

Midlothian



## **Included Engaged and Involved: A Positive Approach to Preventing and Managing School Exclusions**

**April 2019**

**getting  
it right**  
*for every child*

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Contents

1	Introduction .....	4
1.1	Key Principles .....	6
1.2	School Culture, Ethos and Values .....	7
2	<b>Strategic Approaches for Developing Positive Relationships and Behaviour .....</b>	<b>9</b>
2.1	Recognising and Realising Children’s Rights .....	9
2.2	Seven Golden Rules for Participation .....	10
2.3	Nurturing Schools .....	10
2.4	Restorative Approaches .....	12
2.5	Solution Oriented Approaches .....	13
2.6	Formal Disciplinary Warning.....	14
3	Impact of Exclusion from School .....	15
4	Legislative Context .....	16
4.1	Human Rights Principle .....	16
4.2	Legal Capacity.....	16
4.3	Power to Exclude.....	17
4.4	Grounds for Exclusion .....	18
4.5	Sending Home without Exclusion .....	18
5	Consideration of Individual Circumstances .....	19
5.1	Additional Support Needs .....	19
5.2	The Equality Act 2010.....	20
5.3	Looked After Children.....	20
5.4	<b>Young Carers .....</b>	<b>21</b>
5.5	Child Protection Register .....	22
5.6	Socioeconomic Deprivation.....	23
6	Procedures for Exclusion from Schools .....	23
6.1	Definition of Temporary & Permanent Exclusion .....	23
6.2	Length of Exclusion.....	23
6.3	Provision of Education during Exclusion Period .....	24
7	Recording and Documentation.....	25
8	Monitoring.....	26
9	Appendices.....	27
	Appendix 1 (a): Letter of Exclusion to parent/carer of learner under 16-years.....	27

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Appendix 1 (b): Letter of Exclusion to a child/young person under 16 years.....	28
Appendix 1 (c): Letter of Exclusion to a learner over 16 years .....	30
Appendix 2 (a): Agreement for all learners following a ‘Support and Next Steps Meeting’ .....	32
Appendix 2 (b): Agreement for parent /carer following ‘Support and Next Steps Meeting’ .....	33
Appendix 2 (c): Parent/carer of learners under 16 years: No agreement following the Support and Next Steps Meeting.....	34
Appendix 2 (d): Learner under 16: No agreement following the Support and Next Steps Meeting	35
Appendix 3 (a): Headteacher’s Record where there is no agreement for return to school for learner. Parent/Carer/Pupil Statement .....	36
Appendix 3 (b): Parent/Carer of learner under 16: Failure to keep appointment for a Support and Next Steps Meeting.....	37
Appendix 3 (c): Learner over 16 years: Failure to keep appointment for a Support and Next Steps Meeting.....	38
Appendix 3 (d): Parent/carer of learner under 16: Failure to keep appointment. Headteacher agrees return to school.....	39
Appendix 4 (a): Parent/carer of pupil under 16 years: Letter informing parent/carer of Headteacher’s request to Head of Education seeking a permanent exclusion.....	40
Appendix 5 (a): Memo from the Headteacher informing Schools Group Manager that a period of exclusion will exceed the maximum 5 day period (10 openings) .....	41
Appendix 6 (a): Parent/carer of pupil under 16 years: Letter informing parents of a request to the Head of Education seeking a permanent exclusion from school.....	42
Appendix 7 (a): Exclusion Circumstances.....	43
Appendix 7 (b): Exclusion recording .....	44
Appendix 8: Process Map for Exclusion .....	45
Appendix 9: Challenge Questions: Key considerations prior to deciding on exclusion for professionals .....	46
Appendix 10: Challenge Questions: Key considerations when considering Individual Circumstances .....	48
Appendix 12: Checklist: Key consideration once the decision to exclude has been made .....	49
Appendix 13: Checklist: Key considerations of return to school following exclusion .....	51
Appendix 14: Guidance for Headteachers and Parents: Appeals against Exclusion from School ....	52
Appendix 15: Exclusion - Guidance for Parents/Carers .....	60
Appendix 16: Exclusion - Guidance for Children and Young People.....	64
Appendix 17: Guidance on Restraint and use of Safe Spaces in Midlothian Schools.....	68

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## 1 Introduction

Midlothian Council is committed to Creating a World-Class Education System through Excellence and Equity. 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.

Midlothian Council is determined to create a safe, positive and inclusive environment where respect is shown to and is given by all its children, young people, staff and parents/carers. This is based on a shared approach of agencies working together and responding to the needs of learners early and effectively, in line with the principles of 'Getting it Right for Every Child' (GIRFEC).

This policy will support our establishments to achieve these aims promoting GIRFEC by:

- Promoting positive relationships and behaviour across all schools and supporting the implementation of evidence based approaches;
- Promoting inclusive practice through effective learning and teaching and a positive learning environment for all children and young people;
- Ensuring that the wellbeing of all our children and young people is integral to everything that we do;
- Embedding the rights and voices of children and young people;
- Ensuring that exclusion from school is used as a last resort and providing guidance on how to ensure continuity of learning and re-engagement of the learner;
- Ensuring compliance with legislation regarding school exclusions.

The legislative and policy landscape supporting this includes, but is not limited to, the following:

- 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 significantly affect them.
- 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.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

- 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 (The duties of the Authority under the ASL Act).
- *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.
- The *Equality Act (2010)* simplified and strengthened previous protections for children and young people with 'protected characteristics' 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.
- 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.
- 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 Getting It Right For Every Child 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 support 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.
- The National Improvement Framework (NIF) 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.
- *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. 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:

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

- 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 protected characteristics and provide reasonable adjustments to ensure equality of opportunity in learning;
- support young people who may experience prejudice based on poverty/ other challenging home circumstances
- Plan for accessibility of the curriculum, school information and physical access;
- Consider the wellbeing of children and young people.

## 1.1 Key Principles

In response to the policy context and the priorities of National and Local Government, this policy is based on the following key principles:

- The presumption of Mainstream for all children and young people.
- All children and young people have a right to education; and Midlothian 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;
- 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;

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

- 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.

## 1.2 School Culture, Ethos and Values

The promotion of positive relationships through whole school culture, ethos and values, is fundamental to raising attainment and improving behaviour.

Behaviour in Scottish Schools Research 2016, commissioned by the Scottish Government, reports that overall behaviour in Scottish schools is positive:

---

*‘Overall, the majority of staff report that they encounter positive behaviour from pupils all or most of the time.’*

*‘As in previous waves of the survey, the results from Headteachers tend to be more positive than the results from teachers (e.g. Headteachers report they experience more good behaviour and less low-level disruptive behaviour), and the results from teachers are more positive than the results from support staff.’*

*‘The biggest change relates to low-level disruptive behaviour in the primary classroom (e.g. hindering other pupils, work avoidance and making unnecessary noise.) Reports of this have increased between 2012 and 2016.’*

*Behaviour in Scottish Schools Research 2016, Scottish Government*

---

The majority of pupils who are excluded from Midlothian schools are excluded for reasons relating to relationship breakdown such as:

- Verbal Abuse of Staff
- General or persistent disobedience
- Insolent or offensive behaviour
- Verbal abuse of pupil

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

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 thereby reducing the need for school exclusion. 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. Children and young people in some cases use the existing positive relationships as a means to ask for help through some behaviours.

---

*'Relationships are at the heart of every story of success. In every school that succeeds, you find great teachers able to reach out and influence the lives of the children and young people in their classrooms.'*  
*John Swinney, 2017*

---

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.

The correlation between wellbeing and attainment indicates 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.

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. Midlothian 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.

Midlothian's 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 continue to develop schools with a positive ethos is aligned with our drive to raise attainment. The two are inextricably linked. In continuing to build a more positive school ethos we expect Midlothian schools to continue to have high expectations of themselves and their learners; build on current success in attainment and; enable greater levels of achievement. As a result of this continued development, our schools will see higher levels of engagement, and lower levels of exclusion and disruptive behaviour.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## 2 Strategic Approaches for Developing Positive Relationships and Behaviour

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.

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.

It is expected that all schools in Midlothian 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.

### 2.1 Recognising and Realising Children's Rights

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/>

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.

All of Midlothian's schools are being encouraged to register with of UNICEF's Rights Respecting School Award (RRSA) programme. <https://www.unicef.org.uk/rights-respecting-schools/>. The benefits of this programme should go beyond the school and into the community as a whole:

- All children and adults 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;

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

- 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.

## 2.2 Seven Golden Rules for Participation

To ensure that we actively involve children and young people in the exclusion process, we should refer to the 7 Golden Rules for Participation which is a resource developed by The Children and Young People's Commissioner Scotland. They provide advice on how best to plan and deliver participation rights for children and young people. A core principle of the United Nations Convention on the Rights of Children is the ongoing information sharing and dialogue between children and young people built on mutual respect where their views are taken into account and help shape processes.

Within Midlothian each school is encouraged to use the 7 Golden Rules for Participation and to facilitate engagement and discussion with learners. They are accessible at <https://www.cypcs.org.uk/ufiles/Golden-Rules-young-people.pdf>

## 2.3 Nurturing Schools

---

*At the heart of nurture is a focus on wellbeing and relationships and a drive to support the growth and development of children and young people.  
(Education Scotland, 2017)*

---

Nurturing approaches are underpinned by an understanding of attachment theory, which recognises the importance of early experiences in shaping children's social, emotional and cognitive development (Golding et al, 2016). When children and young people experience consistent safety, security and comfort from key adults, they develop the skills and desire to explore their environment and engage in learning opportunities.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Children develop cognitive models of how relationships work (called internal working models) based on their earliest attachment experiences. Internal working models guide behaviour and development in all future relationships. They help children to evaluate, predict and choose (what they think are) appropriate behaviours based on their previous expectations. These models are not consciously available to the child – the child may not know that this is how they feel about themselves the world and others – but they demonstrate their experience through behaviours.

---

*'The basic premise is that behaviour has meaning – whether it is provocative or reactive, or withdrawn and silent. Understanding the communication implicit in behaviour can protect the teacher from being adversely affected by pupil's feelings and defensive patterns, and can thus enhance practice and pupil achievement.'*

*Geddes, 2006*

---

Nurture is a broad approach that can be embedded throughout schools to support any child who may be facing a barrier to learning. A child or young person may experience an additional support need at any point, which may arise from a range of factors (disability or health, learning environment, family circumstances or social and emotional factors) and may be temporary or long-lasting. Nurturing schools create positive environments, where the ethos is focused on warmth, empathy and attuned interactions between all staff and pupils. They provide structure alongside consistently high expectations of all learners, recognising that all children can reach their full potential when given the right balance between care and challenge.

Nurture has a strong evidence base for supporting outcomes for children and young people, including:

- Improved skills for learning (Gerrard, 2005)
- Improved language and literacy skills (Hosie, 2013)
- Improved behaviour and social skills (Cooper & Tiknaz, 2005; Cooper & Whitebread, 2007)
- Positive changes in social and emotional functioning at home (Binnie & Allen, 2008)

In terms of nurture, early intervention is best for significant gains in social functioning and academic performance (Scott & Lee, 2009), which are maintained over time (O'Connor & Colwell, 2002).

Whole school nurturing approaches are becoming increasingly embedded in schools and early learning establishments across Scotland, and are supported by key policy and legislation, including:

- Getting it Right for Every Child
- Included, Engaged and Involved: Part 2
- Better Relationships, Better Learning, Better Behaviour

Education Scotland's [Applying Nurture as a Whole School Approach](#) provides a key framework to support schools to embed whole school nurture. Through a set of quality indicators and challenge questions, this framework supports schools to self-evaluate all areas of practice (e.g. leadership, learning and teaching, partnership working etc.) using the six nurture principles:

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*



Embedding a nurturing approach can help support children and young people's attendance and prevent school exclusions. It is fundamental to inclusive practice. It is expected that all schools in Midlothian will move towards becoming Nurturing Schools and can be supported by the Educational Psychology Service to do so.

## 2.4 Restorative Approaches

---

*'Restorative Approaches have come to be used in education to mean restoring good relationships where there has been conflict or harm; and developing school ethos, policies and procedures that reduce the possibilities of such conflict and harm occurring.'*  
(McCluskey et al, 2011)

---

Restorative approaches are *values* led and *needs* based. They can be seen as part of a broader ethos or culture that identifies strong, respectful relationships and a cohesive community as the foundation on which good learning and teaching can take place. In such a community the rights of children and young people are paramount, and they are given responsibility for decision-making in issues that affect their lives, their learning and their experience of school.

Restorative Approaches can be viewed as a whole school ethos and culture underpinned by the following principles and values:

- Strong, mutually respectful relationships and a cohesive community provide the foundations for good learning and teaching
- Children and young people's rights are paramount, and they should be involved in making decisions

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

- Children and young people change – and their behaviour can change
- The way adults work with and relate to children and young people can influence their thoughts, feelings, and actions
- Mistakes are an important learning tool
- All pupils should be viewed with positive regard – it's the person that counts, not the behaviour.

When pupils are excluded, isolated or 'punished' in some other way, there is often the expectation that the pupil will take responsibility for his/her actions and regulate their behaviour in future. However, studies have shown that exclusion is ineffective in changing students' behaviour (McCluskey, 2008). A study by Barnardo's found that 39% of pupils who are temporarily excluded are repeatedly excluded to the detriment of their education and social development (Evans, 2010).

Restorative Approaches are considered a pedagogical tool, where children and young people are actively supported to develop skills in resilience and relationship building. They support learners to reflect, take responsibility for their actions and show empathy for others, which is at the heart of all positive relationships (Kane et al, 2007). In this way, Restorative Approaches link directly with:

- Curriculum for Excellence – Health and Wellbeing Experiences and Outcomes
- HGIOS 4 – 3.1 Ensuring wellbeing, equality and inclusion
- Getting It Right For Every Child – taking into account risk and protective factors and the wellbeing indicators

This is inherent in high quality learning and teaching where differentiation and support is provided to learners to meet their needs where they are at, not where they are expected to be. This also links with the nurture principles above that 'learning is understood developmentally' and 'all behaviour is communication'.

## 2.5 Solution Oriented Approaches

---

*If communities are genuinely involved in shaping solutions to their own problems, those solutions will be enduring and effective.*  
(Sir Harry Burns)

---

Solution oriented approaches provide staff with opportunities to explore aspects of their working environment and relationships within it, by visualising the desired outcome rather than focusing on the problem. When difficulties arise, solution oriented approaches enable an individual or group of people to identify the skills, strengths and resources that they already have which can help them to reach a solution.

The approach helps individuals/groups identify what is working well, and how positive experiences can be built upon in the future. At the same time, by visualising in great detail what the desired outcome is, individuals/groups are more able to identify the next steps needed in order to make progress. As progress is the key factor, sometimes the steps are very small. Those setting goals are encouraged to think about how others will know they are making progress: in this way, it facilitates

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

reflective thinking and the capacity to see situations from different perspectives. Moreover, the persistent evaluation of goals, often on a 0 – 10 scale, encourages the same evidence based approach to monitoring progress that schools are asked to implement in an academic context. Initially, an individual or group is supported to use a solution oriented approach, but they then internalise the way of thinking which in turn supports the development of resilience.

Solution oriented approaches can be used in a variety of situations, including mental health difficulties and developing emotional self-regulation. In a review of outcome literature, Kim and Franklin (2009) found that solution oriented methods: *“did show promise as a useful approach in working with at-risk students in a school setting, specifically helping students reduce the intensity of their negative feelings, manage their conduct problems, and externalizing behavioural problems.”*

Key principles include:

- If it's not broken, don't fix it
- If it works, do more of it
- If it's not working, do something different
- Small steps can lead to big changes
- The solution is not necessarily directly related to the problem
- The language for solution development is different from that needed to describe a problem
- No problems happen all the time, there are always exceptions that can be utilised
- The future is both created and negotiable

There is an underlying belief that people have the necessary resources to make changes; everyone has their own ways of solving problems; collaboration enhances change; and people need to be engaged in the process of change to want it to happen. It is the role and responsibility of the adult/facilitator to find a way to engage the young person.

The solution oriented approach can often be seen in other methodology widely used in schools, such as visual planning. It can be used as a framework for meetings including multi-agency meetings, pre- and post-exclusion meetings and professional development reviews. Some schools use this approach for the setting of all behavioural targets, describing the behaviour they would like to see (the outcome), rather than the unwanted behaviour (the problem). This has found to be a more facilitative and encouraging way to support successful change. It is also more in keeping with the maintenance of positive relationships between staff and learners.

Solution oriented approaches have been used in schools for a number of years with regard to supporting day-to-day practice and can also be used to support whole school strategic change. More recently, solution oriented practice has also been used effectively to actively support positive relationships and culture at the classroom level with a growing evidence base for its use at this level.

## 2.6 Formal Disciplinary Warning

To provide further support mechanisms for schools to assist pupils to maintain agreed standards of behaviour, the authority uses the category of “Formal Disciplinary Warning” as an action which falls short of exclusion.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

A Formal Disciplinary Warning may be used in the following situations:

- a) Where an individual incident has occurred which requires a response more serious than a normal in-school sanction, but where the incident falls short of behaviour necessitating exclusion
- b) Where a pupil has displayed a pattern of unacceptable behaviour which has not been improved by the normal system of in-school support and sanctions
- c) Where attempts to involve the parents/carers in supporting the school's actions to improve the pupil's behaviour have been ignored or rejected

A Formal Disciplinary Warning must not be associated with any form of "sending the pupil home", otherwise it will contravene existing legislation.

Use of Formal Disciplinary warnings should be routinely monitored by the Head Teacher and relevant senior colleagues.

The key elements of a Formal Disciplinary Warning are:

- It is issued by the Head Teacher in the form of a letter to parents/carers, with a copy to the pupil if over the age of 12 or deemed to be legally capable. Where the pupil is over 16 years old, a letter should be given to the pupil and a copy sent to parents.
- Where possible, telephone contact should be made with the parents/carers on the day that the warning is issued
- Details of each Formal Disciplinary Warning should be recorded. This may be via Incident Manager or using an Incident Report Form.
- It is important that consultation through a meeting involving staff, parents/carers and pupil takes place to determine what action is required to promote an improved behaviour pattern.
- Decisions taken during the consultation process should be notified to parents/carers and pupil (if over 12) in writing
- Parents/carers and pupils (if over 12), who are dissatisfied with the issue of a Formal Disciplinary Warning, have no formal legal right of appeal but can make a complaint to the Head of Education, who will investigate the complaint and respond to parents/carers and/or pupils.

### 3 Impact of Exclusion from School

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)

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

In Scotland, it is estimated that 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).

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).

## 4 Legislative Context

### 4.1 Human Rights Principle

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

### 4.2 Legal Capacity

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, over the age of 16 years, there is no legal grounds to involve parents/carers but it is good practice to do so.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

### 4.3 Power to Exclude

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. Parents & Carers have a right of appeal see appendix 14.

Exclusion from school requires to be seen in the wider legislative context of Midlothian'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 section2(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*

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

The Headteacher (or their Depute) carrying out an exclusion should be aware that he/she may be required to justify the decision as part of the appeals procedure and potentially in a court 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

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

are recorded. For LAC and ASN pupils additional steps and considerations must be taken please see 5.1 & 5.3.

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 Schools Group Manager of this occurrence.

#### 4.4 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.

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

Headteachers or their delegated member of staff must be able and prepared to justify that any exclusion is a proportionate means of achieving a legitimate aim – a legitimate aim may be to ensure the health and safety of children and young people and staff within a school.

Headteachers, when deciding whether exclusion is necessary, must have regard to the particular facts and individual circumstances surrounding incidents and/or learners (see Section 5).

#### 4.5 Sending Home without Exclusion

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

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.

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

## 5 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.

For each exclusion the level of support following readmission will vary and schools will put in place what is needed on a case by case basis.

Appendix 11 outlines a set of challenge questions that may be helpful when considering individual circumstances.

### 5.1 Additional Support Needs

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. Staff should be aware that within ASN there is clearly a large proportion of pupils with Social Emotional Behavioural Needs (SEBN). The lead professional / nominated person should be aware of the arrangements in place with other agencies, such as Speech and Language Therapy Service 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.

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

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

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.

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, using existing knowledge is in place to meet their needs. However, this additional consideration would not prevent exclusion where this is deemed absolutely necessary.

Any potential decision to exclude a pupil with complex ASN must be discussed with the senior education manager ASN or the relevant senior officer for the school.

## 5.2 The Equality Act 2010

In 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 behaviour in the context of exclusion from school.

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.

## 5.3 Looked After Children

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, this applies to looked After at home as well as looked after and accommodated. 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.

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

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

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 Midlothian Council to support the care and welfare of learners who are Looked After by them. Staff should consider very carefully the decision to exclude a Looked After Child or Young Person in their care and if at all possible should avoid taking the decision to exclude them.

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.

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.

If a decision is made to exclude, this should be clearly documented with appropriate communication with those who hold parental responsibility and the child or young person’s carers. Meetings to discuss support strategies and next steps for return to school should be arranged in writing. Copies of all communication should be sent to the child or young person (if age appropriate) plus a trusted adult should be explaining to the child or young person of the current situation and plans. The child or young person should be attending planned meetings and have an opportunity to have their views presented either by themselves or by their trusted adult. The child or young person can utilise other methods of sharing information to aid this process like MOMO.

## 5.4 Young Carers

The Carers (Scotland) Act 2016 was launched in April 2018. This legislation supports carers of all ages. A number of aspects in this Bill covers children and young people who carry out a caring role for a parent or sibling. Local authorities have a statutory duty to offer to prepare a Young Carer Statement for young carers if requested. This includes a full assessment of their needs and the caring role they carry out.

A young carer is someone who is under 18 years of age or who has reached 18 and still a pupil at school and provides or intends to provide care for another individual. A number of young carers do not always identify themselves or wish to be identified.

Understanding the specific needs and individual circumstances of a young carer is essential if considering an exclusion from school. For a young carer, an exclusion from school can exacerbate an already challenging situation at home and presents an additional loss of learning.

The individual nature of each young carer’s role and responsibilities may manifest itself in many ways:

- Late or missing days or weeks

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

- Leaving school early
- Being isolated
- Having difficulty in making/maintaining friends
- Being bullied
- Tired, anxious or withdrawn due to home circumstances
- Defensive or secretive about home
- Homework or coursework not completed
- Little or no involvement in after school activities or social events.

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

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

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

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

## 5.5 Child Protection Register

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

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

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

Where a decision is made to not exclude the school should immediately seek a Multi-agency meeting to put in place supports and a plan for the child or young person.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## 5.6 Socioeconomic Deprivation

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

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

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

## 6 Procedures for Exclusion from Schools

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 10 provides a range of challenge questions for school staff to assist with the decision meeting

### 6.1 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:** This decision can only be taken by the Head of 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. For further details see Section 6.7.

### 6.2 Length of Exclusion

Legislation devolves the length of exclusion to the Local Authority to determine. Midlothian Council Headteachers 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/carers, or in some cases other professionals, working with the learner or family.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Midlothian Council have set the maximum period of 9 openings for each exclusion; this is the equivalent of 5 school days as the maximum period of exclusion in any case. Where an exclusion extends or is predicted to extend over the 5 day maximum period information should be submitted to the Schools Group Manager. See Appendix 5 (a) Where appropriate schools will ensure multi-agency meetings happen within this timeframe, however in some circumstances this may not be feasible.

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 Head of Education should be informed where this is unavoidable.

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

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

Where the length of exclusion is longer than one or two days it is recommended that where possible a member of the 'multi-agency meetings' meets with the child / young person to discuss the child / young person's feelings and views regarding the exclusion. This can assist to a positive outcome at the Support and Next Steps Meeting.

### 6.3 Provision of Education during Exclusion Period

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

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, 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.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

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

Children and young people who attend enhanced additional support provisions or have ASN must have their educational needs met during a period of exclusion. This may involve the use of specialist services as well as support from other agencies (see section 5.1).

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.

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.

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

Further information is included in appendix 15

## 7 Recording and Documentation

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.

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

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

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 at the Support and Next Steps Meeting.

## 8 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 the Strategic oversight attendance and exclusions group (SOAEG) meet on a 6 weekly basis to review exclusion data and information to identify emerging issues and provide early and preventative support. When a pupil passes 3 exclusions SOAEG through the ASL Manager will contact the school asking for the CYP MAP and wellbeing wheel completed with the child or young person, identifying what supports and plans are being put in place to support a successful continued place in the school.

This policy will be reviewed annually to reflect any changes to National and Local practice.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## 9 Appendices

Appendix 1 (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*

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 supports and next steps 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.

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

Yours sincerely  
Headteacher

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 1 (b): Letter of Exclusion to a child/young person under 16 years.

*Must be sent on day of exclusion.*

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.

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

Yours sincerely  
Headteacher

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Helpful questions for you before the Support and Next Steps Meeting to discuss your 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?	

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 1 (c): Letter of Exclusion to a learner over 16 years

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.

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

Yours sincerely

Headteacher

Helpful questions before the Support and Next Steps meeting.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

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?	

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 2 (a): Agreement for all learners following a 'Support and Next Steps Meeting'

Dear *Child/young person's name*

### Supports and Next Steps Agreed For Return to School

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

At the meeting we have discussed:

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

This is what we agreed:

- 
- 
- 
- 
- 
- We also ask all learners to follow the school's positive behaviour 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

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Appendix 2 (b): Agreement for parent /carer following 'Support and Next Steps Meeting'

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/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

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 2 (c): Parent/carer of learners under 16 years: No agreement following the Support and Next Steps Meeting

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 your *Child/Young Person's Name* from school.

Regrettably, despite discussing support and next steps 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:

Education Department  
Fairfield House, 8 Lothian Road  
Midlothian Council  
Dalkeith  
EH22 3AA

If you wish to reconsider any part of our discussion at our meeting I will be pleased 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 Midlothian Council Schools Group Manager 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)*

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 2 (d): Learner under 16: No agreement following the Support and Next Steps Meeting

Dear Child/*Young Person's name*

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

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

Such an appeal should be sent to:

Education Department  
Fairfield House, 8 Lothian Road  
Midlothian Council  
Dalkeith  
EH22 3AA

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 your return to school. In the meantime I am required to advise the Schools Group Manager of our present unresolved situation.

Yours sincerely

Headteacher

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

### Appendix 3 (a): Headteacher's Record where there is no agreement for return to school for learner. Parent/Carer/Pupil Statement

Written record of Support & Next Steps Meeting for the parent/carer(s) of a child/young person under school leaving age

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

*Child/Young Person's Name*

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

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

Signature of Headteacher/Depute Headteacher

Date

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 3 (b): Parent/Carer of learner under 16: Failure to keep appointment for a Support and Next Steps 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:

Education Department  
Fairfield House, 8 Lothian Road  
Midlothian Council  
Dalkeith  
EH22 3AA

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 Schools Group Manager Officer 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)*

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 3 (c): Learner over 16 years: Failure to keep appointment for a Support and Next Steps Meeting.

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:

Education Department  
Fairfield House, 8 Lothian Road  
Midlothian Council  
Dalkeith  
EH22 3AA

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 Schools Group Manager 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)*

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Appendix 3 (d): 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.

This is what I propose:

- 
- 
- 
- 
- 
- 

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

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

*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

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 4 (a): Parent/carer of pupil under 16 years: Letter informing parent/carer of Headteacher'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 Midlothian Council.
- *Child/Young Person's Name* educated at home, providing the Authority agrees your teaching and learning programme.
- *Child/Young Person's Name* attends a private school without financial assistance from the Authority.

You can appeal against the decision to exclude *Child/Young Person's Name* from school, by writing a letter to Head of Education, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith, EH22 3AA.

Yours sincerely

Headteacher

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Appendix 5 (a): Memo from the Headteacher informing Schools Group Manager that a period of exclusion will exceed the maximum 5 day period (10 openings)

**Informing the Schools Group Manager that a period of exclusion is exceeding the maximum 5 days period (10 openings).**

*From: Headteacher / School*

*To: Schools Group Manager*

*Date*

*Child/Young Person's name*

*Child/Young Person's address*

Dear (*Schools Group Manager 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 5 days (10 openings). The exclusion will total *please enter the number of days (openings)*.

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

Yours sincerely

Headteacher

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 6 (a): Parent/carer of pupil under 16 years: Letter informing parents of a request to the Head of Education seeking a permanent exclusion from school

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*.

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.

You now have to choose how best to continue *Child/Young Person's Name* education. The choices are:

- *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.
- *Child/Young Person's Name* attends another school identified by Midlothian Council.

You can appeal against the decision to exclude *Child/Young Person's Name* from school, by writing a letter to Head of Education, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith, EH22 3AA.

Yours sincerely

Headteacher

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 7 (a): Exclusion Circumstances

Fighting

Verbal abuse of pupil

Verbal abuse of staff

General or persistent disobedience

Insolent or offensive behaviour

Refusal to attend class

Fire raising

Parental non-cooperation

Substance misuse – not alcohol

Substance misuse – alcohol

Spitting

Damage to school property

Threat to school property

Indecent exposure

Sustained peer exclusion for the purpose of causing significant distress

Physical assault with no weapon against pupil

Physical assault with no weapon against staff

Physical assault using weapon against pupil (Please identify weapon. e.g. knife, knuckleduster)

Physical assault using weapon against staff (Please identify weapon. e.g. knife, knuckleduster)

Physical assault using improvised weapon against pupil

Physical assault using improvised weapon against staff

Damage to personal property of pupil

Damage to personal property of staff

Theft from pupil

Theft from staff

Threat of sexual violence against 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

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 7 (b): Exclusion recording

Racial

Gender

Homophobia/Sexual orientation

Disability of victim

Religion

Sectarian

Substance misuse - alcohol

Substance misuse - not alcohol

Territorial/gang related

Assailant medical condition/disability

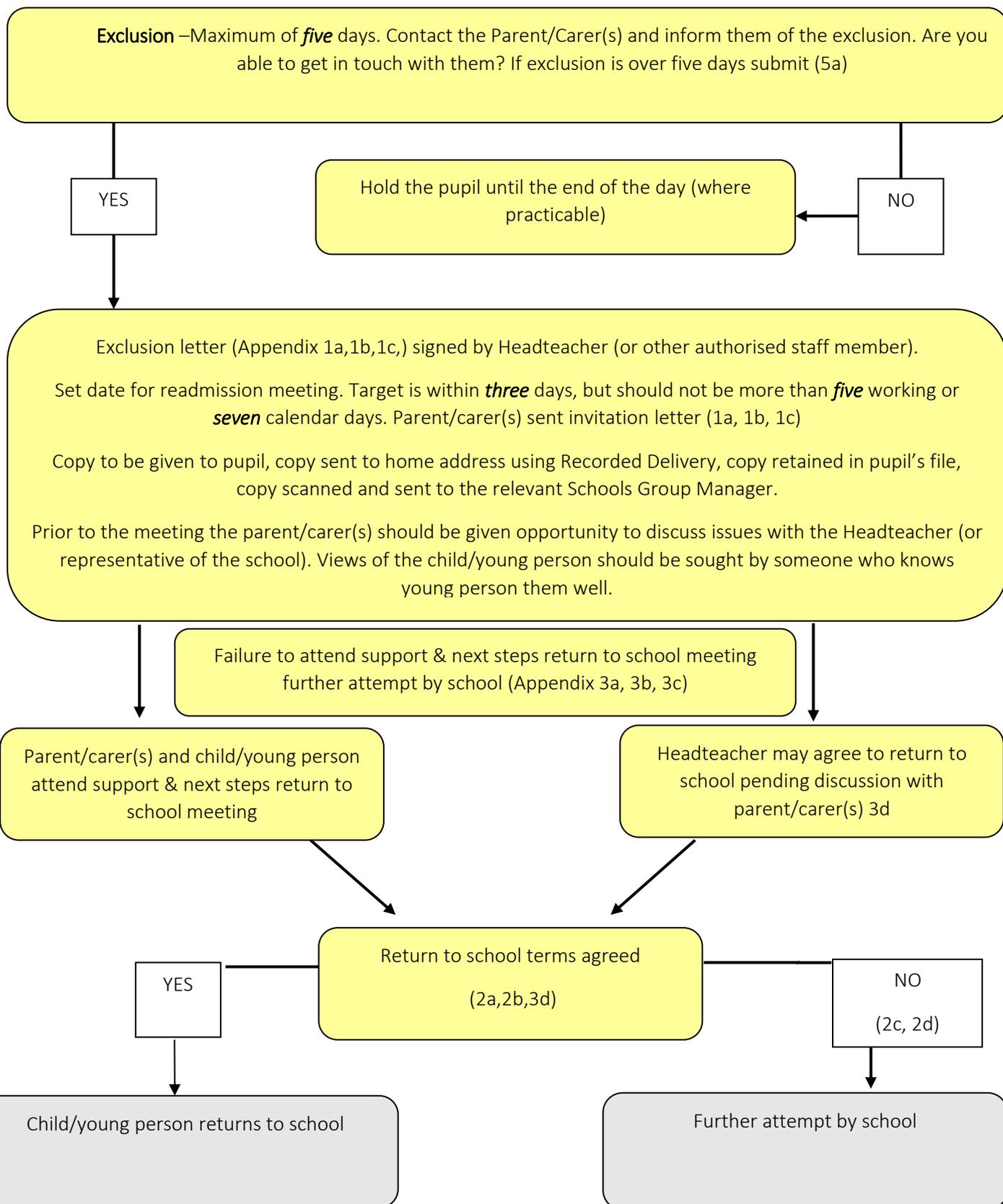
Other known factor

Not known

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 8: Process Map for Exclusion



*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 9: Challenge Questions: Key considerations prior to deciding on exclusion for professionals.

<b>Challenge Questions</b>
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?

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 10: Challenge Questions: Key considerations when considering Individual Circumstances

<b>Challenge Questions</b>
<b>Looked After Child</b>
Has the Lead Professional social worker consulted prior to decision?
Have appropriate arrangements been made with regard to support/care and wellbeing at home?
<b>Child on Child Protection Register/CP concerns previously raised</b>
Has school CP Officer and Social Worker been consulted?
Have appropriate arrangements been made with regard to support/care and wellbeing at home?
<b>Child with ASN</b>
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?
<b>Children from an area of Socioeconomic deprivation</b>
Has consideration been given to the impact on child's wellbeing, e.g. free school meals or Maintenance Allowance? Can arrangements be put into place to ensure entitlements?

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 12: Checklist: Key consideration once the decision to exclude has been made

<b>Checklist: Key considerations once the decision to exclude has been made</b>	<b>Completed</b>
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)	
Arrangements for the child or young person to receive their school meal where this is provided freely.	
A contact person should be allocated for parent/carer/young person to liaise for educational provision	

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Parent/carer should be informed of their responsibility to ensure child or young person is provided with appropriate education throughout the period of exclusion	
Parent/carer should be provided with information on support to assist them or advocate on behalf of child or young person	
Notify local authority If exclusion is lengthy or multiple, refer to local authority for support in decision making	

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 13: Checklist: Key considerations of return to school following exclusion

<b>Checklist: Key considerations of return to school following exclusion</b>	<b>Completed</b>
School meet or discuss with parent/carer and child or young person – re-admission to school not dependant on this taking place	
Appropriate planning takes place to ensure support is provided	
Risk assessment is completed where appropriate	
Needs of staff and other children and/or young people taken into account – solution oriented/ restorative meeting held if appropriate	
Flexible package of support agreed and implemented where appropriate	
Any changes to timetable for limited period recorded on SEEMiS	
Staged intervention processes continued and adapted in light of exclusion	
Consideration given to discussion at multi-agency forums	
Pupil Support/Guidance/Key worker or lead professional (where one exists) updated Monitoring and review arrangement put in place to ensure continued support	

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 14: Guidance for Headteachers and Parents: Appeals against Exclusion from School

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

### **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 Headteachers. 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

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

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;

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

- 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.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Further guidance :

## 1 Intimation of Decision to Exclude

The Headteacher must contact the learner's parents/carers prior to the pupil 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 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 the Support and Next Steps 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.
- ☐ 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 1 (a).
- ☐ The child, where the child is over 12 and has capacity - Appendix 1 (b).
- ☐ The young person only where the young person is over 12 – Appendix 1(c).

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 5.3).

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## 1.1 Support & Next Steps Re-admission Meeting

A Support and Next Steps 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.

The Midlothian CYP MAP can be used to encapsulate and record all of this information.

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 expectations it is important that the Support and Next Steps 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. A robust child's plan should be co-created at this point.

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 meeting was held between the child / young person to gain their feelings and views about the exclusions prior to the Support and next Steps Meeting then these should be presented. It is recommended that the numbers of professionals are limited – in most cases there should be no more than two school staff in attendance although it may be necessary to include more where staff are directly involved in delivering support following return to school.

Staff from other agencies and services supporting the child / young person may also be invited to the Support and Next Steps meeting, such as the Lead Professional. It must be born mind that a large meeting can be intimidating for a child/ young person and this may inhibit the positive outcome sought.

If a satisfactory agreement is reached, the parent/carer and learner (over 12 years) should sign the Support and Next Steps Meeting Agreement, Appendix 2 (a) and 2 (b) as appropriate then the child/young person should be re-admitted and the outcome recorded.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Copies of the signed Support and Next Steps 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.

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.

## 1.2 Failure to Reach Agreement on 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 Midlothian Council officer, or they, refuse to agree to the conditions, then the matter should be reported to the Schools Group Manager.

In this instance re-admission to the school can still take place, with the matter discussed in a consultation meeting with the Schools Group Manager or delegate. The refusal should be noted on the appropriate documentation, and a solution oriented or restorative re-admission meeting attempted if possible.

When agreement has been reached the standard form - Appendix 3 (b) or 3(c) and 3(d) or 3(e) 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.

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 Headteachers 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 Midlothian Council that all other avenues should be tried first. It is therefore essential for the school to clearly set out alternative arrangements on the day of the exclusion for the provision of free school meals or therapeutic sessions

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

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

### 1.3 Permanent Exclusion

The power to exclude on a permanent basis lies with the **Head of Education** or in the absence of the Head of Education, the Director of Education, Community and Economy.

The Headteacher should notify the Head of 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 Head of Education as soon as this request has been made - see appendix 4 (a).

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.

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

If the decision or preference is for the child or young person to continue to be placed in a Local Authority School in Midlothian, the Head of 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.

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

The parent/carer should not submit a placing request to another 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 'multi-agency meetings' 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.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

#### 1.4 Part-time timetables and Flexible Learning Packages

As part of an initial support package on return to school it may be appropriate, in particularly circumstances, 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 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 Schools Group Manager for the school.

Records must be kept, including records of attendance which accurately reflect the times that the child or young person spends at home with parent/carer permission. 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.

#### 1.5 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 14 provides and information sheet for parent/carer regarding the appeal process and this should be sent with the formal exclusion letter.

## Appendix 15: Exclusion - Guidance for Parents/Carers

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

### **What does exclusion mean?**

Exclusion means that your child is not allowed to attend school for a set period of time. Exclusion from school is used as a last resort. We only exclude children when the case is very serious.

### **Why has my child been excluded?**

Children are excluded when their behaviour makes it necessary to remove them from school for a period of time. This could be because:

- your child's behaviour makes it impossible for us to teach him/her in a class with other pupils.
- your child's behaviour makes it very difficult for other pupils in the class to learn and work.
- your child's behaviour is dangerous to other pupils or members of staff.
- you, as parent/carer, have been unwilling to co-operate with the school.

### **Who decides to exclude a child?**

The Headteacher decides whether to exclude a child, after consulting with the child's Teacher(s). In a secondary school the Headteacher would consult with Pupil Support Teachers and/or the Head of House.

### **How long will my child be excluded?**

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

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

If your child is being excluded during the school day we will phone you. If we cannot get in touch with you, at home or at work, or your emergency contact, we will send a letter home with your child at the end of the school day, explaining:

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

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

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

If you disagree with the decision to exclude your child please write to:

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Head of Education  
Midlothian Council  
Fairfield House, 8 Lothian Road  
Dalkeith  
Midlothian  
EH22 3AA

### **What is a Support and Next Steps Meeting?**

We arrange a Support and Next Steps Meeting within five days of your child's exclusion. At the meeting, we talk to you about why your child was excluded and how we can work together to ensure that your child has a successful return to school. You **and** your child should attend the Support and Next Steps Meeting. The meeting is usually held at your child's school.

### **Can I bring someone else with me to the meeting?**

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

### **Who else will be at the meeting?**

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

### **What will happen at the meeting?**

We will tell you why we excluded your child. This will cover your child's day-to-day behaviour and particular incidents that have led us to take this action. We would like to hear your views and those of your child. We will discuss ways in which your child can change their behaviour. We will agree targets with you to help your child return to school successfully. We will ask you and your child to sign an agreement. The agreement will set out how your child must behave when they return to school.

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

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

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

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

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

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

It is essential that everyone can attend the meeting. If you can't come to the meeting, please phone the school as soon as you can, so that we can arrange another time with you.

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

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

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

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

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

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

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

### **How can I help?**

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

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

### **What happens if my child is excluded more than once?**

If your child is excluded three or more times, we will arrange a Child's Planning Meeting. We will invite various people involved with your child's welfare to this meeting, including:

- You and your child.
- A senior member of staff from your child's school.
- (In secondary schools) your child's Guidance Teacher or Lead Professional.
- Your child's Support for Learning Teacher (if they have one).
- Your child's Social Worker (if they have one).

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

- Your child's Educational Psychologist (if they have one).

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

This doesn't happen very often. The school, working in partnership with you, will have done everything possible to help your child improve their behaviour. If we feel that this approach is not working, then we might decide that your child needs to be educated in another local school. The Head of Education would be involved in this decision and both you and your child would be involved in all discussions.

### **Can I appeal against my child's exclusion?**

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

Education Department  
Fairfield House, 8 Lothian Road  
Midlothian Council  
Dalkeith  
EH22 3AA

### **Where can I get independent advice and support?**

- Your local Citizens Advice Bureau Website: [www.cas.org.uk](http://www.cas.org.uk)
- Govan Law Centre
- Scottish Parent Teacher Council (Tel: 0131 474 6199, Website: [www.sptc.info](http://www.sptc.info))
- Enquire 03451232303 <http://enquire.org.uk/parents/exclusions/>
- Let's Talk ASN Scotland: Email: [letstalkasn@edlaw.org.uk](mailto:letstalkasn@edlaw.org.uk), <http://www.govanlawcentre.org>

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

## Appendix 16: Exclusion - Guidance for Children and Young People

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

### **What does exclusion mean?**

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

### **Who decides to exclude a pupil?**

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

### **For how long are pupils excluded?**

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

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

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

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

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

### **What happens if the pupil or their parent/carers disagree with the reason for the exclusion?**

Pupils over the age of 12 can make an appeal against the reason for the exclusion. Usually this would be done with their parent or carer. They would then contact the Head of Education giving the reasons why they disagree with being excluded.

Head of Education  
Resources and Services for People  
Midlothian Council  
Fairfield House, 8 Lothian Road  
Dalkeith  
EH22 3AA

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

### **What is a 'Support and Next Steps' meeting?**

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

### **Who else will be at the meeting?**

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

### **What will happen at the meeting?**

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

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

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

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

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

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

It is very important that everyone attends the Support and Next Steps Meeting. If parents or carers do not attend the meeting, then the young person may not be able to return to school. The Headteacher will write to them with another date and time for a meeting when the parent/carer is available. Copies of this letter will be kept in the pupil's file and at the Education Department in Haddington.

### **What contact will the pupil have with the school while they are excluded?**

The pupil must not come into school or onto school grounds if they are excluded unless special agreement has been made with the Headteacher so that they can attend an organised appointment

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

in the school. It is important that the pupil still has the opportunity to learn and so their teacher(s) will send work home for them to do. Someone who knows the pupil well (for example, their Class Teacher, Guidance Teacher, Social Worker) might also be in touch to get the pupil's views before the Support and Next Steps meeting. This can help the pupil to think before the meeting, about more positive behaviours they can use when things at school are tricky.

### **How will the school help the pupil once they return to school?**

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

### **How can the pupil's parent or carer help?**

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

### **What happens if the pupil is excluded more than once?**

If the pupil is excluded three or more times, the school will arrange a Child's Planning Meeting. Various people involved in looking after the pupil will be invited, including:

- Their parent or carer
- Their Headteacher, Depute Headteacher or a Principal Teacher
- Their Guidance Teacher or Lead Professional (if the pupil is at secondary school)
- Their Support for Learning Teacher (if they have one)
- Their Educational Psychologist (if they have one)
- Their Social Worker (if they have one)

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Midlothian



## Guidance on Restraint and use of Safe Spaces in Midlothian Schools

April 2019

getting  
it right  
for every child

# Contents

## Appendix 17: Guidance on Restraint and use of Safe Spaces in Midlothian Schools

Midlothian Council is committed to Creating a World-Class Education System through Excellence and Equity. 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.

Midlothian Council is determined to create a safe, positive and inclusive environment where respect is shown to and is given by all its children, young people, staff and parents/carers. This is based on a shared approach of agencies working together and responding to the needs of learners early and effectively, in line with the principles of 'Getting it Right for Every Child' (GIRFEC).

This guidance should be **used in line with** our Included Engaged and Involved policy will support our establishments in understanding and use of Restraint and Seclusion within Midlothian Council settings, with an expectation that all de-escalation techniques are the first options for all situations.

There may be times when the use of **restraint or seclusion** is a necessary response as a measure of **last resort** to prevent immediate harm to themselves, another child or to others. However schools must be aware and take into account UN Convention on the rights of the Child (UNCRC) these should be a key consideration where physical intervention is being considered.

**All behaviour is communication.** This is a reminder that children and young people with particular Additional Support Needs or disabilities may display anxiety or distress through behaviour that presents to adults as challenging, however this is often a means of communication.

## 2 Restraint

*Restraint is an interference with the child's right to respect for their private life under Article 17 of the Convention on the Rights of Persons with Disabilities, Article 16 of The United Nations Convention on the Rights of the Child and Article 8 of the European Convention on Human Rights. In order to avoid a breach of the child's rights, the Interference must be lawful, necessary and proportionate.*

**The aims of these guidelines are to:**

- Reduce physical intervention using de-escalation techniques.
- Enable staff to understand that physical intervention is used only as a last resort
- Understand that staff have a Duty of Care to physically intervene if appropriate **even without** having received prior training, e.g. stopping someone from running into a road.
- Recognise when physical intervention should be used.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

- Highlight training opportunities for staff, which would be identified using risk assessment procedures through individual care planning.

### **Key Principals:**

When physical intervention is deemed to be used:

- Staff must always attempt to de-escalate the situation – see Midlothian Councils Included Engaged and Involved policy.
- It should only be used when it is judged that there is immediate danger of injury to the pupil or others or of serious damage to property. An example would be holding a person's hands to prevent them hitting someone.
- Have regard to your own safety and that of others.
- A dynamic risk assessment is undertaken which considers: the level of threat, the young person's motivation, and known risks such as medical conditions, environment, self-confidence and competence.
- There is no deliberate use of pain.
- There is a hierarchy of intervention, beginning with the lowest appropriate level, with a minimum of staff input and it is only used as a **last resort**.
- It is used for the least amount of time with the minimum of force.
- No use of any procedure which restricts breathing or impedes the airways, extending, flexing or putting pressure on the joints and pressure on the neck, chest, abdomen or groin.
- Every time an intervention is used the parent/carer **must be informed**.
- **Only Staff trained in Team Teach may physically intervene.**

If following a risk assessment, and in the context of a written plan based on clear evidence that restraint is an option that is written into the plan then:

- Parental consent **must be** sought in the planning process.
- Senior Management Team should be asked to attend ASAP when the decision to restrain a pupil is made.
- Parents should be **informed each time** a pupil has been restraint in a crisis situation.
- Following on from an incident schools should ensure that parents and carers are informed as soon as reasonably practicable in every instance when restraint or seclusion is used on their child and offered the chance to take part in a post-incident review.
- Schools should also ensure that the views of the child are sought, recorded and reflected in all planning, risk assessment and post-incident reviews.

## 3 Safe Spaces

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Time out or use of safe spaces should only be considered as an appropriate response when:

- It is planned de-escalation technique, which is being used as a positive de-escalation intervention.
- For averting immediate danger of personal injury to themselves or others.
- A risk assessment has identified that separation is in the best interests of the pupil as a means of lessening his/her anxiety.

Terminology with reference to practices involving various forms of separation include:-

- Time out
- Exclusion
- Segregation
- Seclusion
- Safe-space
- Chill out room
- De-escalation room
- Quiet room
- Calming room
- Garden time
- Solitary
- Inclusive exclusion

*Seclusion is defined as **the involuntary, solitary confinement of an individual.***

**Any use of seclusion** is likely to contravene Article 5 of the Human Rights Act. Article 5 speaks of the right to liberty and security and its use in any setting could be questionable. Deprivation of liberty must be authorised by a court or a tribunal in order to be lawful.

When considering the use of time out or safe spaces within Education settings care must be taken not to confuse these with the act of 'seclusion' which **if used could be considered as a deprivation of liberty** with implications for ensuring the human rights of the child are promoted.

Any incident where a decision is made to use a safe space a child or young person **must be recorded and monitored** in line with the education department's guidance on de-escalation, physical intervention. The recording and monitoring of such incidents will help education authorities to monitor the effectiveness of their policy and practice. It will ensure transparency, enable them to review and improve their policy and help identify professional learning needs and further supports where appropriate.

**PLEASE NOTE THAT STAFF SHOULD BE ABLE TO OBSERVE THE PUPILS AT ALL TIMES WHILE THEY ARE SEPARATED. SECLUSION SHOULD NEVER BE USED AS A FORM OF DISCIPLINE OR PUNISHMENT**

## 4 Staff Development and Training

**Midlothian Council employs Team Teach Training for de-escalation and physical restraint.**

**Aims and Objectives of Team Teach are:**

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

- To promote the least intrusive positive handling strategy and a continuum of gradual and graded techniques, with an emphasis and preference for the use of verbal, non-verbal de-escalation strategies being used and exhausted before positive handling strategies are utilised.
- To enable services develop acceptable and authorised responses to disruptive, disturbing, angry and aggressive behaviours in a manner that maintains positive relationships and provides safety for all, by training in Team-Teach.
- To reduce the amount of serious incidents involving physical controls in all settings and to emphasise the importance of exhausting behaviour management strategies in the first instance.
- To increase the awareness of staff concerning the importance of recording and reporting, monitoring and evaluating, all incidents involving positive handling.
- To provide a process of repair and reflection for both staff and children

Where possible, the expectation is that course members will exhaust **all behavioural management strategies before they physically intervene**. Where and when there is time, the physical interventions should be viewed as a "**last resort option**" for staff. Positive Behavioural Support (PBS) approaches are entirely compatible with Team-Teach. PBS describes well how the 95% of Team-Teach is being applied in good practice settings for people with intellectual disabilities. It is a framework encompassing a range of recognised good practices, rather than one exclusive, prescriptive, therapeutic approach. The training emphasises positive handling as but one part of a whole setting approach to behaviour management. Physical techniques are not taught in isolation.

The physical techniques have sufficient range and robustness to be appropriate across the age and development range, for both the intentional and non-intentional "challenging" individual. The physical techniques provide a gradual, graded system of response commensurate with the situation, task and individuals involved, allowing for phasing up or down as dictated to by the circumstances at the time. **The use of force must be reasonable, proportionate and necessary.**

There is an emphasis on appropriate and targeted verbal and non-verbal communication. Verbal skills matter at all times, during a restraint however, it is what you communicate / say and how you communicate / say it that is important. **The aim is for the person to calm down sufficiently so that staff can return the physical control and help find a better way.**

A calm approach with staff using (Communication, Awareness /Assessment Listening/Looking and Making Safe skills) is expected at **all times** when managing such situations.

**Staff are encouraged to make a risk assessment, both before, during and after any serious incident involving positive handling.** Running parallel with this risk assessment is the "duty of care" question they have both to the service user and themselves.

## 5 Damage to Property

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*

Restraint or Seclusion should **only be used** when damage to property will result in **immediate harm** to the child or young person involved or another within the vicinity.

## 6 Recording of Restraint and Seclusion

All incidents of restraint and seclusion must be formally recorded, and will form part of a newly updated risk assessment for the child or young person involved. Within the recording the question must be asked **“How were your actions in the best interests of the child or young person?”** the answer to this should form part of the formal recording.

Staff should be given the opportunity to debrief with line managers following any incidents of restraint. Staff review and learning from any incidents of restraint after they have occurred is also recommended with a view to help staff avoid having to use it in the future and enabling the needs of children to be met. Schools should ensure that all recording include sections for de-escalation techniques considered and attempted, the child’s and parents’ and carers’ views.

**Incidents of restraint will be recorded, gathered and scrutinised as part of our self-evaluation process.**

Staff involved in restraint should be fully trained in line with the councils agreed methods; Team Teach and such interventions must be detailed in a robust risk management plan for the child or young person.

*Definition: Policy -*

*This document may be out of date if printed, the latest version is on the Council intranet*