Midlothian Council Policy:

Policy Guidance on Managing School Exclusions

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Policy statement

The policy document provides procedural guidance on managing school exclusions.

The policy and associated procedure document will ensure consistency across all schools.

Definitions

ASN:	Additional Support Needs
CP:	Child Protection
PPR:	Pupils Progress Record
SEEMiS:	Scottish Educational Management Information Software
SPHERA:	Health and Safety/Risk Management System
UNCRC:	United Nations Convention on the Rights of the Child

1. Introduction

The purpose of this guidance is to support schools, communities and partners to keep all children and young people fully included, engaged and involved in their education, with a particular focus on those who are at risk of exclusion. The guidance is informed by the national guidance Included, Engaged and Involved part 2: preventing and managing school exclusions, 2017 and the United Nations Convention on the Rights of the Child.

Exclusion should only be used as a last resort and should be a proportionate response where there is no alternative. It is important that the views of the child or young person and those of their parent(s) are taken into account.

Where exclusion is used it should be a short-term measure with the aim of improving outcomes. It should enable further planning and assessment and provide an opportunity for reflection for both the child or young person and staff involved. Relationship-based approaches, such as solution oriented or restorative approaches, should be used to guide and support a child or young person's return to school.

2. Impact of Exclusions

It is important that schools are aware of the impact that exclusion can have, particularly within those groups of children who are:

- Assessed with or declared as having a disability.
- Looked After/Care Experienced.
- From areas of deprivation.

In Scotland, it is estimated that the exclusion rate is more than 5 times higher for children and young people who have Additional Support Needs. Exclusion rates are more than 3.5 times greater among those living in the 20% most deprived areas. Being in education has long term benefits on outcomes for children and young people including life-expectancy, social and cognitive skills and a better sense of wellbeing and happiness (McVie,2014). The negative impact of exclusion is cumulative and children and young people can often become involved in a negative cycle of exclusion and non-attendance which are very likely to significantly impact on later life chances.

3. Legislative Context

Children and young people have a right to education. It is the responsibility of Midlothian Council, all schools, learning establishments and every member of staff to create the relationships and environments within which every child and young person can realise this right.

In Scotland, there is a presumption that a child aged 12 years and over has a legal capacity to instruct a solicitor in connection with any civil manner. Children with legal

capacity have the same rights of appeal as a parent or a learner who is a young person (a person over school age who has not attained the age of 18 years).

In any relevant procedures, including appeals, the views of the child over 12 years as well as those of the parent/carer should be accurately represented and appropriately taken into account. As the views of the child or young person may diverge from their parent/carer, it is clearly not sufficient to assume that the views of the parent/carer automatically reflect those of the learner.

A decision to exclude young person must be communicated directly to them and not their parent/carer and they must be included and involved in any subsequent discussions and decisions. Where the learner is a young person there is no legal grounds to involve parents/carers, but it is good practice to do so.

4. Power to Exclude

The power to exclude, and therefore legal responsibility for exclusion, rests with the Local Authority. The procedures outlined in this Policy apply equally to all schools and learning establishments and must be complied with in full. **Any divergence from the procedures may result in the exclusion being incompetent,** resulting in the child or young person being reinstated without delay in the school and the exclusion being expunged from their school record. Parents and Carers have a right of appeal.

Midlothian Council delegate the power to temporarily exclude children and young people from school to the Headteacher in primary schools and the Headteacher and Depute Headteacher(s) in secondary schools.

The Headteacher (or their Depute) carrying out an exclusion should be aware that he/she may be required to justify the decision as part of the appeals procedure and potentially in a court or Tribunal should the case go to the Sheriff Court or an Additional Support Needs Tribunal for Scotland. In all circumstances it is vital that accurate records of the circumstances and the decision-making process are recorded, see section 11 of this document.

In exceptional circumstances the Headteacher may review the grounds leading to the decision to exclude. If this is followed by a decision to expunge the exclusion from the learner's record, then the Headteacher should write formally to the parent and the young person informing them of this decision. The Headteacher should also inform their Quality Improvement Manager of this occurrence.

5. Grounds of Exclusion

The grounds for exclusion and the procedures to be followed are contained in the Schools General (Scotland) Regulations 1975 (as amended).

Regulation 4 states that an Education Authority **shall not exclude** a child or young person from school unless at least one of the following conditions applies:

- "they 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;

- "they consider that in all the circumstances to allow the pupil to continue his 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."

Exclusion should only ever be used as a last resort. In most cases, the school should be able to demonstrate the support put in place to avoid exclusion: there should be clear evidence of the monitoring and evaluation of this support, over time The school should be absolutely clear about the purpose of the exclusion, and why it is not possible to have the child remaining in school. It should be a proportionate response where there is no alternative. Prior to an exclusion the views of the child or young person and parent/carers must be taken into account.

Careful consideration must be given to the facts and circumstances surrounding any incident(s) leading to exclusion, with particular reference to the nurture principle that all behaviour is communication. Schools are expected to put in appropriate support for what the child or young person is communicating and not take behaviour at face value.

Headteachers or their delegated member of staff must be able and prepared to justify that any exclusion is a proportionate means of achieving a legitimate aim – a legitimate aim may be to ensure the health and safety of children and young people and staff within a school. The Headteacher or their delegated member of staff should be clear about what that aim is, how it is to be achieved, the timescale within which it will be achieved and why it is not possible for the pupil to remain in school whilst that is completed.

Headteachers, when deciding whether exclusion is necessary, must have regard to the particular facts and individual circumstances surrounding incidents and/or learners (Appendix 1). Headteachers **must** inform their Quality Improvement Manager prior to any exclusion.

6. a) Sending Home without Exclusion

Exclusion from school of a learner other than in conformity with the terms of the 1975 Regulations has no legal basis. Failure to comply with the 1975 Regulations may render the authority open to legal challenge by the parent/carer or the learner. Children and young people must not be sent home from school for reasons relating to behaviour or an incident without being excluded.

Children and young people should not be at home for a “cooling off period” or an “informal exclusion”. These are not legally recognised terms. If a pupil has been required by the school not to be in attendance, this can only be via exclusion, with the procedures in the policy duly followed. Before asking a pupil to leave the school premises, the Headteacher or depute Headteacher must have considered this policy, ensured that it is the last resort and that there are no other alternatives, and prepared the necessary paperwork.

6. b) Parental decision for child to remain at home

There may be some circumstances where a parent will decide to keep the pupil at home. If this is purely a parental decision, then this will not be an exclusion. However, this will only be where the decision is of the parent's free choice. A parent should not be invited to decide to keep their child at home to avoid their child being excluded. If a parent wishes their child to attend school, the school must decide whether the child can do so, and, if not, consider an exclusion.

7. The Consideration of Individual Circumstances

Individual circumstances must be taken into account when excluding a child or young person from school, particularly with regard to those children and young people who have additional support needs, a disability, are looked after or where there are child protection concerns.

In addition, bearing in mind that all behaviour is communication, it is important for staff to investigate exceptional circumstances for individuals, such as bereavement or experience of abuse. In these cases, exclusion may exacerbate a child or young person's distress and be an inappropriate action, instead support should be identified.

Appendix 2 outlines a set of challenge questions that may be helpful when considering individual circumstances.

7.1 Additional Support Needs

Where a learner with Additional Support Needs (ASN) is at risk of exclusion, school staff must balance the case for exclusion with the needs to **take all reasonable steps** to ensure that appropriate provision is in place to meet their needs. This should include professional discussions with relevant agencies and parents or carers at the earliest opportunity. However, this additional consideration would not prevent exclusion where this is deemed absolutely necessary.

The Education (Additional Support for Learning Act) (Scotland) Act 2004 places specific duties on Education Authorities to provide adequate and efficient support to ensure that all learners benefit from school education. In considering the exclusion of a learner with ASN, school staff should take into account the potential impact of the loss of both their learning and provision of support. The lead professional should be aware of the arrangements in place with other agencies (such as Speech and Language therapy) in making provision and taking into account the impact of any disruption to the provision of these services to the learner and to the services themselves.

Learners must be allowed to continue to access any therapeutic support such as physiotherapy, speech and language therapy as ongoing and necessary support and intervention. The exclusion does not affect the Local Authorities duty to provide these services therefore, such provision should continue notwithstanding the exclusion.

Consultation with any other Service providers in order to maintain provision to an excluded learner should take place prior to the exclusion and plans put in place to ensure limited disruption to provision. Staff should be aware that a period of exclusion from school creates a transition point for children and young people with ASN which can be particularly challenging for some learners. In considering an exclusion from school, transition planning must be factored into the plans for return to school.

7.2 Protected Characteristics

When considering the exclusion of a learner with a protected characteristic or disability, as defined by the Equality Act 2010, staff should ensure that they comply with provisions of the Act in relation to discriminatory behaviour in the context of exclusion from school.

The Equality Act 2010 provides that it is unlawful to discriminate against people because of their:

- age
- disability
- gender reassignment
- marriage or civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

The Equality Act 2010 does not prohibit schools from excluding children or young people with particular protected characteristics, but it does prohibit schools under section 85(2)(e) from **excluding children or young people on the specific grounds of behaviour resulting from their protected characteristic.** In addition, it prohibits schools from discriminating against these children during the exclusion process. It is likely to be difficult to show that exclusion was an appropriate and proportionate response in these situations without such evidence.

7.3 Looked After and Care Experienced Children

The Additional Support for Learning Act 2004 states that it is assumed that Care Experienced Children and Young People have additional needs unless otherwise stated, this applies to Looked After at home as well as looked after and accommodated and previously looked after. All Care Experienced should be considered in this context as requiring support. Understanding the specific needs and individual circumstances of the child or young person is essential. Exclusion can mean that their already potentially challenging circumstances will be exacerbated, and an additional loss of learning will take place alongside a harmful impact on their wellbeing.

Care Experienced Children and Young People can be vulnerable to experiences of

rejection, which then decrease their resilience and ability to trust adults. Exclusion feeds into this process, creating more barriers for the child in question to be able to develop a sense of belonging in a school. This may be more likely to lead to further behaviour communicating the distress they feel.

Corporate Parenting provides an opportunity and a statutory duty on all parts of Midlothian Council to support the care and welfare of learners who are looked after by them. Staff should consider very carefully the decision to exclude a Care Experienced Child or Young Person in their care and if at all possible, should avoid taking the decision to exclude them.

Midlothian Council is committed to keeping The Promise and upholding the rights of every child. Staff must discuss any potential decision to exclude a Care Experienced Child or Young Person with the designated Social Worker and lead professional (if different) prior to the exclusion taking place in order to allow for a full consideration of individual circumstances to take place. The Headteacher **must** inform their Quality Improvement Manager before an exclusion takes place.

If a decision is made to exclude, this should be clearly documented with appropriate communication with those who hold parental responsibility and the child or young person's carers.

Meetings to discuss support strategies and next steps for return to school should be arranged in writing. Copies of all communication should be sent to the child or young person (if age appropriate) plus a trusted adult should be explaining to the child or young person of the current situation and plans. The child or young person should be attending planned meetings and have an opportunity to have their views presented either by themselves or by their trusted adult. The child or young person can utilise other methods of sharing information to aid this process.

7.4 Child Protection Register

In considering the need to exclude a learner who may be on the child protection register or for whom there are current or previous child protection concerns, the designated member of staff for child protection within the school should be informed and involved in the decision-making.

Staff must discuss any potential decision to exclude a learner on the child protection register or for whom there are current or previous child protection concerns with the Children's & Families service**. It is essential that this is done prior to the decision to exclude the child or young person in order to ensure their health and wellbeing immediately, and throughout the period of exclusion from school.** Before finalising this decision, a discussion with the Quality Improvement Manager must take place.

In all cases where a decision to exclude has been taken, staff should, in collaboration with the Children's & Families Services prepare a risk assessment to ensure the child or young person will not be placed at further risk while excluded.

Where a decision is made to not exclude the school should immediately seek a

multi-agency meeting to put in place supports and a plan for the child or young person. This meeting should take place within a week of the incident.

7.5 Young Carers

When a decision to exclude a young carer is being considered it is vital to refer to the young carer's holistic wellbeing assessment of need. Where a child or young person has agreed to have this assessment undertaken it will provide essential information on his/her individual circumstances regarding:

- The extent and nature of the caring role (including who is being cared for)
- The ability and willingness of the young carer to provide this role/support
- The impact of the caring role on the child or young person

A young carer's assessment and statement will have been carried out by a 'trusted adult' identified by the young carer. This may be a headteacher, deputy head, guidance teacher, class teacher or social worker. It may be helpful to liaise with this trusted adult when considering exclusion of a child or young person who is a young carer.

A pupil has the right to choose who is or is not informed of their Young Carer status.

7.6 Socioeconomic Deprivation

Staff must also take into account that exclusion may have an immediate impact on the wellbeing of children and young people living in areas of socioeconomic deprivation. This might include children and young people entitled to free school meals and being prevented from accessing the security and continuity of the school environment.

It is the responsibility of the school to where possible ensure arrangements are in place for the provision of free school meals for excluded children and young people during a period of exclusion.

Staff must consider the impact that exclusion may have on a learner in receipt of Educational Maintenance Allowance.

8. Procedures for Exclusion from School

Excluding children and young people from school must comply with the relevant legislation. Accountability for all exclusions should be guided by this policy and the procedures must be followed at all times. Procedures for excluding learners should be available to learners' parents/carers on the council's website and within individual schools' handbooks and websites.

Appendix 1 and 2 Provide a range of challenge questions to consider prior to exclusion.
Appendix 4 Provides a range of questions to consider following an exclusion.

8.1 Definition of Temporary and Permanent Exclusion

The law does not differentiate between temporary and permanent exclusion. In either case there must be sufficient grounds that comply with the requirements of legislation, however the following distinction between Temporary and Permanent exclusion can be made:

Temporary Exclusion: a time-limited exclusion imposed by the Headteacher at the conclusion of which the child or young person returns to their current school.

Permanent Exclusion: This decision can only be taken by the Executive Director, to remove a child or young person from the register of their current school. In such circumstances, the Local Authority is required to identify a school in which the child or young person can continue their education immediately without undue delay.

8.2 Length of Exclusion

Legislation devolves the length of exclusion to the Local Authority to determine. Midlothian Council staff with responsibility for authorising exclusions must resolve exclusions as quickly as possible. Where possible an exclusion should be resolved the following day or day after. However, this may be dependent on the availability of parent/carer, or in some cases other professionals, working with the learner or family.

Midlothian Council has set the maximum period of 9 openings for each exclusion; this is the equivalent of 5 school days as the maximum period of exclusion in any case. **Where an exclusion extends or is predicted to extend over the 5-day maximum period a discussion should be held with the Quality Improvement Manager for the locality. Information should then be submitted in writing to explain the reasons for the extension. This should only be in exceptional circumstances, for example when a multi-agency meeting cannot be arranged in the original timeframe.**

All exclusions should be resolved within the same academic year. A single exclusion should not span more than one academic year even if there are only a few days of the summer term remaining. The Chief Operating Officer for Education should be informed where this is unavoidable.

A learner or parent's decision to appeal against an exclusion should have itself no effect on the length of exclusion. Learners should return to school promptly regardless of the appeal process and timing.

Every effort must be made by parents, carers, and all professionals to attend the Support and Next Steps Meeting. The date of the Support and Next Steps Meeting will be included in the letter of exclusion. In exceptional circumstances it may be necessary to hold other meetings such as Risk Assessment Meetings prior to the Support and Next Steps.

Where the length of exclusion is longer than one or two days it is recommended that where possible a member of the multi-agency team meets with the child/young

person to discuss the child/young person's feelings and views regarding the exclusion. This can assist to a positive outcome at the Support and Next Steps Meeting.

8.3 Provision of Education during Exclusion Period

Midlothian Council have a legal duty to make available education provision for all excluded learners without 'undue delay'. In accordance, appropriate learning materials should be made available to all excluded learners immediately and ideally prior to them leaving the establishment. It is essential that access to education or educational progress is not stalled or hampered as a result of the decision to exclude.

Midlothian Council should seek to provide the quality, quantity and range of education which adheres, as far as is practicable, to that which was available to the child or young person before they were excluded. It is not sufficient to simply provide excluded children and young people with homework/classwork if they do not also receive sufficient teaching to enable them to understand the material. Any arrangements, therefore, should involve contact with the learner on a regular basis. 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 the child or young person and their parent(s) to make sure they engage in the learning provided.

The responsibility for the provision of education for all children and young people during a period of exclusion rests with the Headteacher and they must ensure appropriate arrangements for learning are made immediately. Senior leaders should provide appropriate teaching resources and address any queries that arise.

If a learner attends more than one school as part of their education e.g., to access subjects not available in one school, the Headteacher of the other school must be informed of any decision to exclude. An exclusion is only applicable to the school which issued it therefore arrangements regarding attendance at the other school should remain in place unless there is a very serious reason for not attending e.g., health and safety concerns for other learners.

All existing involvement in non-school based learning should continue. This may include college placements, therapeutic support, or mentoring programmes. If the activity takes place in the school, it may be necessary to arrange an alternative venue during a period of exclusion.

Children and young people who attend enhanced additional support provisions or have ASN must have their educational needs met during a period of exclusion. This may involve the use of specialist services as well as support from other agencies.

In circumstances where an exclusion may affect attendance at an exam or assessment staff should make all reasonable attempts to ensure that the learner is not disadvantaged. Staff should contact the Scottish Qualifications Authority for advice and to progress any arrangements should this be required.

There is no legislative timescale defining 'undue delay'. The purpose is to continue

Midlothian Council's duty to provide education for all their children and young people while excluded.

8.4 Communicating Decision to Exclude

The Headteacher must contact the learner's parents/carers prior to them being required to leave the premises during school time to ensure the safety and wellbeing of the child or young person.

The Headteacher or their delegated representative must, on the day a decision to exclude is taken, intimate orally to the learner and their parent/carer the decision to exclude. **On the day of the decision to exclude, the school must also notify parent/carer and/or child/young person (if over the age of 12) by letter. If the pupil is a young person, the letter must be sent directly to them.** This is important as verbal information may be difficult to understand immediately or remembered fully, especially if the situation is emotionally difficult for the pupil or parents.

The letter must outline:

- The decision to exclude and the date.
- The reason for the exclusion.
- The time and place for a meeting to resolve the exclusion, where the Headteacher or Depute Headteacher will meet with the parent/carer and pupil. This must take place within seven calendar days following the decision to exclude.
- The conditions, if any, with which the parent and/or pupil must comply or undertake to comply before the pupil may be readmitted.
- Information on the right of a parent/carer to refer the decision to exclude the pupil to an appeal committee under section 28H of the 1980 Act and the right to appeal the committee's decision to the sheriff and how appeals can be initiated. If the child has ASN, the right to appeal the decision to the Additional Support Needs Tribunal
- The address to where a reference should be made.
- Any other information, which the education authority considers appropriate - such as a contact person to discuss any schoolwork provided during the period of exclusion.

The letter must be sent within the period of eight days immediately following the day upon which the decision is taken.

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.

It is essential that letters are clear, accessible, and personalised. The following template letters are available for use:

- The parent/carer of child or young person under 16 – ***Appendix 3a***
- The child, where the child is over 12 and has capacity - ***Appendix 3b***
- The young person only where the young person is over 16 – ***Appendix 3c***

In order to make sure there is sufficient review, assessment and preparation for return to school, successful reintegration and introduction of new or additional support it may be necessary to meet sooner.

8.5 Support & Next Steps Readmission Meeting

A Support and Next Steps Readmission meeting should be held before the child or young person returns to school. This can be a telephone or video call and does not need to take place in the school building.

This meeting should focus on:

- The reasons for the exclusion and what the child or young person was communicating through their behaviour which led to the exclusion.
- The views of the child or young person (with reference to the form in Appendix 3d)
- The essential partnership between home and the school and how both parties can work together to support the child/young person.
- Strategies and supports that will be implemented to support the child or young person on their return should also be discussed and agreed.

The meeting should be solution oriented and focus on the best interventions and outcomes for the learner. While it may be important for the school to set out some helpful conditions it is important that the Support and Next Steps Readmission meeting is not purely a list of 'dos and don'ts' but is seen as positive and proactive discussion of strategies and interventions to support the young person's return to school.

The child or young person should be in attendance at this meeting, have a clear understanding of the reasons for the meeting and be given the opportunity to have their views heard and most importantly, understand strategies and supports suggested and agreed.

If a satisfactory agreement is reached, the parent/carer and learner (over 12 years) should sign the Support and Next Steps Readmission Meeting Agreement; *Appendix 5a* for all learners over 12 years of age or *Appendix 5b* for all parent/carers of learners under 16. The child/young person should be readmitted to school and signed copies given to all parties.

The original should be retained in the learner's Pupil Progress Record and electronically on the SEEMiS Wellbeing Application.

There may be occasions when the school feel that they require to undertake a risk assessment to minimise current or future risks and therefore allow the learner to continue to attend school supported through this risk assessment. The risk assessment should identify the priorities and needs of the pupil balanced against the

strategies required to ensure the safety of all children and staff. This risk assessment should form part of the agreement and signed by all relevant parties.

8.6 Failure to Reach Agreement or attend Readmission

A pre-return meeting is not a legal requirement. If a risk assessment is required or information is needed from the child/young person or their parent/carer then a meeting or discussion opportunity should be arranged.

If the parent/carer or learner fails to come to an agreement on readmission to school, or are unable to discuss the matter with the Headteacher, Depute Headteacher or Midlothian Council officer, or they, refuse to agree to the conditions, then the matter should be reported to the Chief Operating Officer for Education.

In this instance readmission to the school can still take place, with the matter discussed in a consultation meeting with the Chief Operating Officer for Education. The refusal should be noted on the appropriate documentation ***(Appendices 6 and 7)***, and a solution oriented or restorative readmission discussion attempted where possible.

If the school can set out conditions for readmission without the child/parental input, then there is no justification for a continued period of exclusion.

Until an exclusion has been concluded in terms of the above procedure, the child or young person will be deemed to be trespassing should they enter school premises or playground areas. It is within the Headteacher's discretion to contact Police Scotland if the child or young person will not leave voluntarily. However, it is important to bear in mind the impact on the child of such a decision, especially if they are a child with protected characteristics. **All other avenues should be tried first**.

The parent/carer may not enrol a child or young person in another Midlothian school until the exclusion process has been concluded.

8.7 Build Up timetables and Flexible Learning Packages

As part of an initial support package on return to school it may be appropriate, particularly where a crisis has developed, for a learner to return to school on a part-time basis, or with a flexible learning package in place. **Such an arrangement must be planned, transparent and agreed between the school, the parent/carer and the child or young person.**

The Child's/Pupil Support Plan must accurately reflect the agreed flexible or part time arrangements. This arrangement should be used for a short and agreed period with the aims around this recorded in the Learner's Plan. This should be discussed and agreed with your Quality Improvement Manager.

Learning must be provided by the school for the learner to complete whilst not in school.

Records must be kept, including records of attendance which accurately reflect the

times that the child or young person spends at home with parent/carer permission.

9. Permanent Exclusion

The power to exclude on a permanent basis lies with the Executive Director Children, Young People & Partnerships.

The Headteacher should notify the Executive Director in writing that they are requesting a permanent exclusion; that is the permanent removal of a child or young person from that school's register.

The Headteacher should inform the parent that a request to permanently exclude their child or young person has been made to the Executive Director as soon as this request has been made - *see appendix 9.*

The Headteacher should prepare all appropriate and relevant information for discussion with the Chief Operating Officer for Education and Executive Director Children, Young People & Partnerships to allow a decision to be reached as soon as possible.

A permanent exclusion relates only to the Midlothian School from which the child or young person has been permanently excluded.

If the decision or preference is for the child or young person to remain at a school within the Local Authority, the Executive Director (or their delegate) will decide which school will be the receiving school; the parent/carer and child of the young person should be notified of this decision as soon as possible.

Midlothian Council have a statutory obligation to provide education during any period of time where the child or young person cannot attend school. This temporary alternative educational provision should be in place without undue delay.

The parent/carer should not submit a placing request to another Midlothian school until the exclusion procedures have been completed. This also applies in the case of Temporary Exclusion.

A Learner's Planning meeting should be held within 5 days of the confirmation of permanent exclusion. The meeting should be held in the receiving school and be chaired and recorded by the receiving school. Relevant staff from the excluding school must attend along with parent/carer, learner, and relevant professionals from the 'team around the child' in order that a full and reviewed Learner's Plan can be developed. It is advised that in all cases a 'Risk Assessment' is completed.
Any alternative education arrangements should remain in place until enrolment takes place with the new school.

10. Right of Appeal

The right of appeal against the decision to exclude is outlined in the Education (Scotland) Act 1980 and extended to learners with legal capacity in the Age of Legal Capacity (Scotland) Act 1991 (. The Education Authority has a statutory duty to set

up an education appeal committee. The education appeal committee are independent of the education authority and are required to act impartially.

The right of appeal and how to do this will be outlined in the formal exclusion letter sent following the decision to exclude. ***Appendix 11*** provides an information sheet for parent/carer regarding the appeal process, and this **should be sent with the formal exclusion letter.**

11. Recording and Documentation

The decision to exclude a learner must be recorded:

- In the child/young person's pupil progress record (PPR).
- In SEEMiS Click and Go attendance and
- Noted in Latest Pastoral Notes/Wellbeing Application with details of any investigation carried in out relation to the exclusion (This may form part of a chronology if required)

Where the decision of an education appeal committee or sheriff court has been to annul an exclusion, this information should be:

- Deleted from the learner's PPR, their attendance in SEEMiS
- 'Retired' from latest Pastoral Notes/Wellbeing Application
- Should not be disclosed as part of a learner's history.

A written record or Chronology must be kept of all information leading to the exclusion on the pupil's educational record. This should include the reasons why the Headteacher or the Depute Headteacher decided on exclusion as a course of action. Comments should be specific and explicit including the names of teachers, dates, times and any other information that may be deemed to be relevant. This information may, in certain circumstances, be required to substantiate the authority's case in a court of law or an Additional Support Needs Tribunal for Scotland.

Given the legal duty that a child or young person's views are recorded when a significant decision is taken regarding them, they must be given the opportunity, where possible, to have their views documented at the point of exclusion. The views of the learner and the parent/carer should be accurately represented and appropriately taken into account.

Regulation 10(1A) of the 1975 Regulations as amended provides that, where a pupil's progress record contains information relating to a decision to exclude, certain other information is also to be recorded. This other information includes any decision of an appeal committee, and if the appeal committee is appealed, any decision of a sheriff. Regulation 10(1A) also requires the parent/carer or young person to be informed of the terms of the entry in the record, as soon as practicable after the entry is made. However, information about exclusion is not something which must be included on the record, although the above referred to requirements apply where such information is included.

12. Monitoring

Reducing exclusions is a target for both National and Local Government and, as such, exclusion figures for each school are monitored closely. It is expected that Headteachers will review and monitor exclusions at an individual and school level to inform planning and interventions. Within the Education Service, officers review exclusion data and information to identify emerging issues and provide early and preventative support.

Appendix 1: Challenge Questions: Key considerations prior to deciding on exclusion for professionals.

Challenge Questions
Has the child or young person been excluded before? What was the impact of this?
Has there been a clear assessment of the child or young person and their needs?
Have additional support/interventions been provided for the child or young person?
Is this the last resort? Have alternative arrangements been made for the child or young person prior to the exclusion? (e.g. curriculum alternatives, temporary placement in base, use of virtual learning)
How can the child's planning framework be utilised to 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 view of the situation?
Has Pupil Support/Guidance/Key worker, or if available, lead professional been consulted?
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?
Has a risk assessment been completed for the child or young person if 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 the best interests of the 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?

Appendix 2: Challenge Questions: Key considerations when considering Individual Circumstances.

Challenge Questions
Looked After Child
Has the Lead Professional social worker consulted prior to the decision?
Have appropriate arrangements been made with regard to support/care and wellbeing at home?
Child on Child Protection Register/CP concerns previously raised
Has the school CP Officer and Social Worker been consulted?
Have appropriate arrangements been made with regard to support/care and wellbeing at home?
Has a conversation taken place with the school QIM?
Child with ASN
Have other professionals involved been consulted on continuation of any additional input for child?
Have staff ensured that the child's risk assessment has been clearly followed, and that the behaviour necessitating the exclusion could not have been prevented?
Has significant consideration been given to ensure that the child or young person is not being excluded for reasons associated with a protected characteristic?
Has account been taken of the impact of exclusion on the child or young person's learning and support provision?
Has consideration been given to review of any Child's plan or Coordinated Support Plan?
Children from an area of Socioeconomic deprivation
Has consideration been given to the impact on child's wellbeing, e.g. free school meals or Maintenance Allowance? Can arrangements be put into place to ensure entitlements?
Young Carers
Does the learner have caring responsibilities? Do they have a young carers statement? Will any needs identified be impacted by an exclusion?

Appendix 3(a): Letter of Exclusion to parent/carer of learner under 16-years.

Must be sent on the day of exclusion. Parent/Carer to be verbally informed.

Dear *Parent/Carer's Name*

Child/Young Person's Name – TEMPORARY EXCLUSION FROM SCHOOL

Following our discussion today, I am writing to confirm that *Child/Young Person's Name* has been excluded from attendance at school because (delete as appropriate)

- we are of the opinion that you as the parent of *insert Child/Young Person's Name* refuses or fails to comply, or to allow *insert Child/Young Person's Name* to comply, with the rules, regulations, or disciplinary requirements of the school"

  or;

- "we consider that in all the circumstances to allow *insert Child/Young Person's Name* to continue his/her 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.

Those circumstances are: *enter reason(s) for exclusion as per code in Appendix 8 with a description of incident(s)*

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-

We now must work together to resolve/minimise the risk so that your child can return to school, and we can ensure the safety and wellbeing of all. Please attend a meeting at school with *Child/Young Person's name* on *date and time* to identify support and next steps. I have included questions which I would be grateful if you could support and encourage *Child/Young Person's name* to complete and bring along to the meeting.

If you are unable to attend at this time, please contact me to arrange an alternative date or discuss further.

Your right of appeal under Section 28H of the Education (Scotland) Act 1980 is detailed below.

In the meantime, *Child/Young Person's name* must not attend school, be within the school or school grounds, or take part in any school activities, until the exclusion has been resolved.

Please insert arrangements for the provision of Free School Meals or therapeutic sessions etc.

Yours sincerely

Headteacher

Right of Appeal

Under section 28H of the Education (Scotland) Act 1980 you have a right to appeal this decision to the education appeal committee.

If you wish to appeal, you should email: Democratic.Services@midlothian.gov.uk.

Alternatively you can appeal against the decision by writing to:

The Clerk to the Education Appeal Committee
Resources Directorate
Midlothian House
Buccleuch Street
DALKEITH
EH22 1DN

On receipt of your appeal, Democratic Services will arrange an education appeal committee appeal hearing, which must take place within 28 days. If the education appeal committee do not uphold your appeal, and agree that the exclusion was required, you will have a right of appeal under section 28H(6) of the 1980 Act to the Sheriff Court in Edinburgh.

Appendix 3(b): Letter of Exclusion to a child over 12 years old, but under 16.

Must be sent on the day of exclusion. Pupil to be verbally informed.

Dear *Child/Young Person's name*

TEMPORARY EXCLUSION FROM SCHOOL

Following the incident(s) in school today, I am writing to confirm that you have been excluded from attendance at school because:

- we are of the opinion that your parent refuses or fails to comply, or to allow you to comply, with the rules, regulations, or disciplinary requirements of the school"

or;

- "we consider that in all the circumstances to allow you to continue your 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.

Those circumstances are: *enter reason for exclusion as per code in Appendix 8 with a description of incident(s)*

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-

I will be organising a meeting with your parent/carer where we can discuss your return to school and any help and support, we can provide. You will also be invited to attend this meeting.

Yous right to appeal the decision to exclude under Section 28H of the Education (Scotland) Act 1980 is detailed below. Please note that a letter of your temporary exclusion has been given to your parent/carer, *Parent/Carer(s) Name*.

Until we meet you must not attend school, be within the school or school grounds, or take part in any school activities, until the exclusion has been resolved.

It would be very helpful if you could have a look at the questions included with this letter before you come to the meeting. You may find it helpful to go over these questions with your parent/carer or someone that you know well.

Please insert arrangements for the provision of Free School Meals or therapeutic sessions etc.

Yours sincerely

Headteacher

Right to Appeal

Under section 28H of the Education (Scotland) Act 1980 both you and your parents have a right to appeal this decision to the education appeal committee. If you wish to appeal, you should email: Democratic.Services@midlothian.gov.uk.

Alternatively you can appeal against the decision by writing to:

The Clerk to the Education Appeal Committee
Resources Directorate
Midlothian House
Buccleuch Street
DALKEITH
EH22 1DN

On receipt of your appeal, Democratic Services will arrange an education appeal committee appeal hearing, which must take place within 28 days. If the education appeal committee do not uphold your appeal, and agree that the exclusion was required, you will have a right of appeal under section 28H(6) of the 1980 Act to the Sheriff Court in Edinburgh.

Appendix 3(c): Letter of Exclusion to a learner over 16 years

Dear *Young Person's name*

TEMPORARY EXCLUSION FROM SCHOOL

Following the incident(s) in school today, I am writing to confirm that you have been excluded from attendance at school because (delete as appropriate)

- we are of the opinion that your parent refuses or fails to comply, or to allow you to comply, with the rules, regulations, or disciplinary requirements of the school"

or;

- "we consider that in all the circumstances to allow you to continue your 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.

Those circumstances are: *enter reason for exclusion as per code in Appendix 8 with a description of incident(s).*

-
-
-

It is essential that we meet soon to discuss the exclusion and to consider the supports and next steps, for your return to school. I *or name of other staff member if appropriate* will meet with you at *time on date in room at the school*. If you are unable to attend this appointment, please contact me as soon as possible in order that other arrangements can be made.

You can bring your parent/carer/a supporter to this meeting.

Your right to appeal the decision to exclude under Section 28H of the Education (Scotland) Act 1980 is detailed below.

In the meantime, you must not attend school, be within the school or school grounds, or take part in any school activities, until the exclusion has been resolved.
It would be very helpful if you could have a look at the questions included with this letter before you come to the meeting. You may find it helpful to go over these questions with your parent/carer.

Please insert arrangements for the provision of Free School Meals or therapeutic sessions etc.

Yours sincerely

Headteacher.

Right of Appeal

Under section 28H of the Education (Scotland) Act 1980 you have a right to appeal this decision to the education appeal committee.

If you wish to appeal, you should email: Democratic.Services@midlothian.gov.uk.

Alternatively you can appeal against the decision by writing to:

The Clerk to the Education Appeal Committee
Resources Directorate
Midlothian House
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On receipt of your appeal, Democratic Services will arrange an education appeal committee appeal hearing, which must take place within 28 days. If the education appeal committee do not uphold your appeal, and agree that the exclusion was required, you will have a right of appeal under section 28H(6) of the 1980 Act to the Sheriff Court in Edinburgh.

Appendix 3(d): Exclusion Support Questions to be sent out with Letters (3a, 3b and 3c)

These are some helpful questions to consider before your return to school meeting.

Talk to your parent/carer about them and bring this completed form with you to the meeting to help with the discussion.

Why were you excluded from school?	
What is going well for you at school?	
What is not going well?	
What can you do to make sure you are not excluded again?	
What can the school do to make sure you are not excluded again?	
Is there anything your parent/carer do to help?	

Appendix 4: Checklist: Key considerations once the decision to exclude has been made.

Checklist: Key considerations once the decision to exclude has been made	Completed
Discuss with your Quality Improvement Manager	
Child/Young Person to be informed he/she will be excluded	
Parents/Carers to be informed verbally immediately of exclusion	
Communication to take place with parents/carers	
Lead professional, social worker, key worker, foster carer, educational psychologist to be part of the discussion prior to the decision to exclude for Looked After Children, children on CP register / children with CP concerns	
Make arrangements for the child to be collected 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	
Arrange date, time and place of Support and Next Steps Readmission meeting is to take place to discuss the exclusion	
Once verbal contact is made, follow up with written confirmation of exclusion on the same day exclusion takes place. Include the reason for exclusion and information on Right of Appeal.	

If child or young person is of legal capacity (over 12 years of age) inform them in writing of exclusion and right of appeal	
Ensure exclusion is recorded accurately on SEEMiS	
If appropriate ensure Sphera is completed accurately with details of pre and post incident	
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/iPad/Chromebook learning	
Arrangements made for the child or young person to access any existing support made (out with school if necessary)	
Allocate a contact person for parent/carer/young person to liaise for educational provision	
Parent/carer should be informed of their responsibility to ensure the child or young person engages with the educational provision made by the school throughout the period of exclusion	

Appendix 5 (a): Agreement for learners over 12 years of age following a 'Support and Next Steps Meeting'.

Dear *Child/young person's name*

Supports and Next Steps Agreed for Return to School

Today we *(you, your parent/carer/school staff)* discussed your exclusion from your school and agreed how we can support you upon your return to school.

At the meeting we have discussed:

- What is going well for you in school?
- What is not going well?
- Do you understand why the decision was made to exclude you?
- What can you do to make sure you are not excluded again?
- What can the school do to make sure you are not excluded again?
- What can your parent/carer do to make sure you are not excluded again?
- Is there anyone else you would like to help you?

This is what we agreed:

-
-
-
-
- We also ask all learners to follow the school's positive behaviour policy.
- A copy of the positive behaviour policy will be provided for parents/learners at the end of this meeting.

This information will form your Plan so that you, your parent/carer and the Headteacher can clearly see how we agree to work together to support you.

If you understand and agree with all the above, please sign here:

Signature of learner .....

Signature of parent/carer.....

Signature of Headteacher/Depute Headteacher.....

Date

Appendix 5 (b): Agreement for parent/carer following 'Support and Next Steps Meeting'.

Dear *Insert Name*

Following the exclusion of *Child/Young Person's name* from school, we confirm that the reasons for this as described in the original letter of exclusion have been discussed and we have focused on how we can make *Child/Young Person's name's* return to school a positive experience. We also explained your right of appeal. A copy of this was included as Appendix 1 in the letter of exclusion sent to you on *Insert date of letter.*

At the meeting, you, *child/Young Person's name* and the school agreed the following:

This is what we agreed:

-
-
-
-
-

I, as Headteacher of the school, am satisfied with the arrangements made for *Child/Young Person's name* return to school.

Signature of Headteacher/Depute Headteacher.....

I as the parent/carer for *Child/Young Person's name* agree with the arrangements set out above and will work with the school and others to support *Child/Young Person's name*.

Signature of Parent/Carer.....

Date

Appendix 6a: Parent/Carer of learners under 16 years: No agreement following a discussion about support and next steps.

Dear *Parent/Carer(s) Name*

Child/Young Person's Name, Date of Birth, Class

I refer to my letter of *date* and to our subsequent discussion on *date* to discuss the exclusion of your *Child/Young Person's Name* from school.

Regrettably, despite discussing support and next steps it did not lead to an agreement on *Child/Young Person's Name's* return to school. Accordingly, *Child/Young Person's Name* remains excluded.

Under section 28H of the Education (Scotland) Act 1980 you have a right to appeal the decision to exclude and/or the conditions of readmission to the education appeal committee. The details are given below.

If you wish to reconsider any part of our discussion, I will be pleased to discuss with you again in the hope of reaching agreement regarding *Child/Young Persons name's* return to school. In the meantime, I am required to advise Midlothian Council's Chief Operating Officer for Education of our present unresolved situation. A further opportunity for a consultation meeting with a Midlothian Council Officer will be offered to discuss the requirements for Child/Young person's name to be readmitted to school.

Yours sincerely

Headteacher

Reasons for decision to exclude: Enter reason for exclusion as per code in Appendix 8 (a)

Motivation for action: Enter motivation as per code Appendix 8 (b)

Right to Appeal

If you wish to appeal, you should email: Democratic.Services@midlothian.gov.uk.

Alternatively you can appeal against the decision by writing to:

The Clerk to the Education Appeal Committee
Resources Directorate
Midlothian House
Buccleuch Street

DALKEITH
EH22 1DN

On receipt of your appeal, Democratic Services will arrange an education appeal committee appeal hearing, which must take place within 28 days. If the education appeal committee do not uphold your appeal, and agree that the exclusion was required, you will have a right of appeal under section 28H(6) of the 1980 Act to the Sheriff Court in Edinburgh.

Appendix 6 (b): Learner over 12, but under 16: No agreement following a discussion about support and next steps.

Dear *Child/Young Person's name*

I refer to my letter of *date* and to our subsequent meeting on *date* to discuss your exclusion from school.

Regrettably, our discussion did not lead to an agreement on your return to school. Accordingly, you remain excluded. I am, therefore, advising you that you have the right of appeal against the decision to exclude and / or the conditions of readmission under the terms of Section 28H of the Education (Scotland) Act 1980. Details are given below.

If you wish to reconsider any part of our discussion at our meeting, I will be pleased to discuss with you again in the hope of reaching agreement regarding your return to school. In the meantime, I am required to advise Midlothian Council's Chief Operating Officer for Education of our present unresolved situation. A further opportunity for a consultation meeting with a Midlothian Council Officer will be offered to discuss the requirements for you to be readmitted to school.

Yours sincerely

Headteacher

Right to Appeal

Under section 28H of the Education (Scotland) Act 1980 you and your parents have a right to appeal the decision to exclude and/or the conditions of readmission to the education appeal committee. If you wish to appeal, you should email:

Democratic.Services@midlothian.gov.uk.

Alternatively you can appeal against the decision by writing to:

The Clerk to the Education Appeal Committee
Resources Directorate
Midlothian House
Buccleuch Street
DALKEITH
EH22 1DN

On receipt of your appeal, Democratic Services will arrange an education appeal committee appeal hearing, which must take place within 28 days. If the education appeal committee do not uphold your appeal, and agree that the exclusion was required, you will have a right of appeal under section 28H(6) of the 1980 Act to the Sheriff Court in Edinburgh.

Appendix 6 (c): Headteacher's Record where there is no agreement for return to school for learner. Parent/Carer/Pupil Statement

Written record of Support & Next Steps Discussion for the parent/carer(s) of a Child/Young person under school leaving age.

To be completed by the Headteacher in the event of the child or young person/parents' decision not to agree with supports and strategies at the Support and Next Steps Meeting.

Child/Young Person's Name

Child/Young Person's and/or *Parent/Carer's* Verbal Statement

Signature of Child/Young Person and/or Parent/Carer(s).....

Signature of Headteacher/Depute Headteacher.....

Date

Appendix 7 (a): Parent/Carer of learner under 16: Failure to keep appointment for a Support and Next Steps discussion.

Dear *Parent/Carer(s) Name*

Exclusion from School

I refer to my letter of date and to my invitation to meet me on date to discuss *Child/Young Person's Name's* exclusion from school. This was to allow us to complete a risk assessment and discuss further supports to ensure Child/Young Person is able to engage in learning within the school.

Our proposed supports and conditions, which will support his/her readmission, are given below. I must advise you that you have the right to appeal against the decision to exclude and/ or the conditions of readmission under the terms of Section 28H of the Education (Scotland) Act 1980. Details are given below.

I will be pleased to hear from you regarding agreement to these supports and conditions in the hope that *Child/Young Person's Name can* return to school. In the meantime, I am required to advise Midlothian Council's Chief Operating Officer for Education of our present unresolved situation.

Yours sincerely

Headteacher

Reasons for decision to exclude: Enter reason for exclusion as per code in Appendix 8 (a)
Motivation for action: Enter motivation as per code Appendix 8 (b)

Right to Appeal

If you wish to appeal, you should email: Democratic.Services@midlothian.gov.uk.

Alternatively you can appeal against the decision by writing to:

The Clerk to the Education Appeal Committee
Resources Directorate
Midlothian House
Buccleuch Street
DALKEITH
EH22 1DN

On receipt of your appeal, Democratic Services will arrange an education appeal

committee appeal hearing, which must take place within 28 days. If the education appeal committee do not uphold your appeal, and agree that the exclusion was required, you will have a right of appeal under section 28H(6) of the 1980 Act to the Sheriff Court in Edinburgh.

Appendix 7 (b): Learner over 16 years: Failure to keep appointment for a Support and Next Steps discussion.

Dear *Young Person's name*

Exclusion from School

I refer to my letter of date and to my invitation to meet me on *date* to discuss your exclusion from school. This was to allow us to complete a risk assessment and discuss further supports to ensure you are able to engage in learning within the school.

Our proposed supports and conditions, which will support your readmission, are given below. I must advise you that you have the right to appeal against the decision to exclude and/ or the conditions of readmission under the terms of Section 28H of the Education (Scotland) Act 1980. Details are given below.

I will be pleased to hear from you regarding agreement to these supports and conditions in the hope that you can return to school. In the meantime, I am required to advise Midlothian Council's Chief Operating Officer for Education of our present unresolved situation.

Yours sincerely

Headteacher

Reasons for decision to exclude: Enter reason for exclusion as per code in Appendix 8 (a)

Motivation for action: Enter motivation as per code Appendix 8 (b)

Right to Appeal

If you wish to appeal, you should email: Democratic.Services@midlothian.gov.uk.

Alternatively you can appeal against the decision by writing to:

The Clerk to the Education Appeal Committee
Resources Directorate
Midlothian House
Buccleuch Street
DALKEITH
EH22 1DN

On receipt of your appeal, Democratic Services will arrange an education appeal

committee appeal hearing, which must take place within 28 days. If the education appeal committee do not uphold your appeal, and agree that the exclusion was required, you will have a right of appeal under section 28H(6) of the 1980 Act to the Sheriff Court in Edinburgh.

Appendix 7 (c): Parent/carer of learner under 16: Failure to keep appointment. Headteacher agrees return to school.

Dear *Parent/Carer(s) Name*

Exclusion from School

I regret that you were unable to attend the meeting on *date*. In discussion with our Quality Improvement Manager, it has been decided that *Child/Young Person's Name* may return to school with effect from *date* on the understanding that the following supports and next steps have been agreed by both parents and education.

The first next step applies to everyone. They are required to follow the positive behaviour code of the school.

In addition, this is what I propose:

-
-
-
-
-
-

With your agreement to the above supports and next steps I, as Headteacher of the school, I am satisfied with the arrangements made for *Child/Young Person's name* return to school.

Please let me know if you are in disagreement with any aspect of our discussion or with the entry as noted above.

Yours sincerely

Headteacher

Reasons for decision to exclude: Enter reason for exclusion as per code in Appendix 8 (a)

Motivation for action: Enter motivation as per code Appendix 8 (b)

Appendix 8 (a): Exclusion Circumstances

Exclusion circumstances:

Fighting
Verbal abuse of pupil
Verbal abuse of staff
General or persistent disobedience
Insolent or offensive behaviour
Refusal to attend class
Fire raising
Parental non-cooperation
Substance misuse – not alcohol
Substance misuse – alcohol
Spitting
Damage to school property
Threat to school property
Indecent exposure
Sustained peer exclusion for the purpose of causing significant distress
Physical assault with no weapon against pupil
Physical assault with no weapon against staff
Physical assault using weapon against pupil (Please identify weapon. e.g., knife, knuckleduster)
Physical assault using weapon against staff (Please identify weapon. e.g., knife, knuckleduster)
Physical assault using improvised weapon against pupil
Physical assault using improvised weapon against staff
Damage to personal property of pupil
Damage to personal property of staff
Theft from pupil
Theft from staff
Threat of sexual violence against staff
Threat of physical violence, no weapon, against pupil
Threat of physical violence, no weapon, against staff
Threat of physical violence using weapon or improvised weapon, against pupil

Threat of physical violence using weapon or improvised weapon, against staff

Threat to personal property against pupil

Threat to personal property against staff

Malicious communications against pupil

Malicious communications against staff

Slander and libel (incl. website) against pupil

Slander and libel (incl. website) against staff

Stalking of pupil

Stalking of staff

Extortion from pupil

Extortion from staff

Other

Appendix 8 9b): Exclusion recording

Racial

Gender

Homophobia/sexual orientation

Disability of victim

Religion

Sectarianism

Substance misuse-alcohol

Substance misuse-not alcohol

Territorial/gang related

Other known factor

Not known

Appendix 9: Parent/carer of pupil under 16 years: Letter informing parent/carer of Headteacher's request to the Executive Director seeking a permanent exclusion.

Dear *Parent/Carer(s) Name*

Permanent Exclusion from School

I am writing to inform you that I believe it would likely be seriously detrimental to order and discipline or the educational well-being of the pupil for *Child/Young Person's Name* to continue attendance at name of school.

I am therefore informing you that I have written to the Executive Director Children, Young People and Partnerships, requesting that *Child/Young Person's Name* is permanently excluded from attending name of school.

Despite all our efforts to put support next steps in place we have been unable to prevent situations arising which have led us to this serious action.

While we await the response from the Executive Director Children, Young People and Partnerships, we will continue to provide work for you, but as *Child/Young Person's Name* is excluded, *he/she* are not permitted to enter the school grounds, without prior agreement with the school.

If the Executive Director Children, Young People and Partnerships, approves the permanent exclusion from this school the options for your child's education are;

- *Child/Young Person's Name* attends another school identified by Midlothian Council.
- *Child/Young Person's Name* educated at home, providing the Authority agrees your teaching and learning programme.
- *Child/Young Person's Name* attends a private school without financial assistance from the Authority.

Right of Appeal

Under section 28H of the Education (Scotland) Act 1980 you have a right to appeal this decision to the education appeal committee.

If you wish to appeal, you should email: Democratic.Services@midlothian.gov.uk.

Alternatively you can appeal against the decision by writing to:

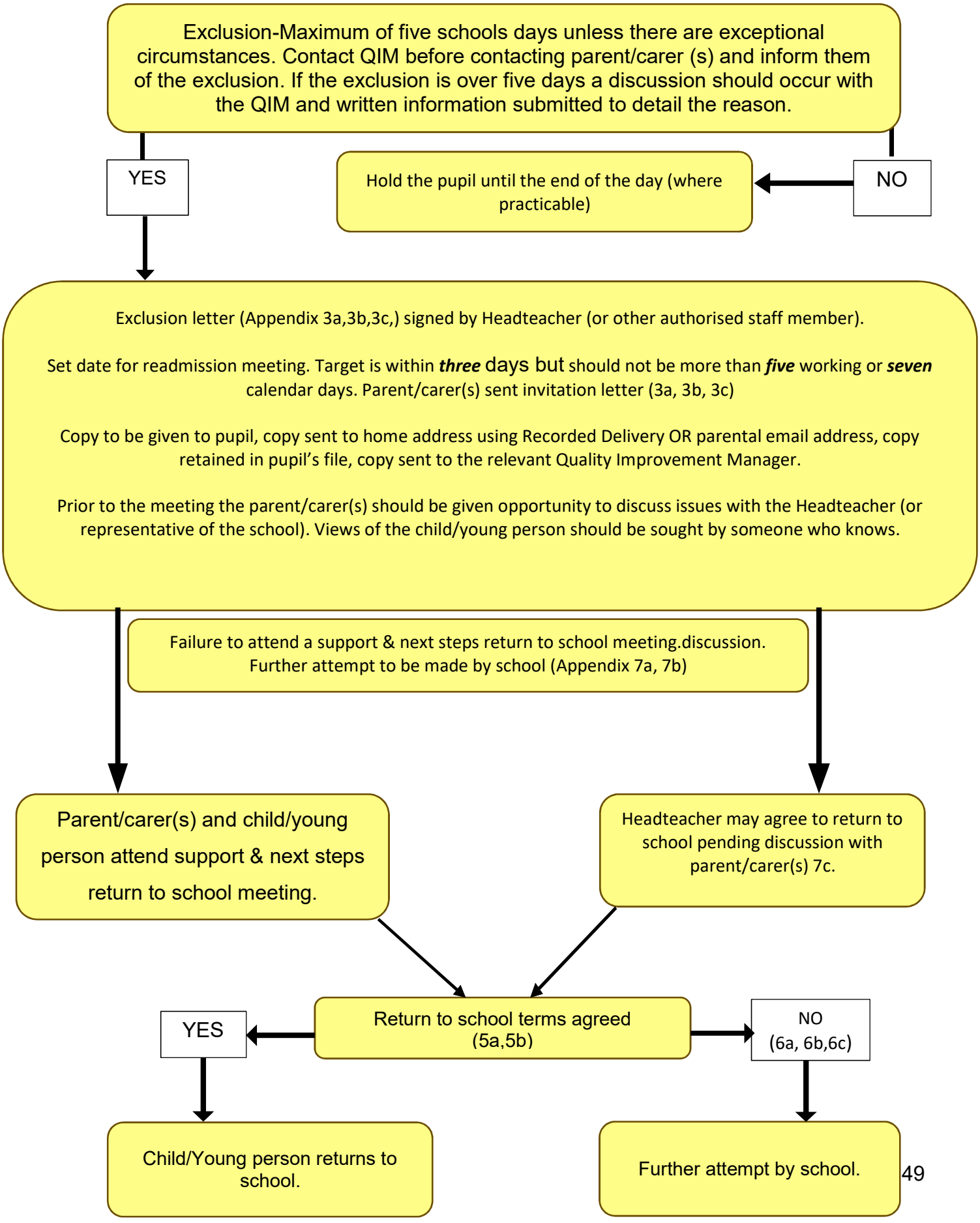
The Clerk to the Education Appeal Committee
Resources Directorate
Midlothian House
Buccleuch Street
DALKEITH
EH22 1DN

On receipt of your appeal, Democratic Services will arrange an education appeal committee appeal hearing, which must take place within 28 days. If the education appeal committee do not uphold your appeal, and agree that the exclusion was required, you will have a right of appeal under section 28H(6) of the 1980 Act to the Sheriff Court in Edinburgh.

Yours sincerely

Headteacher

Appendix 10: Process Map for Exclusion



Appendix 11: Right to Appeal

The right of appeal against the decision to exclude is outlined in the Education (Scotland) Act 1980 and extended to learners with legal capacity in the Age of Legal Capacity Act (2000). Local Authority has a statutory duty to appoint an education appeal committee, that it is not a committee of the Authority, but is an independent body which operates under the supervision of the Scottish Committee of the Council on Tribunals under the Tribunals and Inquiries Act 1992.

The right of appeal and how to do this will be outlined in the formal exclusion letter sent following the decision to exclude. Appendix 12 provides an information sheet for parent/carer regarding the appeal process and this should be sent with the formal exclusion letter.

Appendix 12: Exclusion – Guidance for Parents/Carers

In the event of an exclusion, the following information should be made available to parents and carers.

What does exclusion mean?

Exclusion means that your child is not allowed to attend school. Exclusion from school is used as a last resort. We only exclude children when the case is very serious. The exclusion should be for as short a period as possible. The school, pupil and their parent(s)/carer(s) should use the time during and after the exclusion to resolve the situation and make sure the right support is in place.

Why has my child been excluded?

There are two circumstances when a school can exclude a pupil:

When the school thinks order and discipline in the school, and the education of other pupils will be badly affected if the pupil continues to attend,

or

When the school thinks that a pupil's parent(s) or carer(s) did not follow school rules or have allowed their child to break school rules, or if the pupil is aged over 16, when the school thinks they broke the rules.

Who decides to exclude a child?

The Headteacher or their delegated representative decides whether to exclude a child. They should consider each child's individual circumstances before making the decision to do so. They will also have a conversation with their link Quality Improvement Manager to make them aware of the situation.

How long will my child be excluded?

Your child can be excluded for up to five school days before we arrange a 'Support and Next Steps Discussion with both you and your child. For the duration of their exclusion, your child must not come into school, or be in the school grounds at any time, unless for the purposes of an agreed meeting.

How do schools let parents or carers know that their child has been excluded?

If your child is being excluded during the school day, we will phone you. If we cannot

get in touch with you, at home or at work, or your emergency contact, we will send a letter home with your child at the end of the school day, explaining:

- why your child has been excluded.
- how long they are being excluded.
- the date of the 'Support and Next Steps Meeting'.

This letter will be followed up with another letter posted, by recorded delivery, to your home.

What happens if I don't agree with my child's exclusion?

If you choose to appeal it should be sent to:

Democratic.Services@midlothian.gov.uk.

Alternatively, you can appeal against the decision by writing to:

The Clerk to the Education Appeal Committee
Resources Directorate
Midlothian House
Buccleuch Street
DALKEITH
EH22 1DN

What is a Support and Next Steps meeting/discussion?

We arrange a Support and Next Steps discussion within seven days of your child's exclusion. At the discussion, we talk to you about why your child was excluded and how we can work together to ensure that your child has a successful return to school. It Is helpful if you and your child take part in the discussion. Usually the discussion takes place at your child's school.

Can I bring someone else with me to the meeting?

You can bring a friend to support you, or someone who will help you discuss your child's welfare with us. This could be someone from an advocacy group, an interpreter or signer. Please let us know before the meeting who you would like to bring along.

Links to some Advocacy groups are below:

Education - Kindred Advocacy (kindred-scotland.org)

VOCAL - Support and information for Midlothian carers

Partners In Advocacy – Free and confidential support for individuals

Resolve Mediation

Who else will be at the meeting?

The Head of House, Depute Headteacher or Headteacher chairs the meeting. In secondary schools, your child's pupil support leader or Class Teacher will normally attend the meeting. There may be occasions when a social worker also attends this meeting. The priority is to get your child back to school as soon as possible.

What will happen at the meeting?

We will tell you why we excluded your child. This will cover your child's day-to-day behaviour and particular incidents that have led us to take this action. Together we can try to work out what led to the exclusion, and what steps can be taken to avoid it happening again. It's important that we listen to your child's views about what happened and what would make a difference for them going forward. This should include a discussion about the support your child is receiving, to see if any different supports or strategies might help them. If your child has a written support plan, this will be reviewed.

We will agree targets with you to help your child return to school successfully. We will ask you and your child to sign an agreement.

Are details of my child's exclusion kept on record?

Yes. Copies of the following letters will be kept in your child's file:

- the exclusion letter.
- the letter outlining the agreements you made at the Support and Next Steps meeting about your child going back to school.

Copies of these letters are also sent to the Education Department in Dalkeith.

What if I can't attend the Support and Next Steps Meeting?

It is essential that everyone can attend the meeting. If you can't come to the meeting, please phone the school as soon as you can, so that we can arrange another time with you. Alternatively, we can find a different way to agree the supports and next steps.

What if I don't attend the Support and Next Steps Meeting?

If you don’t attend the meeting, then your child may not be allowed to return to school. We will write to you with a date and time for another meeting. We will keep copies of this letter in your child's file.

What contact will my child have with the school while they are excluded?

Your child must not come into school or onto the school grounds during the exclusion. The school will provide work for your child to do at home. Arrangements will be made with you about when and where the work is to be collected and the other ways in which we will support during the period of exclusion.

Where possible, a staff member from school or another person who knows your child well (for example, a social worker), will try to get the views of your child before the Support and Next Steps Meeting. Your child will be able to talk about the incident that led to their exclusion and discuss how they could change their behaviour. Your child can talk about this at the Support and Next Steps Meeting.

How will the school help my child once they return to school?

When your child comes back to school, various measures will be put in place to help both you and your child meet the targets agreed at the Support and Next Steps Meeting. This could include some time in a support base outside the classroom setting or support in class. As part of this support, your child may carry a ‘monitoring sheet’ or ‘support sheet’. This allows Teachers to note how your child is getting on and identify areas still causing concern. The sheets are then brought home each evening for you to see.

How can I help?

Your support for the school is vital and we will always welcome your help. While your child is excluded, you can discuss with the school what led up to your child's exclusion, and how you can encourage your child to change their behaviour. Please phone the school to talk or arrange a meeting. In a secondary school this would be with your child's key worker or Head of House.

We need your continuing support, so once your child is back at school, we would be happy to discuss how your child is getting on. The school might give your child a monitoring sheet and expect you to sign it nightly. This lets the school see that you have read the sheet and encouraged your child to keep the conditions of readmission.

What happens if my child keeps on being excluded from school?

This doesn't happen very often. The school, working in partnership with you, will have done everything possible to help your child improve their behaviour. If we feel that this approach is not working, then we might decide that your child needs to be educated

in another local school. The Chief Operating Officer for Education would be involved in this decision and both you and your child would be involved in all discussions.

Can I appeal against my child's exclusion?

Yes. Should you wish to appeal, you must do so, in writing, within twenty-eight days of receipt of the exclusion letter, to:

Democratic.Services@midlothian.gov.uk.

Alternatively, you can appeal against the decision by writing to:

The Clerk to the Education Appeal Committee
Resources Directorate
Midlothian House
Buccleuch Street
DALKEITH
EH22 1DN

Where can I get independent advice and support?

Citizens Advice Bureau	www.cas.org.uk	0800 028 1456
Govan Law Centre Website	https://govanlawcentre.org/	0800 043 0306
Connect (Formerly Scottish Parent Teacher Council)	www.connect.scot	0131 474 6199
Enquire	https://enquire.org.uk/parents/attendance/exclusion/	03451 232 303
Let's Talk ASN Scotland	letstalkasn@edlaw.org.uk	0141 440 2503 / 0800 043 0306

Appendix 13: Exclusion - Guidance for Children and Young People

In the event of an exclusion, the following information should be made available to the pupil who has been excluded.

What does exclusion mean?

Pupils are excluded when their behaviour tells school staff that they are not able to cope with school for a time. This will be because of harmful behaviour which affects other people, their learning or puts them or others in danger. Exclusion means that the pupil is not allowed to attend school or be on school grounds.

Who decides to exclude a pupil?

Exclusions are only used as a last resort. The Headteacher will decide whether exclusion is the only option after speaking to the pupil's teachers and those affected by the pupil's behaviour. This includes school staff and other pupils. If the pupil is at secondary school, the Headteacher will also talk to their Guidance Teacher and/or the Head of House.

For how long are pupils excluded?

A pupil can be excluded for up to five school days. The pupil's Headteacher will let the pupil know how long the exclusion will be on the day of the exclusion.

Will the pupil's parent or carer know that they have been excluded?

Yes, school staff will phone their parent or carer. If they cannot get in touch with them, the pupil will be given a letter to give to them.
This will explain:

- Why the pupil has been excluded.
- How long the exclusion is for
- The date of the 'Support and Next Steps Meeting'.

Another letter will be sent to the pupil's home (by recorded delivery) in case they don't get this first one. Until the pupil's parent or carer is able to collect them, the pupil will stay in a safe space in the school.

What happens if the pupil or their parent/carer disagree with the reason for the exclusion?

Pupils over the age of 12 can make an appeal against the reason for the exclusion. Usually this would be done with their parent or carer.

If you choose to appeal it should be sent to:

Democratic.Services@midlothian.gov.uk.

Alternatively, you can appeal against the decision by writing to:

The Clerk to the Education Appeal Committee
Resources Directorate
Midlothian House
Buccleuch Street
DALKEITH
EH22 1DN

What is a 'Support and Next Steps' meeting/discussion?

A 'Support and Next Steps' meeting or discussion will be arranged for the pupil **and** their parent or carer to attend before the pupil comes back to school. This will be an opportunity to talk to school staff about why they were excluded and what needs to happen to help them back into school. Support and Next Steps meetings usually take place in the pupil's school. Although the pupil is not allowed in school or on school grounds while they are excluded, it is ok for them to be in school for this meeting. There may be other reasons why a pupil may be allowed into school (e.g., appointment with a counsellor, access to school meals) but the Headteacher will decide if an excluded pupil is allowed into the school.

A formal meeting does not need to take place but the pupil and their parent/carer does need to agree to the supports and next steps.

Who else will be at the meeting?

The pupil's Depute Headteacher or Headteacher leads the meeting. If the pupil is at secondary school, their Guidance Teacher, Head of House or one of their Class Teachers will usually also attend the meeting.

The pupil could also have an advocate at the meeting to help them give their views.

Details of some organisations that can support are below:

http://www.partnersinadvocacy.org.uk/

What will happen at the meeting?

School staff will talk about why the pupil was excluded. This means talking about how the pupil was managing in school before they were excluded and what

happened in particular to show staff, they were not able to cope with school for a time. Usually, the pupil will have the opportunity to share their views with someone in school who knows them well. It's important that the pupil gets to share their views in this meeting – but they don't have to if they don't want to. Sometimes young people find it easier to share their views with someone beforehand, and this person can talk on their behalf. Everyone will talk about more positive ways the pupil can let school staff know if they are not managing the demands of school and set targets to help them to do so. The pupil and their parent or carer will then sign a document agreeing to these targets.

Are details of the pupil's exclusion kept on record?

Yes. Copies of the following will be kept in the pupil's file:

- The exclusion letter.
- The document outlining the agreements they made at the Support and Next Steps meeting about going back to school.

What if the pupil's parent/carer does not attend the 'Support and Next Steps meeting/discussion'?

It is very important that everyone attends the 'Support and Next Steps Meeting'. If parents or carers do not attend the meeting, then the young person may not be able to return to school. The Headteacher will write to them with another date and time for a meeting when the parent/carer is available. Copies of this letter will be kept in the pupil's file. A meeting does not need to be held but the pupil and their parent/carer does need to agree to the supports and next steps that are being put in place.

What contact will you have with the school while you are excluded?

Pupils must not come into school or onto school grounds if they are excluded unless special agreement has been made with the Headteacher so that they can attend an organised appointment in the school. Arrangements will be made with the pupil and their parent/carer about when and where the work is to be collected and the other ways in which school will support during the period of exclusion.

Where possible, a staff member from school or another person who knows the pupil well (for example, a social worker), will try to get their views before the Support and Next Steps Meeting/discussion. Pupils will be given the opportunity to talk about the incident that led to the exclusion and discuss supports they might require.

How will the school help you once you return to school?

When the pupil comes back to school, steps will be put in place to help them achieve the targets they agreed at their ‘Support and Next Steps meeting’. This might mean spending some time in a support base outside the classroom setting or additional support in class. This might also mean keeping a record of how things have gone in each period and getting this signed by the teacher. These sheets help teachers to note how the pupil is getting on and identify areas where they need more support. The pupil will take these home for their parent or carer to see.

How can the pupil’s parent or carer help?

It is really important that everyone works together to make sure that pupils get the most out of their education. The school welcomes any ideas or suggestions from the pupil’s parent or carer on what works well to support them. Their parent or carer can contact the school at any time, even while the pupil is excluded, to discuss how to support them or for ideas on what else the school can do.

Implementation

The policy will be implemented from with immediate effect. The policy will be shared on the Midlothian Council website. School Handbooks should be updated to reflect the new policy.

Roles and Responsibilities

Midlothian Council's Education Chief Operating Officer has overall responsibility for this policy.

Related documents

- Included, engaged and involved part 2: preventing and managing school exclusions - gov.scot (www.gov.scot)
- UN Convention on the Rights of the Child - UNICEF UK
- The Schools General (Scotland) Regulations 1975 (legislation.gov.uk)
- Education (Additional Support for Learning) (Scotland) Act (2004) | Resources | National Improvement Hub
- Equality Act 2010: guidance - GOV.UK (www.gov.uk)
- Education (Scotland) Act 1980 (legislation.gov.uk)
- Education (Scotland) Act 1981 (legislation.gov.uk)
- Additional Support Needs | First-tier Tribunal for Scotland (Health and Education Chamber)
- The Education (Appeal Committee Procedures) (Scotland) Regulations 1982 (legislation.gov.uk)

Integrated impact assessment

All new and revised policies must be subject to an integrated impact assessment to ensure that the Council is compliant with legislation.

Risk assessment

The risk of not having a consistent, clear and published policy means that parents/carers are not kept informed of this process and pupils are not able to access school education.

Review

This policy will be reviewed on a two-year cycle with the next review being June 2026 by Children, Young People and Partnerships.