Consideration should be given to the immediate circumstances impacting on a pupil who is subject to exclusion;

- i) The pupil should not be sent home until the pupil's parents/carers have been advised and a check has been made that the parents/carers will be at home when the pupil arrives or where appropriate can make arrangements to collect the pupil from school.
- ii) In addition to posting a letter by registered post to the parent/carer or directly to a pupil over the age of 16, a letter should also be given to the pupil to be taken home. This letter formally intimates the decision to exclude, the length of the exclusion and the grounds/reasons for exclusion and details of the appeals process.
- iii) Where the child is care experienced, has a disability, an additional support need or is on the Child Protection Register the information detailed above must also be provided in writing to the lead professional.
- iv) If the parents/carers are not at home and if they cannot be contacted to collect their child from school, the pupil should be kept in school, and appropriately supervised, until the end of the normal school day.

#### 2.4 The Education Head of Service should be advised of

- each single exclusion of 10 days
- instances where the cumulative total of exclusions rises in excess of 20 days in any school session
- exclusion of a care experienced child has a disability, an additional support need or is on the Child Protection Register

It is essential that detailed records are retained in the pupil's file, pupil's pastoral notes and the exclusion record system. All exclusions for acts of violence or threats of violence against staff must be reported to the Education Head of Service immediately. The procedures to be followed are detailed below.

- (a) The period of exclusion should reflect the level of 'seriousness' of the behaviour or conduct. First exclusions or exclusions for less serious offences should not normally exceed three school days. (see also 3.1) Exclusion should always be used as an action of last resort and the length of any exclusion should always take into account;
  - i) the nature, severity and implications of the behaviour leading to the decision to exclude;
  - ii) the legitimate aim of the exclusion, how the exclusion will help to achieve that aim and consideration of the range of exclusion

- periods as a proportionate means of applying the sanction of exclusion;
- iii) the value of the period of exclusion in modifying the behaviour of the pupil to be excluded;
  - iv) the implications for the members of the school population of the behaviour leading to the decision to exclude;
  - v) the amount of time schools will require to put procedures, protocols and support strategies in place in order to make the pupil's return from a period of exclusion manageable and successful;
  - vi) the schools capacity to provide appropriate continuing educational provision out of school for the entire period of exclusion and the need for this to be implemented 'without delay' as detailed at 1.4 above;
  - vii) the rationale and utility of increasing the period of exclusion where a child has already been excluded previously beyond adopting an arbitrary incremental approach;
  - viii) details of any conditions that must be met to enable the pupil to return to school.
- (b) While the Head Teacher or Campus Principal may impose a series of exclusions during the school session, the maximum length of a single exclusion for an incident of seriously inappropriate behaviour should not normally exceed 10 days. Only in the most exceptional circumstances should a single exclusion of up to 15 days be imposed.
  - (c) Where a period of exclusion is being considered for a pupil normally resident in a school hostel, the situation must be discussed with the Hostel Manager and parent / carer before any final decisions are made.
  - (d) A single exclusion of or in excess of 10 days must be reported to the Education Head of Service for consideration and possible action. A full report of the incident and investigation must be submitted enclosing copies of all relevant correspondence and witness statements together with a copy of the checklists (appendix 1) which must be completed accurately.
  - (e) All patterns of exclusion resulting in a cumulative total which rises in excess of 20 school days in any school session, must be reported in detail to the Head of Education for consideration and possible action. Again a full report of the incidents (see paragraph 6.3) and investigations must be submitted enclosing copies of all relevant correspondence and witness statements together with a copy of the

checklists (appendix 1) which should be completed accurately.

- (f) On pages 14 and 15, of the Scottish Government's *Included, Engaged and Involved Part 2: a positive approach to managing school exclusions* (IE12) guidance is offered on education provision for excluded pupils. Due account should be taken of this guidance, particularly where an exclusion or cumulative exclusions is for more than day.
- (g) The school has a responsibility to provide appropriate access to suitable educational experiences and home learning opportunities during the period of exclusion

2.5 While exclusions in most instances will relate to serious breaches of discipline in school, there may be occasions where the exclusion of a pupil for particular behaviour outside school premises and/or outside school hours is raised. The question of the exclusion of a pupil in such circumstances should be assessed by the Head Teacher or Campus Principal in terms of whether or not the pupils immediate inclusion in school activity after the incident is likely to have a direct adverse impact on the good order and discipline of the school or on the safety and well-being of the pupils who are enrolled there as well as what sanctions have already been imposed independently of the schools discipline system. In cases where exclusions of this type are being considered the relevant Education Head of Service should be made aware.

### **Section 3 - Liaison with parents and carers**

3.1 When a decision to exclude a pupil has been taken it is essential that telephone contact is established with the parent or carer and the circumstances around the exclusion along with the exclusion process including the readmission meeting are explained. It may be necessary to contact the emergency contact in a situation where the parent or carer cannot be reached. A copy of the standard letter in appendix 3(a) or 3(b) incorporating details of the appeal process, details of any conditions that must be met to enable the pupil to return to school and the notes for guidance in making an appeal (appendix 4) should be completed and sent to the parents/carers or, in the case of a young person over 16, a copy may be given directly to him/her and a copy sent by recorded delivery letter on the date that the decision to exclude is taken. A copy of appendix 6 – Exclusion from School, A guide for Parents and Carers and pupils over 16 should also be sent. The parents/carers or young person must, within the letter (appendix 3(a) or 3(b)), be invited to attend a readmission meeting at the school as soon as possible thereafter but no later than within 7 days immediately following the date of the decision to exclude in terms of the Schools General (Scotland) Regulations 1975 . The letter must specify the date, time and place of the meeting (Regulation 4A(1)(b)).

- 3.2 Where, in line with paragraph 2.4(a), the period of exclusion merited and imposed is less than 7 days, the Head Teacher or Campus Principal should make every effort to convene the readmission meeting within the period of exclusion imposed. In any event the meeting must take place within the 7 days as detailed in Regulation 4A(1)(b). The period of exclusion initially imposed for the incidents of indiscipline should not be extended solely as a result of the parents'/carers' or young person's inability to attend the exclusion meeting called within the shorter timescale.
- 3.3 If the parents/carers or the young person over 16 agree to meet the Head Teacher or Campus Principal or a nominated member of staff, and also agree to sign the standard written assurance in appendix 5(a) or 5(b) at the readmission meeting the pupil should be re-admitted to school and the matter recorded. The standard written assurance should be signed by the parent/carer or young person and by the Head Teacher or Campus Principal or their nominated representative. It is essential, at this stage, to underline the importance of the partnership and co-operation being undertaken by the home and the school to lay the foundations for the pupil's improved presentation, conduct or behaviour. One copy of the assurance should be entered in the pupil's file and one copy should be given to the parent. Unless the circumstances of paragraph 2.4 apply, there is no need for the matter to be reported to the Education Head of Service.
- 3.4 If the parents/carers or young person over 16 fail to agree to meet the Head Teacher or Campus Principal or their designated senior member of staff; or if the parents/carers or young person refuse to sign the written assurance in appendix 5(a) or 5(b), the matter should be reported to the Education Head of Service and the pupil should remain excluded from school. The Education Head of Service or their nominated professional representative will then formally request in writing that the parents/carers or young person sign the standard written assurance in appendix 5(b). The standard written assurance should be signed by the parent/carer or young person and by the Head Teacher or Campus Principal or their representative. One copy of the assurance should be entered in the pupil's file and one copy should be given to the parent/carer or young person. If this assurance is appropriately signed, the pupil may return to school immediately.
- 3.5 Should the parents/carers or young person over 16 fail to sign this written assurance the exclusion will be continued and another opportunity to discuss the reasons for this should be provided.
- 3.6 On no account should a pupil who is excluded from school be re-admitted without their parents/carers or the young person over 16 first signing the standard written assurance in appendix 5(a) or 5(b), which will be regarded by the Education Service as evidence of the parent's/carer's or young person's commitment to working in partnership with the school to ensure the improved presentation, conduct, behaviour of the pupil. In the case of a short period of exclusion the Head Teacher or Campus Principal should agree with the

parent appropriate arrangements for the signing of the assurance prior to the pupil's readmission where the required meeting is not able to be scheduled within the exclusion period. All signed assurances must be retained in the pupil's file.

## **Section 4 – Extreme behaviour**

4.1 While exclusion is always an action of last resort, in some circumstances pupil behaviour will be of such a nature that it requires a particularly significant and decisive response by the Head Teacher or Campus Principal.

- i) These incidents might include:
  - a. physical, verbal or racist or sexual threats to staff and/or fellow pupils
  - b. an unprovoked physical assault on staff and/or pupils
  - c. incidents putting the health and safety of staff/pupils at serious risk
  - d. drugs related incidents
  - e. weapons related incidents (please refer to Weapons Protocol)
  
- ii) Such serious incidents may well, in the professional opinion of the Head Teacher or Campus Principal, merit exclusion in excess of 10 schools days. Even in these exceptional circumstances the period of exclusion must not exceed 15 school days and issues relating to the impact of additional support needs, disability and care experienced status should be carefully considered. In such circumstances the procedures outlined in section 2, paragraph 2.4(a) to (f) above should be followed
  
- iii) In cases involving
  - extreme oppositional behaviour
  - highly aggressive behaviour
  - behaviour likely to be seriously detrimental to the good order and discipline of the school such as violent conduct or substance misuse

The Head Teacher or Campus Principal may, having taken account of the facts of the incident, decide it is appropriate to exclude that pupil from school immediately even where the pupil has not previously been

involved in acts of indiscipline and/or falls within the considerations outlined in Section 1.4 (See also 2.4 (a)) **In such circumstances it is necessary to have the parent/carer, or someone they nominate, come to school to collect the pupil. This also applies to pupils over 16 to help support their safety and wellbeing.**

- iv) Where a criminal offence has been alleged, Head Teachers should contact Legal Services within the Council and/or the local Police as well as considering the appropriateness of Multi-Agency planning and support procedures

4.2 In situations where actual physical violence or threats of violence occur against

- i) *Members of staff* - the matter must be recorded on the revised individual report form included as appendix 2. All such acts of violence or threats of violence against staff must be reported to the Education Head of Service immediately. Where the Education Service has a disciplinary locus over the pupil, disciplinary action imposed should reflect the gravity of the offence. In this respect violence to staff may involve immediate exclusion from school and police involvement
- ii) *Other pupils* - the matter must be recorded in the pupils' pastoral notes. All such acts of violence or threats of violence against pupils must be reported to the Education Head of Service immediately. Where the Education Service has a disciplinary locus over the pupil, disciplinary action imposed should reflect the gravity of the offence. In this respect violence to other pupils may involve immediate exclusion from school and police involvement. Consideration should also be given if the violence is against another pupil to whether the information should also be included in the bullying and equalities module in SEEMIS.

4.3 Where an offence is particularly serious or where the pupil commits a second act of violence towards a member of staff or a pupil:

- i) Support, approaches and strategies should be put in place to ensure the safety of staff and pupils including risk assessment procedures
- ii) Full consideration should be given to that pupil's continued attendance in the specific establishment
- iii) A meeting should be held, chaired by the Education Head of Service, or their representative, concerning the future educational arrangements for that pupil. The views of all stakeholders including pupils, parents, teachers, support staff and relevant organisations should be sought in these circumstances

- iv) The decisions of the meeting and outcomes for the pupil should be recorded appropriately and enacted timeously
- v) As stated previously due regard and consideration needs to be given where the child has care experience, has a disability, an additional support need or is on the Child Protection Register

4.4 Where the pupil is not under the Education Service's disciplinary control, full consideration should be given to:

- involvement of the police
- legal support to pursue an interdict to prevent further intrusion by that person onto the school premises

4.5 Involvement of the police can be a sensitive issue. Staff and pupils may be reluctant to involve the police for a variety of reasons:

- a desire to end a stressful experience
- concern that their competence may be brought into question
- a continued fear for their personal safety
- concerns regarding the impact on the pupil concerned

The work of the Police Service in partnership with the Education Service should encompass much more than responding to offences reported to them. Proactive involvement of the Police within schools should be seen as integral to:

- providing the highest quality of care, guidance and support to pupils and staff
- preventing escalatory patterns of inappropriate behaviour
- diverting pupils from becoming involved in offending activity

The involvement of the police should reflect the nature of the incident and the wishes of the victim. However, the Education Service considers that police involvement is a vital part of preventative strategy in addressing violence towards pupils and staff. (See education management circular 3.24: Guidelines on police and legal issues affecting school pupils.)

4.6 People who have suffered violence undergo a stressful and often demoralising experience. They require sympathetic management in rebuilding their confidence. In severe cases, amongst other things, this may require the involvement of services that can support pupils and staff who have been victims of violence. This might include support from the school:

- Critical Incidents Group

- Pupil Support Department
- Educational Psychologist

or the Authority

- Occupational Health Service
- Psychological Service
- Central Education Team
- Wellbeing support service

as well as

- the Health Service
- Social Work
- the Police
- the Scottish community justice system (SACRO)
- Relevant victim support groups
- Trade Union Services
- Third Sector Organisations

4.7 All establishments should have in place clear policies on violence to pupils and staff including preventative strategies, which stress the awareness of the issues as well as monitoring all incidents of violence to pupils and staff. Implementation should give consideration to environmental physical factors such as the layout of buildings, access and egress as well as reception areas. It should also involve practical aspects such as the development of positive strategies to defuse potentially difficult situations and risk assessment. In addition, preventative strategies might include:

- staff development activities such as the role of staff in setting an example in such matters as conduct and sound inter-personal relationships
- pupil development activities embedded in personal safety lessons and UNCRC awareness taught in classes for all ages and stages
- development of a rights respecting ethos through engaging in the Rights Respecting Schools Framework
- the development of explicit protocols, procedures and processes for proactive responses to potentially volatile interpersonal situations on campus or for reactive responses to violent incidents in school

4.8 When considering whether a pupil should be excluded because of inappropriate behaviour such as physical assault on pupils or staff and the deliberate damage to buildings or equipment, schools may consider referral to the Children's Reporter.

- i) The referral of a pupil to the Children's Reporter is appropriate when there is a need to intervene on a compulsory basis because the pupil is deemed "at risk" and their behaviour is giving serious cause for concern. This step would normally be considered once the school's formal processes have been followed and multi-agency involvement is in place. However, in particular instances it may be appropriate to refer at an earlier stage. In all cases, where the child or young person has current or previous involvement with social work, discussion with the Named Person and Lead Professional should take place prior to referral to the Reporter. An agreed multiagency plan and recommendation to the Reporter should be identified whenever possible.
- ii) There can be other reasons for a pupil's behaviour – those who display particularly distressed behaviour may be the victims of neglect or abuse and/or be the witnesses of domestic abuse. The individual circumstances of the pupil using a multi-agency approach 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 referral are set out in section 67 of the Children's Hearing (Scotland) Act 2011.
- iii) The Children's Reporter will investigate the case and determine whether compulsory measures of intervention may be required. If compulsory measures are considered necessary, a Children's Hearing will be held.

## **Section 5 - Referral to the Education Head of Service**

- 5.1 In respect of these procedures the Head Teacher or Campus Principal should be clear about which exclusions should be referred to the Education Head of Service, paying particular attention to the considerations required for children and young people within the cohorts highlighted in section 2.4. Statistical returns, based on the attendance monitoring system within schools are required by the Education Service on a regular basis and by the Corporate Parenting Board.
- 5.2 When the cumulative total days of exclusion exceeds 20 days in relation to a particular pupil in any school session, the case is considered sufficiently serious that it must be reported fully using the checklists contained in appendix 1 to the Education Head of Service. The Education Head of Service or their designate from the Education Management Team may then arrange to meet the pupil, the pupil's parents/carers, the Head Teacher or Campus Principal or their designate from the Senior Management Team and the relevant agencies included in the network of support around the pupil as soon as possible thereafter. The time taken for this may not exceed 20 school days from the day of the decision to exclude. However, return to school should

normally proceed in line with established arrangements and after the parent/carer or young person over 16 has signed the standard written assurance.

- 5.3 The Education Head of Service or their designate from the Education Management Team will decide on the future educational placement of the pupil but this will, in all but the most exceptional circumstances, be to return the pupil to his/her base school. In exceptional circumstances the Education Head of Service may consider alternative educational provision which may include transfer to another school. In such cases the full case record will be made available to the Head Teacher or Campus Principal of the receiving school. However, in the intervening period return to the base school, except in exceptional circumstances, will normally be arranged after the parent/carer or young person has signed the standard written assurance in appendix 5(a) or 5(b).
- 5.4 Where the incident leading to the exclusion was particularly serious or where the pupil commits a second act of violence to a member of staff or threatened violence, then the re-admission of a pupil will be the product of a case conference chaired by the Education Head of Service. The decisions of the case conference will be recorded.
- 5.5 Notwithstanding the above, the Head Teacher or Campus Principal may refer particular cases for discussion with the Education Head of Service which have not reached the 20 day limit but where emerging and significant concerns have been identified.
- 5.6 For pupils that have care experience, have a disability, an additional support need or are on the child protection register, their individual circumstances should be considered by HoS in relation to any decisions made

## **Section 6 - Particular points of note for Head Teachers and Campus Principals:**

- 6.1 i) A written record must be kept of all procedures followed as well as statements from staff involved or witnessing the behaviour leading to the proposed exclusion and such statements should be recorded as close to the time of the incident as is practical. All information, including the reasons why a Head Teacher or Campus Principal decided on a particular course of action, should be filed in the pupil's progress records, pastoral records and in the exclusion record system. It is important that the records incorporate details of:
  - the legitimate aim of the proposed exclusion
  - how the exclusion would help to achieve that aim

- consideration of the range of actions other than exclusion which had already been applied
- the rationale for the period of exclusion chosen to reflect a proportionate response to the pupil's behaviour

Comments should be specific, including the names of staff, dates, times and any other information that may be considered relevant. This information should be of detailed, accurate and of the highest quality as it may, in certain circumstances, be required to substantiate the authority's case in a court of law.

ii) The person making the decision to exclude the pupil must be aware of all of the facts before making that decision. The decision should never be taken in advance of detailed consideration of statements from all those involved. Only the behaviour before the decision maker's involvement can be taken into account in making the decision. The pupil's behaviour in response to the decision to exclude will not be relevant in any legal challenge to the decision to exclude.

6.2 Where an exclusion has to be reported to the Education Head of Service the information must include:

- checklists from appendix 1
- copies of correspondence with parents/carers
- a description of the incident actually provoking the exclusion
- an accurate summary of the pupil's pattern of behaviour
- details of any Additional Support Needs including Single and Multi-Agency Plans
- the pupils status with regard to care experience
- the pupils status with regard to the Child Protection Register
- the actions taken by the Head Teacher or Campus Principal, guidance and other staff
- the home address and date of birth of the pupil
- the full name of parents/carers

6.3 The Head Teacher or Campus Principal should ensure that the checklist in appendix 1 is completed and regularly updated for every pupil who requires to be considered in terms of this circular and a copy of the completed checklist should also be sent to the Education Head of Service where appropriate with the above information from paragraph 6.2.

6.4 Where a pupil commits a serious offence this must be reported to the police (see education management circular 3.24: Guidelines on police and legal issues affecting school pupils). Even where grounds exist for bringing a pupil before a children's hearing, the grounds may be denied by the pupil or by their parents/carers. In such cases the hearing is powerless to act until proof has been obtained from the Sheriff Court.

6.5 Serious offences might include theft, assault, drug related offences, vandalism

and incidents of a sexual nature. Further clarification can be sought from the Education Head of Service or from Legal Services. Every effort should be made to assist the police in their enquiries although it is preferable for interviews involving police officers and pupils to take place in the pupil's home rather than in the school. This is particularly important in the case of primary pupils. However, if the police insist on interviewing a pupil in school, the pupil's parents/carers should be contacted immediately to give them the opportunity to be present. If you have any concerns contact Education Head of Service or Legal Services.

- 6.6 Head Teachers and Campus Principals should be aware that, in normal circumstances, young people over 16 years of age cannot be brought before a children's hearing.

## **Section 7 - Appeals**

- 7.1 The Head Teachers or Campus Principal will be informed if a parent or young person over school leaving age but under 18 years of age makes an appeal against the decision to exclude and will require to be the principal witness for the Education Service at the subsequent appeal hearing and if necessary in the Sheriff Court. The member of staff nominated to investigate the incident of indiscipline and/or the member of staff directly involved will also be required to attend.
- 7.2 Head Teachers and Campus Principals should note that section 41 of the Standards in Scotland's Schools etc Act 2000 provides that a pupil with legal capacity, generally presumed to be a pupil aged 12 or above and able competently to understand his/her situation and the proceedings involved, will have the same right to appeal under section 28H of the Education (Scotland) Act 1980 as:
- (a) the parent or carer of the pupil
  - (b) the pupil where the pupil is a young person over 16 years of age but under 18 years of age.

Where a pupil decides to appeal against exclusion under the provision of section 41 of the Standards in Scotland's Schools etc Act 2000, the

Education Service will follow the procedures outlined for parents/carers or young persons.

- 7.3 The Education Head of Service will arrange for the Head Teacher or Campus Principal to be suitably advised prior to the appeal hearing or Sheriff Court proceedings and, in due course, will notify them of the results of such appeals. Any departure from the above procedures must only be made in the most exceptional circumstances and then only at the discretion of the Education Head of Service. If these procedures are, under exceptional circumstances, not followed, the procedure which is adopted must achieve at least the level of procedural fairness achieved by following the terms of Education Management Circular 3.08.
- 7.4 Parents, or other interested parties may make a complaint to Scottish Ministers if they think that the Council has failed in any relevant legal duty eg to ensure alternative education provision without delay, during a period of exclusion. Scottish Ministers could then make an order requiring the local authority to carry out that duty.

Yours sincerely

Education Head of Service  
Oct 2022

## **Section Eight - Supporting Documentation**

### **Appendix 1**

Checklists

### **Appendix 2**

Violence/aggression to staff - incident report form

### **Appendix 3(a)**

Letter to parents/carers

### **Appendix 3(b)**

Letter to parents/carers plus attached sheet

### **Appendix 4(a)**

Notes of guidance - appeal procedures

### **Appendix 4(b)**

Information Sheet – appeal procedures

### **Appendix 5(a)**

Assurance of co-operation (under 16)

### **Appendix 5(b)**

Assurance of co-operation (16+)

### **Appendix 6**

Parent/carer and pupil over 16 leaflet guide to exclusions

## Appendix 1

### Argyll and Bute Council: Community Services: Education

**Prior to exclusion the checklist 1a should be completed. Checklist 2 should be completed after completion of Checklist 1a (and 1b where appropriate) and the decision to exclude has been made. Checklist 3 should be completed on the return to school from exclusion.**

Checklist 1a (this should be used alongside checklist 1b where appropriate) – Prior to an exclusion

School name		Date of birth	
Address			
Parent/carer			
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"> <li>• Child or young person;</li> <li>• Parents/carers;</li> <li>• Key education staff; and</li> <li>• Other professionals (e.g. Social work, Educational Psychologist).</li> </ul>			
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? e.g. curriculum alternatives, use of virtual learning			
How can the staged intervention framework 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?		
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<b>Key consideration questions</b>	<b>Consideration given</b>	<b>Comment</b>
Has the child or young person been consulted on their views of the situation?		
Has Pupil Support/Guidance/Key worker, 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 regulations as amended?		
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?		
Has consideration been given to the individual circumstances in relation to if the child or young person has care experience, a disability, an Additional support need or is on the child protection register?		

Checklist 1b (to be used alongside checklist 1a if appropriate) – Individual circumstances

School name		Date of birth	
Address			
Parent/carer			
<b>Individual circumstance</b>	<b>Additional consideration</b>	<b>Consideration given</b>	<b>Comments</b>
Care experienced / Looked After child	Social worker consulted prior to decision		
	PT for Care Experienced C+YP 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 Designated Officer and Social Worker consulted		
	SEEMiS checked for child protection message		

	Central Education Team 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		
<b>Individual circumstance</b>	<b>Additional consideration</b>	<b>Consideration given</b>	<b>Comments</b>
	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 related to their additional support need(s)?		
	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 socioeconomic deprivation	Consideration should be given to the impact on child's wellbeing, e.g. free school meals		

Checklist 2 - Decision to exclude has been made (this checklist should be used after completion of Checklist 1a (and 1b where appropriate))

School name		Date of birth	
Address			
Parent/carer			
Action to be taken	Action taken	Comment	
Child or young person is informed he/she is to be excluded			
Immediately inform parents/carers verbally			
Care experienced children and young people 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			
Care experienced child and young people and children or young people on Child Protection Register/child protection concerns – intended course of action communicated to and discussed with lead professional, Social Worker, Key Worker, Foster Carer, Educational Psychologists and Head of Service			
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 Head Teacher 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		
Ensure exclusion is recorded accurately on SEEMiS		
All documents relating to exclusion to be retained in Pupil's Progress Record and scanned and uploaded into WBA on SEEMIS and recorded as a significant event in pastoral notes		
Child's view		
Parent's / carer's view		

Action to be taken	Action taken	Comment
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/young person to liaise with re. educational provision and wellbeing support		
Parent/carer should be informed of their responsibility to ensure child or young person is engaging with the resources provided by the school 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 Head of service		
If exclusion is lengthy or multiple, refer to Head of Service 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 and/or an advocate for the child to discuss		
Referral to Scottish Children’s Reporter if appropriate		

Checklist 3- 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 dependant on this taking place		
Appropriate planning takes place to ensure support is provided		
Child’s view		
Parent’s / carer’s view		
Risk assessment is completed where appropriate		
Needs of staff and other children and/or young people taken into account – solution oriented/ 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 processes continued and adapted in light of exclusion		
Pupil support/ guidance/ key worker or lead professional updated		

Monitoring and review arrangement put in place to ensure continued support		
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## Appendix 2

### Incident report form: anti-social behaviour and violence against staff

#### Definition of anti-social behaviour and violence

Any incident in which an employee of a school is seriously verbally or physically abused, threatened, attacked or harassed by a pupil, parent, member of the public or any other person in circumstances arising out of the course of his/her employment. This includes any statement or action that causes the member of staff to fear for their safety, the safety of another, the school or for personal property.

This includes physical violence, sexual, homophobic or racial harassment or abuse, harassment relating to religious beliefs or disability, assault (with or without a weapon), verbal threats or threatening gestures, verbal taunting, vandalism or arson, and any other intentional damage to personal property.

Managers of staff who have been the victim of violence or anti-social behaviour should fully complete this form. It will help us to understand the problems staff faces in their work, and consider ways in which the risk of future incidents can be reduced. Please attach a continuation sheet if necessary.

Date of incident

Day of the week

Time

#### 1 Employee - details of person assaulted

Name

Job/position

Dept/section

Gender

Ethnicity

[See end for list of categories of ethnicity]

What work was being done when incident started?

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#### 2 Details of alleged assailant(s) [if known]

a) Ethnicity

Age(s)

approx

Gender

Name(s)

[See end for list of categories of ethnicity]

#### 3 Witness(es) [if any]

Details of any additional  
Educational needs

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Alleged assailant was [please tick one of the following] Pupil  Past pupil   
Parent  Other

(b) Is the alleged assailant known to be involved in any previous incidents? YES/NO

If yes to (b), give date and brief details of incident

#### 4 Details of incident

(a) Type of alleged assault: [Pick number(s) from below]

- 1 Verbal abuse
- 2 Physical assault (no weapon or improvised object)
- 3 Physical assault using an improvised object
- 4 Assault using a weapon - an implement brought in with the premeditated intent of causing harm or injury
- 5 Damage to personal property

(b) Please indicate if the above action was connected to any of the following:

- |                     |                     |                                 |
|---------------------|---------------------|---------------------------------|
| 1 Sexual harassment | 2 Religious beliefs | 3 Homophobia/sexual orientation |
| 4 Racial harassment | 5 Disability        |                                 |

(c) Location of alleged incident

- |                                   |                              |                                   |
|-----------------------------------|------------------------------|-----------------------------------|
| 1 Pre school centres of education | 2 Classroom                  | 3 Other areas of school buildings |
| 4 School grounds                  | 5 Outwith the school grounds |                                   |

(d) Time of alleged incident

- |                       |                        |
|-----------------------|------------------------|
| 1 During school hours | 2 Outwith school hours |
|-----------------------|------------------------|

(e) Consequences of action for alleged victim: [Select one of the following]

- 1 No time taken off

- 2 Time off (treatment for emotional effects) \_\_\_\_\_
- 3 Time off (treatment for physical injury)
- 4 Time off - reportable under RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences 1995 – i.e. more than 3 days of 'major injury' such as broken arm or leg etc.); reportable to Health and Safety Executive
- 5 Unknown

(f) If alleged incident has resulted in time off, please indicate number of working days lost as a direct result

**5 Outcome**

(e.g. what happened after the event, details of any police involvement, legal action taken and any action taken by the school)

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b) Any other relevant information

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Signed \_\_\_\_\_ Date \_\_\_\_\_  
 Position \_\_\_\_\_

**Please return this form as soon as possible**

*Categories of ethnicity:*

- |               |                     |               |
|---------------|---------------------|---------------|
| White - UK    | Asian - Bangladeshi | Black - Other |
| White - Other | Asian - Chinese     | Other         |
| Mixed         | Asian - Other       | Not disclosed |

Asian - Indian  
Asian - Pakistani

Black - Caribbean  
Black - African

Not known

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## **Appendix 3(a) letter to be sent to parents or carers of an excluded pupil**

### **Argyll and Bute Council: Community Services: Education**

Dear

A decision has been taken today to exclude your child from attendance at this school.

I regret to inform you that your child has been involved in an incidence of misconduct. I would ask you to come to the school on in order to discuss the matter. Your child shall be present at that meeting but should not return to school before it takes place. The reasons for this decision are detailed on the attached sheet and, are such that your child's continued attendance at this school would be likely to be seriously detrimental to order and discipline in the school and to the educational well-being of other pupils.

You may bring a supporter along to this meeting if you so wish. Please contact me as soon as possible if this time is unsuitable in order that we can make other arrangements.

When we meet we will discuss when should return to school and the conditions under which such a return may take place. This meeting is called a readmission meeting and it is normally the case that after this your child will resume their attendance at school.

This exclusion has been made within the terms of the Education (Scotland) Act 1980 and you have the right under section 28H of the same act to appeal against the exclusion. Details of how you might appeal are included with this letter and should you intend to appeal you should do so as soon as possible.

I look forward to meeting you on the above date.

Yours sincerely

Head Teacher/Campus Principal

Enc: Attached sheet

## **Appendix 3(b) Letter to be given and sent to a pupil over 16**

### **Argyll and Bute Council: Community Services: Education**

Dear

A decision has been taken today to exclude you from attendance at this school.

As you are aware you have been involved in an incidence of misconduct. I would ask you to come to the school on \_\_\_\_\_ in order to discuss the matter. Your parent or carer shall be present at that meeting and you should not return to school before it takes place. The reasons for this decision are detailed on the attached sheet and, are such that your continued attendance at this school would be likely to be seriously detrimental to order and discipline in the school and to the educational well-being of other pupils.

Please contact me as soon as possible if this time is unsuitable in order that we can make other arrangements.

When we meet we will discuss when you should return to school and the conditions under which such a return may take place. This meeting is called a readmission meeting and it is normally the case that after this you will resume your attendance at school.

This exclusion has been made within the terms of the Education (Scotland) Act 1980 and you have the right under section 28H of the same act to appeal against the exclusion. Details of how you might appeal are included with this letter and should you intend to appeal you should do so as soon as possible.

Yours sincerely

Head Teacher/Campus Principal

Enc: Attached sheet

## **Appendix 3(c)**

### **Letter advising that matter has been referred to the Head of Service: Secondary Education and Pupil Support**

#### **Argyll and Bute Council: Community Services: Education**

Dear

A decision has been taken today to exclude your child from attendance at this school.

The reasons for this decision are detailed on the attached sheet and, are such that your child's continued attendance at this school would be likely to be seriously detrimental to order and discipline in the school and to the educational well-being of other pupils.

Given the serious nature of this matter it has been necessary for me to inform the Chief Education Officer of the local authority and you may be invited to meet with a directorate member or another departmental representative.

This exclusion has been made within the terms of the Education (Scotland) Act 1980 and you have the right under section 28H of the same act to appeal against the exclusion. Details of how you might appeal are included with this letter and should you intend to appeal you should do so as soon as possible.

Yours sincerely

Head Teacher/Campus Principal

Enc: Attached sheet

**Attached sheet**

**Argyll and Bute Council: Community Services: Education**

**Details relating to the imposition of a period of exclusion from school relevant to letter dated**

Name of pupil:

Class:

Consideration of care experience, disability, additional support needs, child protection status

Period of exclusion in days:

Date from:

Date of return to school:

Reasons for exclusion:


Signed

Date

\_\_\_\_\_  
Head Teacher/Campus Principal

## **Appendix 4(a)**

### **Argyll and Bute Council: Community Services: Education**

#### **Appeal procedures for pupils and young persons excluded from school**

- 1 The statutory provisions for appeal are contained in section 28H and schedule A1 of the Education (Scotland) Act 1980 and the Education (Appeal Committee Procedures) (Scotland) Regulations 1982.
- 2 Under these provisions a parent of a pupil who has been excluded from attending school or, where the pupil is a young person (a pupil over school leaving age who has not attained the age of 18 years), the pupil may refer the decision to an appeal committee.
- 3 A parent or young person who wishes to make an appeal against a decision to exclude should do so in writing to the Executive Director of Community Services, Argyll House, Alexandra Parade, Dunoon, PA23 8AJ; telephone 01369 704000.

The letter should give the name of the pupil or young person and should contain a clear statement requesting the referral of an appeal against the decision to exclude to an appeal committee set up under section 28D of the Education (Scotland) Act 1980.

- 4 The appellant will be given the opportunity to go to the hearing and speak to the appeal committee. The appellant may ask up to three people to accompany him/her and, if he/she so wishes, they can ask one of them to speak on his/her behalf. If the appellant does not wish to be present he/she can nominate someone else to attend and speak for them.

The appellant may decide to make a written submission to the appeal committee and if he/she so decides they should send their submission to the Clerk to the Appeals Committee in the Governance and Law section of Customer Services at least ten days before the hearing.

- 5 The appellant may decide, however, simply to submit a letter of appeal and this will be considered by the appeal committee.
- 6 If the appellant does make a written appeal it will be acknowledged within five working days of receipt.
- 7 Deemed decisions

In the following circumstances an appeal committee will be deemed to have confirmed the decision of the education authority: where within:

- i a period of one month immediately following receipt by the appeal committee of the reference a hearing has not been held;
  - ii 14 days immediately following an adjournment of a hearing the appeal committee have failed to fix a date for a resumed hearing;
  - iii 14 days following the conclusion of a hearing the appeal committee have failed to notify the parent of the young person and the education authority of their decision and the reasons for it.
- 8 If the appeal committee confirm the decision of the authority an appeal may be made to the Sheriff of the area in which the school is situated.

## **Appendix 4(b)**

### **Argyll and Bute Council: Community Services: Education**

#### **Appeal procedures for pupils and young person excluded from schools**

##### **Information sheet**

The statutory provisions for appeal are contained in section 28H and schedule A1 of the Education (Scotland) Act 1980 as amended by the Education (Scotland) Act 1981 and the Education (Appeal Committee Procedures) (Scotland) Regulations 1982.

Under these provisions a parent of a pupil who has been excluded from attending school or, where the pupil is a young person (a pupil over school age who has not attained the age of 18 years), the pupil may appeal against the exclusion.

- 1 A parent or young person who wishes to make an appeal against a decision to exclude should do so in writing to the Executive Director of Community Services. His address and telephone number are given overleaf. Your letter should give your name and address, the name of the child or young person for whom the appeal is being made, the name of the school where the pupil was excluded from and the date and reference of the letter sent to you. It should also contain a clear statement, stating why you wish to appeal and formally requesting referral of an appeal against a decision to exclude to an appeal committee set up under section 28D of the Education (Scotland) Act 1980.
- 2 The parent or young person will be given the opportunity to go to the hearing and speak to the appeal committee. He or she may:
  - (a) appear or be represented at the hearing, for example by a lawyer, relative or friend;
  - (b) be accompanied at the hearing by up to 3 friends including any person representing the person.

The parent or young person may decide, however, simply to submit a letter of appeal and this would be considered by the appeal committee. If the parent or young person does submit his/her case in writing, please read paragraph 3 carefully.

- 3 If the parent or young person decides to submit written representations this must be in the hands of the Clerk to the Appeal Committee, at least ten days before the date of the hearing. Likewise, any representation which the Executive Director of Community Services wishes to make to the appeal committee will be copied to the parent or young person at least ten days before the appeal is

heard. The Clerk to the Appeal Committee is employed in the Governance and Law Service within the Customer Services Department of the Council.

It is to your advantage to ensure that all relevant facts are given in advance. If new evidence is introduced at the hearing, an adjournment may be necessary to provide time for the new evidence to be considered.

- 4 If you lodge an appeal you will receive an acknowledgement from the Clerk to the Appeal Committee within 5 working days of receipt. The hearing will be arranged within 28 days of receipt of your appeal, unless there is a joint agreement to hold it at a later date, or unless the committee consider that the appeal should be heard together with another or other appeals, in which case the date fixed will be arranged within 28 days of the last appeal received. You will be given approximately 14 days notice of the date, time and location of the hearing.

Should the date arranged be inconvenient, you can ask for another date to be arranged. There is no obligation on the committee to re-arrange their programme and they would only do so if a very good reason was given. If the hearing proceeds as planned, you may wish to invite someone else to represent you.

- 5 The Council will arrange for an appeal committee to be formed. This committee will be set up specifically to consider appeals against exclusions. There may be more than one committee in order to consider appeals in different areas within the authority. Each appeal committee may consist of 3, 5 or 7 people but no more than 7. Members may be elected councillors or local people such as parents, teachers, parent council members or members of attendance councils. If present, the appeal committee chairman will normally be an elected councillor. If no elected councillor is present the chairman will be elected by the members of the committee. Nobody who has previously participated in the exclusion process can be a member of the appeal committee. Nobody can be a member if he/she is a parent of a pupil at the school from where the pupil has been excluded, or if he/she is a teacher at the school. The committee will be clerked from the Customer Services Department by a Council officer and, with the consent of the chairman of the appeal committee, there may be one or two others present as observers. The public will not be admitted; the hearings will be held in private.

- 6 The chairman will explain how the hearing will be conducted.

Normally:

- (a) an officer representing the education authority will explain why your request for the exclusion to be withdrawn was refused and evidence may be heard in support of this;
- (b) you, or the person you have indicated will speak on your behalf, may ask questions on the evidence;
- (c) the appeal committee may ask questions of the officer;
- (d) you, or the person speaking on your behalf, may explain why you think the exclusion should not have been imposed; you may produce evidence in support of your statement and call witnesses; you may wish for your written statement to be lodged in advance;
- (e) the officer representing the education authority may then question you and your witnesses;
- (f) the appeal committee may ask you questions;
- (g) the officer will then sum up on behalf of the education authority;
- (h) you, or your representative, may sum up on your behalf.

If any documents are submitted please try to ensure that there are sufficient copies for all present. If any new evidence is brought forward, either party may seek an adjournment.

- 7 The decision of the appeal committee will be given in writing to you within 14 days of the end of the hearing. The reasons for their decision will also be supplied. In the event of your appeal being refused you have the right to appeal against the decision of the committee to the sheriff.
- 8 If a hearing is not held within 2 months of receiving your letter of appeal, or a decision is not intimated to you within 14 days of the end of the hearing, or if a hearing is not continued within 14 days of adjournment, you are entitled to deem the appeal refused and in this case appeal to the sheriff is also open to you.

It must be appreciated that this information sheet provides general guidance about appeals procedures. Specific information on appeal committees and their operation will be found in:

Education (Scotland) Act 1980;

Education (Scotland) Act 1981 (HMSO);

Education (Appeal Committee Procedures) (Scotland) Regulations 1982 (SI 1982 No 1736);

Scottish Education Department Circular 1074/1080 (SED, New St Andrew's House, Edinburgh).

Area Offices:

Area Clerk, Dalriada House, Lochnell Street, Lochgilphead PA31 8ST; tel: 01546 602177;

Area Clerk, Lorne House, Albany Street, Oban PA34 4AR; tel: 01631 562137;

Area Clerk, Hill Street, Dunoon; tel: 01369 704374;

Area Clerk, Burnet Building, St John Street, Campbeltown PA20 6BJ; tel: 01586 559000;

Area Clerk, Eaglesham House, Mount Pleasant Road, Rothesay PA20 9HQ; tel: 01700 504225;

Area Clerk, Scotcourt House, 45 West Princes Street, Helensburgh G84 8BP; tel: 01436 658820;

Area Clerk, Breadalbane Street, Tobermory PA77 6PX; tel: 01688 302051;

Area Clerk, Jamieson Street, Bowmore, Isle of Islay PA43 7HP; tel: 01496 301301.

Executive Director of Community Services:

Education Offices  
Alexandra Parade

Dunoon

Argyll

PA23 8AJ

Telephone: 01369 704000

## Appendix 5(a)

### Argyll and Bute Council: Community Services: Education

#### Assurance of co-operation (parents/head teacher/campus principal)

I understand why \_\_\_\_\_ was excluded from \_\_\_\_\_ and I give my assurance that if he/she is re-admitted to school, I shall do all I can to ensure that he/she complies with the rules, regulations and disciplinary requirements of the school. I understand that \_\_\_\_\_ is being given another chance to comply with these requirements and that any further serious breaches of school discipline may lead to further exclusion from the school. *I also understand that I have signed this assurance of co-operation without prejudice to any decision which I may take to submit an appeal against this exclusion.*

Specific conditions (if appropriate)

Signature of  
parent/carer

Signature of pupil

Address

Signature of Head  
Teacher /Campus  
Principal  
/Representative

Date

Name of child

Date of birth

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**Appendix 5(b)**

**Argyll and Bute Council: Community Services: Education**

**Assurance of co-operation** (*pupil over 16/head teacher/campus principal*)

I understand why I was excluded from \_\_\_\_\_ and I give my assurance that, if I am re-admitted to school, I will comply with the rules, regulations and disciplinary requirements of the school. I understand that I am being given another chance to comply with these requirements and that any further serious breaches of school discipline may lead to further exclusion from the school. *I also understand that I have signed this assurance of co-operation without prejudice to any decision which I may take to submit an appeal against this exclusion.*

Signature of pupil

Address

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Signature of Head  
Teacher /Campus  
Principal  
/Representative

Date

Name of pupil

Date of birth

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## Appendix 6



### Community Services: Education

#### Exclusion from School: A guide for Parents and Carers

This leaflet provides information about:

- What exclusion actually means.
- Why a child or young person might be excluded from school.
- The procedures the school should follow when excluding a child or young person from school.
- What a Parent/Carer can do if they do not agree with their child's exclusion.

#### What exclusion actually means

Exclusion means your child has been removed from school, usually as a result of behaviour or conduct giving rise to serious concern, and is not allowed to attend there for a certain number of days.

Your child's school will keep a record of any exclusion and will follow a set of procedures whenever they exclude a child or young person. The school will always tell you the procedures that should be followed before your child returns to school.

Schools only ever use exclusion as a last resort: after everything else has been tried and failed to work. Only under exceptional circumstances, will exclusion be implemented immediately. When the school is considering whether to exclude your child, it is likely that you will already have been involved with the school in discussions about your child's behaviour, conduct or presentation. Your child may have a Child's Plan setting targets for their behaviour which you will have contributed to.

## **Why a child/young person might be excluded**

There are only 2 reasons a school can exclude a child or young person:

- The school thinks order and discipline and the education or safety of the other pupils in the school will be adversely affected if your child continues to attend.
- The school thinks you, the parents, have not followed the school's rules and have allowed your child to break the school rules.

## **Procedures to be followed by the school when excluding a child or young person:**

### **The day a child is excluded**

The school must contact you, verbally and in writing, to do the following:

- Inform you that a decision has been taken to exclude your child and why. The school will also make sure that there are proper arrangements for your child's care before they are sent home.
- Arrange a readmission meeting with you to discuss the exclusion and to agree a return. The meeting should take place within 7 days, but if your child is excluded at the end of a term, the meeting may take place in the holidays.
- Tell you about your right to appeal against the decision to exclude.

It is important that your child is involved in any meetings about their exclusion if you and the school agree this is appropriate. Where a child is aged 16 or 17, information about their exclusion will be sent directly to them and the school will keep you informed. When your child wants you to attend a meeting and it is appropriate, the school will allow this. You and your child will have an opportunity to share views on the decision to exclude.

### **A child with Additional Support Needs**

The reasons which justify the decision to exclude a pupil with additional support needs are the same as for any other pupil. However, a school will always take great care when deciding to exclude a pupil with additional support needs particularly if the pupil has a Child's Plan, is Care Experienced or on the Child Protection register. However, these factors would not prevent your child being excluded.

The school has to make sure that any pupil with additional support needs is not unlawfully discriminated against. Where a pupil is excluded because of behaviour connected to, arising from or because of their disability, this could be unlawful discrimination. Schools always have to be able to justify excluding a pupil on the grounds noted above.

## **A child's right to education and support for their wellbeing**

Every child has a right to education and support for their wellbeing while excluded, whether that is for a few days or for a longer period.

Where your child is excluded for only a few days, they may not receive any direct teaching but they may be sent school work to complete at home and return to school for marking.

In some cases education may be provided in another location, such as a community centre, council building or at home.

The Local Authority will make special arrangements to provide, as far as possible, the same quality of education the child got in school before they were excluded.

If your child has additional support needs, support from other agencies such as speech and language therapy or social work must continue while they are excluded.

## **A child excluded a number of times**

This usually means there need to be significant changes to how your child is educated. At the re-admission meeting you can ask for a review of the support and strategies the school uses to meet your child's needs. You can also ask for a review of their Child's Plan or any other educational approaches in use. This will let changes be made to how your child's education is delivered that takes better account of their individual needs.

## **What to do if you disagree with the decision to exclude your child**

You have the right to appeal against any exclusion. A child or young person also has the right to appeal, as long as they fully understand the process. There is an appeals procedure that you can follow. The school will give you details of what you need to do.

When your child is excluded, details of the exclusion are entered on their school records. If you successfully appeal against exclusion, the record is changed to show this. This means information about that exclusion cannot be disclosed, such as to a future employer.