



SBC INCLUDES

In our sight, in our minds, in our actions and being heard

POLICY GUIDANCE ON MANAGING SCHOOL EXCLUSIONS

DRAFT 2019

**getting
it right**
for every child

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1. Introduction

Exclusion from school should only be used as a last resort. It should be a proportionate response where there is no alternative. It is the responsibility of all Scottish Borders Council's schools and learning establishments to keep all children and young people fully included, engaged and involved in their education and to improve outcomes for all, with a particular focus on those who might be at risk from exclusion.

In line with National guidance in *Included, Engaged and Involved Part 2: a positive approach to managing school exclusions (2017)* and *Included, Engaged and Involved Part 1: a positive approach to the promotion and management of attendance in Scottish schools*, Scottish Borders Council have produced guidelines on how to Manage School Exclusions.

2. Impact of Exclusions

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

- Assessed with or have a declared disability
- Looked After/Care Experienced
- From areas of deprivation
- Registered as having a disability
- Recognised as having an Additional Support Need (particularly social, emotional and/or behavioural)

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.

Being in education has long term benefits on outcomes for children and young people including life-expectancy, social and cognitive skills and a better sense of wellbeing and happiness (*McVie, 2014*).

The negative impact of exclusion is cumulative and children and young people can often become involved in a negative cycle of exclusion and non-attendance which are very likely to significantly impact on later life chances.

3. Legislative Context

Children and young people have a 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.

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).

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

A decision to exclude 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.

4. Power to Exclude

The power to exclude, and therefore legal responsibility for exclusion, rests with the Local Authority. The procedures outlined in this Policy apply equally to all schools and learning establishments and must be complied with in full. **Any divergence from the procedures may result in the exclusion being 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.

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.

5. Grounds for Exclusion

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."

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).

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 section 7 below)

6. Sending Home without Exclusion

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/carers 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** and recorded appropriately on SEEMIS.

Children and young people must not be sent home from school for reasons relating to behaviour or an incident without being excluded.

7. Consideration of Individual Circumstances

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

In addition, bearing in mind that all behaviour is communication, it is important for staff to investigate exceptional circumstances for individuals, such as bereavement or experience of abuse. In these cases, exclusion may exacerbate a child or young person's distress and be an inappropriate action; instead support should be identified. While individual circumstances must be taken into account, the grounds for exclusion are the same for all children and young people.

Appendix 1 outlines a set of challenge questions that may be helpful when considering individual circumstances.

7.1 Additional Support Needs

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

The Education (Additional Support for Learning Act) (Scotland) Act (2004, 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 ASN, school staff should take into account the potential impact of the loss of both their learning and provision of support. The lead professional should be aware of the arrangements in place with other agencies (such as Speech and Language therapy) in making provision and taking into account the impact of any disruption to the provision of these services to the learner and to the services themselves.

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

Consultation with any other Service providers in order to maintain provision to an excluded learner should take place prior to the exclusion and plans put 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 must be factored into the plans for return to school.

7.2 Protected Characteristics

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

The Equality Act 2010 made it illegal to discriminate against people because of their:

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

The Equality Act 2010 does not prohibit schools from excluding children or young people with particular protected characteristics, but it does prohibit schools under section 85(2)(e) from **excluding children or**

young people on the specific grounds of behaviour resulting from their protected characteristic. In addition, it prohibits schools from discriminating against these children during the exclusion process. It is likely to be difficult to show that exclusion was an appropriate and proportionate response in these situations without such evidence.

7.3 Looked After/Care Experienced Children

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

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.

All schools 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.

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.

7.4 Child Protection Register

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

All school 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 the designated social worker or senior education staff from Education Services. 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.

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. This risk assessment must be completed on the Council's [LEXI](#) system.

7.5 Socioeconomic Deprivation

All school 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.

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

8. Procedures for Exclusion from School

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

Appendix 2 provides a range of challenge questions to consider prior to exclusion.

Appendix 4 provides a range of questions to consider following an exclusion.

8.1 Definition of Temporary & Permanent Exclusion

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

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

Permanent Exclusion: 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.

8.2 Length of Exclusion

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.

Scottish Borders Council have set the maximum period of 6 school 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 must be sought from a member of the Quality Improvement Team. This should be done immediately via telephone or email.

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.

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.

8.3 Provision of Education during Exclusion Period

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.

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.

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.

If a learner attends more than one school as part of their education e.g. to access subjects not available in one school or a shared placement, 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 (e.g. Stable Life). If the activity takes place in the school it may be necessary to arrange an alternative venue during a period of exclusion.

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

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

There is no legislative timescale defining 'undue delay' as the purpose is to continue Scottish Borders Council's duty to provide education for all their children and young people.

8.4 Intimation of Decision to Exclude

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

The Headteacher or their delegated representative must, on the day a decision to exclude is taken, intimate orally to the learner and their parent/carer the decision to exclude. **On the day of the decision to exclude, the school must also notify parent/carer and child/young person (if over the age of 12) 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 Headteacher, Depute 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.

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

The parent/carer – [Appendix 3a](#)

The child, where the child is over 12 and has capacity - [Appendix 3b](#)

The young person only where the young person is over 16 – [Appendix 3c](#)

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

8.5 Support & Next Steps Re-admission Meeting

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 views of the child or young person (with reference to the form in [Appendix 3b](#))
- The essential partnership between home and the school and how both parties can work together to support the child/young person.
- Strategies and supports that will be implemented to support the child or young person on their return should also be discussed and agreed.

The meeting should be solution oriented and 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.

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

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

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

There may be occasions when the school feel that they require to undertake a risk assessment to minimise current or future risks and therefore allow the learner to continue to attend school supported through this risk assessment. The risk assessment should identify the priorities and needs of the pupil balanced against the strategies required to ensure the safety of all children and staff. This risk assessment should form part of the agreement and signed by all relevant parties.

8.5 Failure to Reach Agreement or attend Re-admission

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.

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 Quality Improvement Officer. The refusal should be noted on

the appropriate documentation ([Appendices 6 and 7](#)), and a solution oriented or restorative re-admission meeting attempted where possible.

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

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

8.6 Build Up timetables and Flexible Learning Packages

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

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

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.

Further information can be found [HERE](#) and in [Appendix 1](#) of SBC's **Inclusion Policy**, providing further details and guidance to schools when considering the use of a Build-up timetable for a child or young person.

9 Permanent Exclusion

The power to exclude on a permanent basis lies with the Director of Children and Young People's Services.

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.

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](#).

The Headteacher should prepare all appropriate and relevant information for discussion with the Chief Officer Education and Director of Education to allow a decision to be reached as soon as possible.

A permanent exclusion relates only to the Scottish Borders school from which the child or young person has been permanently excluded.

If the decision or preference is for the child or young person to remain at a school within the Local Authority, the 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.

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.

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.

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.

Any alternative education arrangements should remain in place until enrolment takes place with the new school.

10 Right of Appeal

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

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

11 Recording and Documentation

The decision to exclude a learner must be recorded:

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

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

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

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

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

12 Monitoring

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

Challenge Questions
Looked After/Care Experienced 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/Protected characteristics
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/staged intervention frameworks 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? Is a restorative conversation required?
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?

Letter of Exclusion to parent/carer of learner under 16.
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**

Following our discussion today, I am writing to confirm that *Child/Young Person's Name* has been excluded from attendance at school because the circumstances detailed below present a risk to the wellbeing and safety of the whole school community.

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

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

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

Your right of appeal under Section 28H of the Education (Scotland) Act 1980 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



Appendix 3b

Letter of Exclusion to a child/young person over 12years of age. Must be sent on day of exclusion. Pupil to be verbally informed.

Dear *Child/Young Person's name*

TEMPORARY EXCLUSION FROM SCHOOL

Following the incident(s) in school today, I am writing to confirm that you have been excluded from attendance at school because the circumstances detailed below present a risk to the wellbeing and safety of the whole school community.

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

-
-
-

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, *Parent/Carer(s) Name*.

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

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

Yours sincerely,

Head Teacher

We want to support you to avoid being excluded again.

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

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

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

Dear *Young Person's name*

TEMPORARY EXCLUSION FROM SCHOOL

Following the incident(s) in school today, I am writing to confirm that you have been excluded from attendance at school because the circumstances detailed below present a risk to the wellbeing and safety of the whole school community.

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

-
-
-

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

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

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 included with 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 considerations 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	
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	
Arrange date, time and place of Support and Next Steps Readmission meeting is to take place to discuss the exclusion	
Once 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.	
If child or young person is of legal capacity (over 12 years of age) inform them in writing of exclusion and right of appeal	
Ensure exclusion is recorded accurately on SEEMiS	
If appropriate ensure LEXI is completed accurately with details of pre and post incident	
All documents relating to exclusion to be retained in Pupil's Progress Record	
Appropriate educational provision to be provided and monitored, e.g. course work, access to library, online/ipad learning	
Arrangements for the child or young person to access any existing support made (out with school if necessary)	
Allocate a contact person 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 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 follow the school's positive behaviour code.

This information will form your Personal Support 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 Parent/Carer's name

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

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

-
-
-
-
-

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

Signature of Headteacher/Depute Headteacher

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

Signature of Parent/Carer

Date

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:

Chief Officer Education
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. Please do not hesitate to contact me In the meantime I am required to advise the Quality Improvement Team 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)



Appendix 7a

Parent/Carer of learner under 16: Failure to keep appointment for a Support and Next Steps Return to School Meeting.

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:

Chief Officer Education
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 a member of the Quality Improvement Team of our present unresolved situation.

Yours sincerely,

Headteacher

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

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

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:

Chief Officer Education
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 a member of the Quality Improvement Team of our present unresolved situation.

Yours sincerely,

Headteacher

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

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



Appendix 7c

Parent/carer of learner under 16: Failure to keep appointment. Headteacher agrees return to school.

Dear *Parent/Carer(s) Name*

Exclusion from School

I regret that you were unable to attend the meeting on *date*. 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.

In addition, 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 8a

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

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 Director 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.

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.

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

While we await the response from the Director of Education we will continue to provide educational 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 Scottish Borders 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;

Director of Education
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.