

**To:** Education and Children's Services Policy Board

**On:** Thursday 24 August 2023

---

**Report by:** Director of Children's Services

---

**Heading:** Standard Circular 8 – Included, Engaged and Involved – A Positive Approach to Preventing and Managing School Exclusions

---

## **1. Purpose of Report**

- 1.1 To seek elected member approval for the revised Standard Circular 8: Included, Engaged and Involved – A Positive Approach to Preventing and Managing School Exclusions which will replace Standard Circular 8: Exclusions of Pupils from Schools.

## **2. Background**

- 2.1 Since the Scottish Government published the national guidance on managing exclusions in schools in June 2017 (Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing Exclusions from School) there have been a number of changes to the policy landscape including the implementation of The Promise, the Getting it Right for Every Child (GIRFEC) local and national refresh, and the United Nations Convention for the Rights of the Child (UNCRC).
- 2.2 The overarching aim of Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions was to support schools, communities and their partners to keep all children and young people fully included, engaged and involved in their education; and, to improve outcomes for all Scotland's children and young people with a particular risk of exclusion.
- 2.3 The attached standard circular (see Appendix 1) updates and refreshes the previous policy statement and includes a refreshed focus on prevention, early intervention and response to individual need in line with the principles of GIRFEC.
- 2.4 Our schools and early learning and childcare settings already place a greater importance on inclusion through.
- effective learning and teaching;
  - promoting positive relationships and behaviour; and

- employment of preventative approaches which reduce the need to consider exclusion.

2.5 Exclusion is always used as a last resort. Where it is used it is used proportionately and is a short-term measure with the aim of improving outcomes.

---

### **3.0 Recommendations**

3.1 Elected members are asked to:

- a) approve Standard Circular 8; and,
  - b) instruct the Director of Children's Services to take appropriate steps to ensure its implementation in all schools and early learning and childcare settings.
- 

### **Implications of this report**

**1. Financial**

**2. HR and Organisational Development**

**3. Council Planning**

**4. Legal**

It is confirmed that Legal Services have been consulted in relation to this revised policy statement.

**5. Property/Assets**

None.

**6. Information Technology**

None.

**7. Equality and Human Rights**

No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because it is for noting only. If required, prior to implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

**8. Health and Safety**

None.

**9. Procurement**

None.

**10. Risk**

None.

**11. Privacy Impact**

None.

**12. Cosla Policy Position**

None.

**13. Climate Risk**

None.

---

**List of Background Papers**

[Getting it right for every child \(GIRFEC\)](#)

[The Promise Scotland](#)

[United Nations Convention on the Rights of the Child](#)

[Support for Learning: All our Children and all their Potential](#)

---

***Children's Services***

*T McGillivray*

**Author:** Tracy McGillivray, Head of Education (Inclusion and Quality Improvement)

[Tracy.Mcgillivray@renfrewshire.gov.uk](mailto:Tracy.Mcgillivray@renfrewshire.gov.uk)



## Standard Circular 8

### Update June 2023

## **Included, Engaged and Involved – A positive approach to preventing and managing school exclusions.**

### **1.0 Introduction**

#### 1.1 This policy reflects the following:

Scottish Government national guidance [Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions \(2017\)](#) This national guidance provided a renewed focus for local authorities and schools on prevention, early intervention and a greater emphasis on inclusion through effective learning and teaching and promoting positive relationships and behaviour. **Head Teachers and others considering making a decision to exclude a child or young person from school should refer to this Scottish Government guidance.**

The United Nation Convention on the rights of the Child ([UNCRC](#)):

- Article 12 – respect for the views of the child
- Article 28 – right to education
- Article 29 – goals of education

The Promise 21-24 Plan and in particular the Right to Education actions which is a call to action for education authorities to ensure:

Care Experienced children and young people will receive all they need to thrive at school. There will be no barriers to their engagement with education and schools will know and cherish their Care Experienced pupils.
--

School improvement plans will value and recognise the needs of their Care Experienced pupils with robust tracking of attendance and attainment so that support can be given early.
--

Care Experienced young people will be actively participating in all subjects and extra-curricular activities in schools.
--

The formal and informal exclusion of Care Experienced children from education will end.
---

Schools will support and ensure Care Experienced young people go on to genuinely positive destinations, such as further education or employment.
--

#### 1.2 Under the Children (Scotland) Act 1995, 'looked after children' are defined as those in the care of their local authority – sometimes referred to as a 'corporate parent'.

There are many reasons children may become looked after, including:

- they face abuse or neglect at home.
- they have disabilities that require special care.

- they are unaccompanied minors seeking asylum, or who have been illegally trafficked into the UK.
- they have been involved in the youth justice system.

We aim to ensure that all looked after children receive the support they need, whether they are:

- in [residential care](#)
- looked after by [kinship carers](#)
- looked after by [foster carers](#)
- [looked after at home](#)
- [adopted](#), from either Scotland or abroad.
- [leaving care](#)

### **1.3 As this document has a legal bearing, we will use the term “looked after” as defined by law to describe our care experienced children and young people.**

## **2.0 Corporate Parenting**

- 2.1 This policy therefore reflects our role as Corporate Parents. As Corporate Parents we have specific duties and responsibilities towards looked after children and young people up to the age of 26. When the state takes on a parental role for a child or young person, we all have a part to play in their wellbeing. Corporate Parents have a vital role to play in ensuring the rights of looked after children and young people are upheld, and that they have the best chances and outcomes in life.
- 2.2 This policy should be followed by all education establishments and should be made available to all relevant stakeholders in order that there is a clear understanding of the nature and purpose of exclusion from school in the context of legislative requirements. The policy also reflects on the impact of exclusion on children and young people and provides guidance to education establishments regarding the management of exclusions.

## **3.0 What is exclusion?**

- 3.1 Exclusion is when an establishment sends a child or a young person home and does not allow them to return for a certain number of days. Sometimes schools might use a different name for this, for example ‘suspension’ — this is still an exclusion. If a school permanently excludes a child/young person, this means their name will be removed from the school register and they will not be allowed to return to that school. Schools must keep a record of all exclusions and must follow set procedures when they exclude a pupil.
- 3.2 The power to exclude rests with the education authority under Regulation 4 of the Schools (General) Regulations 1975 as amended. Section 14 of the Education (Scotland) Act 1980 places a duty on education authorities to make appropriate education provision when a child or young person is excluded. This duty is devolved to Head Teachers however the education authority retains responsibility for the education of all children and young people.
- 3.3 The guiding principles of Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions are set out below:

- The foundation for schools, learning establishments and education authorities is a whole school ethos of prevention, early intervention and support against a background which promotes positive relationships, learning and behaviour;
- Everyone in a learning community should feel they are in a safe and nurturing environment;
- All children and young people have a right to education; and education authorities have a duty to provide this education;
- All children and young people need to be included, engaged and involved in their learning;
- 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;
- Where exclusion is used, it should be as a proportionate response where there is no appropriate alternative and the wellbeing of the child or young person should be the key consideration; and
- Exclusion must be for as short a period as possible with the aim of improving outcomes for the child or young person. 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 for all.

3.4 In all circumstances where exclusions are considered to be necessary, they should be undertaken with due sensitivity for the wellbeing of the individual concerned and his/her peers. Before a child or young person with a coordinated support plan or who is considered disabled in terms of the Disability Discrimination Act 1995 is excluded, permission and advice should be sought from the Head of Education (Inclusion and Quality Improvement). Similarly, there should be additional sensitivity to children who are looked after by the authority, at home or away from home. Advice should be sought from the link Education Manager for the establishment prior to any exclusion.

3.5 Through use of Renfrewshire's updated Staged Intervention Framework each school should identify children or young people at risk of exclusion and support them in a planned way. The child/young person's single and multi-agency child's plan is the key document in which to record planned approaches to meeting need.

## **4.0 Communication**

4.1 Communication with parents and the child or young person is extremely important, and the involvement and support of parents should be integral to the management of an exclusion from school. Where behaviour has previously given rise to concern this should be reflected in the child/young person's single and multi-agency child's plan. In almost all cases it is expected that parents would have been involved in previous discussion about this and would understand that certain behaviours can lead to exclusion.

4.2 The views of parents, and the child or young person should be sought, listened to and recorded throughout the exclusion process. There is an obligation to have due regard, so far as is reasonably possible, to the views (if there is a wish to express them) of children or young people in decisions that significantly affect them, taking account of their age and maturity.

## **5.0 Using Periods of Exclusion**

5.1 Regulation 4 of the Schools General (Scotland) regulations provides that an education authority shall not exclude a pupil from school unless the authority:

1. is of the opinion that the parent of the child or young person refuses or fails to comply, with the rules, regulations or disciplinary requirements of the school;
  2. considers that in all the circumstances to allow the child or 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 wellbeing of the children or young people there.
- 5.2 The two grounds are distinct from each other, one applying to the parents / carers and the other to the child or young person. The regulations allow the authority and its schools to take a broad approach, consider all the circumstances and to take account of the educational wellbeing of other pupils. They also introduce the threshold that the child or young person's behaviour must be 'seriously detrimental'.
- 5.3 Exclusion from school is rarely an acceptable sanction. It is therefore very important to identify what the purpose of the exclusion is and what positive outcomes can be achieved.
- 5.4 Exclusion can be used by Head teachers to:
- Emphasise the limits set and help the child or young person (and parents / carers) to recognise the consequences of misbehaviour. This will illustrate the seriousness of the issue;
  - Give opportunity for the learner to be involved in or take responsibility for resolving the situation;
  - Maintain order / safety and prevent continued disruption to the learning of others. This will illustrate standards and acceptable behaviour to the rest of the school. It will ensure the rights of all pupils to learn and staff to work without fear or disruption;
  - Signal strong disapproval of unacceptable behaviour and to bring about a positive change in the learners' behaviour;
  - Engage and involve parents / carers with the school and help them recognise their responsibilities in maintaining positive behaviour in schools;
  - Provide a cooling off period, offer opportunity for reflection or to defuse situations;
  - Support victims of anti-social or violent behaviour;
  - Carry out a risk assessment; Instigate or review support plans.
- 5.5 Review of checklist 1 and 2 should be used to inform decisions to exclude (Appendix 2)
- 5.6 A written record must be kept of all procedures mentioned above and all information, including the reasons why a Head teacher decided on a particular course of action, should be recorded in the child or young person's pastoral notes. Comments should be specific, including the names of teachers and initials of other children or young people who may be involved, dates, times and any other information that may be deemed to be relevant. This information, in certain circumstances, may be required to substantiate the authority's case in an appeal against the decision to exclude.
- 5.7 The person who investigates the circumstances surrounding a possible exclusion from school should, where possible, not be the person who adjudicates on the decision. The Head teacher should be in a position to hear all the evidence including that of teaching staff, child or young person and/or parents. Given the differences in staff pupil ratios across sectors, this practice may not always be possible.
- 5.8 It is recognised that in extreme circumstances a head teacher may require to take the decision to exclude a child or young person without the prior involvement of parents.



- 5.9 If the decision to exclude has been made inform parent / carer orally of the decision to exclude and invite them to the school to escort their son / daughter home. If this is not possible pupils should not be sent home until their parents have been advised and a check made that they will be at home when the child or young person arrives. If parents / carers cannot confirm that they will be at home, schools should make arrangements for the child or young person to remain in school, supervised outwith the classroom situation, until the end of the normal school day. When the decision to exclude has been taken because of violence towards members of staff, all reasonable steps should be taken to remove the child or young person from the school situation.
- 5.10 Intimation orally or in writing on the day of the exclusion should include information on why the decision to exclude was taken and a date, time and place where the Head teacher or their representative will be available to discuss the decision to exclude.
- 5.11 Confirm the exclusion in writing, including the reasons and the date, time and place where the head teacher and, as appropriate, the Head of Education or their representative, shall be available to meet to discuss the exclusion; this must be within 7 calendar days from the first day of the exclusion. If parents / carers have not been able to be contacted to be informed of the exclusion orally, the letter should be delivered to the parent / carer by the head teacher, other member of staff of the school, or official of the education authority.
- 5.12 A copy of the letter given in Appendix 4(a) should be sent to the parents / carers / young person by recorded delivery within 8 days of the decision to exclude. The letter may also include what options were considered, what support could be offered and what alternative education will be provided during the exclusion period. For children or young people who are looked after by the local authority, Social Work should be informed who in turn should liaise with the child/young person's parents / carers.
- 5.13 The notice of exclusion should be made to the child/young person, if over 12 years of age. Irrespective of the age, they should attend the meeting with the parents / carers.
- 5.14 If the young person is 16 years or over, intimation should be made directly to them. There is no requirement to involve parents / carers in such circumstances.
- 5.15 The exclusion should be for as short a period as possible as continuity of education is paramount. The Head teacher may exercise judgement in relation to the length of exclusion. They may impose single temporary exclusions of up to four school days at any time. The maximum length of any single exclusion may be increased following discussion with the Head of Education or Director of Children's Services.
- 5.16 The period of exclusion should reflect the breach of discipline which resulted in the exclusion and the child or young person's past disciplinary record. It is recommended that first exclusion or exclusions for other than the most serious offences should not exceed two school days.
- 5.17 It is essential that a record of a single exclusion, an incident report, is completed and a copy retained in the child/young person's file; all exclusions should be recorded electronically using Click and Go. There should be no periods of informal exclusion or mechanisms of exclusion other than the properly recorded incident report pertaining to exclusion.

## **6.0 Education During Exclusion**

- 6.1 All children and young people have the right to education when excluded. If a child or young person is excluded for only a few days they may not receive any teaching, but the school may send them work to complete at home and return for marking. If a child or young person is excluded for a longer period, the school or local authority must make alternative arrangements for them to continue learning without undue delay. It is reasonable to expect alternative education provision to be in place after three days of exclusion.
- 6.2 The Standards in Scotland's Schools etc. Act 2000 provides that the child or young person has a right to an education. When a child or young person is excluded for a period of up to four days relevant, appropriate learning tasks should be provided to minimise the potential negative impact of the child or young person missing school-based education.
- 6.3 Any existing involvement in non-school based learning should continue. These include attendance at alternative provision; therapeutic support, or college course. Schools should communicate with other providers to ensure that relevant support can continue.

## **7.0 Return following exclusion.**

- 7.1 Prior to a child or young person returning to school, an update to the assessment and single and multi-agency child's plan should take place to ensure the right support is provided. Appropriate approaches and strategies should be developed to prepare the child or young person, parent(s), staff and peers to enable them to return to school in a positive way.
- 7.2 Readmission to school following exclusion should take place at a meeting with the child or young person and their parents. Checklist 3 Appendix 2 is a useful checklist for this process. One of the main purpose of exclusion is to ensure appropriate support for the child or young person enables them to re-engage in education. The return from exclusion meeting should reflect this. The purpose of the return from exclusion meeting could also be:
- to update the young person's support plan
  - a solution focussed discussion about the circumstances giving rise to exclusion and planning for desirable outcomes in the future, an understanding of future behaviour, expectations and responsibilities could be agreed in the context of the wellbeing plan.
- 7.3 However, it is not a legal requirement that guarantees or contracts of behaviour are put in place in order for a child or young person to be readmitted to school.
- 7.4 The meeting where appropriate should focus on the updated assessment and single and multi-agency child's plan and agreement on the expectations outlined during discussions in this should be recorded in pastoral notes. A note of the meeting will be produced and by agreeing to this, those involved are agreeing to the conditions for return to school. (Note of return from exclusion meeting appendix 5)
- 7.5 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 return to school supported through this risk assessment. The risk assessment should be informed by the information gathered using the [GIRFEC National Practice Model](#) and should be shared with the child, their parent/carers and all staff involved with the child. 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.

## **8.0 Monitoring**

- 8.1 Schools record exclusions using the SEEMIS system. Exclusions will be monitored regularly by Education Managers. Exclusion data will be used to identify good practice and highlight concerns. Pastoral notes and chronologies should be updated when appropriate.

## **9.0 Checklists**

- 9.1 Throughout the policy we refer to the national document Included and Engaged Part 2 and the associated checklists. The checklists from the national guidance Included, Engaged and Involved, (appendix 2) are not legal requirements. However, as implementation of this policy is dependent on this guidance being followed, it is an expectation that all of the questions in the checklists have been considered and can be evidenced if required in an appeal against exclusion.

## **10.0 The impact of exclusion on children and young people**

- 10.1 The national guidance Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions (2017) highlights that it is important to recognise the impact that exclusion can have, particularly within those groups of children where exclusions are more prevalent: those with an assessed or declared disability; looked after children and young people; children and young people from the most deprived areas; and those with an additional support need (particularly if that support need is social, emotional and/or behavioural). Having an understanding of the evidence that highlights the impact that exclusion can have will support informed decision-making about the appropriateness of an exclusion; but will also recognise that exclusion when used in a proportionate and supportive way can have a positive outcome for the child or young person and the wider school community.
- 10.2 There is a correlation between exclusion, poor attainment and anti-social/offending behaviour. Recognising that the negative impact of exclusion is cumulative, children and young people can often become involved in a negative cycle of exclusion and non-attendance which can reduce social capital and significantly impact on later life chances.

## **11.0 A Preventative Approach**

- 11.1 Whole school culture and ethos

All Renfrewshire schools should focus on universal approaches that work towards preventing the need for exclusion. The focus is on creating a positive whole school ethos which promotes positive relationships and behaviour.

A school's culture, ethos and values are fundamental to promoting positive relationships and behaviour. An inclusive ethos where everyone's contribution is valued and encouraged should be promoted. A positive ethos has been identified in school improvement studies as being fundamental to raising attainment.

All Renfrewshire learning establishments should build a positive ethos which promotes pupil and staff participation; encourages achievement; celebrates success and has high expectations of every child and young person.

All Renfrewshire learning establishments therefore must have robust policies and procedures in place to ensure a consistent approach to improving relationships and behaviour across the

whole community and also to consider children's rights in accordance with the United Nations Convention on the Rights of the Child (UNCRC).

In creating and promoting a positive whole school ethos, leadership is recognised as one of the most important aspects of the success of any school. Highly effective leadership is key to ensuring the highest possible standards and expectations are shared across learning establishments to achieve excellence and equity for all.

The professional values and personal commitments core to being a teacher in Scotland are social justice, integrity, trust & respect and professional commitment: this includes respecting the rights of all children or young persons as outlined in the UNCRC and their entitlement to be included in decisions regarding their learning experiences and have all aspects of their wellbeing developed and supported. They should also ensure a safe and secure environment for all children and young people within a caring and compassionate ethos and with an understanding of wellbeing.

There are some key approaches which schools use to improve relationships and behaviour. These are centred around the principle that all behaviour is a form of communication. The effective implementation of these approaches can often prevent the need for exclusion. These include:

- restorative and solution-oriented approaches as part of a whole school approach;
- whole school nurturing approaches (Renfrewshire's Nurturing Relationships Approach) based on nurturing principles, including nurture groups in early years, primary, and secondary and specialist provision;
- anti-bullying policies and practice which contribute to social and emotional wellbeing including the Mentors in Violence Prevention (MVP) Programme and respectme, Scotland's anti-bullying service; and
- effective learning and teaching which contributes to developing good relationships and positive behaviour in the classroom, playground and wider school community

## 11.2 Early intervention

Early intervention and prevention are key elements of the staged intervention framework focused on ensuring we get it right for all our children and young people. Early intervention is crucial in reducing the need for exclusion whilst recognising that all support should be appropriate, proportionate and timely.

A key aspect of this framework is the emphasis on robust planning and assessment which places the wellbeing of children and young people at the centre. The wellbeing of children and young people is at the heart of GIRFEC. It is particularly important that professionals engaging with children and young people seek to develop a shared understanding of the child's overall wellbeing and agree what approaches are to be used and how to assess their impact.

All practitioners should use the [GIRFEC National Practice Model](#) as a framework for assessing, planning and reviewing the support of a child or young person. This model also emphasises the key part that relationships play in

- building up resilience,
- providing a protective environment,
- supporting vulnerability and

- managing adversity.

Joined-up partnership working is a fundamental aspect of the whole system approach; where children and young people, parents, and the services they need all work together in a co-ordinated way to meet specific needs and improve the child or young person's wellbeing.

There is a new staged intervention framework in operation across Renfrewshire education establishments which describes the continuum of support in place to meet the needs of children and young people within the GIRFEC context.

The refreshed GIRFEC Policy sets out the staged intervention framework and processes when a child or young person's needs cannot be met by the universal supports and strategies available to all children.

### 11.3 De-escalation and seclusion

De-escalation refers to the process of defusing conflicts as they begin to prevent them from getting worse or potentially violent.

In regard to classroom management, there are strategies staff can use to de-escalate conflicts in their earliest stages and stop small behavioural issues before they get out of hand. These usually involve identifying a risk and intervening as quickly as possible in a calm and controlled manner. There is access to de-escalation training and school leaders can discuss any professional learning requirements with their Education Manager to ensure staff are confident and capable.

Seclusion is the supervised confinement of a child alone in a room and is a form of physical intervention. The practice of seclusion in educational settings gives rise to a number of legal issues, including whether the use of seclusion might be interpreted to constitute a deprivation of liberty with implications for the human rights of the child.

Seclusion should not be used as a strategy in Renfrewshire schools/early years establishments as a form of behaviour management, discipline or punishment. This statement should not be confused with approaches that might be required to ensure the safety of children or adults in a conflict situation or fight, where two parties might need to be kept apart and there is a duty of care to prevent harm.

### 11.4 Use of part time timetables

As a result of an appropriate assessment, establishments may consider the use of individualised, planned packages of support that may include time in onsite school support and offsite support centres, in order to prevent exclusion. Focussed, creative and individualised tailored approaches to learning for some children and young people could help build relationships and school-connectedness.

Partners from within and out with the education authority should, where possible, support schools in providing packages of support to engage children and young people across all sectors. In such cases, team around the child may consider the use of college and vocational placements; community learning and development programmes; social work and third sector interventions. However, schools should seek to ensure that children and young people attend school or another learning environment for the recommended 25 hours per week in primary schools and 27.5 hours per week for secondary schools.

In order to support the child or young person to attend school or to support a return from exclusion, it may be necessary in exceptional circumstances to implement a package of support that could be achieved using a flexible or part time timetable with an agreed timescale for review.

Children and Young People have a right to be provided with a school education (Standards in Scotland's Schools Act 2000) and in accordance with the wishes of their parents (Education (Scotland) Act 1980). Therefore, no part-time arrangement can be considered if it is against the wishes of parents or carers. When considering a part-timetable it must be made clear to parents or carers that they have the right to refuse however, the benefits of consideration of the part-time timetable to support transition back to school or support a child appropriately for an agreed period of time should be clearly explained. The child or young person's views should also be taken into consideration. Arrangements of this kind should be clearly recorded in the child or young person's support plan. A copy of the timetable and review date should be sent to the Education Manager for Inclusion and Additional Support Needs.

Children and young people who are looked after, whose names are on the Child Protection Register or who access support from other agencies will have a single and multi-agency child's plan and consideration needs to be given to new actions and updates that are required.

It is not considered appropriate for pupils to be denied their entitlement to education by placing them on part-time timetables for an extended period of time.

Schools should record information on part-time timetables through SEEMIS under the appropriate code. This will differentiate children and young people on part-time timetables from those who have unauthorised absences.

## 11.5 Individual Circumstances

For very vulnerable children, exclusion can have a particularly disruptive and negative effect on their domestic or family life which may already be under significant strain and may not bring any significant benefits in terms of modified behaviour. Exclusion from school may simply reinforce alienation among children already excluded from a normal family life. In these cases, it may be necessary for the school / authority to balance the case for exclusion with the need to take all reasonable steps to ensure appropriate provision is made for a vulnerable individual's social and emotional development, security and wellbeing, while also taking into consideration the rights of all children, young persons and staff to work within a safe and appropriate environment. Individual circumstances should be taken into account when considering excluding a child or young person from school, particularly with regard to those children or young people who have additional support needs, a disability, are looked after, or where there are child protection concerns.

Prior to the decision to exclude any child or young person in the above categories, being made, discussions with the child or young person, their parent(s), and any involved professionals should take place, where possible through a multi-agency child's planning meeting.

Where the decision is taken to exclude, other professionals involved, such as social workers, family support workers etc, should be made aware of the situation.

### Looked after Children and Young People

Understanding the specific needs of looked after children and young people is crucial in order to ensure that any exclusion of a looked after child or young person is managed appropriately. School life can be a protective factor in the lives of looked after children and good relationships both within the educational establishment and beyond, are fundamental to ensuring that all appropriate steps are taken when considering and managing exclusion. It is likely that an exclusion from school will have a significant impact upon the life chances of a looked after child, if not mitigated for.

The **Education (Additional Support for Learning Act) (Scotland) Act 2004 (as amended)**, states that all looked after children and young people will be deemed to have additional support needs, unless assessed otherwise, and appropriate consideration should be given to how to support these needs during any period of exclusion.

Head teachers, or their representative, must consider very carefully the decision to exclude a looked after child and if at all possible, should avoid taking the decision to exclude them. Head teachers should discuss any potential decision to exclude a looked after child with the designated social worker as well as the child's parent/carer and those with parental rights for the looked after child. prior to the exclusion taking place. The same considerations should apply to children whose names are on the child protection register and children about whom there are child protection concerns. All views should be considered carefully and taken into account. A summary of the discussion should be recorded on pastoral notes. As noted early in the document these exclusions must also be discussed with the Education Manager/Head of Education link for the school.

On the rare occasion where there is disagreement between agencies regarding the decision of a school to exclude, this should not affect the decision of a head teacher where he/she believes this is the only course of action. In such circumstances representation should be made to the Head of Education to consider the situation.

Any exclusion of a looked after child can only happen following consideration of the matters noted in Checklists 1a and 1b in the Scottish Government guidance, Included, Engaged and Involved. The checklists are attached to this circular as Appendix 6 Thereafter, any such exclusion of a looked after child must be discussed with the link education manager/Head of Service.

## **12.0 Alternative provision**

- 12.1 It is expected that children and young people will not be excluded from alternative provision except under exceptional circumstances. Where this happens, the mainstream school where the child or young person is registered must be informed of any decision to exclude and should record the exclusion.

## **13.0 Incidents outwith school**

- 13.1 Where an incident occurs out of school it does not prohibit a child or young person being excluded from school. The determining factor for schools is to establish that either of the statutory grounds for exclusion is fulfilled, regardless of whether an incident occurs in or out of school. This is supported by case law. This could include incidents within the immediate vicinity of the school or beyond the school and occurring prior to the school day or after school. In this context, there may be occasions when schools require to liaise with Police Scotland, and this may result ultimately in the matter being reported to the Procurator Fiscal or to the Reporter.

## **14.0 Sending home without excluding**

- 14.1 As been previously mentioned - All exclusions from school must be formally recorded. Children and young people must not be sent home on an 'informal exclusion' or sent home to 'cool off'.
- 14.2 Following an incident where the decision is made that the child or young person cannot remain in school, for one of the reasons specified, this must be formally recorded as an exclusion. This will ensure transparency, allow for appropriate monitoring and enable support to be put in place.

## **15.0 The Legal Basis of Exclusion**

- 15.1 The power to exclude, and therefore legal responsibility for exclusion, lies with an education authority. It is, however, open to an education authority to devolve the power to exclude to senior management level in schools.
- 15.2 The length of an exclusion is not defined in the legislation and accordingly is a matter for the discretion of the education authority. The length of an exclusion should be as short as possible, and determined by the time required to put in place the required supports for the reintegration of the child or young person.
- 15.3 In Renfrewshire the power to exclude is devolved to heads of establishment to a maximum of 4 days. Any exclusion beyond this maximum period would be due to exceptional circumstances and would require to be approved by the Head of Service with responsibility for Inclusion.
- 15.4 The power to exclude a child or young person from a school and the circumstances under which a child or young person may be excluded are set out in Regulations 4 and 4A of the Schools General (Scotland) Regulations 1975 ("the 1975 Regulations"), as amended and the Schools General (Scotland) Amendment (No. 2) Regulations 1982 (S.I. 1982/1735).
- 15.5 Under Regulation 4 there are only two legal grounds for exclusion: an education authority shall not exclude a child or young person from school unless the authority:
- "are of the opinion that the parent of the pupil refuses or fails to comply, or to allow the pupil to comply, with the rules, regulations, or disciplinary requirements of the school";
- or
- "consider that in all the circumstances to allow the pupil to continue his attendance at the school would be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there".
- 15.6 Exclusion from school of a child or young person other than in conformity with the terms of the 1975 Regulations as amended has no statutory authority. Failure to comply with the 1975 Regulations as amended in such circumstances may render the authority open to legal challenge by the parent(s), or the pupil (where the pupil is a young person or is a child with legal capacity in terms of the Age of Legal Capacity (Scotland) Act (1991) or to action by the Scottish Ministers under section 70 of the Education (Scotland) Act 1980, as amended.
- 15.7 Further consideration should also be given by the local authority to the following legislation:
- The Equality Act (2010) provides that it is unlawful to exclude a pupil because of a protected characteristic. Section 85 (2) provides that:
- The responsible body of such a school must not discriminate against a pupil.
- (a) in the way it provides education for the pupil
  - (b) in the way it affords the pupil access to a benefit, facility or service;
  - (c) by not providing education for the pupil
  - (d) by not affording the pupil access to a benefit, facility or service
  - (e) by excluding the pupil from the school
  - (f) by subjecting the pupil to any other detriment.



Section 85(5) provides that:

The responsible body of such a school must not victimise a pupil –

- (a) in the way it provides education for the pupil
- (b) in the way it affords the pupil access to a benefit, facility or service
- (c) by not providing education for the pupil
- (d) by not affording the pupil access to a benefit, facility or service
- (e) by excluding the pupil from the school
- (f) by subjecting the pupil to any other detriment.

In reaching a decision to exclude, education authorities have to consider whether they could comply with section 4 of the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended) which requires that every education authority must:

- (1) (a) in relation to each child and young person having additional support needs for whose school education the authority are responsible, make adequate and efficient provision for such additional support as is required by that child or young person, and
  - (b) make appropriate arrangements for keeping under consideration -
    - (i) the additional support needs of, and
    - (ii) the adequacy of the additional support provided for, each such child and young person.
- (2) Subsection (1)(a) does not require an education authority to do anything which –
  - (a) they do not otherwise have power to do, or
  - (b) would result in unreasonable public expenditure being incurred.”

## **16.0 Legislative and Policy Context**

16.1 The refreshed national guidance ‘Included, Engaged and Involved Part 2: a positive approach to preventing and managing school exclusions’ (2017) updated the national policy and legislative context which is now reflected in this standard circular. The specific legislative context in relation to the prevention and management of school exclusions is outlined in more detail in other sections of this document.

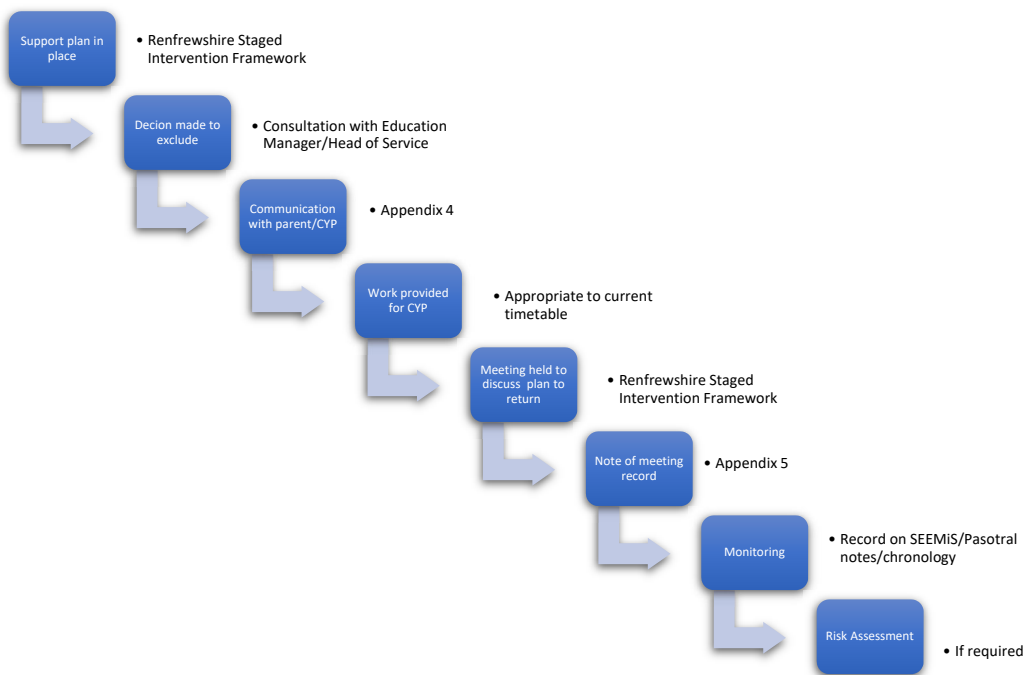
16.2 The following legislation sets the context for this circular:

- the Standards in Scotland’s Schools etc Act 2000 which creates a presumption that a child of 12 years or older has an independent right to appeal his or her own exclusion. This Act also sets out the presumption in favour of mainstream schooling for all children and young people;
- the Education (Additional Support for Learning) (Scotland) Act 2004 (as amended 2009) which places specific duties on education authorities and other appropriate agencies to provide adequate and efficient additional support to ensure that all children or young persons are able to benefit from school education; and
- the Equality Act 2010 which makes it unlawful to exclude a child or young person because they are perceived to have a protected characteristic, or because they are associated with

someone who has a protected characteristic: age; disability; gender reassignment; marriage or civil partnership; pregnancy or maternity; race, religion or belief; sex and sexual orientation. Schools also have a duty to make reasonable adjustments to the exclusion process for disabled child or young persons.

- 16.3 One of the key legislative changes which has taken place since 2011 when the national guidance was first published is **the Children and Young People (Scotland) Act 2014**. The Act sets out new statutory responsibilities for local authorities in relation to the wellbeing of children and young people deemed to be at risk of becoming looked after, as well as setting out the eight aspects of wellbeing which should be considered when assessing needs. It also sets out additional statutory responsibilities for Corporate Parents, as specified, in relation to those who are looked after. This policy takes cognisance of this legislation, particularly with regard to promoting the rights and wellbeing of children and young people.
- 16.4 Since 2008, **Getting it Right for Every Child (GIRFEC)** has been the national approach to improving outcomes for children and young people. GIRFEC takes a holistic approach to the wellbeing of the child or young person. The eight wellbeing indicators are safe, healthy, achieving, nurtured, active, responsible, respected and included. GIRFEC advocates preventative work and early intervention to support children, young people and their families through the provision of strong universal services, and partnership working with other services when needed. The approach supports children and young people's rights and involves children and young people in any decisions that affect them in line with the core principles of UNCRC.
- 16.5 Some of the other key drivers upon which the current national guidance is set are outlined below:
- Learning in health and wellbeing as part of Curriculum for Excellence (CfE), ensures that children and young people develop the knowledge and understanding, skills, capabilities and attributes which they need for mental, emotional, social and physical wellbeing now and in the future. Responsibility of All emphasises that some aspects of health and wellbeing are the responsibility of all adults in schools, working together to support the learning and development of children and young people.
  - One of the most important aims of the **National Improvement Framework** for Scottish Education is to drive improvements in learning for individual children and to ensure that there is a purpose to assessment and information gathering. More robust and transparent assessment and information gathering should help schools and local authorities to support children and young people more appropriately. As well as a focus on literacy and numeracy, it will also bring greater focus to improvements in the health and wellbeing of children and young people.

**Process to Exclude**



<https://www.gov.scot/publications/included-engaged-involved-part-2-positive-approach-preventing-managing-school/pages/12/>

Key consideration questions	Consideration given	Comment
Has the child or young person been excluded before? What was impact of this?		
Have the following been engaged to help prevent exclusion? Child or young person; Parents/carers; Key education staff; and other professionals (e.g., Social work, Educational Psychologist).		
Has there been clear assessment of the child or young person and their needs?		
Have additional support/interventions been provided for the child or young person?		
Have alternative arrangements been made for the child or young person prior to the exclusion? e.g., curriculum alternatives, temporary placement in base, use of virtual learning		
How can the staged intervention process and school partnerships be utilised to further support this child or young person?		
Has the incident that precipitated the consideration of exclusion been reviewed with all staff who were present to explore fully what happened?		
Has another professional from within the school who is not directly involved, been consulted on the situation in order to provide a different perspective?		
Has the child or young person been consulted on their views of the situation?		
Has Pupil Support/Guidance/Key worker, or if available, has the lead professional been consulted on how to move forward?		
Has the possible impact of exclusion on the child or young person been considered in light of individual circumstances?		
Does the child or young person's recent presentation constitute a wellbeing concern?		
What might the impact of an exclusion be on a child or young person's wider circumstances?		
What impact might an exclusion have on the planning processes?		
Has a risk assessment been completed for the child or young person where appropriate?		
What are the hoped for outcomes of an exclusion? Are there other alternatives that might achieve this?		
Has there been consideration given to length of exclusion to ensure it is proportionate and in best interests of child/young person?		

Does the exclusion comply with the regulation 4 of the 1975 regulations as amended?		
Have the rights of the child or young person been considered, with regard to articles of UNCRC?		
Have all other options been considered before deciding on exclusion as a necessary step?		

%

**Checklist 1b (to be used alongside checklist 1a if appropriate) - Individual Circumstances**

<b>Individual circumstance</b>	<b>Additional consideration</b>	<b>Consideration given</b>	<b>Comments</b>
Looked After child	Social worker consulted prior to decision		
	Education manager or lead professional (where one exists) consulted on plan regarding particular issues		
	Appropriate arrangements made with regard to support/care and wellbeing at home		
	Decision made as to whether exclusion to go ahead		
Child on Child Protection Register/child protection concerns previously raised	Child Protection Designated Officer and Social Worker consulted		
	SEEMiS checked for child protection message		
	Education authority consulted about appropriate provision		
	Appropriate arrangements for return into school considered		
Child with additional support needs	Other professionals involved with child consulted on continuation of any additional input		
	Confirmation sought that child or young person is not being excluded for reasons associated with disability		
	Ensure that child or young person is not being excluded for reasons associated with a protected characteristic		
	Account is taken of impact of exclusion on child or young person's learning and support provision		
	Consideration is given to review of any Child's plan or Coordinated Support Plan		
	Transition planning is taken into account with regard to return to school		
Children from an area of socioeconomic deprivation	Consideration should be given to the impact on child's wellbeing, e.g., free school meals		

## Checklist 2

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

Action to be taken	Action taken	Comment
Child or young person is informed he/she is to be excluded		
Immediately inform parents/carers verbally		
Looked after children and children or young people on Child Protection Register/child protection concerns - communication with all potential carers as well as any person who may have parental rights and responsibilities		
Looked after children and children or young people on Child Protection Register/child protection concerns - decision communicated to lead professional, Social Worker, Key Worker, Foster Carer, Educational Psychologists and Head of Service		
Make arrangements for child or young person to be sent or taken home. Child or young person not to leave school until safety, health and wellbeing assured and appropriate arrangements are in place		
If parents/carers cannot be contacted child or young person must be supervised at school until suitable arrangements can be made		
If verbal contact made, follow up by written confirmation of exclusion on same day exclusion takes place. Include reason for exclusion and information on Right of Appeal		
Inform of date, time and place where Head Teacher or official of authority is available to discuss the exclusion		
If child or young person is of legal capacity inform them in writing of exclusion and right of appeal		
Record of exclusion filled out - incident report form		
Ensure exclusion is recorded accurately on SEEMiS		
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 (outwith school if necessary)		
A contact person should be allocated for parent/carer/young person to liaise with re. educational provision		
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		
If parent/carer and/or child or young person exercise their right of appeal, meet with parent/carer and child or/young person and/or an advocate for the child to discuss		
Referral to Scottish Children's Reporter if appropriate		

%

%

%



**Checklist 3 - Return to school after exclusion.**

<b>Action to be taken</b>	<b>Action taken</b>	<b>Comment</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 forum		
Pupil Support/Guidance/Key worker or lead professional (where one exists) updated		
Monitoring and review arrangement put in place to ensure continued support		

## Definitions

The length of exclusion will be based on days where attendance at school was possible.

- Weekends and holiday periods will not be taken account of as a result; exclusion is used when a child or young person is excluded from a school but remains on the register of that school.
- The child or young person will return to that school when the period of exclusion is over; removal from register is used when a child or young person is excluded from a school and the child or young person's name is removed from the school register, the education authority having decided that the child or young person should not return to that school;
- parent/s as defined in section 135 (1) of the Education (Scotland) Act 1980 includes a guardian or any other person who is liable to maintain, or has parental responsibilities in relation to, or has care of, the child or young person;
- a child is a person under the age of 18, as defined in section 97 of the Children and Young People (Scotland) Act;
- a young person is defined in section 135 of the 1980 Act as a person over school age who has not yet attained the age of 18.
- a 'young person' is defined in the Children and Young People (Scotland) Act 2014 as a person who:
  - (a) has attained the age of 18 years while a pupil at a school.
  - (b) has since attaining that age, remained a pupil at that or another school.
- Section 17(6) of the Children (Scotland) Act 1995 provides that a child who is looked after by a local authority is a child:
  - (a) for whom the local authority is providing accommodation under section 25 of the 1995 Act
  - (b) who is subject to a compulsory supervision order, or an interim compulsory supervision order and in respect of whom they are the implementation authority
  - (c) who is living in Scotland and subject to an order in respect of whom a Scottish local authority has responsibilities
  - (d) in respect of whom a permanence order is in place

**STANDARD LETTER TO PARENTS FOLLOWING DECISION TO EXCLUDE**

Dear

After careful consideration of all the circumstances and as a last resort a decision has been taken today to exclude your child XXX from attendance at this school.

The reason for this decision is that.

XXXX

In all the circumstances to allow your child to continue his/her attendance at this school would be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there.

OR [DELETE AS APPROPRIATE]

You are refusing or failing to comply, or to allow your child to comply, with the rules, regulations, or disciplinary requirements of the school.

The specific circumstances that gave rise to this decision are (INSERT SPECIFIC CIRCUMSTANCES).

Please meet with me on XXX at XXX to discuss XXX's return to school. (MEETING MUST BE WITHIN 7 DAYS OF DECISION TO EXCLUDE)

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

You have the right to appeal against the exclusion. Details of how you might appeal are included with this letter and should you intend to appeal you should do so as soon as possible.

I look forward to meeting you on the above date.

Yours sincerely

Head Teacher

**STANDARD LETTER TO CHILD OR YOUNG PERSON OVER 16 FOLLOWING DECISION TO EXCLUDE**

Dear

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

The reason for this decision is that in all the circumstances to allow you to continue your attendance at this school would be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there.

The specific circumstances that gave rise to this decision are (INSERT SPECIFIC CIRCUMSTANCES).

Please meet with me on XXX at XXX to discuss your return to school. (MEETING MUST BE WITHIN 7 DAYS OF DECISION TO EXCLUDE) You may wish to bring your parents or a friend to this meeting.

You have the right to appeal against the exclusion. Details of how you might appeal are included with this letter and should you intend to appeal you should do so as soon as possible.

Yours sincerely

Head Teacher

**Note of return to school following exclusion meeting**

(Update action plan, record on chronology and pastoral notes)

**APPEAL PROCEDURES FOR CHILDREN AND YOUNG PEOPLE EXCLUDED FROM SCHOOL**

1. The statutory provisions for appeal are contained in Section 28H and schedule A1 of the Education (Scotland) Act 1980 and the Education (Appeal Committee Procedures) (Scotland) Regulations 1982.
2. Under these provisions a parent of a child or young person who has been excluded from attending school or where the child or young person is a young person (a child or young person over school age who has not attained the age of 18 years) the child or young person, may appeal against the exclusion.
3. Under section 41 of the Standard in Scotland's School etc. Act 2000, child or young persons with legal capacity in terms the Age of Legal Capacity (Scotland) Act 1991 can appeal against the decision to exclude.
4. A parent or young person who wishes to make an appeal against a decision to exclude should do so in writing to Education and Leisure Services, Renfrewshire House, Cotton Street, Paisley, PA1 1LE. The letter should give the name of the child or young person or young person and should contain a clear statement requesting the referral of an appeal against the decision to exclude to an appeal committee set up under Section 28H of the Education (Scotland) Act 1980.
5. The appellant will be given the opportunity to go to the hearing and speak to the appeal committee. He/she may ask up to three people to accompany him/her and if he/she so wishes he/she can ask one of them to speak on his/her behalf. If he/she does not wish to be present, he/she can nominate someone else to attend and speak for him/her.

The appellant may decide to make a written submission to the appeal committee and if he/she so decides he/she should send his/her submission to the appeal committee, to Education and Leisure Services, Renfrewshire House, not less than 10 days before the date of the hearing.

He/she may decide, however, simply to submit a letter of appeal and this will be considered by the appeal committee.

6. If the appellant does make a written appeal, it will be acknowledged by the appeal committee by a letter dated with five working days of the appeal being received.

**7. DEEMED DECISIONS**

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

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