



CHILDREN AND YOUNG PEOPLE'S DEPARTMENT

DRAFT INCLUSION POLICY 2018

**ENSURING WELLBEING, EQUALITY AND INCLUSION IN LEARNING
ESTABLISHMENTS**

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1 BACKGROUND

- 1.1 This policy provides vision and guidance for all educational establishments in promoting good relationships and positive behaviour across whole school communities which are fundamental to Getting It Right For Every Child (GIRFEC) and the successful delivery of the Curriculum for Excellence.
- 1.2 Scottish Borders Council is committed to providing the best education service in Scotland through a relentless focus on Inclusion, Achievement, Ambition and Progress for All. We strive for all learners to be included, engaged and involved in their education in order for them to achieve the best possible outcomes and reach their full potential. We are committed to a vision of inclusive schools where effective positive relationships are embedded.
- 1.3 Scottish Borders Council has a clear commitment to ensuring children and young people are: 'In our sights, in our minds and in our actions', ensuring a safe positive and inclusive environment. Children's wellbeing benefits from having a strong sense of belonging within their school community. This requires school communities which nurture connected relationships and provide opportunity for pupil self-expression. Self-esteem develops when children and young people feel valued in their relationships with others and are also aware of their own competencies. It is within a community where all are respected and valued, that children and young people learn about the impact of their actions on others. School communities provide an important context for adults to model respectful relationships through the ways in which they interact with learners and with each other.
- 1.4 Wellbeing does not simply describe a child or young person's economic status, health or educational attainment. It is about their inclusion in the school and wider community, their achievements and whether their views and voices are heard and respected. Wellbeing captures the range of experiences which children and young people should have in a society which values them and respects their rights.
- 1.5 Children and young people learn and grow best in settings in which they feel happy, confident and safe. When children and young people are nurtured, guided and encouraged, they learn to behave appropriately in a variety of social and educational settings and develop positive relationships. They achieve healthy emotional growth, acquire social understanding and learn the necessary social and inter-personal skills that will enable them to succeed.
- 1.6 As children develop, their relationships with peers and teachers are important to their learning and wellbeing. These relationships can be protective during times of transition or difficulty. The Scottish Borders Respectful Relationship policy defines a respectful relationship as one "based upon mutual trust, honesty, kindness, consideration and fairness, bringing out the best in those involved".

- 1.7 Relationships, learning and behaviour are entwined and should not be considered in isolation. Nurturing relationships are fundamental to the learning and emotional development of all children and young people. It is within safe and secure relationships that children learn to regulate their emotions and actively explore the environment. Discipline, in terms of establishing safe and consistent boundaries for children and young people to create optimum conditions for learning and teaching, is not a separate issue but integral to the operation of the whole school and to effective teaching. Effective schools and settings depend on supportive relationships and clear expectations for all in the school community.

2 NATIONAL AND LEGISLATIVE CONTEXT

- 2.1 The legislative and policy landscape includes, but is not limited to, the following:
- 2.2 The *Standards in Scotland's Schools etc. (Scotland) Act 2000* requires education authorities to provide education for all learners in mainstream schools, except under certain circumstances. In addition, it places a new duty: to secure that the education is directed to the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential and to involve them in decisions, which will affect them significantly.
- 2.3 The *Education (Disability Strategies and Pupil Records (Scotland) Act 2002* Schools must make reasonable adjustments for the needs of disabled children and schools must not discriminate against disabled children. The Education Authority must prepare and implement an accessibility strategy to increase the access of its disabled pupils to the curriculum, extra-curricular activities, to school buildings and to information.
- 2.4 The *Education (Additional Support for Learning) (Scotland) Act 2004* (and subsequent amendments in 2009 and 2018) outlines the concept of Additional Support Needs and the functions and duties that are placed on education authorities to identify and support those needs.
- 2.5 *Supporting Children's Learning: Code of Practice (third edition) 2017* which explains the duties on Education Authorities and other agencies to support children and young people's learning. It provides guidance on the ASL Act's provisions as well as on the supporting framework of secondary legislation.
- 2.6 The *Equality Act (2010)* simplified and strengthened previous protections for children and young people with 'protected characteristics' (e.g. age, race, disability and sexual orientation) from discrimination. This strengthened inclusion in education, including school trips and activities, for all children and young people regardless of their additional support needs or disability.
- 2.7 The *Curriculum for Excellence* aims to provide a coherent, more flexible curriculum for all children and young people aged 3-18 years. The curriculum comprises the totality of experiences which are planned for children and young people wherever they are being educated. Entitlement includes: a coherent curriculum from 3-18 years; a broad general education until S3; a senior phase after S3 and personal support to enable them to gain as much as possible from the curriculum and support in moving into a positive and sustained destination beyond school.
- 2.8 The *Children and Young People Act (2014)* has wide reaching powers to promote the Scottish Government's aims to encourage effective and targeted services for children and families as well as the promotion of children's rights. Through the GIRFEC National Practice Model, the Act promotes cross-boundary models of service delivery to make best use of expertise and resources in an integrated way with the wellbeing of children and young people being paramount. The wellbeing indicators (safe, healthy, achieving, nurtured, active, respected, responsible and included) ensures that a holistic approach is taken to ensure the wellbeing of all children and young people. The Act also introduced increased provision of early learning and

childcare and a range of corporate parenting responsibilities to promote the wellbeing of children and young people in care.

- 2.9 *The National Improvement Framework for Scottish Education* sets out the Scottish Government's vision and priorities for our children's progress in learning. The Framework, part of *the Education (Scotland) Act 2016*, is key in driving work to continually improve Scottish education and close the attainment gap, delivering both excellence and equity.
- 2.10 *Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions (2017)* provides guidance on approaches that can be used to prevent the need for exclusion, ensuring all children and young people are Included, Engaged and Involved in their education and summaries the legislative duties placed on Local Authorities regarding exclusion from school.
- 2.11 Taken together these frameworks require Education Authorities to consider a wide range of issues facing children and young people and put in place processes and support to:
- Identify and provide support to allow children and young people to overcome any barriers to learning and reach their full potential;
 - Prevent discrimination of pupils with disabilities/ protected characteristics and provide reasonable adjustments to ensue equality of opportunity in learning;
 - Plan for accessibility of the curriculum, school information and physical access;
 - Consider the wellbeing of children and young people.

3 KEY PRINCIPLES

- 3.1 In response to the policy context and the priorities of National and Local Government. this policy is based on the following key principles:
- All children and young people have a right to education; and Scottish Borders Council has a duty to provide this education;
 - A consistent and well maintained commitment to a whole school ethos of prevention, early intervention and support as the context for the promotion of positive relationships, learning and behaviour;
 - All children and young people need to be included, engaged and involved in their learning;
 - Everyone in a school or learning establishment should feel they are in a safe and nurturing environment;
 - Ensure early identification and assessment of any barriers to learning and the development of positive relationships and prompt and proportionate support to overcome these.
 - All children and young people have the right to get the support they need to benefit fully from their education and fulfil their potential;
 - Exclusion should be the last resort; it should be for as short a time as possible, and always have a positive, purposeful intention for the learning and wellbeing of the child or young person;
 - Exclusion should not be viewed as punitive;

- Where exclusion is used, it should be as a proportionate response where there is no appropriate alternative and the wellbeing of the children and young people should be a key consideration;
- The time during and after the exclusion period should be used constructively to resolve the situation and ensure positive and appropriate support is in place – restorative practice is to be encouraged;
- At all times a commitment to the United Nations Convention on the Rights of the Child should be demonstrated and developed.

4. SCHOOL CULTURE, ETHOS AND VALUES

- 4.1 The promotion of positive relationships through whole school culture, ethos and values, is fundamental to raising attainment and improving behaviour.
- 4.2 Schools that promote positive relationships across the classroom, playground and wider school community have an ethos and culture that is essential for creating the right environment for effective learning, health and wellbeing. Children and young people are more likely to develop self-confidence, resilience and positive views about themselves where open and respectful relationships exist between adults and other children and young people.
- 4.3 The starting point for promoting positive relationships and behaviour is the provision of a coherent and inclusive curriculum, effective learning and teaching and a whole school ethos based on positive relationships and a whole school commitment to inclusion. This should be central to the vision and values in all schools and be demonstrated through planning and school improvement over time. It is the responsibility of all staff to contribute to this within their setting and role.

A review by Public Health England on the correlation between wellbeing and attainment (2014) found the following factors:

1. Learners with better health and wellbeing are likely to achieve better academically.
2. Effective social and emotional competencies are associated with greater health and wellbeing, and better achievement.
3. The culture, ethos and environment of a school influences the health and wellbeing of learners and their readiness to learn.

- 4.4 The Children and Young People Act (2014) places the wellbeing of children and young people at the heart of the work of the school and ensures that support, when required is appropriate, proportionate and timely. Scottish Borders Council's Child's Planning Framework is the way in which agencies and establishments should take this approach forward. It provides a fundamental way of working through assessment, planning, intervention and evaluation to achieve the best possible outcomes for our children and young people.
- 4.5 Scottish Borders' ambition for an inclusive ethos and practice across all its learning establishments is firmly rooted in everyone's contribution being valued and everyone's voice being heard. Our drive to develop schools with a positive ethos is aligned with our drive to raise attainment. The two are inextricably linked. In building a more positive school ethos we will expect Scottish Borders schools to have higher expectations of themselves and their learners; build on current success in attainment and enable greater levels of achievement. As a result, our schools will see higher levels of engagement, and lower levels of exclusion and disruptive behaviour.

5 INVOLVING PARENTS/CARERS AND LEARNERS

- 5.1 Parents are members of the school community and their participation is encouraged, welcomed and valued. Schools and settings should ensure parents and carers feel welcomed by the school and encouraged to participate in their children's learning and school experience.
- 5.2 All learning settings should seek to build a culture of inclusion and develop positive relationships and behaviour by effectively implementing strategies which are aligned with the values and principles of this policy. In particular schools should seek to use strategies that engage the involvement and participation of learners, parents, and staff in their design, development, and implementation.
- 5.3 The Respectful Relationships policy describes the approach of learners and parents developing a shared Contract for Respectful Learning within schools/classes and other learning groups. With this approach, boundaries are mutually agreed within the context of the whole school community.

6 STRATEGIES FOR POSITIVE RELATIONSHIPS

- 6.1 The Scottish Government have invested significantly in a wide range of evidence based approaches that focus on improving positive relationships and behaviour. These include the development of whole school solution oriented approaches, restorative approaches and nurture approaches; and programmes aimed to develop social, emotional and behavioural skills.
- 6.2 In addition to these approaches and programmes, under Curriculum for Excellence, all learners are entitled to experience a broad general education where the development of Health and Wellbeing is the responsibility of all staff. Learning through the Health and Wellbeing curriculum ensures that pupils develop the knowledge and understanding, skills, capabilities and attributes they need for mental, emotional, social and physical wellbeing now and in the future.

- 6.3 It is expected that all schools in Scottish Borders will, through their improvement planning and work with partners, recognise these approaches and ensure that all learners experience an ethos and curriculum which meets their needs to allow them to achieve the best possible outcomes and fulfil their potential.
- 6.4 The United Nations Convention on the Rights of the Child (UNCRC) is a comprehensive and internationally binding agreement on the rights of children. It is based on equality, dignity, respect, non-discrimination and participation. <https://beta.gov.scot/publications/un-convention-rights-child-guide-children-young-people/>
- 6.5 A rights respecting school is an environment where children's rights are taught, observed, respected, protected and promoted. Our ambition is to ensure that every child and young person in our learning communities experiences this.
- 6.6 All children and young people in Scottish Borders are required to learn about the UNCRC and the overarching set of values which should bring change to the whole school character and atmosphere improving the climate for learning;
- Positive relationships between learners and staff reducing the hierarchical divide due to the rights respecting language;
 - Learners' self-esteem and feelings of being valued improve;
 - Increased levels of respect for each other with a better understanding of religions, cultures and abilities which are different to their own;
 - Improved attainment, attendance and a reduction on exclusions;
 - The school develops a rights respecting ethos and children are empowered to become active citizens and learners;
 - It strengthens a consultative approach and a platform for better parental engagement and discussion as well as collaborative working;
 - A feeling of empowerment for both adults and learners.

7 ACCESSING ADDITIONAL SUPPORT

- 7.1 Whilst it is acknowledged that the majority of children and young people flourish within the learning environments created through the strategies and approaches outlined above, there are times when some children and young people require additional planning and support to meet their needs. Scottish Borders Council operates a staged approach to providing support in addition to the whole school strategies detailed above.
- 7.2 The staged model of support is used to identify and assess the needs of all learners. The information gained is then used to inform inclusive teaching and learning and to embed a consistent, planned and co-ordinated approach across all educational establishments. It also assists with early identification, assessment and provision of support in order to help all learners. Scottish Borders Council uses the staged model of support to assess **all** the needs of the child including their educational needs.

Stage 1: Universal Support

Children and Young People's needs are met within the classroom by the class teacher

Stage 2: Universal Plus Support

Additional planning is required to fully meet the needs of children and young people. The co-ordination of this support may be facilitated through child's planning meetings as appropriate.

Level 3: Targeted Support

The child/young person's additional support needs require input from two or more agencies, and/or different parts of an agency, co-ordination is required. This is achieved through the child's planning meeting process.

Level 4: Specialised Support

Children and young people are accessing a special school/base either full or part time.

- 7.3 The staged model of support should be used to assist in more detailed planning and the provision of additional support when increasing levels of need are identified. Where appropriate, the Risk Assessment process should be considered at this level of planning. In all circumstances, the National Practice Model should be used to support the child's planning process.
- 7.4 All school should adopt non reactionary strategies to pre-empt potentially disruptive situations. The use of proactive methods will keep interactions positive, raise pupils' self-esteem and promote inclusion. For fuller details on this approach – see appendix 2.

Partnership with Parents/Carers and Children/Young People

- 7.5 Schools should take proactive steps to involve parents and carers in all planning and decision making which affects their child or young person. Children and young people too should be encouraged to take responsibility for their learning and wellbeing, and should be given the opportunity to be involved in their own planning and decision making in a way that is appropriate for their age and stage of development.

Partnership with Other Professionals

- 7.6 In Scottish Borders Council Education Services, It is recognised that the Service needs to work collaboratively with partner agencies to ensure that the wellbeing needs of all children and young people are fully met and that the child / young person is at the centre of the planning process. Within Scottish Borders, there are a range of services available to schools to further support the promotion of positive relationships.

Use of Build Up Timetables

- 7.7 Children and young people have a right to be provided with a school education and this right is enshrined in the Standards in Scotland's Schools Act, 2000. It should also be recognised that pupils are to be educated in accordance with the wishes of their parents, (Education (Scotland) Act 1980). Therefore no part-time arrangement can be considered if it is against the wishes of the pupil's parents or carers. Appendix 1 outlines the circumstances in which schools may consider the use of part-time timetables for pupils.

8 ANTI BULLYING/VIOLENCE AND AGGRESSION

- 8.1 The National Approach to Anti-Bullying for Scotland's Children and Young People is outlined in the Scottish Government's published report "Respect For All" 2017. This framework builds on the positive work which has already taken place in Scotland to address bullying. It provides a holistic framework for all adults working with children and young people to address all aspects of bullying, including prejudice-based bullying. Respect for All reflects Getting it Right for Every Child and recognises that bullying impacts on wellbeing. In order to thrive and achieve their full potential, children and young people need learning environments which are safe, nurturing, respectful and free from fear, abuse and discrimination. Scottish Borders Council Education Services adopts the "Respect For All" framework for implementation across all schools.

The Framework can be found using the following link <http://www.gov.scot/Publications/2017/11/6766>.

- 8.2 It is envisaged that the effective implementation of the Staged Model of Support will lead to positive, inclusive environments and the engagement of children and young people in their learning. It is acknowledged that in some circumstances, situations occur that escalate to include physically challenging behaviour.
- 8.3 Schools should address physically challenging behaviour in the context of a school statement for positive relationships that emphasises positive approaches, success in learning, achievement and the prevention of difficulties.
- 8.4 Education Services has a duty of care for the health and safety of all of its staff, children and young people.
- 8.5 The use of force against another person constitutes an assault. However the law recognises certain justifications for its use. In the context of services for young people, the sole justification for the use of force relates to circumstances in which:
- the young person is or is about to present a danger to themselves
 - the young person is or is about to present a danger to other people
 - the young person is doing or is about to do significant damage to property including her/his own (this can also present a direct danger to her/himself or others, or serious risk to property if s/he does so).
- 8.6 It is recognised that crisis situations are often not clear-cut and it is difficult to specify the exact
- 8.7 Circumstances in which force is justified pro-actively. The law operates with hindsight generally on the basis of precedent and will examine each case on its merits. There are, however, clear cut situations where physical intervention is required e.g.:
- when a child is engaging in self-mutilation or
 - endangering themselves or others or
 - where an attempt to abscond would result in an unacceptable level of risk
- 8.8 Assessment of risk must take account of the age, vulnerabilities and circumstances of the individual pupil.
- 8.9 The use of physical interventions must always be viewed as a last resort. It is only acceptable to physically intervene where the member of staff reasonably believes that if they do not physically intervene, the child or young person's actions are likely to cause physical damage or harm to that pupil or to another person. Whilst the law generally allows force to be used to prevent damage to property, it is likely to expect a lesser degree of force to be employed than in the prevention of personal injury. Therefore force should not be used to prevent damage to property unless there is a strong probability of injury to an involved party arising out of the damage to property.
- 8.10 The use of force must only be employed as a last resort using the principal of least restrictive intervention. Physical intervention should be an act of care. Its actual or threatened use must never be employed to coerce or force compliance with staff instructions, unless non-compliance would result in injury.
- 8.11 Staff generally have a right to defend themselves when attacked. The law also allows the use of force as a response to attack on a third party. However, the degree of force used must be minimum and reasonable. Even where force is used in response to the first use of violence, there is a requirement in law that staff should cease acting in self-defence, at the first available opportunity. When seeking to prevent a crime or injury to self or others, physical intervention is likely to be deemed justifiable if it is aimed at preventing a greater and more significant harm. Staff should always assess the risks of intervention against the consequences of non-

intervention.

- 8.12 In summary, in all situations where there is a potential for violence, staff must make an assessment of the situation and decide whether or not physical intervention is required. Non-intervention is acceptable as long as it has been a reasoned decision. Scottish Borders Education Services expects and supports the highest professional standards and behaviour from all staff in the implementation of this policy.

9 SECLUSION

- 9.1 Seclusion of a child or young person within a separate space is a form of physical intervention and should only be used as a **last** resort to ensure the safety of a child or young person, or others.
- 9.2 Any separation of a child or young person must be in a place that is safe and that does not cause any additional distress to the child or young person. The use of this form of physical intervention should be included in an agreed plan for the individual. Where seclusion is used:
- it must be in a place that is safe;
 - it should be managed under supervision;
 - it should take into account the additional support needs of the child or young person;
 - it should be time limited.

10. MANAGING INCIDENTS INVOLVING WEAPONS

- 10.1 Where school staff suspect that a child or young person is in possession of a weapon, such as a knife, in school, this should, without delay, be referred to the headteacher, or in their absence the member of staff deputising. Staff should not directly challenge the child or young person.
- 10.2 Schools should ensure that training and support on de-escalation is planned for and/or provided for all school staff. This mandatory training is accessed through Education Services' Career Long Professional Learning programme. This will include how to respond to situations where a child or young person may be suspected of having a weapon. When considering the most appropriate way to deal with a situation where school staff suspect a child or young persons is in possession of a weapon, consideration must be given to the safety of the child or young person and all others within the school. It may be evident from the circumstances that there is a need to call the police to attend. Prior training in risk assessment for such situations should be undertaken within all schools.
- 10.3 A member of school staff, in the presence of another member of senior staff, where possible, may – if they believe it is safe to do so – ask the child or young person to disclose and display the contents of pockets or bags, to ascertain if there is a weapon. If the child or young person will not co- operate by displaying their belongings, then the child or young person should be asked to remain where they are and the police should be called immediately.
- 10.4 Any incident where a decision is made to undertake a search of a child or young person and/or where a weapon is suspected or found, must be recorded in both the pupil's file in SEEMIS and the council's LEXI system. Risk assessment procedures should also be followed in these circumstances in line with council policy.
- 10.5 This information will be used to ensure Scottish Borders Council can monitor processes for weapons within their existing systems to ensure that they have accurate evidence, which is monitored and reviewed to help identify emerging issues and support early action including the identification of any professional learning needs.
- 10.6 Schools will consider, as part of their health and wellbeing curriculum, how children and young

people can be supported to develop safe and responsible attitudes, including understanding the risks and dangers that can arise from carrying a weapon and by being encouraged to speak with an adult if they suspect that someone has a weapon.

10.7 For circumstances in which staff are responding to a knife or other offensive weapons incident within school, it is expected that in each and every incident the school will report this to police via the following appropriate channels:

- Utilising the 999 emergency call service in the event of an ongoing emergency
- Utilising the police non-emergency number 101 if there is no immediate danger
- Reporting to a Locality Integration Officer (LIO) if such an individual is on site and this is deemed more expedient or appropriate than either of the above two methods.

These 3 methods are highlighted in order to clarify that it is up to the professional judgement of the Headteacher to identify the seriousness of the incident and therefore utilise the most appropriate method of reporting accordingly.

11 MANAGING SCHOOL EXCLUSIONS

11.1 Impact of Exclusions

11.1.1 Understanding the impact that school exclusions can have on children and young people, is an important aspect of informed decision making.

Exclusions are particularly prevalent among children and young people who are:

- Looked After Children
- From areas of deprivation
- Registered as having a disability
- Recognised as having an Additional Support Need (particularly social, emotional and/or behavioural)

11.1.2 In Scotland, it is estimated that the exclusion rate is more than 4 times higher for children and young people who have Additional Support Needs. Exclusion rates are more than 6 times greater among those living in the 20% most deprived areas.

11.1.3 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).

11.1.4 Findings from the Edinburgh Youth Crime Study showed that around 65% of children and young people who were excluded in S1, were early school leavers compared to only 20% of their peers who were not excluded (McVie, 2014). Furthermore, children who were excluded from school by age 15 are 4 times as likely to be in the criminal justice system by the age of 24. A review of children and adolescent mental health carried out between 2004 and 2007, found that children who struggled with school or have poorer mental health are more likely to be excluded from school (Ford, Parker, Salim & Goodman, 2017).

11.2 Legislative Context

11.2.1 Children and young people have a universal and inalienable right to an education. It is the duty of Scottish Borders 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.

11.2.2 In Scotland, there is a presumption that a child age 12 years and over has a legal capacity to instruct a solicitor in connection with any civil matter. 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).

- 11.2.3 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.
- 11.2.4 A decision to exclude a child over the age of 12 years must be communicated directly to them and 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.

11.3 Power to Exclude

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

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 defined as incompetent, resulting in the child or young person being reinstated without delay in the school and the exclusion being expunged from their school record.

Exclusion from school requires to be seen in the wider legislative context of Scottish Borders's duties to:

"....secure that there is made for their area adequate and efficient provision of school education...." Section 1 of the Education (Scotland) Act 1980

"....secure that the education is directed to the development of the personality, talents and mental and physical abilities of the child or young person to their fullest potential." Section 2(1) of the Standards in Scotland's Schools etc. Act 2000

"....have due regard, so far as is reasonably practicable, to the views (if there is a wish to express them) of the child or young person in decisions that significantly affect that child or young person, taking account of the child or young person's age and maturity." Section 2(2) of the 2000 Act in regard of section 2(1)

"....have regard to the general principle that, so far as is compatible with the provision of suitable instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parents." Section 28 of the Education (Scotland) Act 1980

- 11.3.2 Scottish Borders Council delegate the power to temporarily exclude children and young people from school to the Headteacher in primary schools and the Headteacher and Depute Head Teacher(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 appeal's procedure and potentially in a court of law 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. 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 the Chief Officer Education of this occurrence.

11.4 Grounds for Exclusion

- 11.4.1 The grounds for exclusion and the procedures to be followed are contained in the Schools General (Scotland) Regulations 1975 (as amended 1982). Regulation 4 states that an education authority shall not exclude a child or young person from school unless the authority:

"are of the opinion that the parent/carer(s) of the child/young person refuses or fails to comply, or to allow the child/young person to comply, with the rules, regulations, or disciplinary requirements of the school" or;
"considers that in all the circumstances to allow the child/young person to continue attendance at the school would be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there."

- 11.4.2 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. 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. The circumstances and motivation for exclusions are outlined in appendix 8(a) and 8(b).
- 11.4.3 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. Head teachers 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. Head teachers, when deciding whether exclusion is necessary, must have regard to the particular facts and individual circumstances surrounding incidents and/or learners (see 11.6 to 11.11)

11.5 Sending Home without Exclusion

- 11.5.1 Exclusion from school of a learner other than in conformity with the terms of the 1975 Regulations is illegal. Failure to comply with regulations in such circumstances may render the authority open to legal challenge by the parent/carer or the learner. In all situations where learners are sent home for periods of time to 'cool off' or for longer term assessments and planning, they must be formally excluded.
- 11.5.2 Children and young people must not be sent home from school for reasons relating to behaviour or an incident without being excluded.

11.6 Consideration of Individual Circumstances

- 11.6.1 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.

- 11.6.2 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. While individual circumstances must be taken into account, the grounds for exclusion are the same for all children and young people.

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

11.7 Additional Support Needs

- 11.7.1 The Education (Additional Support for Learning Act) (Scotland) Act (2004, 2009) 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 Additional Support Needs (ASN), school staff should take into account the potential impact of the loss of both their learning and provision of support. The named person or lead professional should be aware of the arrangements in place with other agencies, such as Speech and Language therapy in making provision and take into account the impact of any disruption to the provision of these services to the learner and to the services themselves.
- 11.7.2 Learners should 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 into 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 should be factored into the plans for return to school.
- 11.7.3 Where a learner with ASN is at risk of exclusion school staff should balance the case for exclusion with the needs to take all reasonable steps to secure that appropriate provision is in place to meet their needs. However, this additional consideration would not prevent exclusion where this is deemed absolutely necessary.

11.8 The Equality Act 2010

- 11.8.1 When considering the exclusion of a learner with a disability as defined by the Equality Act 2010 staff should ensure that they comply with provisions of the Act in relation to discriminatory behavior in the context of exclusion from school.
- 11.8.2 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.

11.9 Looked After Children

- 11.9.1 The Additional Support for Learning Act 2004 (as amended 2009) states that it is assumed that Looked After Children have additional needs unless otherwise stated. All Looked After Children 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.

- 11.9.2 Looked After Children 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. Ironically, this is 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 Scottish Borders 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 Looked After Child or Young Person in their care and if at all possible should avoid taking the decision to exclude them.
- 11.9.3 Staff must discuss any potential decision to exclude a Looked After Child or Young Person with the designated Social Worker and lead professional (if different) prior to the exclusion taking place in order to allow for a full consideration of individual circumstances to take place.
- 11.9.4 There are particular responsibilities and considerations for the corporate parent regarding the exclusion of a Looked After Child including the implications for the placement, the emotional impact on a child or young person who may already have attachment issues and may have experienced considerable lack of stability. Staff should be able to answer the question “is this good enough for my child?” to ensure that the welfare of the child or young person is paramount in making decisions.
- 11.9.5 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 re-admission 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 heard either by themselves or by their trusted adult.

11.10 Child Protection Register

- 11.10.1 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.
- 11.10.2 Staff must discuss any potential decision to exclude a learner on the child protection register or for whom they are current or previous child protection concerns with Children's Wellbeing. It is essential that this is done immediately 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.
- 11.10.3 In all cases where a decision to exclude has been taken, staff should in collaboration with Children's Social Work Services prepare a risk assessment to ensure the child or young person will not be placed at further risk while excluded.

11.11 Socioeconomic Deprivation

- 11.11.1 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 missing out on free school meals and being prevented from accessing the security and continuity of school environment.

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

11.12 Procedures for Exclusion from Schools

- 11.12.1 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 parents/carers on the council's website and within individual schools' handbooks and websites. Appendix 3 provides a range of challenge questions to consider prior to exclusion and appendix 5 provides a range of questions to consider following an exclusion..

11.13 Definition of Temporary & Permanent Exclusion

- 11.13.1 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:
- 11.13.2 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.
- 11.13.3 Permanent Exclusion: a decision taken by the Chief Officer Education to remove a child or young person from the register of their current school. In such circumstances, the Local Authority is required to identify an equivalent school in which the child or young person can continue their education immediately without undue delay.

11.14 Length of Exclusion

- 11.14.1 Legislation devolves the length of exclusion to the Local Authority to determine. Scottish Borders Council establishments 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.
- 11.14.2 Scottish Borders Council have set the maximum period of 6 openings for each exclusion; this is the equivalent of 3 school days as the maximum period of exclusion in any case. Where an exclusion extends or is predicted to extend over the 3 day maximum period approval should be sought from the school's Quality Improvement Officer. See Appendix 4.
- 11.14.3 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 Officer Education should be informed where this is unavoidable.
- 11.14.4 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.

11.15 Provision of Education during Exclusion Period

- 11.15.1 Scottish Borders 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.

- 11.15.2 It is important to note that providing learning tasks without the necessary teaching input to enable the pupil to understand the materials would legally be considered insufficient support. It is therefore essential that all arrangements should involve teacher contact with the child or young person on a regular basis. It may be appropriate for this contact to be made available using telephone, email or online learning. Steps must be taken to ensure appropriate teaching is provided and any queries over the education materials provided are addressed.
- 11.15.3 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.
- 11.15.4 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 (see section 11.7)
- 11.15.5 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.
- 11.15.6 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.
- 11.15.7 There is no legislative timescale defining 'undue delay' as the purpose is to continue Scottish Borders Council's duty to provide education for all their children and young people.

11.16 Intimation of Decision to Exclude

- 11.16.1 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.
- 11.16.2 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 notify parent/carer/child/young person by letter. This is important as verbal information may be difficult to understand immediately or remembered fully, especially if the situation is emotionally difficult for 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 head teacher, deputy headteacher will meet with the parent/carer and pupil. This must take place within 7 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.

- Any other information, which the education authority considers appropriate such as a contact person to discuss any school work provided during the period of exclusion.

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

The parent/carer – Appendix 5(a)

The child, where the child is over 12 and has capacity - Appendix 5(b)

The young person only where the young person is over 16 – Appendix 5(c)

11.16.4 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. The formal exclusion letter should be sent to parent/carer and the learner over 12 years old and include:

- The reason the learner was excluded;
- The right of appeal and how appeals can be made and;
- Any other relevant information considered appropriate.

For children or young people who are Looked After by the Local Authority, staff should provide notice to carer's and adults with parental responsibility (see Section 11.9)

11.17 Support & Next Steps Re-admission Meeting

11.17.1 A Support and Next Steps Re-admission meeting should be held before the child or young person returns to school.

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 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.

11.17.2 The meeting should be solution oriented and focusing 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 Re-admission meeting is not purely a list of 'do's and don'ts' but is seen as positive and proactive discussion of strategies and interventions to support the young person's return to school.

11.17.3 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.

11.17.4 If a satisfactory agreement is reached, the parent/carer and learner (over 12 years) should sign the Support and Next Steps Re-admission Meeting Agreement, Appendix 6 (a) or 6(b) or 6(c) or 6(d) as appropriate then the child/young person should be re-admitted and the outcome recorded.

11.17.5 Copies of the signed Support and Next Steps Re-admission Meeting Agreement should be given to the parent/carer and learner if over 12 years. The original should be retained in the learner's Pupil Progress Record and electronically if using such storage system.

11.17.6 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.

11.18 Failure to Reach Agreement on Re-admission

- 11.18.1 If the parent/carer or learner fails to come to an agreement on re-admission to school, or are unable to meet the Headteacher, Depute Headteacher or Scottish Borders Council officer, or they, refuse to agree to the conditions, then the matter should be reported to the Chief Officer Education.
- 11.18.2 In this instance re-admission to the school can still take place, with the matter discussed in a consultation meeting with the Chief Officer Education or delegate. The refusal should be noted on the appropriate documentation, and a solution oriented or restorative re-admission meeting attempted if possible.
- 11.18.3 When agreement has been reached the standard form - Appendix 7 (a), or 7(b) or 7(c) should be completed with one copy being placed in the child or young person's educational record and one copy given to the parent/carer with a further copy being given to the young person.
- 11.18.4 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 Head Teacher'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 (especially those on the autistic spectrum). It is the view of Scottish Borders Council that all other avenues should be tried first.
- 11.18.5 The parent/carer may not enroll a child or young person in another school until the exclusion process has been concluded.

11.19 Permanent Exclusion

- 11.19.1 The power to exclude on a permanent basis lies with the Director of Children and Young People's Services.
- 11.19.2 The Headteacher should notify the Chief Officer Education 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.
- 11.19.3 The Headteacher should inform the parent that a request to permanently exclude their child or young person has been made to the Chief Officer Education as soon as this request has been made - see appendix 9.
- 11.19.4 The Headteacher should prepare all appropriate and relevant information for discussion with the Head of Education to allow a decision to be reached as soon as possible.
- 11.19.5 A permanent exclusion relates only to the Scottish Borders school from which the child or young person has been permanently excluded.
- 11.19.6 If the decision or preference is for the child or young person to remain at a school within the Local Authority, the Chief Officer Education (or their delegate) will decide which school will be the receiving school; the parent/carer and child of young person should be notified of this decision as soon as possible.

- 11.19.7 Scottish Borders 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.
- 11.19.8 The parent/carer should not submit a placing request to another school until the exclusion procedures have been completed. This also applies in the case of Temporary Exclusion.
- 11.19.9 A Child'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 Child's Plan can be developed. It is advised that in all cases a 'Risk Assessment' is completed.
- 11.19.10 Any alternative education arrangements should remain in place until enrolment takes place with the new school.

11.20 Build Up timetables and Flexible Learning Packages

- 11.20.1 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
- 11.20.2 The Child's 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 Child's Plan. This should be discussed and agreed with the ASN Education Officer for the school.
- 11.20.3 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. The SEEMiS code (Y-PTX) should be used for any children and young people who are returning to school on a part time basis following a period of exclusion.

11.21 Right of Appeal

- 11.21.1 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.
- 11.21.2 The right of appeal and how to do this will be outlined in the formal exclusion letter sent following the decision to exclude. Appendix 10 provides an information sheet for parent/carer regarding the appeal process and this should be sent with the formal exclusion letter.

11.22 Recording and Documentation

- 11.22.1 The decision to exclude a learner must be recorded:
- In the child/young person's pupil progress record (PPR);
 - Recorded in SEEMiS Click and Go attendance and;

- Noted in latest Pastoral Notes 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;
- Should not be disclosed as part of a learner's history.

11.22.2 A written record 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.

11.22.3 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.

11.23 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 meet on a monthly basis to review exclusion data and information to identify emerging issues and provide early and preventative support.

12 VERSION CONTROL

Name of Document: Inclusion Policy		Version Number: 1
Approved by:		
Date first approved:	Date of Review:	
Name of officer responsible for the review:		
Changes to the policy		
Paragraph No:	Wording that changed	Reason for change

Appendix One: Use of Part Time Timetables

Pupils have a right to be provided with a school education and this right is enshrined in the Standards in Scotland's Schools Act, 2000. It should also be recognised that pupils are to be educated in accordance with the wishes of their parents, (Education (Scotland) Act 1980). Therefore no part-time arrangement can be considered if it is against the wishes of the pupil's parents or carers. Schools cannot insist part-time arrangements on pupils without parental agreement. When considering a part-time timetable, it must be made clear to parents/carers that they have the right to refuse a part-time timetable. Additionally there is an obligation to consider and take account of the views of the child or young person.

Scottish Government guidance (Included, Engaged and Involved Part 2, 2017) states that, "In order to support the child or young person appropriately and enhance the transition back to school, it may be necessary in exceptional circumstances to implement a package of support that could be achieved using a flexible or part-time timetable with an agreed timescales as to when this will end. Any such arrangements should be for a short, agreed period with the aims and conditions around this recorded in any support plan."

Schools have a duty of care for all pupils who are on their roll. They must ensure that when pupils are not expected to attend the school full-time there is a clear agreement with parents/carers about who is carrying out that duty of safeguarding the pupil at each session.

The Scottish Government guidance states that such arrangements should also be recorded in SEEMIS with a new code which has now been created for children and young people who are returning to school on a part time basis following exclusion. This has been agreed as:

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

Part time timetables should be recorded within the context of an Individual Educational Programme (IEP) for the pupil. This should state the intended purpose of the part-time arrangement, the expected time span of the part-time arrangement, and the steps which will be taken to bring about full-time attendance. Details of the arrangements for the education of the pupil beyond school provision should be agreed and documented in the context of the Child's Planning procedure. Schools should use the Child's Planning Meeting procedures to document the support needs of the pupil and the measures taken by the school to meet these support needs.

All pupils who are on part-time timetables should be known to and monitored by the Senior Manager Team within the school. Part time timetables should focus on what is best for the young person, not on what the school believes it can accommodate. It must be clear that part-time school attendance is better for the pupil than full-time attendance. In line with Scottish Government guidance, Education Services recognise that in certain circumstances it may be in the best interests of the young person for them to attend school on a part-time basis. This may be in order to help the young person gradually integrate back into the school setting. However the aim should be to achieve a return to full-time education as soon as possible, and normally within 3 weeks of the start of any part-time arrangement. It is not considered appropriate for pupils to be denied their entitlement to education by placing them on a part-time timetable for an extended period of time. Should it be considered necessary to continue a pupil on a part time timetable for longer than the 3 week period then advice should be sought from the Inclusion & Wellbeing Manager.

Pupils should not be expected to 'earn the right' to increase their time in school e.g. unless a pupil shows an improvement in behaviour, their time in school will not be increased. This approach makes conditional what is a statutory entitlement to education.

It is recognised that in the latter stages of secondary schooling a variety of options exist that can take place outwith the school campus, such as College courses, work experiences, Duke of Edinburgh, and/or alternative provisions. Any part-time arrangement at secondary school should seek to ensure that all these alternative options are fully explored so that the young person has a positive alternative to mainstream schooling to ensure no reduction in their educational entitlement.

In line with the principles of GIRFEC, advice from other agencies should be sought so that a holistic view of the pupil's situation is obtained. Support for the pupil and their family from other agencies may be required to ensure a successful return to school.

Schools should record information on the attendance of pupils on part-time timetables through SEEMIS under the appropriate code. This will differentiate pupils on part-time timetables from pupils who have unauthorised absences.

Challenge Questions
Looked After Child
Has the Lead Professional social worker consulted prior to 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 school CP Officer and Social Worker been consulted?
Have appropriate arrangements been made with regard to support/care and wellbeing at home?
Child with ASN
Have other professionals involved been consulted on continuation of any additional input for child?
Has significant consideration been given that child or young person is not being excluded for reasons associated with disability?
Has significant consideration been given to ensure that child or young person is not being excluded for reasons associated with a protected characteristic?
Has account been taken of impact of exclusion on 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?

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

Memo from the Head Teacher to the Quality Improvement Officer that a period of exclusion will exceed the maximum 3 day period (6 openings)

Memo informing the Quality Improvement Officer that a period of exclusion is exceeding the maximum 3 days period (6 openings).

From: Head Teacher / School

To: Quality Improvement Officer

Date

Child/Young Person's name

Child/Young Person's address

Dear Quality Improvement Officer's name

Exclusion exceeding maximum period

I am writing to advise you that the period of exclusion for *Child/Young Person's name/stage* will exceed the maximum period of 3 days (6 openings). The exclusion will total *please enter the number of days (openings)*.

The reason for this is: *please enter the reason*

Yours sincerely
Head Teacher

Appendix 5(a):

Letter of Exclusion to parent/carer of learner under 16-
years. Must be sent on day of exclusion.
Parent/carer to be verbally informed also.

Dear *Parent/Carer's Name*

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

I regret to advise you that *Child/Young Person's Name* has been excluded from attendance at school today. *Child/Young Person's name* has been involved in *enter reason for exclusion as per code in Appendix 8*. It is my view that to allow *Child/Young Person's name* to continue attendance at the school would be likely to be seriously detrimental to school discipline or the wellbeing of the other learners.

Alternatively where parental non-cooperation is a factor:

Child/Young Person's name has been involved in *enter reason for exclusion as per code in Appendix 8*. This means that you, as *Child/Young Person's name* parent/carer have allowed *him/her* to refuse or fail to comply with the positive behaviour code of the school.

It is essential that we meet soon to discuss the exclusion and agree strategies and supports for *Child/Young Person's name* 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 we can make suitable arrangements.

Your right of appeal under Section 28H of the Education (Scotland) Act 1980 will be explained to you when we meet. *Child/Young Person's name must accompany you to this meeting*.

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.

Yours sincerely
Head Teacher

Dear *Child/Young Person's name*

TEMPORARY EXCLUSION FROM SCHOOL

I regret to advise you that you have been excluded from attendance at school today. The reason for this decision is: *enter reason for exclusion as per code in Appendix 8.*

It is my view that to allow you to continue your attendance at the school would be likely to be seriously detrimental to order and discipline, or the wellbeing of the other children and young people, in the school.

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 attend this meeting.

We will explain to you at this meeting about your right of appeal under Section 28H of the Education (Scotland) Act 1980. Please note that a letter of your temporary exclusion has been given to your *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 on the back of 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.

Yours sincerely
Head Teacher

Helpful questions before the return to school meeting.

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?	
Is there anyone else you would like to help you?	
Is there anyone else you would like to help you?	

Dear *Young Person's name*

TEMPORARY EXCLUSION FROM SCHOOL

I write to confirm that you that you have today been excluded from attendance at school. You have been involved in *enter reason for exclusion as per code in Appendix 8* and, as such, to allow you to continue your attendance at the school would be likely to be seriously detrimental to order and discipline, or the wellbeing of the other children and young people, in the school.

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.

You will be advised at the meeting of your right of appeal under Section 28H of the Education (Scotland) Act 1980.

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 on the back of this letter before you come to the meeting. You may find it helpful to go over these questions with your parent /carer.

Yours sincerely
Head Teacher

Checklist: Key consideration once the decision to exclude has been made

Checklist: Key considerations once the decision to exclude has been made	Completed
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 and those with parental rights for Looked After Children, children on CP register / children with CP concerns	
Lead professional, social worker, key worker, foster carer, educational psychologist to be informed as soon as possible for Looked After Children, children on CP register / children with CP concerns	
Make arrangements for 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	
If verbal contact made, follow up by written confirmation of exclusion on same day exclusion takes place. Include reason for exclusion and information on Right of Appeal	
Inform of date, time and place where Headteacher or official of authority is available to discuss the exclusion	
If child or young person is of legal capacity inform them in writing of exclusion and right of appeal	
Record of exclusion filled out – incident report form	
Ensure exclusion is recorded accurately on SEEMiS	
If appropriate Ensure RIVO 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 learning	
Arrangements for the child or young person to access any existing support made (out with school if necessary)	
A contact person should be allocated for parent/carers/young person to liaise for educational provision	
Parent/carers should be informed of their responsibility to ensure child or young person is provided with appropriate education throughout the period of exclusion	

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?
- 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 try to follow the school's positive behaviour code.

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

Dear

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.

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/carers 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

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 meeting on *date* to discuss the exclusion of *Child/Young Person's Name* from school.

Regrettably, our meeting did not lead to an agreement on *Child/Young Person's Name's* return to school. Accordingly, *Child/Young Person's Name* remains 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.

Such an appeal should be sent to:
Head of Schools Services
Children and Young People's Department
Scottish Borders Council Headquarters
Newtown St Boswells
TD6 0SA

If you wish to reconsider any part of our discussion at our meeting I will be please to meet with you again in the hope of reaching agreement regarding *Child/Young Person's Name's* return to school. In the meantime I am required to advise the Quality Improvement Manager, Inclusion and Equality 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)

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 meeting on *date* to discuss the exclusion of *Child/Young Person's Name* from school.

Regrettably, our meeting did not lead to an agreement on *Child/Young Person's Name's* return to school. Accordingly, *Child/Young Person's Name* remains 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.

Such an appeal should be sent to:

Head of Schools Services
Children and Young Peoples' Department
Scottish Borders Council Headquarters
Newtown St. Boswells
TD6 0SA

If you wish to reconsider any part of our discussion at our meeting I will be please to meet with you again in the hope of reaching agreement regarding *Child/Young Person's Name's* return to school. In the meantime I am required to advise the Principal Officer, Inclusion and Equality 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)

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.

Unfortunately you did not keep the appointment and so *Child/Young Person's Name* remains excluded. 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.

Such an appeal should be sent to:

Head of Schools Services
Children and Young Peoples' Department
Scottish Borders Council Headquarters
Newtown St. Boswells
TD6 0SA

I will be pleased to meet with you in the hope of reaching agreement regarding *Child/Young Person's Name* return to school. In the meantime I am required to advise the Principal Officer, Inclusion and Equality 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)

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.

Unfortunately you did not keep the appointment and so you remain excluded. It is important that we have the opportunity to discuss supports and next steps for your return to school. 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.

Such an appeal should be sent to:

Head of Schools Services
Children and Young Peoples' Department
Scottish Borders Council Headquarters
Newtown St. Boswells
TD6 0SA

I will be pleased to meet with you in the hope of reaching agreement regarding your return to school. In the meantime I am required to advise the Principal Officer, Inclusion and Equality 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)

Dear *Parent/Carer(s) Name*

Exclusion from School

I regret that you were unable to attend the meeting on *date*. I have 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 are agreeable to both of us.

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

This is what I propose:

-
-
-
-
-
-

With your agreement to the above supports and next steps I, as Headteacher of the school, 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

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)

Yours sincerely
Headteacher

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 pupil
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

Racial
Gender
Homophobia/Sexual orientation
Disability of victim
Religion
Sectarian
Substance misuse - alcohol
Substance misuse - not alcohol
Territorial/gang related
Assailant medical condition/disability
Other known factor
Not known

Parent/carer of pupil under 16 years: Letter
informing parent/carer of Head
Teacher's request to head of education
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 this school.

I am therefore informing you that I have written to the Head of Education 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 Head of Education 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. Steps will be taken to arrange the best way to get this work to you.

If the Head of Education 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 East Lothian 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.

You can appeal against the decision to exclude *Child/Young Person's Name* from school, by writing a letter to **who ???**, Children and Young Peoples' Department, Scottish Borders Council HQ, Newtown St. Boswells, TD6 OSA.

Yours sincerely
Head Teacher

What is an Education Appeal Committee

The Education (Scotland) Act 1980 provided the foundation for the establishment of the education appeal committee system in Scotland. Every education Authority has a statutory duty to appoint an education appeal committee, but it is important to establish right at the outset that it is not a committee of the Authority, but should be an independent body which operates under the supervision of the Scottish Committee of the Council on Tribunals under the Tribunals and Inquiries Act 1992.

Under Section 28c of the Education (Scotland) Act 1981, provision is made to provide all parents with the right of appeal against decisions of the Education Authority as to the schools, excluding nursery schools or classes, their children should attend. These are known as *Placing Appeals*. Section 28h of the Act also provides parents with the right of appeal against decisions of the Education Authority to exclude a pupil from school. These are known as *Exclusion Appeals*. Each Education Authority must establish Appeal Committees to consider Placing Appeals and Exclusion appeals.

The Education (Appeal Committee Procedures) (Scotland) Regulations 1982 set out in detail the procedures that these committees must operate under.

Constitution and Membership of an Education Appeal Committee

An Education Appeal Committee is required to be made up of three, five or seven members who are to be nominated by the Authority. The membership must comprise members of the Authority (elected councillors) or of the Authority's Education Committee (which could include Teachers or religious representatives and co-opted members), and other people who are either: (a) parents of children of school age; (b) persons who, in the opinion of the Authority, have experience in education; or (c) persons who in the opinion of the Authority, are acquainted with the educational conditions in the locality, e.g., retired Head Teachers. Individuals who are employed in the Education Department of the Authority cannot be members.

The regulations stipulate that the members of an Education Appeal Committee, who are members of the Authority or of the Education Committee of the Authority, will not outnumber the other members of the Appeal Committee by more than one. A person who is a member of the Education Committee of the Authority may not act as chairman of an Education Appeal Committee, nor may any person who had a part in, or was even present at, discussions about the subject matter of an appeal be a member of an education appeal committee. The procedural rules also stipulate that Teachers, pupils, parents of pupils or school board members of a "relevant school" may not be members of the Education Appeal Committee. A "relevant school" means, in relation to a reference to the Appeal Committee:

- the school which the child to whom the placing request relates attends,
- the specified school,
- the school which the Education Authority proposes that the child to whom the placing request relates should attend,
- a school from which pupils are normally transferred to the specified school, and

- the school from which the pupil has been excluded.

This is the structured framework under which the Appeals Committees should operate.

Notice of Appeal

Any appeal must be lodged with the Education Appeal Committee within twenty-eight days of the receipt by the parent of the decision of the Authority. Under certain circumstances the Appeal Committee can seek to extend this period of time.

Hearings

The Regulations state that the Education Appeal Committee must afford the appellant an opportunity of appearing and making oral representations and in all cases a time and place of hearing must be appointed. The notification which is given to an appellant must include a statement as to his or her rights:

- to appear or to be represented at the hearing;
- to be accompanied at the hearing by up to three friends including (if any) representing the appellant;
- to lodge written representations; and
- to allow the presentation of the case to rest on written representation, if any were lodged on the appellant's behalf

Procedures

The Regulations stipulate that the Education Authority must, in accordance with a pre-determined procedure, appoint a panel of persons from whom Appeal Committees can be constituted. The procedure for the selection of members and appointment of a chairperson from the panel must also be pre-determined. Additionally, the procedure for appointing a chairperson must have regard to the desirability of capitalising on previous experience in the conduct of hearings.

At the commencement of a hearing the chairperson of the Appeal Committee shall state the procedure which the Appeal Committee will adopt and unless the Appeal Committee decides otherwise the proceedings will be conducted in the following order:

- presentation of case for the Education Authority;
- questioning by the appellant;
- presentation of case for the appellant;
- questioning by the Education Authority;
- summing up by the Authority; and
- summing up by the appellant

The appellant or any one person who is representing the appellant and the Education Authority represented by any one person duly authorised for the purpose will be entitled to call evidence, to question any person giving evidence including the appellant and any officer of the Education Authority and to address the Committee with the details of their case.

The chairperson has certain discretionary powers to disallow questioning that is elaborative or repetitive.

Decisions of the Appeal Committee

The chairperson of the Appeal Committee should inform the appellant and the Authority whether the Committee proposes to notify its decision, with the reasons for it, in writing at the conclusion of the hearing after the Appeal Committee deliberates the evidence or at some later date. If the appellant is not present or represented at the hearing, then immediate written notification of a proposal to defer the decision must be given to the appellant. It is important that the decision fully and clearly expressed and capable of being understood by a lay person.

If the Appeal Committee is not in a position to announce its decision at the end of the hearing, a written decision with full reasons for that decision must be sent within fourteen days from the date of the hearing. Where it is appropriate, the letter must inform the appellant of any right of appeal to the sheriff and the time limits that will be applicable.

In order to reach its decision, each member of the Appeal Committee will, for the purpose of the Committee reaching a decision, be obliged to cast a vote either in favour of or against refusing to confirm the decision of the Education Authority to which the appeal relates.

Each Appeal Committee should have the services of a clerk whose role should be fully explained to the appellants. The clerk should normally be an appropriate officer of the Local Authority and will be responsible for arranging the hearings and ordering the business at the hearing. The clerk should be an employee who, in the course of his/her employment by the Authority, does not deal regularly with the admission of children to school, the exclusion of children, or children with special educational needs. Basically, there should be no conflict of interest. The clerk will be expected to take notes and record decisions, the reasons for the decision, and generally ensure the smooth running of the hearing on the day.

It will also be one of the clerk's duties to remain with the Committee during the deliberative stage and, when necessary, offer advice on procedures.

The clerk should keep brief notes of the proceedings – who was in attendance, the voting process and record the decisions – in such a form previously agreed by the Authority.