



## Community Services: Education

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To: Heads of all Educational Establishments

Dear Colleague

### Argyll and Bute Council – Managing Exclusions in Schools

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## Section One - Context

- 1.1 The following procedures require to be followed by the Education Service in order to comply with legislation and Scottish Government Guidance in relation to exclusions and the Authority's Corporate Parenting responsibilities. The procedures should be followed in conjunction with the Scottish Government guidance detailed in *Included, Engaged and Involved Part 2: a positive approach to managing school exclusions* (IEI2 appendix 6). Head Teachers and Campus Principals should only consider excluding a pupil from school when all other measures have been tried and have failed or in cases of serious indiscipline. Exclusion should only be used as a last resort. It has to be used within an overall ethos of prevention, early intervention and support for learners and consistently applied policies for providing positive relationships and promoting positive behaviour in schools. Head Teachers and Campus Principals should be aware that they may be required to justify taking such action at an appeal hearing, an Additional Support Needs Tribunal or in a court of law. Where exclusion is used it should be as a proportionate response where there is no other appropriate alternative. Additional requirements and expectations apply where consideration is being given to excluding a looked after child (LAC) or child on the Child Protection Register.
- 1.2 The power to exclude a pupil from school lies with the Education Service. The Education Service may devolve the power to exclude to senior managers in schools. Within this framework the decision to exclude has been devolved and is the responsibility of the Head Teacher or Campus Principal. The Head Teacher or Campus Principal is also responsible for ensuring that the procedures in this Education Management Circular are properly followed. Only on occasions where the Head Teacher or Campus Principal is not present in school is the power to exclude a pupil to be delegated to the member of staff deputising for the Head Teacher or Campus Principal in their absence.
- 1.3 The procedures apply in Primary, Secondary and Special Schools. However, the relevant circumstances and particular needs of individual pupils should be taken fully into account when considering whether the use of a period of exclusion is reasonable and is an appropriate response. Pages 8 to 17, paragraphs 26 to 78 of the Scottish Government's *Included, Engaged and Involved Part 2: a positive approach to managing school exclusions* summarise the legislative and procedural basis for exclusion. All schools therefore should be confident in being able to evidence that exclusions are consistent with their use of a planned, proactive and preventative staged approach to discipline where issues of indiscipline are addressed early, positive behaviour management strategies are employed timeously and the involvement of parents/carers is routine.
- 1.4 Before excluding a pupil, schools should take account of the individual circumstances in every case (See also paragraph 3.1). There are, in addition, certain groups of pupils where additional considerations apply:
  - (a) *Pupils with Additional Support Needs*
    - i) It is important to adopt an appropriate and measured approach when considering

the exclusion of a pupil with Additional Support Needs. This should involve discussion about difficulties at school involving the parents/carers, the young person and other professionals, well in advance of exclusion being considered as an option. A balance requires to be struck between the case for exclusion and the obligation to ensure educational provision meets a pupil's additional support needs. Schools must take all reasonable steps to ensure appropriate provision is made to support a pupil's additional needs.

ii) Where a pupil has additional support needs, it should be standard practice to involve appropriate support services including the relevant educational psychologist. Where other professionals, such as social workers, family support workers and children's service workers, have a significant role in providing education, care and support for the child, their views should be sought when a decision to exclude is being considered and when planning educational provision during a period of exclusion. Such provision during periods of exclusion should be implemented without delay (s14(3) of Education Act 1980), should seek to provide, as far as possible, the quality, quantity and range of education which was previously available to the excluded learner in school, prior to their exclusion.

iii) Any decision to exclude must take account of and be in line with the Argyll and Bute Council's duty under the Equality Act 2010 (and related legislation), the Education Services duties under Additional Support for Learning legislation and, where one exists, the school's duty to provide the services stipulated within a pupil's Co-ordinated Support Plan, Education Single Agency Plan or Multi Agency Child's Plan.

iv) Where a pupil has a disability, for example, Autism Spectrum Disorder (ASD) or Attention Deficit Hyperactivity Disorder (ADHD), careful consideration should be given to whether excluding the child or young person would result in them being discriminated against on the grounds of their disability. The Equalities Act guidance states that 'excluding a disabled pupil for behaviour which arises as a consequence of their disability is likely to result in unlawful disability discrimination unless you can show that the exclusion was a proportionate means of achieving a legitimate aim' (appendix 7). The guidance also states "you must not exclude a child because of their protected characteristics". In addition there is a duty to disabled pupils to make reasonable adjustments to the procedures if needed. This may include:

- Disregarding behaviour which is a direct consequence of their disability.
- Making reasonable adjustments to manage such behaviour.
- Considering alternative, more appropriate punishments.
- Ensuring that a disabled pupil is able to present their case fully where their disability might hinder them.

The 'legitimate aim' of the proposed exclusion should be carefully identified and clearly communicated to all relevant parties, as discussed in the EHRC guidance. Similarly, the term 'proportionate' is a very important element in this context (see Section 2 – periods of exclusion). There is a legal requirement that policies and procedures should not place disabled children at a substantial disadvantage. Should this be a likely consequence of the policy or procedure then the school must

introduce measures to avoid such disadvantage. These measures should be specifically incorporated in any Education Single Agency Plan, Multi Agency Child's Plan or Co-ordinated Support Plan.

On pages 48 and 50, paragraphs 77 to 86 of the Scottish Government's *Included, Engaged and Involved Part 2: a positive approach to managing school exclusions* (IEI2) guidance is offered on education provision for pupils who have Additional Support Needs.

(b) *Looked After Children*

i) Research shows that children who are looked after and looked after and accommodated are significantly more likely to be excluded from school. The impact of exclusion can mean that their already potentially challenging circumstances are likely to be exacerbated. Effective and timeous collaboration between the Education Service and other services, such as Social Work, is therefore central to good practice with pupils who are looked after at home or by the local authority. This should involve appropriate application of GIRFEC principles such as high quality multi-agency discussion regarding difficulties at school well in advance of exclusion being considered as an option. All Looked after Children will have a Social Worker as their Lead Professional and will have a Child's Plan that details their needs and how these are to be met.

ii) Those children who are looked after and accommodated whether at home or in residential or foster care will have particular care needs and may be affected by stressful and distressing events and circumstances that can impact on their behaviour that require to be taken into account if there is a possibility of exclusion. Schools must ensure that actions they take adhere to the Authority's Corporate Parenting responsibility. In all cases, prior to the decision to exclude being made, the Head Teacher or Campus Principal should involve the child's Lead Professional in discussion and consideration of the child's circumstances and the implications of exclusion on the home or care placement to ensure appropriate arrangements are made. On pages 56 and 57, paragraphs 210 to 212 of the Scottish Government's *Included, Engaged and Involved Part 2: a positive approach to managing school exclusions* (IEI2) guidance is offered on education provision for pupils who are designated LAC/LAAC.

The local authority has a statutory duty to safeguard and promote the child's welfare. The Authority as the child's corporate parent is responsible for ensuring the health, wellbeing and educational prosperity of the child, should wish for the most positive outcome for them and should do all that it can to support them. A good set of core questions for reflection when exclusion is being considered which have a positive impact upon how situations are managed include:

- What are the details of the incident and the circumstances preceding it?
- What events or incidents in the child's life may be impacting on their behaviour at this time?
- What interventions have been tried already?
- Is exclusion in this case a last resort?
- What will exclusion achieve and have we considered every alternative?

- What is the likely impact upon the child or young person and their wider situation?
- Does the young person require additional adult and/or peer support and if so who can best provide this?
- What are the views of those in the child or young person's network of support? (eg Lead Professional, Named Person, Key Worker, Foster Carer)
- What will the impact be on a foster, kinship or residential placement or a potential adoption placement?
- What impact will this have on the planning already in place for the child or young person such as their Child's Plan?

Where following this discussion the Head Teacher or Campus Principal decides to proceed with an exclusion they must discuss with the Lead Professional:

- How they will ensure that the child's educational needs will be met while excluded?
- What work needs to be undertaken with the child/young person while excluded to ensure a successful return to school?
- Arrangements to support the child/young person to return to school and to minimise the risk of any further exclusions.

The Head of the Children and Families Service will always be advised by the Lead Professional of any exclusions of a LAC at the earliest opportunity

(c) *Children on the Child Protection Register*

Consultation with Social Work Services, who are the Lead Professionals in all cases at Child Protection level, prior to a decision about excluding is essential for any pupils on the Child Protection Register to ensure appropriate arrangements are made. This should include all the areas identified for LAC and in addition careful consideration must be given to the impact of any exclusion on the safety and wellbeing of the child. 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.

When considering the exclusion of a learner for whom there are concerns relating to child protection, the following should be considered:

- Check that there are appropriate arrangements for the care of a child or young person before they are sent from the school premises
- Consider whether there are family or other circumstances that mean support is required if a child is excluded
- Find out whether the child concerned is on a Child Protection Register, or compulsory measures of care, in which case Social Work must always be informed
- Undertake a risk assessment to ensure that the child will not be placed at further risk while they are excluded from school
- Where there are child protection concerns, consult the education authority to seek alternative educational provision for the learner while excluded from school, without delay (appendix 10)

- Consider appropriate arrangements for re-integration into school after the exclusion
- For children and young people who have experienced abuse or neglect, stability and consistency in schooling is essential. If an exclusion is necessary, reintegration into the same school is often in the best interests of the child

The Head of the Children and Families Service should always be advised by the Lead Professional of any exclusions of a child on the Child Protection Register at the earliest opportunity.

(d) *Children residing in Hostels and Lodgings*

i) It should be noted, that although children living in school hostels or lodgings are not looked after, there are specific issues which require to be addressed if exclusion is being considered for such a pupil. It is essential in such circumstances that appropriate discussion takes place with hostel managers and the parents/carers of the pupil.

ii) In certain exceptional circumstances it may be appropriate for a pupil to be excluded from school due to behaviour within the setting of a Hostel. This would apply as a last resort and where the said behaviour could reasonably be described as giving rise to a situation where allowing the pupil to continue their attendance at school would be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there. In such cases the Head Teacher or Campus Principal will be required to work closely with the local Hostel Manager.

iii) In normal circumstances it will be the Hostel Manager who will first alert the Head Teacher or Campus Principal and the child's Named Person about issues of this kind, to discuss possible supports, alternative strategies or interventions from external agencies where appropriate.

1.5 Further advice and assistance regarding the application of these procedures can be obtained from the Education Head of Service. Any decision to exclude a pupil designated Looked After or subject to Child Protection procedures should be brought to the attention of the Education Head of Service, or their designated representative from the Education Management Team, prior to the period of exclusion beginning.

## Section 2 - Imposing periods of exclusion

- 2.1 When a pupil's behavioural pattern has reached a degree of seriousness that exclusion from school is being considered, the following procedures should be followed. In applying these procedures, sensitivity and care for the welfare of the pupil should always be displayed.
- 2.2 Where the Head Teacher or Campus Principal has delegated the responsibility for investigating an incidence of indiscipline to an appropriate member of staff, or has accepted the results of an investigation carried out prior to the Head Teacher or Campus Principal being aware of the incident, the Head Teacher or Campus Principal should ensure that, in considering exclusion:
- (a) the incident has been carefully and thoroughly investigated to a standard commensurate with the possible imposition of exclusion as a last resort
  - (b) they can demonstrate that exclusion was imposed as a means of achieving a legitimate aim and identify that aim
  - (c) the pupil or pupils to whom an exclusion may be applied has or have had during the investigation a fair and impartial hearing conducted within a reasonable period of time
  - (d) there is a clear written record of the investigation detailing relevant actions and findings supported by written statements from the staff involved in managing and/or witnessing the incident.
- 2.3 When the decision to exclude has been taken by the Head Teacher or Campus Principal, the pupil should be formally advised by the Head Teacher or Campus Principal of:
- the decision to exclude
  - the length of the exclusion imposed
  - the grounds/reasons for the exclusion

The pupil should:

- be afforded the opportunity to make comment
- have their comments appropriately recorded
- have the exclusion recorded in their pastoral notes
- have their exclusion recorded in the exclusion record system
- have the exclusion recorded in their chronology as a significant event

Consideration should be given to the immediate circumstances impacting on a pupil who is subject to exclusion;

- i) The pupil should not be sent home until the pupil's parents/carers have been advised and a check has been made that the parents/carers will be at home when the pupil arrives.

- ii) In addition to posting, by ‘signed for’ post, a letter formally intimating the decision to exclude, the length of the exclusion and the grounds/reasons for exclusion and details of the appeals process to the parent/carer, or the young person if the pupil is 16 or over (see appendix 3a or 3b), a copy of the letter explaining the decision and giving details of any conditions that must be met to enable the pupil to return to school should be taken home by the pupil.
- iii) Where the child is Looked After or on the Child Protection Register the information detailed above must also be provided in writing to the lead professional.
- iv) If the parents/carers are not at home and if they cannot be contacted to take their child from school, the pupil should be kept in school, and appropriately supervised, until the end of the normal school day.

Further information on liaison with parents/carers is provided in section 4 of this Education Management Circular. Further information on appeals is provided in section 8.

2.4 The Education Head of Service should be advised of

- each single exclusion of 10 days
- instances where the cumulative total of exclusions rises in excess of 20 days in any school session
- exclusion of a Looked After Child or child on the Child Protection Register

It is essential that detailed records are retained in the pupil's file, pupil's pastoral notes and the exclusion record system. All exclusions for acts of violence or threats of violence against staff must be reported to the Education Head of Service immediately. The procedures to be followed are detailed below.

- (a) The period of exclusion should reflect the level of ‘seriousness’ of the inappropriate behaviour. First exclusions or exclusions for less serious offences should not normally exceed three school days. (see also 3.1) Exclusion should always be used as an action of last resort and the length of any exclusion should always take into account;
  - i) the nature, severity and implications of the behaviour leading to the decision to exclude
  - ii) the legitimate aim of the exclusion, how the exclusion will help to achieve that aim and consideration of the range of exclusion periods as a proportionate means of applying the sanction of exclusion
  - iii) the value of the period of exclusion in modifying the behaviour of the pupil to be excluded
  - iv) the implications for the members of the school population of the behaviour leading to the decision to exclude



- v) the amount of time schools will require to put procedures and protocols in place in order to make the pupil's return from a period of exclusion manageable and successful
  - vi) the schools capacity to provide appropriate continuing educational provision out of school for the entire period of exclusion and the need for this to be implemented 'without delay' as detailed at 1.4 above
  - vii) the rationale and utility of increasing the period of exclusion where a child has already been excluded previously beyond adopting an arbitrary incremental approach
  - viii) details of any conditions that must be met to enable the pupil to return to school
- (b) While the Head Teacher or Campus Principal may impose a series of exclusions during the school session, the maximum length of a single exclusion for an incident of seriously inappropriate behaviour should not normally exceed 10 days. Only in the most exceptional circumstances should a single exclusion of up to 15 days be imposed.
  - (c) Where a period of exclusion is being considered for a pupil normally resident in a school hostel, the situation must be discussed with the Hostel Manager before any final decisions are made.
  - (d) A single exclusion of or in excess of 10 days must be reported to the Education Head of Service for consideration and possible action. A full report of the incident and investigation must be submitted enclosing copies of all relevant correspondence and witness statements together with a copy of the checklist (appendix 1) which must be completed accurately.
  - (e) All patterns of exclusion resulting in a cumulative total which rises in excess of 20 school days in any school session, must be reported in detail to the Head of Education for consideration and possible action. Again a full report of the incidents (see paragraph 7.3) and investigations must be submitted enclosing copies of all relevant correspondence and witness statements together with a copy of the checklist (appendix 1) which should be completed accurately.
  - (f) On pages 14 and 15, paragraphs 60 to 65 of the Scottish Government's *Included, Engaged and Involved Part 2: a positive approach to managing school exclusions* (IEI2) guidance is offered on education provision for excluded pupils. Due account should be taken of this guidance, particularly where an exclusion or cumulative exclusions is for more than day.

2.5 While exclusions in most instances will relate to serious breaches of discipline in school, there may be occasions where the exclusion of a pupil for particular behaviour outside school premises and/or outside school hours is raised. The question of the exclusion of a pupil in such circumstances should be assessed by the Head Teacher or Campus Principal in terms of whether or not the pupils immediate inclusion in school activity after the incident is likely to have a direct adverse impact

on the good order and discipline of the school or on the safety and well-being of the pupils who are enrolled there as well as what sanctions have already been imposed independently of the schools discipline system.

### Section 3 – Extreme and Aggressive behaviour

3.1 While exclusion is always an action of last resort, in some circumstances pupil behaviour will be of such a nature that it requires a particularly significant and decisive response by the Head Teacher or Campus Principal.

- i) These incidents might include:
  - (a) physical, verbal or racist or sexual threats to staff and/or fellow pupils
  - (b) an unprovoked physical assault on staff and/or pupils
  - (c) incidents putting the health and safety of staff/pupils at serious risk
  - (d) drugs related incidents
  
- ii) Such serious breaches of school discipline may well, in the professional opinion of the Head Teacher or Campus Principal, merit exclusion in excess of 10 school days. Even in these exceptional circumstances the period of exclusion must not exceed 15 school days and issues relating to the impact of additional support needs, disability and looked after status should be carefully considered. In such circumstances the procedures outlined in section 2, paragraph 2.4(a) to (f) above should be followed
  
- iii) In cases involving
  - extreme oppositional behaviour
  - highly aggressive behaviour
  - behaviour likely to be seriously detrimental to the good order and discipline of the school such as violent conduct or substance misuse

the Head Teacher or Campus Principal may, having taken account of the facts of the incident, decide it is appropriate to exclude that pupil from school immediately even where the pupil has not previously been involved in acts of indiscipline and/or falls within the considerations outlined in Section 1.4 (See also 2.4 (a))

- iv) Where a criminal offence has been alleged, Head Teachers should contact Legal Services within the Council and/or the local Police as well as considering the appropriateness of Multi-Agency planning and support procedures

3.2 In situations where actual physical violence or threats of violence occur against

- i) *Members of staff* - the matter must be recorded on the revised individual report form included as appendix 2(a). (Also included, as appendix 2(b), is Scottish Executive Education Department Circular No 6/03 on incidents of anti-social behaviour and violence). All such acts of violence or threats of violence against staff must be reported to the Education Head of Service

immediately. Where the Education Service has a disciplinary locus over the pupil, disciplinary action imposed should reflect the gravity of the offence. In this respect violence to staff may involve immediate exclusion from school and police involvement

- ii) *Other pupils* - the matter must be recorded on the individual report form included as appendix 9 and copies placed in the pupils' files. All such acts of violence or threats of violence against pupils must be reported to the Education Head of Service immediately. Where the Education Service has a disciplinary locus over the pupil, disciplinary action imposed should reflect the gravity of the offence. In this respect violence to other pupils may involve immediate exclusion from school and police involvement

3.3 Where an offence is particularly serious or where the pupil commits a second act of violence towards a member of staff or a pupil:

- i) Support, approaches and strategies should be put in place to ensure the safety of staff and pupils including risk assessment procedures
- ii) Full consideration should be given to that pupil's continued attendance in the specific establishment
- iii) A meeting should be held, chaired by the Education Head of Service, or their representative, concerning the future educational arrangements for that pupil. The views of all stakeholders including pupils, parents, teachers, support staff and relevant organisations should be sought in these circumstances
- iv) The decisions of the meeting and outcomes for the pupil should be recorded appropriately and enacted timeously

3.4 Where the pupil is not under the Education Service's disciplinary control, full consideration should be given to:

- involvement of the police
- legal support to pursue an interdict to prevent further intrusion by that person onto the school premises

3.5 Involvement of the police can be a sensitive issue. Staff and pupils may be reluctant to involve the police for a variety of reasons:

- a desire to end a stressful experience
- concern that their competence may be brought into question
- a continued fear for their personal safety
- concerns regarding the impact on the pupil concerned

The work of the Police Service in partnership with the Education Service should encompass much more than responding to offences reported to them. Proactive involvement of the Police within schools should be seen as integral to:

- providing the highest quality of care, guidance and support to pupils and staff

- preventing escalatory patterns of inappropriate behaviour
- diverting pupils from becoming involved in offending activity

The involvement of the police should reflect the nature of the incident and the wishes of the victim. However, the Education Service considers that police involvement is a vital part of preventative strategy in addressing violence towards pupils and staff. (See education management circular 3.24: Guidelines on police and legal issues affecting school pupils.)

3.6 People who have suffered violence undergo a stressful and often demoralising experience. They require sympathetic management in rebuilding their confidence. In severe cases, amongst other things, this may require the involvement of services that can support pupils and staff who have been victims of violence. This might include support from the school's:

- Critical Incidents Group
- Pupil Support Department
- Educational Psychologist

or the Authority's

- Occupational Health Service
- Psychological Service
- Quality improvement Team

as well as

- the Health Service
- Social Work
- the Police
- SACRO
- Relevant victim support groups
- Trade Union Services
- Third Sector Organisations

3.7 All establishments should have in place clear policies on violence to pupils and staff including preventative strategies, which stress the awareness of the issues as well as monitoring all incidents of violence to pupils and staff. Implementation should include physical factors such as the layout of buildings, access and egress as well as reception areas. It should also involve practical aspects such as the development of positive strategies to defuse potentially difficult situations and risk assessment. In addition, preventative strategies might include:

- staff development activities such as the role of staff in setting an example in such matters as conduct and sound inter-personal relationships
- pupil development activities embedded in personal safety lessons taught in PSE curricula
- the development of explicit protocols, procedures and processes for proactive responses to potentially volatile interpersonal situations on campus and for reactive responses to violent incidents in school

- 3.8 When considering whether a pupil should be excluded because of inappropriate behaviour such as physical assault on pupils or staff and the deliberate damage to buildings or equipment, schools may consider referral to the Children’s Reporter.
- i) The referral of a pupil to the Children’s Reporter is appropriate when there is a need to intervene on a compulsory basis because the pupil is deemed “at risk” and their behaviour is giving serious cause for concern. This step would normally be considered once the school’s formal processes have been followed and multi-agency involvement is in place. However, in particular instances it may be appropriate to refer at an earlier stage. In all cases, where the child or young person has current or previous involvement with social work, discussion with the Named Person and Lead Professional should take place prior to referral to the Reporter. An agreed multiagency plan and recommendation to the Reporter should be identified whenever possible.
  - ii) There can be other reasons for a pupil’s behaviour – those who display particularly challenging behaviour may be the victims of neglect or abuse and/or be the witnesses of domestic abuse. The individual circumstances of the pupil using a multi-agency approach should be considered as part of the decision on whether to make a referral to the Children’s Reporter in line with local authority procedures. The grounds for referral are set out in section 67 of the Children’s Hearing (Scotland) Act 2011.
  - iii) The Children’s Reporter will investigate the case and determine whether compulsory measures of intervention may be required. If compulsory measures are considered necessary, a Children’s Hearing will be held.

#### **Section 4 - Liaison with parents and carers**

- 4.1 When a decision to exclude a pupil has been taken, a copy of the standard letter in appendix 3(a) or 3(b) incorporating details of the appeal process, details of any conditions that must be met to enable the pupil to return to school and the notes for guidance in appendix 4 should be completed and sent to the parents/carers or, in the case of a young person over 16, directly to him/her by recorded delivery letter on the date that the decision to exclude is taken. The parents/carers or young person must within the letter be invited to attend the school as soon as possible thereafter but no later than within 7 days immediately following the date of the decision to exclude in terms of the regulations. The letter must specify the date, time and place of the meeting (Regulation 4A(1)(b)).
- 4.2 Where, in line with paragraph 2.4(a), the period of exclusion merited and imposed is less than 7 days, the Head Teacher or Campus Principal should make every effort to convene the meeting within the period of exclusion imposed. In any event the meeting must take place within the 7 days as detailed in Regulation 4A(1)(b). The period of exclusion initially imposed for the incidents of indiscipline should not be extended solely as a result of the parents’/carers’ or young person’s inability to attend the exclusion meeting called within the shorter timescale.
- 4.3 If the parents/carers or the young person over 16 agree to meet the Head Teacher or Campus Principal or a nominated member of staff, and also agree to sign the

standard written assurance in appendix 5(a) or 5(b) the pupil should be re-admitted to school and the matter recorded. The standard written assurance should be signed by the parent/carer or young person and by the Head Teacher or Campus Principal or their nominated representative. It is essential, at this stage, to underline the importance of the partnership and co-operation being undertaken by the home and the school to lay the foundations for the pupil's improved behaviour. One copy of the assurance should be entered in the pupil's file and one copy should be given to the parent. Unless the circumstances of paragraph 2.4 apply, there is no need for the matter to be reported to the Education Head of Service.

- 4.4 If the parents/carers or young person over 16 fail to agree to meet the Head Teacher or Campus Principal or their designated senior member of staff; or if the parents/carers or young person refuse to sign the written assurance in appendix 5(a) or 5(b), the matter should be reported to the Education Head of Service and the pupil should remain excluded from school. The Education Head of Service or their nominated professional representative will then formally request in writing that the parents/carers or young person sign the standard written assurance in appendix 5(b). The standard written assurance should be signed by the parent/carer or young person and by the Head Teacher or Campus Principal or their representative. One copy of the assurance should be entered in the pupil's file and one copy should be given to the parent/carer or young person. If this assurance is appropriately signed, the pupil may return to school immediately.
- 4.5 Should the parents/carers or young person over 16 fail to sign this written assurance the exclusion will be continued, the matter referred to the area attendance council for non-attendance and the parent/carer or young person informed accordingly.
- 4.6 On no account should a pupil who is excluded from school be re-admitted without their parents/carers or the young person over 16 first signing the standard written assurance in appendix 5(a) or 5(b), which will be regarded by the Education Service as evidence of the parent's/carer's or young person's commitment to working in partnership with the school to ensure the good behaviour of the pupil. In the case of a short period of exclusion the Head Teacher or Campus Principal should agree with the parent appropriate arrangements for the signing of the assurance prior to the pupil's readmission where the required meeting is not able to be scheduled within the exclusion period. All signed assurances must be retained in the pupil's file.

## **Section 5 - Referral to the Education Head of Service**

- 5.1 In respect of these procedures the Head Teacher or Campus Principal should be clear about which exclusions should be referred to the Education Head of Service as set out in paragraph 2.4 of this circular. Statistical returns, based on the attendance monitoring system within schools are required by the Education Service on a regular basis and by the Corporate Parenting Board.
- 5.2 When the total of exclusions exceeds 20 days in relation to a particular pupil in any school session, the case is considered sufficiently serious that it must be reported fully using the checklist contained in appendix 1 to the Education Head of Service.

The Education Head of Service or their designate from the Education Management Team may then arrange to meet the pupil, the pupil's parents/carers, the Head Teacher or Campus Principal or their designate from the Senior Management Team and the relevant agencies included in the network of support around the pupil as soon as possible thereafter. The time may not exceed 20 school days from the day of the decision to exclude. However, return to school should normally proceed in line with established arrangements and after the parent/carer or young person over 16 has signed the standard written assurance.

- 5.3 The Education Head of Service or their designate from the Education Management Team will decide on the future educational placement of the pupil but this will, in all but the most exceptional circumstances, be to return the pupil to his/her base school. In exceptional circumstances the Education Head of Service may consider alternative educational provision which may include transfer to another school (appendix 10). In such cases the full case record will be made available to the Head Teacher or Campus Principal of the receiving school. However, in the intervening period return to the base school will normally be arranged after the parent/carer or young person has signed the standard written assurance in appendix 5(a) or 5(b).
- 5.4 Where the incident leading to the exclusion was particularly serious or where the pupil commits a second act of violence to a member of staff or threatened violence, then the re-admission of a pupil will be the product of a case conference chaired by the Education Head of Service. The decisions of the case conference will be recorded.
- 5.5 Notwithstanding the above, the Head Teacher or Campus Principal may refer particular cases for discussion with the Education Head of Service which have not reached the 20 day limit but where emerging and significant concerns have been identified.

## Section 6 - Area attendance councils

6.1 The Education Service has delegated certain functions to the clerk of area attendance councils (see also Education Management Circular 3-03), who have a role to play when the parents/carers of an excluded pupil or a young person over 16 have failed to comply with the procedures. It may be appropriate for the Head Teacher or Campus Principal to recommend to the area attendance council that they pursue those matters in accordance with their delegated powers should such a course of action be deemed appropriate. The possible courses of action that may be undertaken are as follows;

- (a) Referral to the Children's Reporter in consultation with the appropriate officials to ascertain whether or not grounds exist for bringing the pupil before a hearing. It should be noted that the Head Teacher or Campus Principal may also refer a pupil directly to the Children's Reporter. Such referrals would require to be made within as short a timescale as possible for this action to be effective.
- (b) Recommendation of prosecution of the parents/carers for their child's non-attendance at school.

Where in the context of exclusion from school a decision has been made by the Head Teacher or Campus Principal to refer a case to the attendance council or to the Children's Reporter, it must be reported to the Education Head of Service.

However, schools should refer to SCRA only after they have followed a staged approach following the processes outlined in the GIRFEC Practice Model (Appendix 8) and held a Child's Plan Meeting. This will require that any decision to refer a Looked After Child or a child on the Child Protection Register to SCRA will be taken at a Child's Plan Meeting



## Section 7 - Particular points of note for Head Teachers and Campus Principals

7.1 i) A written record must be kept of all procedures followed as well as statements from staff involved or witnessing the behaviour leading to the proposed exclusion and such statements should be recorded as close to the time of the incident as is practical. All information, including the reasons why a Head Teacher or Campus Principal decided on a particular course of action, should be filed in the pupil progress records, pastoral records and in the exclusion record system. It is important that the records incorporate details of:

- the legitimate aim of the proposed exclusion
- how the exclusion would help to achieve that aim
- consideration of the range of actions other than exclusion which had already been applied
- the rationale for the period of exclusion chosen to reflect a proportionate response

Comments should be specific, including the names of staff, dates, times and any other information that may be considered relevant. This information should be of detailed, accurate and of the highest quality as it may, in certain circumstances, be required to substantiate the authority's case in a court of law.

ii) The person making the decision to exclude the pupil must be aware of all of the facts before making that decision. The decision should never be taken in advance of detailed consideration of statements from all those involved. Only the behaviour of the pupil is relevant in making the decision. The decision should be relevant in any legal challenge to the decision to exclude.

7.2 While interviewing parents/carers the Head Teacher or Campus Principal or designated member of senior staff, must be accompanied by another member of staff as a witness. A record of the interview noting who is in attendance and the key points raised must be created and retained in the school.

As with any meeting in school, parents may bring someone to support them. This person may provide support, such as translating for the parent. Such supporters may be asked to leave an interview at any time if their presence is adjudged as detrimental to the purposes of the meeting by the chairperson. However, discontinuing and rescheduling a meeting because of the need to address issues of participants behavior within that meeting may also be employed at the discretion of the staff chair.

If a parent is accompanied by a solicitor, the Head Teacher or Campus Principal should conduct the interview with another member of school staff present but, if any matter of legal concern should arise, the Head Teacher or Campus Principal should terminate the interview and seek advice, by telephone, from Legal Services.

7.3 Where an exclusion has to be reported to the Education Head of Service the information must include:

- copies of correspondence with parents/carers
- a description of the incident actually provoking the exclusion
- an accurate summary of the pupil's pattern of behaviour
- details of any Additional Support Needs including Single and Multi-Agency Plans
- the pupils status with regard to LAC/LAAC
- the pupils status with regard to the Child Protection Register
- the actions taken by the Head Teacher or Campus Principal, guidance and other staff
- the home address and date of birth of the pupil
- the full name of parents/carers

- 7.4 The Head Teacher or Campus Principal should ensure that the checklist in appendix 1 is completed and regularly updated for every pupil who requires to be considered in terms of this circular and a copy of the completed checklist should also be sent to the Education Head of Service where appropriate with the above information from paragraph 7.3.
- 7.5 Where a pupil commits a serious offence this must be reported to the police (see education management circular 3.24: Guidelines on police and legal issues affecting school pupils). Even where grounds exist for bringing a pupil before a children's hearing, the grounds may be denied by the pupil or by their parents/carers. In such cases the hearing is powerless to act until proof has been obtained from the Sheriff Court.
- 7.6 Serious offences might include theft, assault, vandalism and incidents of a sexual nature. Further clarification can be sought from the Education Head of Service or from Legal Services. Every effort should be made to assist the police in their enquiries although it is preferable for interviews involving police officers and pupils to take place in the pupil's home rather than in the school. This is particularly important in the case of primary pupils. However, if the police insist on interviewing a pupil in school, the pupil's parents/carers should be contacted immediately to give them the opportunity to be present. If you have any concerns contact Education Head of Service or Legal Services.
- 7.7 Where the pupil involved is a young person over school leaving age but under 18 years of age, the attached standard letters in the appendices should be suitably amended to be addressed to the young person and discussions about the exclusion should be carried out with the young person and not with the parents/carers. However, correspondence should be copied to the parents/carers. It is essential that staff use the attached standard letter and do not deviate from or amend its core contents.
- 7.8 Head Teachers and Campus Principals should be aware that, in normal circumstances, young people over 16 years of age cannot be brought before a children's hearing.

## **Section 8 - Appeals**

- 8.1 The Head Teachers or Campus Principal will be informed if a parent or young person over school leaving age but under 18 years of age makes an appeal against the decision to exclude and will require to be the principal witness for the Education Service at the subsequent appeal hearing and if necessary in the Sheriff Court. The member of staff nominated to investigate the incident of indiscipline and/or the member of staff directly involved will also be required to attend.
- 8.2 Head Teachers and Campus Principals should note that section 41 of the Standards in Scotland's Schools (Scotland) Act 2000 provides that a pupil with legal capacity 1, generally presumed to be a pupil aged 12 or above and able competently to understand his/her situation and the proceedings involved, will have the same right to appeal under section 28H of the Education (Scotland) Act as:
- (a) the parent of the pupil
  - (b) the pupil where the pupil is a young person over 16 years of age but under 18 years of age.

Where a pupil decides to appeal against exclusion under the provision of section 41 of the relevant act, the Education Service will follow the procedures outlined for parents/carers or young persons.

- 8.3 The Education Head of Service will arrange for the Head Teacher or Campus Principal to be suitably advised prior to the appeal hearing or Sheriff Court proceedings and, in due course, will notify them of the results of such appeals. Any departure from the above procedures must only be made in the most exceptional circumstances and then only at the discretion of the Education Head of Service. If these procedures are, under exceptional circumstances, not followed, the procedure which is adopted must achieve at least the level of procedural fairness achieved by following the terms of Education Management Circular 3.08.
- 8.4 Parents, or other interested parties may make a complaint to Scottish Ministers if they think that the Council has failed in any relevant legal duty e.g. to ensure alternative education provision without delay, during a period of exclusion. Scottish Ministers could then make an order requiring the local authority to carry out that duty.

Yours sincerely

Education Head of Service  
29<sup>th</sup> November 2013

## **Section Nine - Acknowledgements**

Circular 3.08 was updated through the efforts of a number of professionals. The 'Exclusions Update Group' is a multi-disciplinary group of professionals which includes:

***A Core Group***

Stuart Clark	<i>DHT, Dunoon Grammar School</i>
Stuart Craig	<i>Educational Psychologist</i>
Louise Lawson	<i>DHT, Oban High School</i>
Sheila McFadyen	<i>Legal Services</i>
Gerry Geoghegan	<i>Education Support Officer</i>

***A Broader Group of front line Consultants***

Peter Bain	<i>HT, Oban High School</i>
David Bain	<i>Quality Improvement Manager</i>
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***A Late Draft Consultant Group***

Mark Lines	<i>Social Work</i>
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Karen Miller	<i>Performance Management Support Officer</i>
Kate Connelly	<i>Legal Services</i>

***A Users Consultant Group***

All Argyll and Bute Primary and Secondary Head Teachers

***A Senior Management Consultant Group***

Carol Evans	<i>Education Head of Service</i>
Louise Long	<i>Social Work Head of Service</i>

## **Section Ten - Supporting Documentation**

### **Appendix 1**

Checklist of exclusion procedures (primary)  
Checklist of exclusion procedures (secondary)

### **Appendix 2(a)**

Violence/aggression to staff - incident report form

### **Appendix 2(b)**

Scottish Executive Education Department Circular No 6/03 on incidents of anti-social behaviour and violence

### **Appendix 3(a)**

Letter to parents/carers

### **Appendix 3(b)**

Letter to parents/carers plus attached sheet

### **Appendix 4(a)**

Notes of guidance - appeal procedures

### **Appendix 4(b)**

Information Sheet – appeal procedures

### **Appendix 5(a)**

Assurance of co-operation (under 16)

### **Appendix 5(b)**

Assurance of co-operation (16+)

### **Appendix 6**

Scottish Government Document ‘Included, Engaged and Involved Part 2: a positive approach to managing school exclusions’ (IEI2)

### **Appendix 7**

Equality Act 2010 guidance x2 (ECHR Guidance for education providers and guidance on reasonable adjustments for disabled pupils)

### **Appendix 8**

GIRFEC Practice Model Information

### **Appendix 9**

Violence/aggression to other pupils – Incident report form

### **Appendix 10**

Making alternative arrangements for education during exclusion

## Appendix 1 (Primary)

### Argyll and Bute Council: Community Services: Education

#### Exclusion from school

Checklist to accompany documents sent to the Head of Education

School name \_\_\_\_\_

Date of birth \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Class \_\_\_\_\_  
\_\_\_\_\_

Parent/carer \_\_\_\_\_  
\_\_\_\_\_

Please record date as appropriate. Where double box please date and tick if copy retained in school.

School procedures		Date	Notes/comments
Referred	To DHT/HT		
	To others:		
Pupil interviewed	By DHT/HT		
	By others:		
Complaints received from other than staff	Pupils		
	Parents		
	Others:		
Pupil excluded for a cumulative total of:	Up to 10 days		
	10-30 days		
	More than 30		
Pupil	Re-admitted		
	Not re-admitted		
Contacts with parent/carer	Letter (copy)		

	Telephone		
	Others:		
Exclusion letter (copy) + appendices sent to parent/carer	Ordinary post		
	Recorded delivery		

Interviews with parent/carer	By DHT/HT		
	Others:		
Written assurances	Signed (copy)		
	Not signed		
Involvement of any outside agency  (including names and telephone numbers if possible)	Psychological services		
	Social work		
	Police		
	Others:		

## Appendix 1 (Secondary)

### Argyll and Bute Council: Community Services: Education

#### Exclusion from school

Checklist to accompany documents sent to the Head of Education

School name \_\_\_\_\_

Date of birth \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Class \_\_\_\_\_  
\_\_\_\_\_

Parent/carer \_\_\_\_\_  
\_\_\_\_\_

Please record date as appropriate. Where double box please date and tick if copy retained in school.

School procedures		Date	Notes/comments
Referred	To PTs subject		
	To Guidance:		
	To DHT		
	Others:		
Pupil interviewed	By PTs subject		
	By Guidance		
	By DHT		
	Others:		
Complaints received from other than staff	Pupils		
	Parents		
	Others:		
Pupil excluded for a cumulative total of:	Up to 10 days		
	10-30 days		
	More than 30		
Pupil	Re-admitted		



	Not re-admitted		
Contacts with parent/carer	Letter (copy)		
	Telephone		
	Others:		

Exclusion letter (copy) + appendices sent to parent/carer	Ordinary post		
	Recorded delivery		
Exclusion letter + appendices	Sent to HSS		
Interviews with parent/carer	By Guidance		
	By DHT		
	Others:		
Written assurances	Signed (copy)		
	Not signed		
Involvement of any outside agency  (including names and telephone numbers if possible)	Psychological services		
	Social work		
	Police		
	Others:		

Action by education office

Action	Date	Notes/comments
Interviewed by education personnel		
Re-admitted to own school		
Transferred to another school		
Parent/pupil/young person appealing against exclusion		
Appeal committee decision		
Sheriff Court decision		

## Appendix 2(a)

### Incident report form: anti-social behaviour and violence against staff

Definition of anti-social behaviour and violence

Any incident in which an employee of a school is seriously verbally or physically abused, threatened, attacked or harassed by a pupil, parent, member of the public or any other person in circumstances arising out of the course of his/her employment. This includes any statement or action that causes the member of staff to fear for their safety, the safety of another, the school or for personal property.

This includes physical violence, sexual, homophobic or racial harassment or abuse, harassment relating to religious beliefs or disability, assault (with or without a weapon), verbal threats or threatening gestures, verbal taunting, vandalism or arson, and any other intentional damage to personal property.

Managers of staff who have been the victim of violence or anti-social behaviour should fully complete this form. It will help us to understand the problems staff face in their work, and consider ways in which the risk of future incidents can be reduced. Please attach a continuation sheet if necessary.

Date of incident  Day of the week  Time

#### 1 Employee - details of person assaulted

Name \_\_\_\_\_ Job/position \_\_\_\_\_  
Dept/section \_\_\_\_\_ Gender \_\_\_\_\_  
Ethnicity \_\_\_\_\_ [See end for list of categories of ethnicity]

What work was being done when incident started? \_\_\_\_\_  
\_\_\_\_\_

#### 2 Details of alleged assailant(s) [if known]

a) Ethnicity \_\_\_\_\_  
Age(s) approx \_\_\_\_\_  
Gender \_\_\_\_\_

[See end for list of categories of ethnicity]

#### 3 Witness(es) [if any]

Name(s) \_\_\_\_\_  
\_\_\_\_\_

Details of any special educational needs

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Alleged assailant was [please tick one of the following]

Pupil

Past pupil

Parent

Other

(b) Is the alleged assailant known to be involved in any previous incidents?

YES/NO

If yes to (b), give date and brief details of incident

#### 4 Details of incident

(a) Type of alleged assault: [Pick number(s) from below]

- 1 Verbal abuse
- 2 Physical assault (no weapon or improvised object)
- 3 Physical assault using an improvised object
- 4 Assault using a weapon - an implement brought in with the premeditated intent of causing harm or injury
- 5 Damage to personal property

(b) Please indicate if the above action was connected to any of the following:

- |                     |                     |                                 |
|---------------------|---------------------|---------------------------------|
| 1 Sexual harassment | 2 Religious beliefs | 3 Homophobia/sexual orientation |
| 4 Racial harassment | 5 Disability        |                                 |

(c) Location of alleged incident

- |                                   |                              |                                   |
|-----------------------------------|------------------------------|-----------------------------------|
| 1 Pre school centres of education | 2 Classroom                  | 3 Other areas of school buildings |
| 4 School grounds                  | 5 Outwith the school grounds |                                   |

(d) Time of alleged incident

- |                       |                        |
|-----------------------|------------------------|
| 1 During school hours | 2 Outwith school hours |
|-----------------------|------------------------|

(e) Consequences of action for alleged victim: [Select one of the following]

- 1 No time taken off
- 2 Time off (treatment for emotional effects)

- 3 Time off (treatment for physical injury) \_\_\_\_\_
- 4 Time off - reportable under RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences 1995 - ie more than 3 days of 'major injury' such as broken arm or leg etc); reportable to Health and Safety Executive
- 5 Unknown

(f) If alleged incident has resulted in time off, please indicate number of working   
 days lost as a direct result

**5 Outcome**

(eg what happened after the event, details of any police involvement, legal action taken and any action taken by the school)

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b) Any other relevant information

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Signed \_\_\_\_\_ Date \_\_\_\_\_  
 Position \_\_\_\_\_

**Please return this form as soon as possible**

*Categories of ethnicity:*

- |                   |                     |               |
|-------------------|---------------------|---------------|
| White - UK        | Asian - Bangladeshi | Black - Other |
| White - Other     | Asian - Chinese     | Other         |
| Mixed             | Asian - Other       | Not disclosed |
| Asian - Indian    | Black - Caribbean   | Not known     |
| Asian - Pakistani | Black - African     |               |

# Scottish Executive

Education Department  
Pupil Support and Inclusion Division

Branch 3  
3-A North, Victoria Quay  
Edinburgh EH6 6QQ

**Circular No 6/03**

To: Chief Executives of Local Authorities

Telephone: 0131 244 0076

Copy to: Directors of Education

Fax: 0131 244 7943

For distribution to:  
Area Offices  
Headteachers  
School Boards  
Other interested organisations

26<sup>th</sup> June 2003

Dear Sir/Madam

## **REPORTING INCIDENTS OF ANTI-SOCIAL BEHAVIOUR AND VIOLENCE**

### **Introduction**

1. Circular 5/97 established guidance on the monitoring of violence against school staff. The current Circular is an updated version of Circular 5/97.
2. The Scottish Executive continues to recognise that firm disciplinary policies in schools are crucial to good education, and more generally to good order in society. The Executive is committed to assisting education authorities and schools to maintain a positive ethos and tackle indiscipline. Reviewing this circular is part of the Scottish Executive's commitment to ensuring that incidents of anti-social behaviour and violence against staff are reported, properly recorded and addressed.
3. The Scottish Executive's commitment to tackle indiscipline was demonstrated by the Discipline Task Group (DTG), which was established in January 2001 by Jack McConnell. The group was set up to address issues relating to discipline in Schools and was given the task of looking at existing policies and considering how best to build upon the good work that was already being carried out in this area. The Task Group reported its findings to Ministers in June 2001 in the report *Better Behaviour–Better Learning*. This report made 36 recommendations aimed at improving discipline in schools. These recommendations are currently being implemented by the Scottish Executive,

local authorities and individual schools following the Joint Action Plan published in December 2001.

4. This Circular has been updated to include a more detailed definition of what constitutes anti-social behaviour, and what constitutes a violent incident (see paragraph 9, below). The reporting form has been refined to reflect the changed definition (see Annex A).
5. The revision of this Circular is part of an ongoing approach to improving systems of reporting, recording and monitoring by the Scottish Executive in partnership with local authorities and individual schools. The Scottish Executive is developing the ScotXEd system, by which the reporting, recording and monitoring of incidents of anti-social behaviour and violence against school staff will be collected beyond 2004/05. In future, publication of statistics may include disaggregation of statistics by local authority area, in addition to the national figures which are currently released annually.
6. The Scottish Executive considers that establishing a formal system for reporting, recording and monitoring incidents of anti-social behaviour and violence against school staff, teaching and non-teaching, is important for a number of reasons:
  - Such statistics are now being collected by authorities across Scotland. However, there is evidence that the information we are collecting is not yet sufficient to demonstrate in detail whether or not the extent or severity of such incidents is increasing.
  - By extending the definition of violence to include anti-social behaviour, we aim to provide more detailed and reliable data on the scale and nature of violence against school staff.
  - Recording incidents of violence and anti-social behaviour will assist authorities and schools in developing preventative strategies specific to a school's circumstances, and subsequently, will assist them in assessing the success of such strategies.
  - The refined incident report form will be easier for staff to use while continuing to provide information that can be used in maintaining discipline and taking action against perpetrators.
  - Monitoring and recording such incidents continues to be consistent with the safety strategy for the protection of school populations against violence, and the action plan for implementing and monitoring the effectiveness of safety measures recommended in the Report of Lord Cullen's Inquiry ("The Public Inquiry into the shooting at Dunblane Primary School on 13 March 1996").
7. This Circular relates to anti-social behaviour and violence against school staff arising out of the course of their employment. It is of course open to local authorities to introduce analogous arrangements in relation to other staff, such

as attendance officers and educational psychologists, who are also employed by the education authority.

### **Introduction of the Amended Form**

8. It is therefore recommended that education authorities incorporate the amended form into their established procedures for reporting, recording and monitoring incidents of anti-social behaviour and violence against school staff. The remainder of this Circular refers to the nature of these procedures. In due course authorities will be asked to confirm that they have introduced the form into their procedures as recommended, and to supply the Scottish Executive with information arising from the monitoring process.

### **Definitions of Anti-social Behaviour and Violence**

9. For the purposes of this Circular, anti-social behaviour and violence is defined as:

*Any incident in which an employee of a school is seriously verbally or physically abused, threatened, attacked or harassed by a pupil, parent, member of the public or any other person in circumstances arising out of the course of his/her employment. This includes any statement or action that causes the member of staff to fear for their safety, the safety of another, the school or for personal property.*

10. This includes physical violence, sexual, homophobic or racial harassment or abuse, harassment relating to religious beliefs or disability, assault (with or without a weapon), verbal threats or threatening gestures, verbal taunting, vandalism or arson, and any other intentional damage to personal property.
11. All incidents of this character should be recorded using the following procedures.

### **Recording and Reporting Incidents of Anti-social Behaviour and Violence**

12. As per Circular 5/97, staff should report any incident of anti-social behaviour or violence falling within the above definition. The reporting should be similar to the required reporting under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995, where employers are required to keep records of serious incidents, and accidents where staff are injured. To encourage staff to fulfil this requirement, the benefits of the procedure as discussed elsewhere in this Circular should be made clear to them. It should also be stressed that reporting an incident does not represent a failure on their part to maintain discipline.
13. It is for education authorities to devise reporting arrangements according to their own circumstances. Authorities must ensure reporting procedures allow for the identification of different types of incident - for example racial,



homophobic or sexual harassment, or harassment on grounds of religion. The arrangements should provide for reports to be:

- Prepared as soon as possible after the incident
  - Passed up the school management structure to the headteacher, and thereafter
  - Passed on to the education authority.
14. Education Authorities may find it helpful to use or incorporate the form (attached as Annex A) into a form for reporting incidents of anti-social behaviour or violence against school staff. It is the responsibility of each education authority to incorporate this form into any local procedures for recording, monitoring and analysing incidents of anti-social behaviour or violence. The form principally records information required by the Scottish Executive for statistical recording. However, sections 1 and 3 are for the use of schools and education authorities only; this data will not be collected by the Scottish Executive.

### **Monitoring Incidents of Violence**

15. Education authorities should continue to require schools to maintain a register of incidents of anti-social behaviour or violence on their premises, and to submit periodic reports to education authorities. Authorities should then collate school-level returns and submit periodic reports to any committee appointed by the authority with responsibility for schools education. It is for the education authorities to devise the necessary arrangements, but it is recommended that returns should be submitted at no less than six monthly intervals.

### **Responding to Incidents**

16. In addition to periodic reports, authorities may also wish to require schools to submit to them an incident report form immediately after an incident has taken place as apart of the specific response to that incident.
17. A school may find it necessary to seek police assistance in relation to a particular incident. It is for schools themselves to determine this in the first instance. In addition, it is open to the victim in a case of alleged violence to call the police. Any reporting of an incident to police on behalf of the school or education authority should be carried out in accordance with the education authority guidelines on when the police should be involved.
18. Authorities and schools should also consider the need to offer appropriate counselling and support to victims or witnesses of incidents of anti-social behaviour or violence.

**Enquiries**

19. Any enquiries relating to this Circular should be directed to the Scottish Executive on (0131) 244 0076; Education Department, Pupil Support and Inclusion Division 3, Area 3-A North, Victoria Quay, Edinburgh EH6 6QQ.

Yours faithfully

**RUTH CAMPBELL**

## Appendix 3(a)

Note All previous appendices and supporting documentation should be destroyed to be replaced by this material, the terms of which have been agreed with Legal Services.

### Argyll and Bute Council: Community Services: Education

Dear

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

I regret to inform you that your child has been involved in an incidence of misconduct. I would ask you to come to the school on in order to discuss the matter. Your child shall be present at that meeting but should not return to school before it takes place. The reasons for this decision are detailed on the attached sheet and, in my view, are such that your child's continued attendance at this school would be likely to be seriously detrimental to order and discipline in the school and to the educational well-being of other pupils.

You may bring a friend 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.

When we meet we will discuss when should return to school and the conditions under which such a return may take place.

This exclusion has been made within the terms of the Education (Scotland) Act 1980 and you have the right under section 28H of the same act 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/campus principal

Enc: Attached sheet

## **Appendix 3(b)**

### **Letter advising that matter has been referred to the Head of Service: Secondary Education and Pupil Support**

#### **Argyll and Bute Council: Community Services: Education**

Dear

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

The reasons for this decision are detailed on the attached sheet and, in my view, are such that your child's continued attendance at this school would be likely to be seriously detrimental to order and discipline in the school and to the educational well-being of other pupils.

Given the serious nature of this matter it has been necessary for me to inform the education office and you may be invited to meet with a directorate member or another departmental representative.

This exclusion has been made within the terms of the Education (Scotland) Act 1980 and you have the right under section 28H of the same act 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/campus principal

Enc: Attached sheet

**Attached sheet**

**Argyll and Bute Council: Community Services: Education**

**Details relating to the imposition of a period of exclusion from school relevant to letter dated**

Name of pupil:

Class:

Period of exclusion in days:

Date from:

Date of return to school:

Reasons for exclusion:


Signed

Date

\_\_\_\_\_  
Head teacher/campus principal

\_\_\_\_\_

## **Appendix 4(a)**

### **Argyll and Bute Council: Community Services: Education**

#### **Appeal procedures for pupils and young persons 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 pupil who has been excluded from attending school or, where the pupil is a young person (a pupil over school leaving age who has not attained the age of 18 years), the pupil may refer the decision to an appeal committee.
- 3 A parent or young person who wishes to make an appeal against a decision to exclude should do so in writing to the Executive Director of Community Services, Argyll House, Alexandra Parade, Dunoon, PA23 8AJ; telephone 01369 704000.

The letter should give the name of the pupil 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 28D of the Education (Scotland) Act 1980.

- 4 The appellant will be given the opportunity to go to the hearing and speak to the appeal committee. The appellant may ask up to three people to accompany him/her and, if he/she so wishes, they can ask one of them to speak on his/her behalf. If the appellant does not wish to be present he/she can nominate someone else to attend and speak for them.

The appellant may decide to make a written submission to the appeal committee and if he/she so decides they should send their submission to the Clerk to the Appeals Committee in the Governance and Law section of Customer Services at least ten days before the hearing.

- 5 The appellant 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 within five working days of receipt.
- 7 Deemed decisions

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

- i a period of one month immediately following receipt by the appeal committee of the reference a hearing has not been held;
- ii 14 days immediately following an adjournment of a hearing the appeal committee have failed to fix a date for a resumed hearing;

- iii 14 days following the conclusion of a hearing the appeal committee have failed to notify the parent of 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.

## **Appendix 4(b)**

### **Argyll and Bute Council: Community Services: Education**

#### **Appeal procedures for pupils and young person excluded from schools**

##### **Information sheet**

The statutory provisions for appeal are contained in section 28H and schedule A1 of the Education (Scotland) Act 1980 as amended by the Education (Scotland) Act 1981 and the Education (Appeal Committee Procedures) (Scotland) Regulations 1982.

Under these provisions a parent of a pupil who has been excluded from attending school or, where the pupil is a young person (a pupil over school age who has not attained the age of 18 years), the pupil may appeal against the exclusion.

- 1 A parent or young person who wishes to make an appeal against a decision to exclude should do so in writing to the Executive Director of Community Services. His address and telephone number are given overleaf. Your letter should give your name and address, the name of the child or young person for whom the appeal is being made, the name of the school where the pupil was excluded from and the date and reference of the letter sent to you. It should also contain a clear statement, stating why you wish to appeal and formally requesting referral of an appeal against a decision to exclude to an appeal committee set up under section 28D of the Education (Scotland) Act 1980.
- 2 The parent or young person will be given the opportunity to go to the hearing and speak to the appeal committee. He or she may:
  - (a) appear or be represented at the hearing, for example by a lawyer, relative or friend;
  - (b) be accompanied at the hearing by up to 3 friends including any person representing the person.

The parent or young person may decide, however, simply to submit a letter of appeal and this would be considered by the appeal committee. If the parent or young person does submit his/her case in writing, please read paragraph 3 carefully.

- 3 If the parent or young person decides to submit written representations this must be in the hands of the Clerk to the Appeal Committee, at least ten days before the date of the hearing. Likewise, any representation which the Executive Director of Community Services wishes to make to the appeal committee will be copied to the parent or young person at least ten days before the appeal is heard. The Clerk to the Appeal Committee is employed in the Governance and Law Service within the Customer Services Department of the Council.

It is to your advantage to ensure that all relevant facts are given in advance. If new evidence is introduced at the hearing, an adjournment may be necessary to provide time for the new evidence to be considered.



- 4 If you lodge an appeal you will receive an acknowledgement from the Clerk to the Appeal Committee within 5 working days of receipt. The hearing will be arranged within 28 days of receipt of your appeal, unless there is a joint agreement to hold it at a later date, or unless the committee consider that the appeal should be heard together with another or other appeals, in which case the date fixed will be arranged within 28 days of the last appeal received. You will be given approximately 14 days notice of the date, time and location of the hearing.

Should the date arranged be inconvenient, you can ask for another date to be arranged. There is no obligation on the committee to re-arrange their programme and they would only do so if a very good reason was given. If the hearing proceeds as planned, you may wish to invite someone else to represent you.

- 5 The Council will arrange for an appeal committee to be formed. This committee will be set up specifically to consider appeals against exclusions. There may be more than one committee in order to consider appeals in different areas within the authority. Each appeal committee may consist of 3, 5 or 7 people but no more than 7. Members may be elected councillors or local people such as parents, teachers, parent council members or members of attendance councils.

If present, the appeal committee chairman will normally be an elected councillor. If no elected councillor is present the chairman will be elected by the members of the committee. Nobody who has previously participated in the exclusion process can be a member of the appeal committee. Nobody can be a member if he/she is a parent of a pupil at the school from where the pupil has been excluded, or if he/she is a teacher at the school. The committee will be clerked from the Customer Services Department by a Council officer and, with the consent of the chairman of the appeal committee, there may be one or two others present as observers. The public will not be admitted; the hearings will be held in private.

- 6 The chairman will explain how the hearing will be conducted.

Normally:

- (a) an officer representing the education authority will explain why your request for the exclusion to be withdrawn was refused and evidence may be heard in support of this;
- (b) you, or the person you have indicated will speak on your behalf, may ask questions on the evidence;
- (c) the appeal committee may ask questions of the officer;
- (d) you, or the person speaking on your behalf, may explain why you think the exclusion should not have been imposed; you may produce evidence in support of your statement and call witnesses; you may wish for your written statement to be lodged in advance;

- (e) the officer representing the education authority may then question you and your witnesses;
- (f) the appeal committee may ask you questions;
- (g) the officer will then sum up on behalf of the education authority;
- (h) you, or your representative, may sum up on your behalf.

If any documents are submitted please try to ensure that there are sufficient copies for all present. If any new evidence is brought forward, either party may seek an adjournment.

- 7 The decision of the appeal committee will be given in writing to you within 14 days of the end of the hearing. The reasons for their decision will also be supplied. In the event of your appeal being refused you have the right to appeal against the decision of the committee to the sheriff.
- 8 If a hearing is not held within 2 months of receiving your letter of appeal, or a decision is not intimated to you within 14 days of the end of the hearing, or if a hearing is not continued within 14 days of adjournment, you are entitled to deem the appeal refused and in this case appeal to the sheriff is also open to you.

It must be appreciated that this information sheet provides general guidance about appeals procedures. Specific information on appeal committees and their operation will be found in:

Education (Scotland) Act 1980;

Education (Scotland) Act 1981 (HMSO);

Education (Appeal Committee Procedures) (Scotland) Regulations 1982 (SI 1982 No 1736);

Scottish Education Department Circular 1074/1080 (SED, New St Andrew's House, Edinburgh).

Area Offices:

Area Clerk, Dalriada House, Lochnell Street, Lochgilphead PA31 8ST; tel: 01546 602177;

Area Clerk, Lorne House, Albany Street, Oban PA34 4AR; tel: 01631 562137;

Area Clerk, Hill Street, Dunoon; tel: 01369 704374;

Area Clerk, Burnet Building, St John Street, Campbeltown PA20 6BJ; tel: 01586 559000;

Area Clerk, Eaglesham House, Mount Pleasant Road, Rothesay PA20 9HQ; tel: 01700 504225;

Area Clerk, Scotcourt House, 45 West Princes Street, Helensburgh G84 8BP; tel: 01436 658820;

Area Clerk, Breadalbane Street, Tobermory PA77 6PX; tel: 01688 302051;

Area Clerk, Jamieson Street, Bowmore, Isle of Islay PA43 7HP; tel: 01496 301301.

Executive Director of Community Services:

Education Offices  
Alexandra Parade

Dunoon

Argyll

PA23 8AJ

Telephone: 01369 704000

**Appendix 5(a)**

**Argyll and Bute Council: Community Services: Education**

**Assurance of co-operation** (*parents/head teacher/campus principal*)

I understand why \_\_\_\_\_ was excluded from \_\_\_\_\_ and I give my assurance that if he/she is re-admitted to school, I shall do all I can to ensure that he/she complies with the rules, regulations and disciplinary requirements of the school. I understand that \_\_\_\_\_ is being given another chance to comply with these requirements and that any further serious breaches of school discipline may lead to further exclusion from the school. *I also understand that I have signed this assurance of co-operation without prejudice to any decision which I may take to submit an appeal against this exclusion.*

Specific conditions (*if appropriate*)

Signature of parent/carer

Signature of pupil

Address

Signature of head teacher  
/campus principal  
/representative

Date

Name of child

Date of birth

**Appendix 5(b)**

**Argyll and Bute Council: Community Services: Education**

**Assurance of co-operation** (*pupil over 16/head teacher/campus principal*)

I understand why I was excluded from \_\_\_\_\_ and I give my assurance that, if I am re-admitted to school, I will comply with the rules, regulations and disciplinary requirements of the school. I understand that I am being given another chance to comply with these requirements and that any further serious breaches of school discipline may lead to further exclusion from the school. *I also understand that I have signed this assurance of co-operation without prejudice to any decision which I may take to submit an appeal against this exclusion.*

Signature of pupil

Address

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Signature of head teacher  
/campus principal  
/representative

Date

Name of pupil

Date of birth

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## **Appendix 6**

Scottish Government Document 'Included, Engaged and Involved Part 2 : a positive approach to managing school exclusions' (IEI2). Please see link below:

[www.scotland.gov.uk/Publications](http://www.scotland.gov.uk/Publications)

If you require a hard copy of the above documents please contact Community Services – Education.

## **Appendix 7**

Equality Act 2010 guidance x 2 – ECHR Guidance for Education Providers and Guidance on Reasonable Adjustments for Disabled Pupils. Please see link below:

[www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/](http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/)

If you require a hard copy of the above documents please contact Community Services – Education.

## **Appendix 8**

Girfec Guidelines – practice model. Please see link below:

<http://www.argyll-bute.gov.uk/girfec>

If you require a hard copy of the above documents please contact Community Services – Education.



## Appendix 9

### ARGYLL AND BUTE COUNCIL COMMUNITY SERVICES: EDUCATION

#### BULLYING INCIDENT RECORDING FORM

Please ensure **all sections** are fully completed.

Section 1	
Name of School:	

Section 2			
Date incident occurred:		Date incident reported:	

Section 3 - Details of those displaying bullying behaviour				
Pupil Name	Class/Year	Gender	Ethnicity	ASN (y/n)

Section 4 - Details of those experiencing bullying behaviour				
Pupil Name	Class/Year	Gender	Ethnicity	ASN (y/n)

Section 5 - Type / nature of the incident (please tick at least one box)		
Cyber-bullying	e.g. malicious use of text messages, phone calls, social media, use of picture/video clips on a mobile phone	
Incitement	e.g. encouraging others to bully, behave in a racist, sexist or discriminatory manner, wear discriminatory insignia.	
Intimidation	e.g. frightening or making threats	
Isolation / Social	e.g. shunning, rejecting, leaving out of activities/groups, etc.	

Physical	e.g. pushing, shoving, fighting, tripping-up, etc.	
Property damage	e.g. theft of bags, clothes, money, tearing clothes, ripping books, defacing property, etc.	
Verbal	e.g. name-calling, slagging, threatening, sarcasm, discriminatory comments, etc.	
Written	e.g. graffiti, notes, letters, writing on jotters, written threats, ridicule through drawings	
Other - please specify		

**Section 6 – Influencing factors (you may tick more than one box)**

Body image/Physical appearance		Looked after status	
Class/Socio-economic status		Race/Culture	
Disability		Religious beliefs	
Gender		Sexual orientation	
Unknown		Other (please specify):	

**Section 7 - When did the incident occur?**

Before School		Morning Interval	
After School		Lunch Break	
During Class		Various	
Between Classes			

**Section 8 - Where did the incident occur?**

In school building (please specify)		Outwith school premises	
In school grounds		On school bus/transport	
Various			

**Section 9 - Investigative procedures carried out**

Incident investigated	
Interview with pupils involved	

Meeting with parents of those experiencing bullying behaviour	
Meeting with parents of those displaying bullying behaviour	
Other (please specify):	

**Section 10 – Disciplinary action taken**

Please specify if exclusion was necessary or if Police were called, etc.

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**Section 11 - Action taken to support those experiencing bullying behaviour**

Please specify (e.g. support from staff, peer support, buddying, external agency involvement, resolution with those displaying bullying behaviour).

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**Section 12 - Was any restorative/preventative work carried out?**

Whole school		Individual	
Whole class		Other (please specify):	
Group work			

**Section 13**

Today's date	
Name of staff-member who initially dealt with/reported the incident	
Name of Anti-Bullying Co-ordinator (if applicable)	

Signature of SMT/SLT	
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In December and June of each academic year, copies of Bullying Incident Recording Forms should be submitted for central collation to Suzanne Harper via [suzanne.harper@argyll-bute.gov.uk](mailto:suzanne.harper@argyll-bute.gov.uk) or by post to Community Services: Education, Argyll House, Alexandra Parade, Dunoon, Argyll, PA23 8NY. Should you have any queries regarding the completion or submission of this form, please contact Suzanne Harper on 01369 708527.

## **Appendix 10**

**Making alternative arrangements for education during exclusion. Please see link below:**

[www.scotland.gov.uk/Publications](http://www.scotland.gov.uk/Publications)

If you require a hard copy of the above documents please contact Community Services – Education.