

## **Including *Every Learner*: Preventing exclusions and promoting positive behaviour**

### **1.0 Introduction**

- 1.1 This document replaces East Dunbartonshire Council's *Procedure Manual 3/11: Exclusion from School* (January 2012). It takes into account the national guidance on the prevention and management of exclusions, *Included, Engaged and Involved-Part 2* (June 2017). It includes a renewed focus on prevention, early intervention and response to individual need in line with the principles of GIRFEC as set out in the *Children and Young People (Scotland) Act 2014*.
- 1.2 This guidance is presented in the following sections following this introduction
- Section Two: Exclusion- legal definitions
  - Section Three: Principles to prevent exclusion
  - Section Four: Management of Exclusion procedure
  - Section Five: Local Exclusion procedure based on National Guidance
- 1.3 East Dunbartonshire Council is committed to ensuring that all children and young people are supported to learn and achieve within a supportive, safe environment. There is a shared process for practice to ensure joint planning and coordinated intervention in Children's Services. All children and young people should have access to positive learning environments and opportunities to develop their knowledge, skills, ambition, confidence and self-esteem to their fullest potential. Support should be appropriate, proportionate and timely. Early identification of universal and/or targeted support provides a framework for additional support where behaviour, for whatever reason, becomes more challenging.
- 1.4 East Dunbartonshire Council Wellbeing at Work Policy 2016 demonstrates the Council's commitment to the wellbeing and safety of all staff. Employees are encouraged to speak to their line manager/team leader at the first opportunity to discuss any concerns, worries or circumstances that have or could potentially have a detrimental impact on their safety or wellbeing. In situations where this is not possible employees can contact the Employee Relations & Wellbeing Team for advice.
- 1.5 The *Revised Procedure Manual 3/11; Management of Exclusion* emphasises the need for schools to focus on effective learning and teaching; promoting positive relationships and behavior, and the employment of preventative approaches, which reduce the need to consider exclusion. Exclusion can be an acceptable action, but it should only be used as a last resort. Where exclusion is used, it should be as a

proportionate response where there is no appropriate alternative.

- 1.6 This revised Procedure Manual is intended to provide a supportive framework, within which schools can effectively work with children and parents to maintain positive relationships, behaviour and safety in schools.
- 1.7 East Dunbartonshire Council policy for additional support needs: *Including Every Learner: Policy and provision for children and young people with additional support needs in East Dunbartonshire Council* outlines the principles and processes for support provided to all children and young people within schools and centres.
- 1.8 Prior to making the decision to exclude a child or young person from a school or learning establishment, the following principles must be upheld:
- A consistent and well-maintained commitment to a whole-school ethos of prevention, early intervention and support as the context for the promotion of positive relationships, learning and behaviour;
  - 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 including to those who have been excluded;
  - 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; it should be for as short a time as possible; it should always have a positive, purposeful intention for the learning or wellbeing of the child or young person and should not be viewed as punitive;
  - Where exclusion is used, it should be as a proportionate response where there is no appropriate alternative and the wellbeing of the children and young people should be the key consideration;
  - The time during and after the exclusion period should be used constructively to resolve the situation and ensure positive and appropriate support is in place;
  - At all times, a commitment to the United Nations Convention on the Rights of the Child should be demonstrated and developed:
    - inclusion (non-discrimination) - Article 2;
    - best interests - Article 3;
    - survival and development - Article 6;
    - participation - Article 12.
- 1.9 This guidance has been developed in articulation with the following legislation and National/Local Authority policy:
- Education (Scotland) Act(s) (1980 and 2016)

- Standards in Scotland's Schools Act (2000)
- Additional Support for Learning Acts (2004) as amended
- Parental Involvement Act (2006)
- Equality Act (2010)
- Getting it Right for Every Child
- How Good is Our School 4 (HGIOS 4)/How Good is Our Early Learning and Childcare
- Children and Young People (Scotland) Act (2014)
- Getting it Right for Looked After Children and Young People, Early engagement, early permanence and improving the quality of care (2015)
- Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions (2017)
- United Nations Convention on the Rights of the Child
- Every Child, Every Chance (2018)

## 2.0 Exclusion

### 2.1 Legal Context

The power to exclude a learner from school rests with the local authority under Regulation 4 and 4A of *the Schools General (Scotland) Regulations 1975* as amended. In addition, Section 14(3) of *the Education (Scotland) Act 1980* places a duty on local authorities to make alternative education provision when a child is excluded.

### 2.2 Rights and responsibilities of the education authority/ school

East Dunbartonshire Council has devolved the ability to exclude to school level. However, only the head teacher or the member of the school's senior management team deputising in the absence of the head teacher has that devolved responsibility. In some primary schools, the person deputising for the head teacher will be a promoted member of staff. Decisions to exclude by anyone other than the head teacher (or the person deputising in their absence) may render the education authority open to legal challenge by parents and pupils (where the latter have legal capacity).

### 2.3 The power exists to exclude children and young people from school where it is considered –

*'that in all the circumstances to allow the child or young person to continue attendance at the school would be seriously detrimental to order and discipline in the school or to the educational wellbeing of the learners there' or*

*'...are of the opinion that the parent/carer 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'.*

### 2.4 Excluding a child or young person for any other reason/purpose has no legal basis. Terms such as *'temporary exclusion'* *'suspension'* *'informal exclusion'* have no place in policy or in the legal framework. All instances where parents are requested to take a child home from school are forms of exclusion and should be recorded as such. The only exception to this is when a child or young person is unwell.

### 2.5 Children and young people with additional support needs

The circumstances in which children with additional support needs are excluded are the same as for other children. Local authorities remain under an obligation to make adequate and efficient provision for such additional support as is required whether on school premises or an alternative venue.

### 2.6 Where it has been identified that a child's additional support need pertains *to significant mental or emotional distress, and/or a difficulty to self-regulate*, the

school may seek support from a parent/carer to help the child de-escalate and to allow further planning to meet the needs of the young person at school level. This may, in some circumstances involve the child being taken home by the parent/carer. This is still recorded as an exclusion and meets the legal criteria set out above.

- 2.7 Exclusions are not punitive for any children but are a short-term measure to enable supportive planning around the child.
- 2.8 It is important to take a multi-disciplinary approach to the consideration of the need for exclusion with regard to children with additional support needs. Where possible, this should involve discussion about difficulties at school, involving the parents/carers and where appropriate the child or young person, in addition to other professionals, well in advance of exclusion being considered as an option.
- 2.9 Where a child has a Co-ordinated Support Plan, *under Section 10 of the 2004 Act*, the authority is required to carry out statutory review procedures to change the nominated school, or any other details. The school should therefore seek to balance the case for exclusion with the need to take all reasonable steps to ensure appropriate provision is made for the child's additional needs. This additional consideration would not prevent exclusion where this is deemed necessary.
- 2.10 Accordingly, it should be normal practice to involve appropriate support services including, if relevant the school link educational psychologist. Where other professionals, e.g. family support workers, social 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 the period of exclusion.
- 2.11 Any decision to exclude must take account and be in line with the authority's Equalities duty, its duties under the ASL legislation and where one exists, its duty to provide the services stipulated within Support Plans and if necessary; Co-ordinated Support Plans.
- 2.12 **Looked after and care experienced children and young people**  
 Research indicates that looked after/ care experienced children and young people are significantly more likely to be excluded from school. Those children, who are looked after and accommodated in residential or foster care, will have particular care needs that require to be taken account if there is the possibility of exclusion.
- 2.13 Appropriate inter-agency discussion regarding difficulties at school should take place well in advance of exclusion being considered as an option. East Dunbartonshire Council's joint protocol, *The Education of Looked After Children in East Dunbartonshire* (2003) states that where a looked after child is considered to be at risk of exclusion the school should alert the link social worker, carer(s) and

designated education officer and agree a strategy to try to prevent a permanent breakdown in the child's educational placement. The responsibility for convening a formal case discussion rests with the school. The inter-agency expertise from multi-disciplinary forums should be used to the full to try and maintain continuity of the school placement.

2.14 In all cases involving looked after or care experienced pupils, prior to possible exclusion, the Head teacher should contact the Chief Education Officer.

2.15 **Children on the Child Protection Register or Vulnerable Child/Young Person Group**

In all cases, prior to possible exclusion, the Head teacher should contact the Chief Education Officer.

### 3.0 Principles to prevent exclusion

#### 3.1 Prevention and Early Intervention

Where children enjoy a positive and purposeful learning experience, which meets their individual needs, treats them with respect and promotes their active involvement in decision-making, the challenging behaviour that often leads to exclusion can be significantly reduced.

3.2 A key characteristic of schools that have been successful in minimising exclusion is the explicit adoption of the aim of meeting the needs of all children, whatever their ability, background or social circumstances. This aim can be reflected in a wide range of aspects of operation of the school, including:

- the development of effective systems of support for individual children, integrated with well-designed systems for promoting positive relationships;
- a commitment to providing an appropriately differentiated curriculum for all children, which ensures they are motivated, achieve success and are appropriately challenged;
- the organisation of learning to ensure that all children are both challenged and supported;
- recognition that taking account of different learning styles can make teaching more accessible and motivating for children; and
- provision of additional support when this is required, as outlined in the EDC Additional Support Needs policy, Including *Every Learner: Policy and provision for children and young people with additional support needs in East Dunbartonshire Council*.

3.3 The focus on promoting positive behaviour is at school, rather than education authority level. Promoting positive behaviour policies in schools are crucial to the development of learning and schools should actively seek models of good practice.

3.4 *The Including Every Learner: Promoting positive relationships and tackling behaviour that challenges* document sets out a strategy for supporting pupils at the individual, classroom and whole school level.

3.5 Further advice and guidance can be found in a *Framework to ensure Wellbeing (2015)*. This Framework shows the minimum components that each establishment should ensure are in place and provides guidance in terms of developing policy and procedures.

3.6 All schools improve outcomes by ensuring that their work is underpinned by a shared understanding of wellbeing and in the dignity and worth of every individual (HGIOS 4, Quality Indicator 3.1). They do this by developing positive and supportive relationships that are founded on a climate of mutual respect within a strong sense of community, shared values and high expectations.

- 3.7 All members of the school community have a right to enjoy a positive working and learning environment and to be protected from acts of violence. Violence against members of staff is unacceptable and all incidents should be addressed using guidance detailed in East Dunbartonshire Council's *Procedure Manual No.2/21: Violence to Staff*.
- 3.8 **Rights and Responsibilities of the parent/carer in relation to the exclusion of pupils**  
 Schools should take proactive steps to ensure that the child or young person and family are at the heart of decisions and support planning. Children and young people should be given the opportunity to take responsibility for their learning and wellbeing, and should be involved in their own planning and decision-making in a way that is appropriate to their age and stage of development
- 3.9 Parents have the right to expect that a school will take all reasonable steps to ensure the safety and wellbeing of their child whilst at school. Schools should involve parents at an early stage if their child is behaving regularly in disruptive or disturbing ways.
- 3.10 Parents should support their child's school in the implementation of agreed policies and ensure that their child behaves in accordance with such policies. Under Section 30 of *the Education (Scotland) Act 1980* a parent of a child of school age has a duty to provide efficient education for the child suitable to his/her age, ability and aptitude. Parents must do this either by causing their child to attend a public (education authority) school regularly, or by other means. Parents continue to be subject to this duty where their child is excluded and must therefore be encouraged to co-operate with the education authority in making any alternative education, including any special arrangements.
- 3.11 Parents have the right to appeal against exclusion where their child does not have legal capacity or does not wish to exercise this right for themselves. This right is conferred by *Section 28H of the Education (Scotland) Act 1980*.
- 3.12 Parents have a right to support by another professional or individual such as an advocate. Under the *Equality Act 2010*, individuals have the right to request help and support from translation and interpreting services. The local authority must take all reasonable steps to meet this request. If the parent is accompanied to an interview by a solicitor, the head teacher should conduct the interview. If matters of concern arise, the head teacher should seek advice from Legal Services.
- 3.13 **Rights and Responsibilities of pupils of statutory school age in relation to exclusion**  
 Pupils who are considered to have legal capacity have the right to receive information concerning their exclusion. It is therefore important that pupils who are considered to have legal capacity are provided with information relating to their exclusion, and are



invited to participate in any meetings. Where a pupil is considered to have legal capacity (or is over statutory school age), the appropriate standard letters (see appendices) should be used by schools. All correspondence, should, however, be copied to the parents who should also be invited to attend meetings. The importance of involving parents, even where their child has legal capacity, is recommended.

3.14 Section 41 of *the Standards in Scotland's Schools etc. Act 2000* introduces the right of appeal to pupils who have legal capacity. It should be noted that where a child with legal capacity decides to exercise this right of appeal, their parents are not able to exercise their right under Section 28H of the *Education (Scotland) Act 1980*. However, parents have every right to be fully involved in supporting their child during the appeal process.

3.15 Section 2(2) of the *Standards in Scotland's Schools etc. Act 2000* states that due regard should be given to the views of a child, as far as is reasonably practicable. This should be the case even where a child is not considered to have legal capacity.

3.16 Pupils have a right to expect to learn in an environment where disruption is minimised and they are safe. Where pupils have been witness to, or experienced breaches of discipline, they should be offered appropriate support.

3.17 **Rights and Responsibilities of pupils over statutory school age in relation to exclusion**

The rights and responsibilities detailed above also apply to pupils over the age of 16. In addition, pupils over statutory school age also have a right of appeal under Section 28H of the *Education (Scotland) Act 1980*.

3.18 **Support for Head Teacher**

During any interviews with parents and pupils, a head teacher may be accompanied by another member of staff if difficulties are anticipated. Should difficulties arise during an interview, it would be appropriate for the head teacher to suspend the interview until individuals are able to contribute in an appropriate manner.

## 4.0 Management of Exclusion Procedure

### 4.1 Grounds for exclusion

#### 4.1.1 Regulation 4 states that a local authority shall not exclude a child from school unless the authority:

*‘consider that in all the circumstances to allow the child or young person to continue attendance at the school would be seriously detrimental to order and discipline in the school or to the educational wellbeing of the learners there’ or*

*‘...are of the opinion that the parent/carer 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’.*

4.1.2 Schools, when deciding whether exclusion is necessary, must have regard to the particular facts and circumstances surrounding individual incidents and an understanding of the needs and circumstances of the individual child, and take into account how their behaviour affects others. Appendices 2a & 2b detail key considerations before decision to exclude is taken and highlight key considerations once the decision to exclude has been made - appendix 3.

4.1.3 No pupil will be removed permanently from the school roll without the agreement of the Chief Education Officer.

### 4.2 Incidents out with school

Incidents that take place outwith school are not necessarily outwith the disciplinary scope of the school. Head teachers should question the effect a particular breach of discipline has on the order and discipline within the school or the wellbeing of the school population. If ‘serious detriment’ can be established exclusion from school can be justified. Before making such a decision, the head teacher should discuss the situation with the Chief Education Officer.

### 4.3 Time limits on exclusion

4.3.1 The length of time for an exclusion is **not** defined in legislation and accordingly is a matter for the discretion of the education authority. In determining the length of any period of exclusion, education authorities should take into account:

- the breach of discipline which resulted in the exclusion;
- the pupil’s past disciplinary record; and
- any other relevant circumstances surrounding the pupil and/or the incident(s) on which the decision to exclude is based.

4.3.2 Legislation does however set down certain timescales relating to particular steps within the exclusion process; these are:

- on the first day of the exclusion, the school must inform the pupil (where

they have legal capacity) and their parents orally and in writing of the decision to exclude; and the date, time and place where the Head Teacher, or other member of the senior management team, shall be available to discuss the decision to exclude;

- parents/carers and the pupil (where they have legal capacity) should have an opportunity to discuss the exclusion within 7 school days following the decision to exclude;
- the pro-forma letter set out in appendix 4 **must** be used, explaining the position to the parents/carers and which includes a reference to the right of appeal;
- the pro forma letter set out in appendix 5 should be sent to any pupil over the age of 12 and any pupil under 12 who is deemed capable of understanding the contents of the letter, as they may have a separate right of appeal and have a right to give their view;
- the duty on education authorities to make alternative education provision for excluded pupils arises immediately when the pupil is excluded and must be discharged without undue delay.

4.4 The date the decision to exclude is taken, is counted as the first day of exclusion. Both start date and end date are inclusive. In all cases, the school should check that appropriate arrangements for the care of the child or young person are being made, before they are sent from school premises. Appendix 1 offers guidance in making decisions about individual cases of exclusion.

4.5 Any period of exclusion should be for as short a time as possible, normally 1 day. The maximum length of a single temporary exclusion must not exceed 3 days. Where a school seeks to exclude a pupil for more than 3 days it is necessary for the Head Teacher to discuss the matter with the Chief Education Officer especially if alternative arrangements are required for continuing educational provision. See section 5 for guidance on East Dunbartonshire Council's exclusion procedure.

4.6 A single exclusion should not, barring exceptional circumstances, span more than one academic year, even where a decision to exclude is taken during the last few days of the summer term. It is regarded as good practice to resolve exclusion and re-admission issues within the same academic year.

4.7 School exclusions must operate within the duties imposed by anti-discrimination, human rights and other relevant legislation. Therefore, local authorities and schools should keep fully aware of developments. This includes the Equality Act (2010).

#### 4.8 Use of Part-Time Timetables

4.8.1 Children and young people have a right to be provided with a school education (*Standards in Scottish Schools Act, 2000*). It should also be noted that children are to be educated in accordance with the wishes of their parent/carer (*Education (Scotland)*

*Act 1980*). Part-time arrangements should only be considered as part of a planning process that involves the team around the child, including the parent/carer.

4.8.2 As part of an initial support package on return to school, it may be appropriate, particularly where a crisis has developed, for a child to return to school on a part-time basis, or with a flexible learning package being put in place. Any such arrangements should be for a short, agreed period with the aims and conditions around this recorded in the individual's support plan. The intention to use such an arrangement must be approved by the appropriate Education Officer, and should be planned, transparent, mutually agreed between the school, the parent/carers and the child or young person, short term and kept to an absolute minimum.

The SEEMIS code (Y-PTX) should be used for any child or young person who is returning to school on a part-time basis following a period of exclusion. This will be considered as an authorised absence.

#### 4.9 **Right of appeal against the decision to exclude**

4.9.1 Parents or children over 12 years of age, (and if the child is deemed mature enough to understand the decision to exclude), have a right to appeal against the decision to exclude. The views of the child should be sought even when it is the parent taking forward the appeal. They should be notified of their right to appeal when they are informed of the exclusion unless it is considered that the wellbeing of the child will be negatively affected by exercising this right. An appeal can be made without limit of time under *Section 28(b) of the Education (Scotland) Act 1980*. The appeal must be made in writing to the Chief Education Officer.

4.9.2 The Chief Education Officer must acknowledge the appeal within 5 days. An appeal against exclusion may be made in the first instance to an Education Appeal Committee set up by the education authority under *Section 28D of the Education (Scotland) Act 1980*. A further appeal against the decision of the Education Appeal Committee may be made to the Sheriff Court.

4.9.3 The head teacher will be informed if a parent (or a child with legal capacity) makes an appeal against the decision to exclude. The head teacher is required to be a principal witness for the Authority at the subsequent appeal hearing and, if necessary, in the Sheriff Court. The Chief Education Officer will arrange for the head teacher to be suitably briefed prior to the appeal hearing of Sheriff Court proceedings and, in due course, will notify them of the results of such appeals.

4.9.4 The parents or child over 12 years of age, and younger children deemed to have legal capacity, will be notified of the outcome of the appeal within 28 days of the appeal being lodged.

4.9.5 A decision to appeal should in itself have no effect on the length of the

exclusion or on any conditions attached to the child's return. Once an appeal is lodged, the child may return to school following the period of exclusion, without parental assurance or conditions of return being met, pending the outcome of the appeal.

- 4.10 The powers of the Additional Support Needs Tribunal Scotland have been extended to include cases related to discrimination in education, including exclusions of children with Additional Support Needs for reasons related to their disability. If a child, parent or carer disagrees with a decision about capacity or wellbeing, they can refer this to the ASNT. Information about how to do this can be found on the ASNT website, [www.asntscotland.gov.uk](http://www.asntscotland.gov.uk)

#### 4.11 **Unresolved Exclusions**

4.11.1 In any exclusion, if the pupil/parent does not meet the conditions of the school or fails to return on the agreed day of return, except in cases where there is an authorised absence, the Head Teacher should seek to ensure the matter is resolved through the involvement of the Chief Education Officer.

#### 4.12 **Record Keeping**

4.12.1 An objective and accurate written record must be kept of all exclusions and the steps taken to manage them. All information should be stored in the pupil's personal file. This information may, in certain circumstances, be required to substantiate the Authority's decisions relating to a case in a court of law.

4.12.2 All establishments must formally record any exclusion from school on SEEMIS, using the appropriate attendance code.

4.12.3 The *Data Protection Act 1998* has been replaced by the General Data Protection Regulation (GDPR), and the Data Protection Act 2018. The updated legislation alongside the *Pupils' Educational Records (Scotland) Regulations 2003* ensures both pupils and their parents/carers have a right of access to information contained in the relevant pupil record. Guidance on updated legislation was issued to educational establishments in August 2018.

#### 4.13 **Monitoring and Evaluation**

4.13.1 All schools should carry out a termly analysis of their exclusion data to establish what issues or patterns there may be concerning year groups, subjects and areas of the building, in order that these aspects can be addressed the following term. Such information can also be used to review a school's positive behaviour policy and exclusion practice.

## **5.0 Local Exclusion Procedure based on National Guidance**

### **5.1 Seclusion**

Seclusion of a child or young person within a separate space is a form of physical intervention and should only be used as a last resort to ensure the safety of a child or young person, or others. Referral should be made to *Including Every Learner: Promoting positive relationships and tackling behaviour that challenges* (2018)

### **5.2 Serious incidents**

Where the incident is particularly serious, and it is felt that it may not be appropriate to return a child to his/her school, the Head teacher can take the decision to exclude that child from the school immediately.

5.2.1 In incidents of serious physical assault, a referral to the police should be made.

5.2.2 Where the incident is particularly serious and it is felt that, it may not be appropriate to return a child to his/her school at the end of the exclusion period then the matter must be discussed with the Chief Education Officer prior to any formal action being taken. If the Chief Education Officer agrees that a learner has to be placed at another school as part of an exclusion s/he will issue a formal letter to this effect to the parent and child or young person concerned. The designated person will work with the Chief Education Officer to arrange all aspects of this onward placement, in the best interests of the learner. A transition planning meeting will be held in the receiving school and should be chaired and recorded by the receiving school. The meeting will involve the team around the child and will include the parent/carer and pupil.

5.2.3 The process is not complete until the child has successfully transferred to a new placement. Where special arrangements for alternative education for the learner are being made, other than at school, 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 should be provided. The need for any such special arrangements should arise only in exceptional cases and only as an interim measure prior to the learner receiving full-time education, ideally within a school setting. Any alternative educational arrangements put in place should remain in place until enrolment in the new school.

### **5.3 Managing Incidents Involving Weapons**

Referral should be made to the Procedure Manual 2/35 - Weapons in School.

### **5.4 Permanent exclusion**

A permanent exclusion relates only to the school from which the pupil has been permanently excluded. The Chief Education Officer will convene a meeting within 7 days at which the child's future will be discussed and a decision made regarding

future education. The parent/carer should be advised not to enrol their child in another school until the exclusion process has been concluded – however they would still have the right to do so. If the decision or preference is for the child or young person to remain at a school within the authority, the Chief Education Officer will decide which school will be the receiving school; the parent/carer and child/young person should be notified of this decision. In these circumstances, transition planning will follow the process described above (5.2.2).

5.5 East Dunbartonshire Council has developed three exclusion procedures which are determined by the length and frequency of exclusions relating to an individual pupil. These are:

**Procedure A** which should be followed where:

- a pupil is given a single exclusion of less than 3 days; **OR**
- the 1st and 2nd exclusions for an individual pupil total no more than 3 days in a school session.

**Procedure B** which should be followed where:

- a pupil has been excluded for a total of more than 3 days in a school session; **OR**
- a pupil has been excluded for a 3<sup>rd</sup> time during a school session.

**Procedure C** which should be followed where:

- a pupil's misbehaviour is particularly serious, and it is felt that it may **not** be appropriate to return a pupil to his/her school.

Documentation which supports these procedures is detailed in the Appendices.

**6.0 Document availability and accessibility**

In line with the Local Authority's duty under the Equality Act 2010, this document will be made available (on request) in a variety of alternative formats and languages. Contact the Corporate Communications Team at:

East Dunbartonshire Council  
12 Strathkelvin Place  
Kirkintilloch  
G66 1TJ

Tel: 0300 1234510

Copies of all East Dunbartonshire Council's policies can also be obtained from East Dunbartonshire Community Hubs or the Council's website; [www.eastdunbarton.gov.uk](http://www.eastdunbarton.gov.uk)



Appendix 1

Procedure A

To be followed where:

- a pupil is given a single exclusion of less than 3 days; **OR**
- the 1st and 2nd exclusions for an individual pupil total no more than 3 days in a school session.

The following procedure should be followed where a child is considered to have legal capacity (see Diagram 1).

The pupil should be told why they are being excluded.

The pupil should be given a copy of standard letter 2(Appendix 5) together with the *Appeal Procedure Information Sheet* (Appendix 10).

The pupil's parents should be sent a copy of standard letter 1 (Appendix 4) together with a copy of the documentation given to their child. These should be sent via Recorded Delivery letter on the day that the decision to exclude is taken.

The pupil should be given an opportunity to discuss the exclusion within 7 days of the decision to exclude. His/her parents must also be invited to attend the meeting.

When the decision to exclude has been taken, the pupil should not be sent home until their parents have been advised and a check made that they will be at home when s/he arrives.

If the parents are not at home and if they cannot be contacted to uplift their child from school s/he should remain in schools and be supervised, until the end of the normal school day.

Where the pupil with legal capacity (where possible supported by his/her parents) agrees to meet with the head teacher (or a senior member of staff) and signs the attached standard written assurance (Appendix 11) the pupil should be re-admitted to school. Where possible, the standard written assurance should also be signed by the parent.

A copy of the written assurance should be stored in the pupil's personal file, and copies given to the pupil and the parent(s).

Under the above circumstances there is no need for the matter to be reported to the Chief Education Officer.

Where the pupil refuses to meet with the head teacher to discuss the exclusion and his/her parents support their child's decision, the matter should be referred to the Chief Education Officer and the pupil should remain excluded from the school.

The Chief Education Officer will invite the pupil and his/her parents to a meeting. Where the written assurance is signed, the pupil will be re-admitted to school immediately thereafter. Where the pupil (supported by his/her parents) continues to refuse to give a written assurance, the exclusion from school will continue and the pupil and his/her parents will be advised by the Chief Education Officer of the possible consequences of their actions.

Where the pupil refuses to attend the meeting but his/her parents agree to the meeting and indicate that they wish to support the school's efforts to re-admit their child, the head teacher (or his/her representatives) should meet with the parents and explore the possible reasons for their child's refusal to return to school. In this situation, the parents should be offered as much support as possible by the school (and, if required, other agencies) in order to try to ensure that the pupil returns to school.

Where best efforts on the part of parents and the school are unsuccessful in obtaining the pupil's agreement to return to school, the head teacher should refer the matter to the Chief Education Officer who will discuss the need for specialist support and intervention for the pupil.

The following procedure should be followed where a child is **NOT** considered to have legal capacity (see Diagram 2)

Where appropriate, the pupil should be told why they are being excluded.

The pupil's parents should be sent a copy of standard letter 3 (Appendix 6) together with a copy of the *Appeal Procedure Information Sheet* (Appendix 10). These should be sent via Recorded Delivery letter on the day that the decision to exclude is taken.

The pupil's parents should be given an opportunity to discuss the exclusion within 7 days of the decision to exclude. However, where it is considered to be appropriate and helpful for the pupil, the school should also try to involve him/her in any decisions/meetings.

When the decision to exclude has been taken, the pupil should not be sent home until his/her parents have been advised and a check made that they will be at home when s/he arrives.

If the parents are not at home and if they cannot be contacted to uplift their child from school s/he should be kept in school, and supervised, until the end of the normal school day.

Where the pupil's parents agree to meet with the head teacher (or a senior member of staff) and to sign the attached standard written assurance (Appendix 12), the pupil should be re-admitted to school. The standard written assurance should be signed by the parents, the head teacher or his/her representative and the child if this is considered to be appropriate.

A copy of the written assurance should be entered into the pupil's personal file and a copy

should be given to the parent.

Under the above circumstances there is no need for the matter to be reported to the Chief Education Officer.

Where the parents refuse to meet with the head teacher to discuss the exclusion, the matter should be referred to the Chief Education Officer and the pupil should remain excluded from the school.

The Chief Education Officer will invite the parents (and where appropriate the pupil) to a meeting and will invite the parents (and where appropriate the pupil) to sign the assurance. Where the assurance is signed, the pupil will be re-admitted to school immediately thereafter. Where the parents continue to refuse to sign the assurance, the exclusion from school will continue and the parents will be advised by the Chief Education Officer of the possible consequences of their actions.

**Exceptional circumstances** - where a parent is willing to give a verbal assurance, but is unwilling to sign a written assurance this would be seen by the Authority as evidence of the parent's commitment to working in partnership with the school to ensure the appropriate behaviour of the pupil. A verbal assurance given by a parent in school to the head teacher should be witnessed by a member of staff and the matter recorded in the pupil's file with both the head teacher and witness signing the file entry. Under such circumstances the pupil should be readmitted to the school.

**ALL WRITTEN ASSURANCES SHOULD BE RETAINED IN THE PUPIL'S FILE**

Diagram 1: SUMMARY OF STEPS INVOLVED IN PROCEDURE A (Where a child is considered to have legal capacity)

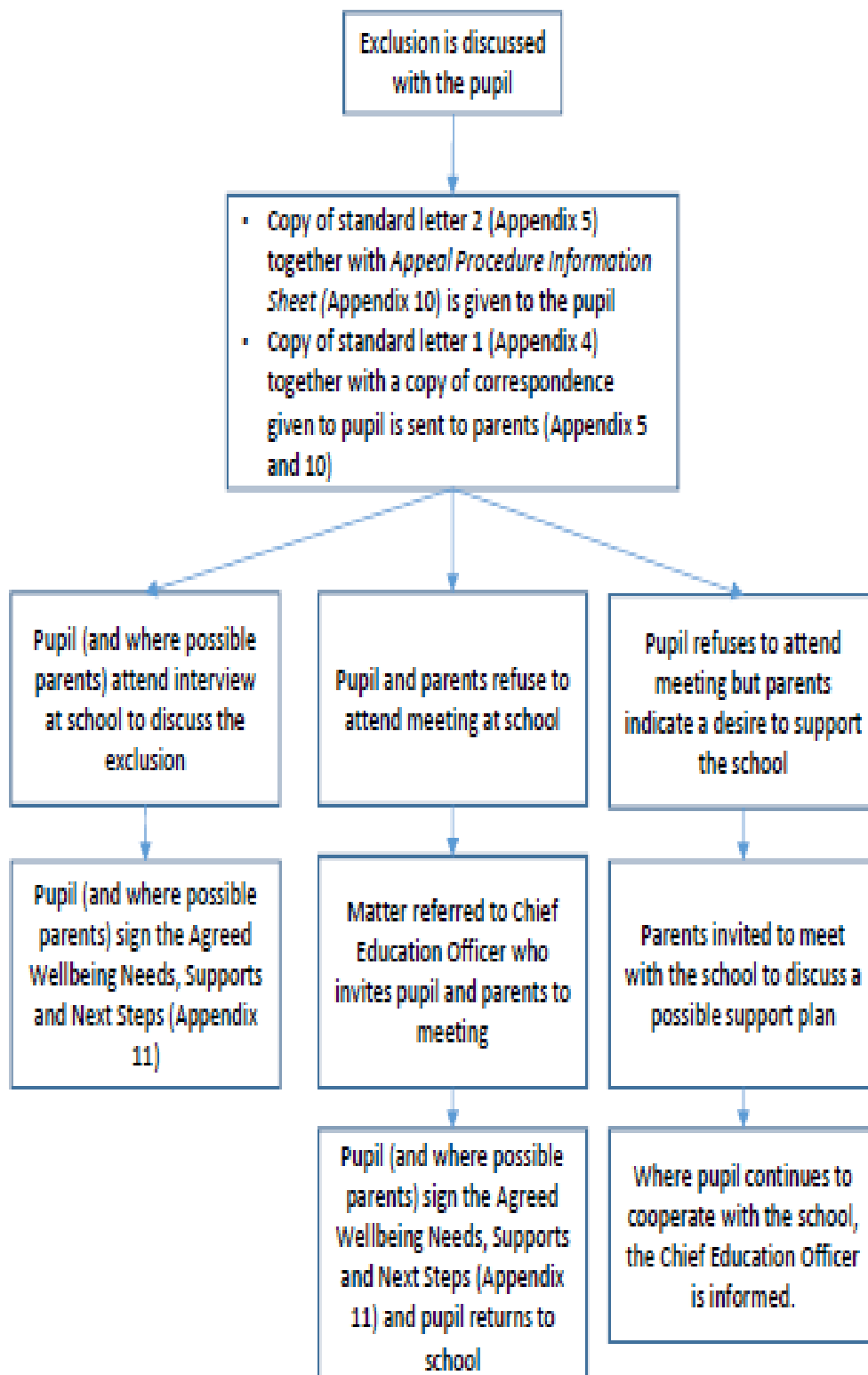
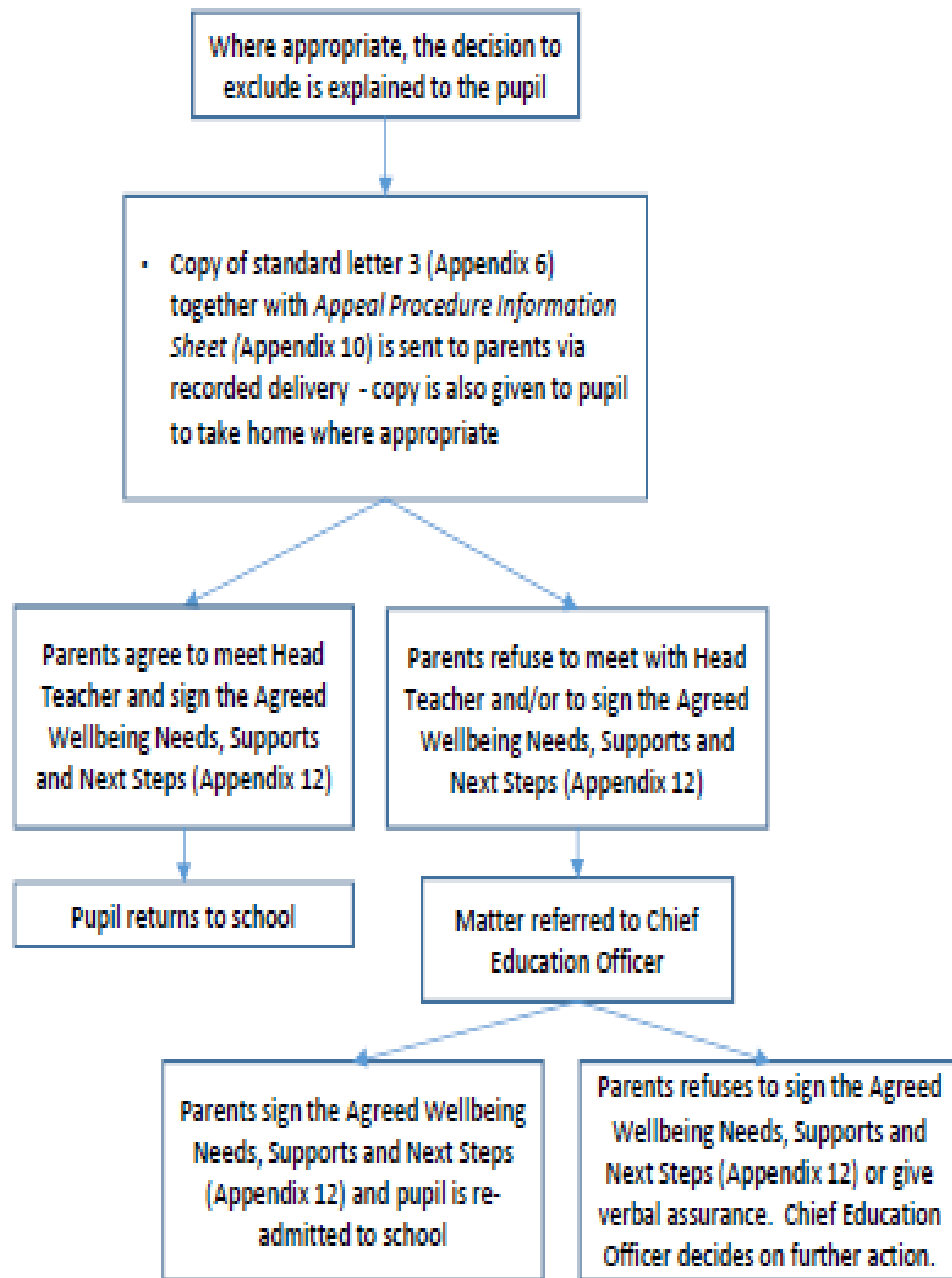


Diagram 2: SUMMARY OF STEPS INVOLVED IN PROCEDURE A  
 (Where a child is considered NOT to have legal capacity and/or it will negatively impact on their wellbeing)



## Procedure B

To be followed where:

- a pupil is given a single exclusion of more than 3 days in a school session; **OR**
- a pupil has been excluded for a 3<sup>rd</sup> time during a school session.

The following procedure should be followed where a child is considered to have legal capacity (see Diagram 3).

Where the cumulative total of exclusions exceeds 3 days or when a pupil is excluded for the 3<sup>rd</sup> occasion in any school session it is evident that the efforts of the school, and the relevant support services, to achieve acceptable behaviour are running into difficulty.

The pupil may again be excluded and the same procedures followed as detailed in Procedure A. However, a copy of standard letter 4 (Appendix 6) together with a copy of the *Appeals Procedure Information Sheet* (Appendix 9) should be given to the pupil.

A copy of standard letter 5 (Appendix 7) should also be sent to the pupil's parents together with copies of standard letter 4 and the *Appeals Procedure Information Sheet*. These should be sent via Recorded Delivery letter on the day that the decision to exclude is taken.

As with procedure A (in relation to a child with legal capacity), the pupil and his/her parents should be invited to discuss the exclusion as soon as possible but within 7 days of the decision to exclude.

The Chief Education Officer must also be informed of the exclusion. The head teacher should send the Chief Education Officer copies of all relevant correspondence, a copy of the covering letter (Appendix 12) together with a copy of the school's disciplinary log for the pupil.

The Chief Education Officer, or designated representative, may arrange to meet the pupil and his/her parents to explain the seriousness of the position, which has now been reached. In every instance a letter will be sent to the pupil and his/her parents expressing the concerns of the Education Service and indicating that further more serious action may require to be taken by the Service (Appendix 13).

The following procedure should be followed where a child is **NOT** considered to have legal capacity (see Diagram 4)

Where the cumulative total of exclusions exceeds 3 days or when a pupil is excluded for the 3<sup>rd</sup> occasion in any school session it is evident that the efforts of the school, and the relevant support services, to achieve acceptable behaviour are running into difficulty.

The pupil may again be excluded and the same procedures followed as detailed in Procedure A. However, a copy of standard letter 6 (Appendix 8) should be sent to the parents together with a copy of the *Appeals Procedure Information Sheet* (Appendix 9). These should be sent by Recorded Delivery to the parents on the first day of the exclusion.

As with procedure A (in relation to a child who does not have legal capacity), the parents (and where appropriate the pupil) should be invited to discuss the exclusion as soon as possible but within 7 days of the decision to exclude.

The Chief Education Officer must also be informed of the exclusion. The head teacher should send the Chief Education Officer copies of all relevant correspondence, a copy of the covering letter (Appendix 12) together with a copy of the school's disciplinary log for the pupil.

The Chief Education Officer, or designated representative, may arrange to meet the parents (and where appropriate the pupil) to explain the seriousness of the position, which has now been reached. In every instance a letter will be sent to the parents expressing the concerns of the Education Service and indicating that further more serious action may require to be taken by the Service (Appendix 14).

Support services - in addition to a school's pupil support service, external agencies, which would include the Psychological Service and the ASN Service (inclusion Support Officers and outreach support), can provide a range of services for pupils.

Further support may be available from inter-agency groups such as the schools pupil support group (PSG) and the locality liaison group (LLG) which could provide access to Social Work and in some cases Community Education and Health Services.

Diagram 3: SUMMARY OF STEPS INVOLVED IN PROCEDURE B (Where a child is considered to have legal capacity)

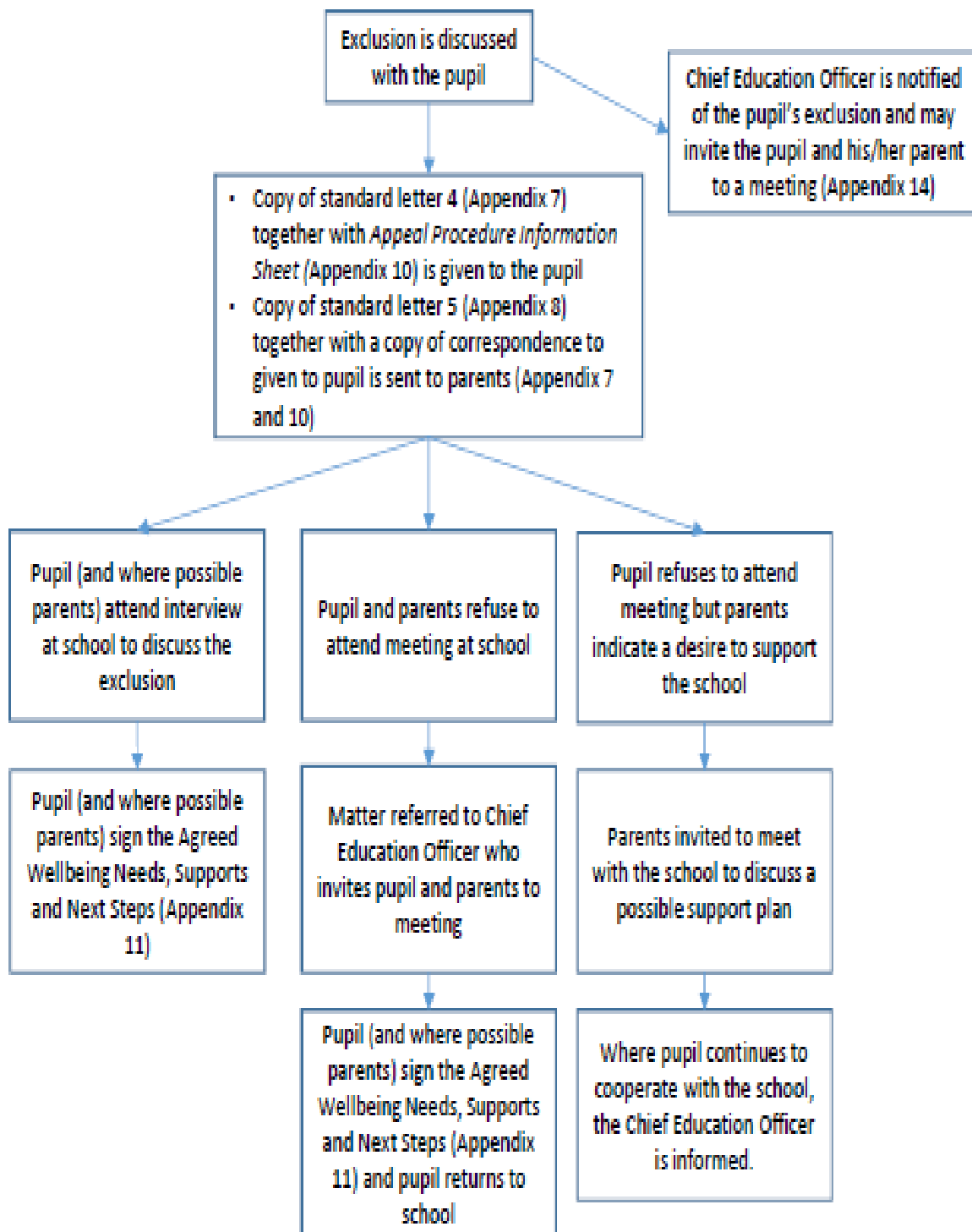
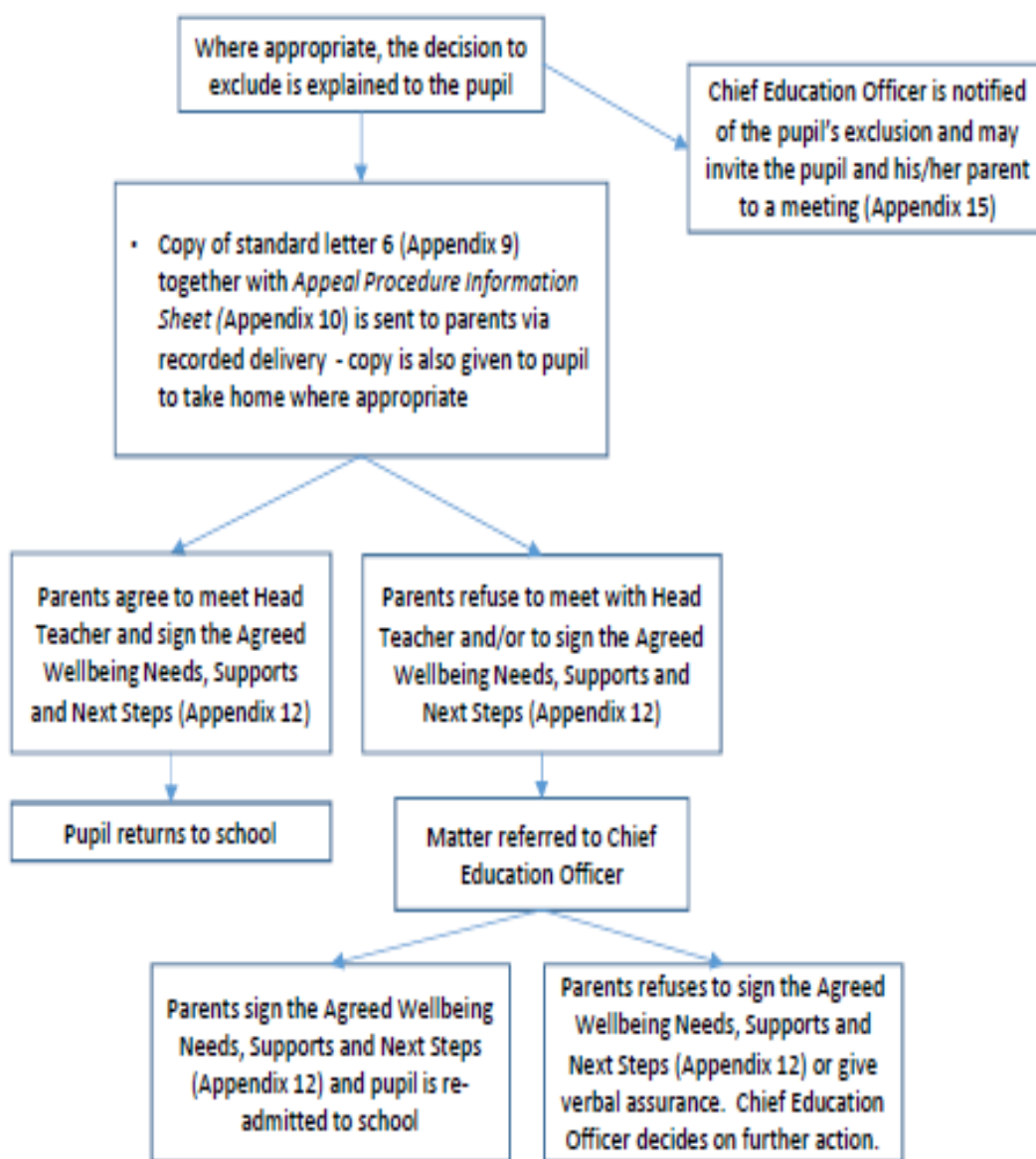




Diagram 4: SUMMARY OF STEPS INVOLVED IN PROCEDURE B  
 (Where a child is considered NOT to have legal capacity and/or it will negatively impact on their wellbeing)



## Procedure C

To be followed where:

- pupil misbehavior is particularly serious, and it is felt that it may not be appropriate to return a pupil to his/her school

## Serious Incidents

On occasion where the Head Teacher decides that the behaviour of a pupil has been such that it is seriously detrimental to the order and discipline of the school (for example serious assault), whether or not the pupil has previously misbehaved, the Head Teacher can take the decision to exclude that pupil from the school immediately. In such a case the duration of the exclusion should not be longer than 3 days unless there has been a discussion with the Chief Education Officer or a designated representative.

Where pupil misbehaviour is particularly serious or a further act of violence is committed, and it is felt that it may not be appropriate to return a pupil to his/her school at the end of the exclusion period then the matter must be discussed with the Chief Education Officer prior to any formal action being taken. If the Chief Education Officer agrees that exclusion and removal from the register is necessary then a formal letter to this effect will be issued by the Chief Education Officer to the parent and where appropriate, the young person concerned. The Chief Education Officer will convene a meeting within 7 days of the date of exclusion at which the pupil's future will be discussed and a decision made regarding future schooling. (Letter as Appendix 16).

## Appendix 2a

**Checklist of key considerations to be made prior to exclusion**

The following checklists are intended as a useful tool to support schools prior to, during and after exclusion. These checklists should be used together in order to ensure support is provided at the appropriate time to meet the wellbeing needs of children and young people.

**Appendix 2a checklist should be used alongside Appendix 2b checklist where appropriate – prior to an exclusion**

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? <ul style="list-style-type: none"> <li>• Parents/carers</li> <li>• Key education staff</li> <li>• Other professionals (e.g. Social work, Educational Psychologist)</li> </ul>		
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 to explore 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 the key member of staff 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? (see accompanying table)		
Does the child or young person's recent presentation constitute a recent 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 Act?		
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?		

## Appendix 2b

**Special Circumstances - additional considerations to be made prior to exclusion - to be used alongside Appendix 2a checklist where appropriate**

<b>Individual Circumstance</b>	<b>Additional consideration</b>	<b>Consideration given</b>	<b>Comments</b>
Looked After child	Social worker/Lead professional consulted prior to decision		
	Education manager 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 Development Officer and Social Worker/Lead Professional consulted		
	SEEMiS checked for child protection message		
	Education authority consulted about appropriate provision		
	Appropriate arrangements for return into school considered		
	Other professionals involved with child consulted on continuation of any additional input		
Child with additional support needs	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		

## Appendix 3

**Decision to exclude has been made (this checklist should be used after completion of Appendix 2a, and 2b where appropriate)**

<b>Action to be taken</b>	<b>Action Taken</b>	<b>Comment</b>
Child or young person is informed he/she is to be excluded.		
Immediately inform parents/carers verbally.		
Looked After Children (LAC) 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.		
LAC 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.		
Arrange 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 HT 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 Progress Record		
Appropriate educational provision to be provided		

and monitored, e.g. course work, access to library, online learning		
Arrangements for the child or young person to access any existing support made (out with school if necessary)		
A contact person should be allocated for parent/carer and child or 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 to discuss.		
Referral to Scottish Children's Reporter if appropriate.		



## Procedure A

Letter 1 – Intimation of Temporary Exclusion and Appeals Process to be sent to a **pupil's parent /carer** when their child is considered to have legal capacity

**Dear Parent/Carer**

**Intimation of Temporary Exclusion**

I write to inform you that I have today excluded your child (*pupil's name*)\_\_\_\_\_ from School for a period of (*number*) days with effect from (*date - to/from*) inclusive.

The decision to exclude has been taken in accordance with the Schools General (Scotland) Regulations 1975 as amended.

The decision to exclude has been taken for the following reasons:-

*(details relating to the circumstances leading to exclusion, including reference to other actions taken previously in managing the behaviour of this particular pupil)*

I would be grateful if you would arrange to meet with (*contact name*) on (*date*), at (*time*), to discuss the situation and what is required to support (*pupil's name*)'s safe and productive return to school. You may bring a friend with you to the meeting if you would find it helpful.

You also have the right to appeal but you will not be able to exercise this right if your child decides to pursue their own appeal. However, you can support your child with this process. See enclosed appeal procedure information sheet for further information. If you think the exclusion is discriminating on the grounds of disability you should write to the Additional Support Needs Tribunal (see below link).

<http://enquire.org.uk/service/additional-support-needs-tribunals-for-scotland-2>

As described in section 30 of the Education (Scotland) Act 1980, it remains the parent/carer's duty to provide efficient education for their child, which is suitable to their age, ability and aptitude, even during this period of exclusion.

Yours  
sincerely

HEAD TEACHER

Procedure A

**Appendix 5**

Letter 2 – Intimation of Temporary Exclusion and Appeal Process to be given to a **pupil** who is considered to have legal capacity (pupil 12+ or if pupil is deemed mature enough to understand the decision to exclude and their right to appeal)

**Dear**

**Intimation of Temporary Exclusion**

You have been excluded from this school for a period of *(number)* days with effect from *(date - to/from)* inclusive.

The decision to exclude has been taken in accordance with the Schools General (Scotland) Regulations 1975 as amended.

The decision to exclude has been taken for the following reasons:-

*(details relating to the circumstances leading to exclusion, including reference to other actions taken previously in managing the behaviour of this particular pupil)*

I would be grateful if you would arrange to meet with *(contact name)* on *(date)*, at *(time)*, to discuss the situation and what is required to support your safe and productive return to school. You may invite your parent(s).guardian(s) or any other party to accompany you to this meeting.

You have the right to appeal the decision to exclude by writing to the Chief Education Officer, see enclosed appeal procedure information sheet for further information. If you think your exclusion is discriminating on the grounds of disability you should write to the Additional Support Needs Tribunal (see below link).

<http://enquire.org.uk/service/additional-support-needs-tribunals-for-scotland-2>

As described in section 30 of the Education (Scotland) Act 1980, it remains the parent/carer's duty to provide efficient education for their child, which is suitable to their age, ability and aptitude, even during this period of exclusion.

Yours  
sincerely

HEAD TEACHER

Appendix 6

Procedure A

Letter 3– Intimation of Temporary Exclusion to be sent to **parent/carer** where their child is **NOT** considered to have legal capacity

**Dear Parent/Carer**

**Intimation of Temporary Exclusion**

I write to inform you that I have today excluded your child (*pupil's name*)\_\_\_\_\_ from School for a period of (*number*) days with effect from (*date - to/from*) inclusive.

The decision to exclude has been taken in accordance with the Schools General (Scotland) Regulations 1975 as amended.

The decision to exclude has been taken for the following reasons:-

*(details relating to the circumstances leading to exclusion, including reference to other actions taken previously in managing the behaviour of this particular pupil)*

I would be grateful if you would arrange to meet with (*contact name*) on (*date*), at (*time*), to discuss the situation and what is required to support (*pupil's name*)'s safe and productive return to school. Where possible and appropriate (*pupil's name*) should attend the meeting. You may bring a friend if you would find it helpful.

You have the right to appeal the decision to exclude by writing to the Chief Education Officer, see enclosed appeal procedure information sheet for further information. If you think the exclusion is discriminating on the grounds of disability you should write to the Additional Support Needs Tribunal (see below link).

<http://enquire.org.uk/service/additional-support-needs-tribunals-for-scotland-2>

As described in section 30 of the Education (Scotland) Act 1980, it remains the parent/carer's duty to provide efficient education for their child, which is suitable to their age, ability and aptitude, even during this period of exclusion.

Yours  
sincerely

HEAD TEACHER

Appendix 7

Procedure B

Letter 4 – Intimation of Temporary Exclusion and Appeal Process to be given to a **pupil** who is considered to have legal capacity (pupil 12+ or if pupil is deemed mature enough to understand the decision to exclude and their right to appeal)

**Dear**

**Intimation of Temporary Exclusion**

You have been excluded from this school for a period of *(number)* days with effect from *(date - to/from)* inclusive.

The decision to exclude has been taken in accordance with the Schools General (Scotland) Regulations 1975 as amended.

The decision to exclude has been taken for the following reasons:-

*(details relating to the circumstances leading to exclusion, including reference to other actions taken previously in managing the behaviour of this particular pupil)*

I would be grateful if you would arrange to meet with *(contact name)* on *(date)*, at *(time)*, to discuss the situation and what is required to support your safe and productive return to school. You may invite your parent(s).guardian(s) or any other party to accompany you to this meeting.

You have the right to appeal the decision to exclude by writing to the Chief Education Officer, see enclosed appeal procedure information sheet for further information. If you think your exclusion is discriminating on the grounds of disability you should write to the Additional Support Needs Tribunal (see below link).

<http://enquire.org.uk/service/additional-support-needs-tribunals-for-scotland-2>

As described in section 30 of the Education (Scotland) Act 1980, it remains the parent/carer's duty to provide efficient education for their child, which is suitable to their age, ability and aptitude, even during this period of exclusion.

Yours  
sincerely

HEAD TEACHER

Appendix 8

Procedure B

Letter 5 – Intimation of Temporary Exclusion and Appeals Process to be sent to a pupil's **parent /carer** when their child is considered to have legal capacity

**Dear Parent/Carer**

**Intimation of Temporary Exclusion**

I write to inform you that I have today excluded your child (*pupil's name*)\_\_\_\_\_ from School for a period of (*number*) days with effect from (*date - to/from*) inclusive.

The decision to exclude has been taken in accordance with the Schools General (Scotland) Regulations 1975 as amended.

The decision to exclude has been taken for the following reasons:-

*(details relating to the circumstances leading to exclusion, including reference to other actions taken previously in managing the behaviour of this particular pupil)*

I would be grateful if you would arrange to meet with (*contact name*) on (*date*), at (*time*), to discuss the situation and what is required to support (*pupil's name*)'s safe and productive return to school. You may bring a friend with you to the meeting if you would find it helpful.

You also have the right to appeal but you will not be able to exercise this right if your child decides to pursue their own appeal. However, you can support your child with this process. See enclosed appeal procedure information sheet for further information. If you think the exclusion is discriminating on the grounds of disability you should write to the Additional Support Needs Tribunal (see below link).

<http://enquire.org.uk/service/additional-support-needs-tribunals-for-scotland-2>

As described in section 30 of the Education (Scotland) Act 1980, it remains the parent/carer's duty to provide efficient education for their child, which is suitable to their age, ability and aptitude, even during this period of exclusion.

Yours  
sincerely

HEAD TEACHER

Appendix 9

Procedure B

Letter 6– Intimation of Temporary Exclusion to be sent to **parent/carer** where their child is **NOT** considered to have legal capacity

**Dear Parent/Carer**

**Intimation of Temporary Exclusion**

I write to inform you that I have today excluded your child (*pupil's name*) \_\_\_\_\_ from School for a period of (*number*) days with effect from (*date - to/from*) inclusive.

The decision to exclude has been taken in accordance with the Schools General (Scotland) Regulations 1975 as amended.

The decision to exclude has been taken for the following reasons:-

*(details relating to the circumstances leading to exclusion, including reference to other actions taken previously in managing the behaviour of this particular pupil)*

I would be grateful if you would arrange to meet with (*contact name*) on (*date*), at (*time*), to discuss the situation and what is required to support (*pupil's name*)'s safe and productive return to school. Where possible and appropriate (*pupil's name*) should attend the meeting. You may bring a friend if you would find it helpful.

You have the right to appeal the decision to exclude by writing to the Chief Education Officer, see enclosed appeal procedure information sheet for further information. If you think the exclusion is discriminating on the grounds of disability you should write to the Additional Support Needs Tribunal (see below link).

<http://enquire.org.uk/service/additional-support-needs-tribunals-for-scotland-2>

As described in section 30 of the Education (Scotland) Act 1980, it remains the parent/carer's duty to provide efficient education for their child, which is suitable to their age, ability and aptitude, even during this period of exclusion.

Yours  
sincerely

HEAD TEACHER

## Appendix 10

East Dunbartonshire Council  
Education Department

**APPEAL PROCEDURE INFORMATION SHEET**

Parents, young persons over statutory school age and children who are considered to have legal capacity have the right to appeal against a decision to exclude.

This right is given either by Section 28H of the *Education (Scotland) Act 1980* (if a parent or young person over statutory school age) and Section 41 of the *Standards in Scotland's Schools etc. Act 2000* (if a child who is considered to have legal capacity).

**The meaning of a child who has legal capacity**

The *Age of Legal Capacity (Scotland) Act 1991* states that a person under the age of 16 years has legal capacity to instruct a solicitor in connection with civil proceedings where they have a general understanding of what it means to do so. A child of 12 years or more is presumed to have sufficient age and maturity. Such a person also has legal capacity to sue or defend in any civil proceedings. Section 41 of the *Standards in Scotland's Schools etc. Act 2000* extended appeal rights under section 28H of the *Education (Scotland) Act 1980* to a pupil with such legal capacity.

If you wish to appeal against a decision to exclude, you should express this wish in writing for the attention of:

Chief Education Officer,  
East Dunbartonshire Council  
12 Strathkelvin Place  
Kirkintilloch  
G66 1TJ

The letter should provide the Chief Education Officer with the following:

- the name of the pupil
- 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*
- the name of the person who wishes to appeal (stating in particular if it is the child or his/her parents who intend to appeal).

Receipt of the letter of appeal will be acknowledged within 5 working days.

Education Services may allow you to return to school after the exclusion while the appeal is being considered. This is a decision that will be made by the Chief Education Officer.

The parent, young person or child with legal capacity who is making the appeal (appellant) will be given the opportunity to go to the hearing and to speak to the appeal committee. Up to three people may accompany the appellant. The appellant may ask one of those three to speak on his/her behalf. Parents have a right to support their child during the appeal process where the child is the appellant.

Should the appellant not wish to attend the hearing he/she can nominate someone to attend and speak for him/her.

If the appellant decides to make a written submission to the appeal committee he/she should send his/her submission to the appeal committee to the Chief Education Officer not less than 10 days before the date of the hearing.

### **Deemed Decisions**

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

- 14 days immediately following an adjournment of a hearing the appeal committee has failed to fix a date for a resumed hearing.
- 14 days following the conclusion of a hearing the appeal committee has failed to notify the parent, young person or child with legal capacity and the education authority of their decision and the reasons for it

If the appeal committee confirms the decision of the authority an appeal may be made to the Sheriff of the area in which the school is situated.

If you believe that you have been excluded because of a disability or an additional support need, you should make your appeal to the Additional Support Needs Tribunal for Scotland. Further details can be found at <http://enquire.org.uk/service/additional-support-needs-tribunals-for-scotland-2>



Appendix 11

East Dunbartonshire Council  
Education Department

**Agreed wellbeing-needs, supports and next-steps**

(to be signed by a **pupil** who is considered to have legal capacity and/or is a young person over statutory school age)

Name of pupil:

<p><b>What</b> is getting in the way of this child's or young person's wellbeing? (Including child or young person's view)</p>	<p><b>Do</b> we have all the information we need to help this child and young person?</p>
<p><b>What</b> can we each do now to help this child and young person? (Including the child or young person)</p>	
<p><b>What</b> can the school/the family do to help this child or young person?</p>	<p><b>What</b> additional help, if any, may be needed from others (e.g. multi-agency partners)?</p>

I understand why I was excluded from (*name of school*) and I shall do all I can to support my learning and wellbeing in line with the school's standards and expectations. I also understand that I am being given another chance to comply with the school's standards and expectations, and that without improvement any further similar incidents may lead to further exclusions from school.

Signature of Pupil \_\_\_\_\_

Signature of Parent/Carer \_\_\_\_\_

Signature of Head Teacher \_\_\_\_\_ Date:

## Appendix 12

East Dunbartonshire Council  
Education Department

**Agreed wellbeing-needs, supports and next-steps**

(to be signed by *parent/carer* where a child does **NOT** have legal capacity)

Name of pupil:

<p><b>What</b> is getting in the way of this child's or young person's wellbeing? (Including child or young person's view where appropriate)</p>	<p><b>Do</b> we have all the information we need to help this child and young person?</p>
<p><b>What</b> can we each do now to help this child and young person? (Including the child or young person where appropriate)</p>	
<p><b>What</b> can the school/the family do to help this child or young person?</p>	<p><b>What</b> additional help, if any, may be needed from others (e.g. multi-agency partners)?</p>

I/we understand why (*name of child*) was excluded from (*name of school*) and I shall do all I can to support his/her learning and wellbeing in line with the school's standards and expectations. I also understand that (*name of child*) is being given another chance to comply with the school's standards and expectations, and that without improvement any further similar incidents may lead to further exclusions from school.

Signature of Parent/Carer \_\_\_\_\_

Signature of Head Teacher \_\_\_\_\_ Date: \_\_\_\_\_

Appendix 13

**EXCLUSION PROCEDURES**

To: Chief Education Officer

Pupil Name:

Date of birth:

Address:

As a result of (*pupil name*) now being excluded for (tick appropriate box/es)

A total of more than 3 days this session

A third occasion this session

I am writing to alert you to the situation and provide details of the most recent exclusion. I am also attaching information from the pupil's school disciplinary record which will provide you with a history of the difficulties experienced by this pupil and the action taken by the school.

Other agencies involved with this pupil are indicated below.

	Name Number	Telephone
Psychological Service	<input type="checkbox"/>	_____
Social Work	<input type="checkbox"/>	_____
Children's Reporter	<input type="checkbox"/>	_____
Health Services	<input type="checkbox"/>	_____
Other	<input type="checkbox"/>	_____

**Please note that this pupil is/is not considered to have legal capacity.**

Yours sincerely

HEAD TEACHER

**Appendix 14**

*Draft standard letter to **parent/carer** where their child is considered to have legal capacity and has accrued more than 3 days of exclusion in one session OR has been excluded for the third time in one session.*

Dear

It has been brought to my attention by *(name of head teacher)* of *(name of school)* that *(name of child)* has been excluded from school for a period of *( number of days)* as a result of *(description of incident/behavior)*.

This most recent exclusion means that *(name of child)* has been excluded from school for more than *3 days /for a third* time during this school session. This is a cause for concern, so I am writing to ask you and *(name of child)* to meet with me on *(date)* at *(time/venue)*.

It is very important that we try to find a way of resolving your situation so I very much hope that you and *(name of child)* will meet with me.

As *(name of child)* is considered to have legal capacity, it is important that *s/he* is fully involved in any meetings we have to discuss the difficulties. You should also note that you **or** your child have a right of appeal which is explained in the in the attached– *Appeal Procedure Information Sheet*. Should *you/your* child wish to exercise this right of appeal you should write to me as soon as possible.

Should it be the case however that further exclusions occur it may be necessary for the Education Authority to take more serious action.

I look forward to hearing from you and your child as soon as possible.

Yours sincerely

CHIEF EDUCATION OFFICER

**Appendix 15**

*Draft standard letter to **parent/carer** where their child is considered **NOT** to have legal capacity and has accrued more than 3 days of exclusion in one session OR has been excluded for the third time in one session.*

Dear

In following the Council's procedures on Exclusion from School it has been brought to my attention by *(name of head teacher)* of *(name of school)* that *(name of child)* has been excluded from school for a period of *( number of days)* as a result of *(description of incident/behavior)*. This most recent exclusion means that *(name of child)* has been excluded from school for more than 3 days /for a third time during this school session.

I am therefore inviting you to attend a meeting on *(date)* at *(time/venue)*.

Where appropriate, it may also be helpful for your child to attend the meeting. I look forward to hearing from you very soon to hopefully confirm that you are able to attend this meeting.

Both the Education Service and parents have a duty to ensure that a child of school age receives efficient education. It is therefore important that *(name of child)* 's education continues without further interruptions as soon as possible.

You should note that you have a right of appeal against the exclusion and this is explained in the attached– *Appeal Procedure Information Sheet*. Should you wish to exercise this right of appeal you should write to me as soon as possible.

Should further exclusions occur it may be necessary for the Education Service to take more serious action and while it is hoped that such a situation will not arise it is important that you are fully aware of the possible consequences to *(child's name)* behaviour in school.

Yours sincerely

CHIEF EDUCATION OFFICER

## APPENDIX 16

## INFORMATION ON APPEALS PROCESS

NB: The following is included for the information of Head Teachers and **should not be issued to appellants by the school**. The Registration Services Manager will ensure that appellants receive a copy of this information.

**At the Hearing**

- The Committee which will consider your appeal will not exceed 7 in number - the minimum number of 3 is more common.
- The Committee is made up of Councillors and parent representatives nominated by Parent Councils.
- An Officer from the Corporate & Customer Services Department will act as Clerk to the Committee and will be available to answer any general queries you may have, prior to the Hearing. You will also have been given the opportunity to discuss with the Officer matters of general procedure, in the 2 weeks or so leading up to the Hearing.
- With the consent of the Chairperson there may be one or two other people present as observers or for training purposes. The Hearings are held in private and members of the public are not admitted.
- The Chairperson will introduce all those present and explain the part that each plays; he/she will adopt an informal approach to lessen any apprehension you may have and to try to put you at ease.
- Normally,
  - The Chief Education Officer will explain why your child was excluded.
  - You, your child or someone who has been nominated to speak on your/your child's behalf may question the Chief Education Officer.
  - You, your child or the nominee may explain why you feel the appeal should be granted.
  - The Chief Education Officer may question you, your child or your nominee.
  - The Chief Education Officer will sum up the case on behalf of the Council.
  - You, your child or your/your child's nominee will sum up your case.

**After the Hearing**

- The decision of the Appeal Committee will be given to you in writing. It will also be given to your child where s/he has legal capacity and has decided to appeal on their own behalf. While the law allows 14 days for this to happen, in most cases you will receive written intimation within 3 or 4 days.
- If your (or your child's) appeal has been refused you must be advised in the letter of the reasons for this decision.

- You must also be advised of your (your child's) right to make an appeal to the Sherriff.
- If you (or your child) decide to make an appeal to the Sherriff you (or your child) should do so in writing to the Sherriff Clerk, within 28 days of receipt of the letter advising you of the Appeal Committee's decision.
- If you (or your child) decide to proceed with an appeal to the Sherriff, it is the view of the Council that it would be in your (or your child's)) best interest to seek the advice of a solicitor.

APPENDIX 17

**Draft standard letter to a parent of a pupil who is being removed from the register**

Your Ref:  
Our Ref: CEO/.../17/ma  
If phoning or calling ask for:  
Ext No:  
e-mail:

**Dear**

**Intimation of exclusion and removal from the register of *(name of school)***

I write to advise you that your **(son/daughter)** has been excluded and removed from the school register of **(name of school)** with immediate effect from the date of this letter.

This decision is taken in terms of the Education (Scotland) Act 1980.

The reasons for the exclusion from and removal from the school register are that the Council considers

*That in all 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.*

The details of which are *(time/date & details of the incident)*

Yours sincerely

**Chief Education Officer**



## APPENDIX 18

**DEFINITIONS****Child**

Section 135(1) of the *Education (Scotland) Act 1980* defines a child as a person who is not over school age.

**Parent**

Section 135(1) of the *Education (Scotland) Act 1980* defines a parent as 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.

**Young person**

Section 135 of the *Education (Scotland) Act 1980* defines a young person as a person over school age who has not yet attained the age of 18 years.

**Age of Legal Capacity**

The *Age of Legal Capacity (Scotland) Act 1991* states that a person under the age of 16 years has legal capacity to instruct a solicitor in connection with civil proceedings where they have a general understanding of what it means to do so. A child of 12 years or more is presumed to have sufficient age and maturity. Such a person also has legal capacity to sue or defend in any civil proceedings. Section 41 of the *Standards in Scotland's Schools etc. Act 2000* extended appeal rights under section 28H of the *Education (Scotland) Act 1980* to a pupil with such legal capacity.

The *Education (Scotland) Act 2016* includes provisions which extend the rights of children aged 12 and over with capacity under the Additional Support for Learning Act. Children who are able to can use rights on their own behalf to affect decision making about them. Before a child can use their rights, the school or local authority must agree they have the capacity to do so. The school or local authority must also check that a child's wellbeing will not be negatively affected by using their rights.