

Exclusion From Schools In Scotland: Guidance to Education Authorities

Circular 8/03



SCOTTISH EXECUTIVE

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Pupil Support and Inclusion Division

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To: Chief Executives of Local Authorities

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«Date»

Dear Sir/Madam

CIRCULAR NO 8/03 **EXCLUSION FROM SCHOOL**

This Circular offers guidance on issues concerning exclusion from school and supersedes guidance issued in Circular 2/98.

It can be necessary to exclude a pupil from school in the interests of meeting the needs of the majority of pupils and teachers and helping foster an environment in which they can learn and teach with as little disruption as is possible.

The power to exclude a pupil from school rests with the relevant local authority and each authority should operate under locally produced exclusion guidelines. **This Circular offers guidance on the contents of these local guidelines.**

It also sets out the policy context within which these guidelines should be prepared.

The Minister for Education and Young People set out the Executive's policy on exclusion in the answer to a Parliamentary Question in July 2003. This statement confirmed the role of exclusion as a sanction schools may use, sitting within a wider framework of effective policies and practices within which exclusion is a legitimate last resort. The Minister also emphasised the need to ensure the rights of the majority of pupils who are hard working and well behaved, and of teachers, to enjoy a positive learning environment. The Minister's Parliamentary answer provides the Foreword to the guidance.

A number of additions have been made to the previous guidance on exclusions from school to reflect this policy context. Key changes are as follows:

- Increased emphasis on ensuring the safety and positive learning and teaching environment for the whole school. Decisions on exclusion may be taken to safeguard the rights of all pupils and staff to learn without fear or disruption.

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- Recognition of the responsibilities pupils and parents must share in maintaining positive behaviour in schools.
- Introduction of the principle of supporting victims of anti-social or violent behaviour, and of developing approaches such as mediation, or restorative justice, to prepare the pupils, their parents and staff, and the excluded pupil, to re-integrate him or her into school in ways which encourage a positive school atmosphere.

The guidance continues to emphasise the importance of meeting the educational needs of excluded pupils, and highlights the duties to provide alternative education for them. It also now suggests a *maximum* period of interruption to education beyond which alternative education must be provided.

Enquiries

The guidance sets out the roles and responsibilities of education authorities in relation to exclusion from school, and the schools under their management to which they may delegate some of these responsibilities. It will also be of interest to a range of other agencies likely to be involved in the development of approaches to exclusion in schools, as well as to School Boards, parents and pupils.

Any enquiries on this Circular should be directed to Rod Burns (telephone 0131 244 0949), The Scottish Executive Education Department, Area 3A (North), Victoria Quay, Edinburgh, EH6 6QQ.

Yours faithfully
JOANNA YOUNG

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FOREWORD

Minister for Education and Young People, Peter Peacock:

This foreword is the text of a Parliamentary Answer on the subject of exclusions. I hope it is helpful in capturing our policy initiatives with regard to exclusions

The target on exclusions was helpful in setting a clear direction of travel and as a stimulus to the development of alternatives to exclusion. We remain committed to seeing a trend of reductions in exclusions but based on the application of the best available management practices, not on a specific target. No target should override judgements on a case by case basis where decisions must be made in accordance with the best interests of the staff and other pupils and of the child.

The Scottish Executive is committed to supporting teachers and taking a firm approach to discipline. Exclusion is a sanction schools may use. It should sit within a wider framework of effective policies and practices on discipline within which exclusion is a legitimate last resort. Our policy on exclusion recognises the need to ensure the rights of the majority of pupils, who are hard working and well behaved, and of teachers to enjoy a positive learning environment. We also have an obligation to address the needs and observe the rights of pupils involved in disruptive behaviours.

The way to reduce exclusions lies in determined, sustained, long term, effective management and sound and consistent policies which make a real difference to behaviour in schools. That was the clear message from the Discipline Task Group. There is excellent practice in many Scottish schools and implementation of the Discipline Task Group recommendations is making further improvements. Since 2000 we have allocated £33m to authorities to implement the DTG recommendations, with a further £10m to follow in each of the next 2 years. This is in addition to the £10m a year we have been providing since 1999 to fund alternatives to exclusion, increased to £11m from this year.

We are building on the work of the DTG with the establishment of two expert groups: one to look at discipline in corridors, playgrounds and other out of class areas; and, the other to look at involvement of parents in ways which improve behaviour in schools.

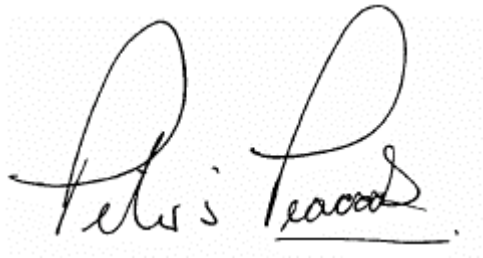
We are also appointing a development officer to help authorities with implementation and assist in the sharing of experience and good practice. Finally, we are facilitating a series of “masterclasses” for Headteachers. These will commence in the Autumn and will be an opportunity for all Headteachers to discuss and share best practice in behaviour management.

We will continue to record incidents of violent and anti-social behaviour towards teachers in schools to monitor trends and we will encourage consistency in recording practices to give an ever more reliable base to such statistics. This information,

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together with other data and expert advice from education professionals and others, will form the basis of future policy action.

By these means, and with the commitment and professionalism of teachers and other school staff, I am confident that we can ensure that all pupils can benefit from a high quality education in a well ordered learning environment.

A handwritten signature in black ink, reading "Peter Peacock". The signature is written in a cursive style with a large initial 'P' and a long horizontal stroke at the end.

PETER PEACOCK

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Section 1: Introduction

1. It can be necessary to exclude a pupil from school in the interests of meeting the needs of the majority of pupils and teachers and helping foster an environment in which they can learn and teach with as little disruption as possible. The power to exclude a pupil from school rests with the relevant education authority. The Scottish Executive considers that for this, and for other professional and administrative reasons, each education authority should operate under locally produced exclusion guidelines. While wishing to see exclusions progressively reduce, by the application of the best practice available, Ministers will respect the judgement of education authorities to exclude in any given case. **This Circular offers guidance on the contents of these local guidelines.** It is not intended to replace those local guidelines, nor should it be relied upon as an exhaustive consideration of the legal duties which may, now or in the future, be imposed on education authorities.
2. It is vital that the option of exclusion is available to education authorities. It is an important sanction, can act as a deterrent to misbehaviour and is a safeguard for all pupils and staff. Pupils and school staff are entitled to experience education in an environment which is free from disruptive or aggressive behaviour.
3. While duties in relation to exclusion lie with education authorities, they may delegate responsibilities to headteachers (or senior managers) where it is appropriate and practical to do so and while ensuring they maintain compliance with their statutory responsibility.
4. As there can be no more severe sanction than exclusion, it must be carefully used in response to serious breaches of discipline or criminal behaviour, the circumstances of which must fall under the legislative criteria (see para 9).
5. A positive ethos has been identified in many school improvement studies as being fundamental to raising achievement and is linked to the development of anti-bullying, peer support and other whole school strategies. Schools with a positive ethos encourage achievement, celebrate success, have high expectations of every child, have lower exclusion rates and fewer discipline problems.
6. Education authorities should seek to minimise the need to use exclusion procedures through promoting a positive and inclusive school ethos, i.e. where all pupils are treated fairly and consistently, and offered an educational experience which they value and which recognises and meets, as far as is practicable, their individual needs. Circular 3/2001 provided guidance on the degree of curricular flexibility available within current guidelines to enable education authorities and schools to take account of local circumstances and meet individual pupil needs.
7. In considering the handling of any exclusion, the circumstances leading to a decision to exclude a pupil should be carefully considered by authorities. The

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feelings of teachers and staff who have witnessed, or been the victims of breaches of discipline should be considered when planning for the re-integration of an excluded pupil, where this is the expected conclusion following the period of exclusion. It is good practice when making arrangements for an exclusion to consider whether there are arrangements which should be put in place for staff or other pupils who may have been involved in any incident, or for the wider school community. The atmosphere and ethos of the school could be compromised if the views and feelings of the wider pupil population are not acknowledged and managed appropriately. The evaluation of the way such incidents are managed can enable schools to learn and inform their policies and practices for the benefit of the school.

8. Within the framework of national guidance and local authority policies/guidelines, schools should have discipline/behaviour policies which encourage and reward good behaviour and include a range of sanctions to deal with indiscipline. As the ultimate sanction available to deal with indiscipline in schools, it is particularly important that any decision to exclude is taken locally, and is a proportionate response in the light of the individual circumstances of the case. It is essential that such decisions meet the legislative requirements, and that the policy and procedures adopted by education authorities and schools are based on good practice.
9. Whilst strict uniformity in policy and practice on exclusion across Scotland is not appropriate, a considerable degree of consistency is desirable. This guidance is intended to encourage greater consistency across Scotland in relation to exclusion. For this purpose, it describes the legislative requirements, provides guidance on the roles of the different parties involved and outlines good practice.

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Section 2: Legislative position on exclusion

Power to exclude

10. The power to exclude a pupil from a school and the circumstances under which a pupil may be excluded are set out in Regulation 4 of the Schools General (Scotland) Regulations 1975, as amended [SI 1975/1135: the relevant amending Regulations are the Schools General (Scotland) (Amendment) Regulations 1982 (SI 1982/56) and the Schools General (Scotland) Amendment (No 2) Regulations 1982 (SI 1982/1735)].
11. The power to exclude - and therefore legal responsibility for exclusion - rests with the education authority. It is, however, open to an education authority to devolve the power to exclude to senior management level within a school.
12. Regulation 4 states that an education authority **shall not exclude** a pupil from school **unless** the authority:
 - “are of the opinion that the parent of the pupil refuses or fails to comply, or to allow the pupil to comply, with the rules, regulations, or disciplinary requirements of the school”; or
 - “consider that in all the circumstances to allow the pupil to continue 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.”
13. **Education authorities, when deciding whether exclusion is necessary, must have regard to the particular facts and circumstances surrounding individual incidents and/or pupils.**
14. Exclusion from school of a pupil other than in conformity with the terms of the Schools General (Scotland) Regulations 1975 has no statutory backing. Failure to comply with the Regulations in such circumstances may render the authority open to legal challenge by the parent/s, or the pupil (where the pupil is a young person or is a child with legal capacity in terms of the Age of Legal Capacity (Scotland) Act 1991) or to action by Scottish Ministers under section 70 of the Education (Scotland) Act 1980, as amended.
15. School exclusions must also operate within the duties imposed by anti-discrimination, human rights and other relevant legislation. Therefore, education authorities and schools should keep fully aware of developments.

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Pupils with Special Educational Needs

Authorities should note anticipated changes to legislation concerning pupils with special educational needs, following which sections 16-21 of this guidance may be revised accordingly

16. In relation to a pupil with Special Educational Needs, the circumstances under which a pupil may be excluded are the same as they are for other pupils. Additional considerations do, however, apply, particularly for those pupils with a Record of Needs.
17. By definition, under section 60(2) of the Education (Scotland) Act 1980, a pupil with a Record of Needs has pronounced, specific or complex special educational needs, which require continuing review. A Record of Needs must, where appropriate, name the school which the pupil concerned should attend - the basis of the nomination being that the school has the expertise and resources to meet the pupil's special educational needs. In these circumstances, exclusion is particularly problematic for the pupil concerned.
18. For example, it might be that the pupil's special educational needs cannot be catered for appropriately, unless the pupil attends either the nominated school or is immediately transferred to an alternative, suitable school. The pupil may have particular support needs during a period of exclusion if alternative provision is either home based (for example, home tuition) or has a different pattern of attendance than previously, which may place considerable stress on the parents or other family members. It may be the case, therefore, that parents of pupils with special educational needs may only be able to comply with their duty under section 30 of the 1980 Act by causing their child to attend another school run by the same or a different authority, or by the authority placing the pupil at their expense in an independent or grant-aided special school.
19. Accordingly, where a pupil with a Record of Needs is at risk of exclusion, an authority should seek to balance the case for exclusion with the need to take all reasonable steps to secure that appropriate provision is made for the pupil's special educational needs. However, this additional consideration would not prevent exclusion where this is deemed absolutely necessary.
20. Under the 1980 Act, an authority is required to carry out statutory review procedures to change the nominated school on a Record of Needs (Circular No 4/96 refers).
21. A further consideration applies in relation to a pupil with a Record of Needs who has been excluded. Where aspects of the provision for such a pupil, stipulated under the Record of Needs (e.g., speech and language therapy, or contact with an educational psychologist), are normally provided, the exclusion does not affect the education authority's duty to provide those services, whether these are provided on school premises or at an alternate venue. Accordingly, such provision should continue to be provided notwithstanding the exclusion (see para 52). Consultation with any other service providers in order to maintain provision to an excluded pupil should

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take account of the needs of other service users with whom the excluded pupil interacts when receiving the service.

Procedures

22. Statutory provisions relating to the procedures to be followed in exclusion are set out in Regulation 4A of the Schools General (Scotland) Regulations 1975.
23. The authority must, on the day upon which a decision to exclude a pupil is taken, intimate in writing or orally to the pupil's parent:
 - the decision to exclude; **and**
 - the date, time and place where the headteacher, or teacher or official of the education authority, shall be available to discuss the decision to exclude. This meeting must be within 7 days of the decision to exclude.
24. Where intimations are oral, it is good practice to then confirm details in writing.
25. The Age of Legal Capacity (Scotland) Act 1991 (see Annex C, Terminology) states that a person under the age of sixteen has legal capacity where they have sufficient maturity and understanding, and there is a general presumption that children aged 12 years and over have that capacity. An intimation of exclusion should be made to a pupil of legal capacity, or young person (over sixteen). The meeting to discuss the decision to exclude should be with the pupil, where the pupil has legal capacity, or the young person. However, it is good practice to also keep parents informed and involved at every stage, regardless of the age of the child (see paragraph 82).
26. In the case of pupils who are under sixteen and are not judged to have legal capacity, the intimation should be to the parent and the meeting to discuss the decision should be with the parent.
27. While not required by the relevant legal provisions, it is also good practice for schools to contact parents prior to the pupil being required to leave school premises. In all cases, the school should check that appropriate arrangements for the care of a child or young person are being made, before they are sent from school premises. See paragraph 56 with regard to Looked After Children.
28. The authority must subsequently, i.e. following the requirements set out in para 23, notify the pupil / parent in writing of:
 - the reason(s) the pupil was excluded;
 - the right of appeal and how appeals can be initiated; and
 - any other relevant information for example a proposed action plan which sets out respective roles and responsibilities on the pupil's return to the school, if applicable

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29. Again, such intimation should be to the pupil or young person, or to the parent where the child has no legal capacity. It is good practice in all situations to copy any such intimation to the parent/s.
30. The regulations provide two timescales for providing this subsequent written notification:
 - Where the pupil has been excluded for a period exceeding 7 days, or where the parents (pupil or young person where applicable) have not, within 7 days of first being informed of the decision to exclude, indicated to the headteacher that they do not intend to appeal the decision (whether or not the pupil has been re-admitted to the school), the subsequent written notification must be issued within 8 days of the decision to exclude.
 - In any other circumstances, the education authority may issue the subsequent written notification within 8 days of the decision to exclude, or thereafter.
31. The Standards in Scotland's Schools etc. Act 2000, section 2(2), requires that education authorities take account, so far as is reasonably practicable, of any views expressed by a child or young person to whom they are providing school education. In light of this, and section 28H of the Education (Scotland) Act 1980, as amended, education authorities may consider it good practice to involve all excluded children in the procedures for notification under the 1975 Regulations.
32. The length of an exclusion is not defined in the legislation and accordingly is a matter for the discretion of the education authority. The guiding principle is that any sanction should be proportionate to the breach of discipline. Therefore the length of an exclusion should reflect the seriousness of:
 - 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.
33. 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 good practice to resolve exclusion and re-admission issues within the same academic year.
34. A pupil's/parent's decision to appeal against exclusion should in itself have no effect on the length of the exclusion, or on any conditions attached to the pupil's return. A pupil may return to school after a period of exclusion even if the appeal process has not completed prior to this date.
35. Regulation 10(1A) of the 1975 Regulations relates to information on a pupil's progress record about a decision to exclude; and regulation 10(3) relates to the use and disclosure of information about exclusion recorded in a pupil's progress record.

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Right of appeal against the decision to exclude

36. The right of appeal is conferred by section 28H of the Education (Scotland) Act 1980, as extended by section 41 of the Standards in Scotland's Schools etc Act 2000. 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 1980 Act. A further appeal against the decision of the Education Appeal Committee may be made to the sheriff court. The Education (Appeal Committee Procedures) (Scotland) Regulations 1982 [SI 1982/1736] regulate the procedures of appeal committees, including committees set up to hear appeals against exclusion.
37. Section 28H of the 1980 Act conferred on parents of pupils and pupils themselves where they are young persons (i.e. age sixteen years, and over) a right to refer a decision to exclude to an Appeal Committee. (If a young person chooses to exercise this right, the young person's parent does not have a right of appeal.) Section 41 of the Standards in Scotland's Schools etc. Act 2000 puts pupils with legal capacity *in the same position as a young person*. (see paragraph 25). Thus, *either* the pupil, where the pupil is over sixteen years or is judged to be of legal capacity, or the parent of a pupil, where the pupil does not have legal capacity or is incapable of expressing his views for the purposes of section 61(7) of the 1980 Act, may appeal. A parent and pupil may not both appeal (see paragraph 82 re the role of parents as supported and advocates for their child).
38. In order for the process of appeal to function effectively, it is necessary for education authorities to advise pupils and their parents, not only of their right to appeal against the exclusion, but also of the procedures involved, the type of evidence admissible at the hearing and the support which they can bring with them.
39. Section 2(2) of the 2000 Act states that due regard is to be given to the views of the child, as far as is reasonably practicable. Their views should be sought even when it is the parent taking forward the appeal. This embodies the position in Article 12 of the United Nations Convention on the Rights of the Child, and the Children (Scotland) Act 1995 which stresses that the child's point of view should be represented and taken into account in decisions which directly affect them.

Alternative education provision

40. Section 14(3) of the Education (Scotland) Act 1980 places a duty on education authorities to make alternative education provision for excluded pupils. The duty is to, **without undue delay**, either:
 - provide school education for [the excluded pupil] in a school managed by them; or

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- make arrangements for [the excluded pupil] to receive such education in any other school the managers of which are willing to receive [the excluded pupil]; or
 - make special arrangements for the excluded pupil to receive education other than at a school.
41. The purpose of Section 14(3) is to ensure that excluded pupils are given every chance to continue their studies, even in situations where their behaviour has been such that they have to be removed from a school. 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. Without continuation of their studies the likelihood is that such pupils will fall further behind in their education and become even more distant from both learning as a process and school as an institution.
42. Both education authorities and individual schools will need to be capable of providing resources for excluded pupils, including special arrangements as are discussed below, and key contacts in each should assume responsibility for ensuring that resources are provided.
43. Whilst it is recognised that in certain cases, some delay may be unavoidable to enable appropriate arrangements to be put in place, it is expected that in all cases, those arrangements will be effective within 10 school days of the exclusion.
44. Where pupils are excluded, the most common method of making provision for their continued education, in practice, is in another school managed by the same education authority, or a school managed by a neighbouring education authority or a school which is independently managed. All of these arrangements are subject to the management of the receiving school being willing to accept the pupil.

Special arrangements other than at a school

45. **Where the above options are not appropriate, then the education authority must make special arrangements which seek to provide, as far as possible, the quality, quantity and range of education which was previously available to the excluded pupil in school, prior to their exclusion.** The need for any such special arrangements should arise only in exceptional cases, and only as an interim measure prior to the pupil receiving full-time education in a school setting.
46. Particular consideration should be given to individual circumstances, for example where:
- an exclusion would include the period immediately prior to examinations and attendance at exams

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- a pupil has been excluded on a number of occasions. A recurring need to exclude a pupil may suggest that a different approach is required to deal with the situation.
 - a child is looked after by the authority. The authority and social work department should collaborate to ensure that reference to the child's Care Plan is made, and the child's appropriate involvement in a structured programme of learning is urgently considered, to meet the educational requirements of their Care Plan.
47. Any necessary special arrangements should, in the first instance, involve providing pupils with the same classwork and homework for completion, marking and return which they could expect had they not been excluded. Unless the exclusion is of only a few days duration, it will not be sufficient simply to provide excluded pupils with homework or classwork if they do not also receive sufficient teaching to enable them to understand the material. Any arrangements should therefore involve contact with pupils on a regular basis.
- 48. Consideration as to the amount of contact time required needs to be given on an individual basis.** Younger children who are less well able to work on their own, children with pre-existing difficulties in learning, children working towards examinations and those whose families may be less able to support their learning, might be considered to have greater needs for direct teacher contact. The division and spread of allocated contact time should also be based on individual need. The reason(s) for a pupil being excluded should be taken into account when deciding levels of contact, in order to ensure the security of all those involved.
49. The following illustrative list, although not intended to be prescriptive, nor exhaustive, gives examples of the type of contact which may take place as part of special arrangements, although not all will be appropriate or available for every pupil:
- the provision of suitable homework sufficient to ensure that the pupil reviews the work that is to be taught in class during the period of the exclusion, with a subsequent check to ensure that the pupil has fully understood the material;
 - home tuition;
 - involvement in structured programmes of learning outside the home in a community centre, library or internet café;
 - involvement in structured programmes of learning outside the home in a unit or centre specifically designed for that purpose;
 - involvement in programmes designed to address the behaviour or needs of the pupil in order to support re-integration into school education and prevent further exclusions
 - interaction with pupils by e-mail.
50. Teachers or other staff working with children out of school need to have current professional credibility in terms of curricular knowledge and support for learning skills. They also need a high level of inter-personal skills and empathy.

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51. Where home tuition is the form of contact adopted, authorities may also wish to employ staff from specialist services, in addition to involvement by teachers from a pupil's own school. These specialist staff should have sufficient additional skills and knowledge to undertake home teaching in cases where a pupil's own school may be unable to undertake this, and/or where a specialist service may be more appropriate in terms of a pupil's individual needs or a particular family context.

Pupils with Special Educational Needs

Authorities should note anticipated changes to legislation concerning pupils with special educational needs, following which sections 16-21 of this guidance may be revised accordingly

52. Education authorities should be aware that under section 62(3) of the Education (Scotland) Act 1980 they shall ensure that provision made by them under the 1980 Act for a recorded child or young person includes provision for their special educational needs. As discussed above, education authorities have a duty under section 14(3) of the 1980 Act to make alternative provision for excluded pupils. Accordingly this alternative provision must include provision for the pupil's special educational needs where that pupil is recorded.

Consideration of family circumstances, parents and pupils

53. Establishing and maintaining good relationships between pupils, parents, schools and education authorities is of vital importance, and education authorities should ensure that there is adequate provision of time, in all cases, for consultation with pupils and parents in deciding appropriate arrangements for the continuing education of a pupil excluded, whether on a temporary basis or removed from the register.
54. The family of a pupil excluded from school may have to arrange additional child care and may also experience increased stress as a result of fear and uncertainty about the future of their child's education. The involvement of parents should therefore be actively sought at all stages.
55. An awareness of, and sensitivity towards, family circumstances and cultural and religious beliefs are particularly important.
56. Authorities may find it appropriate to determine, in consultation with social work services, the potential risk involved where children may be exposed to stressful home situations. At some times consultation may need to be intensive. The Action Plan on Better Integrated Services for Children "For Scotland's Children" gives further guidance on co-ordination of needs assessment and intervention. **Social work services should always be informed of a decision to exclude where the pupil concerned is on the Child Protection Register or is a Looked After Child, and as far as possible, provision put in place to ensure the ongoing monitoring of the welfare of the child, as well as provision for their educational needs as described in the child's Care Plan.**

<p style="text-align: center;">Section 3: Roles and Responsibilities</p>

The education authority

57. Power to exclude a pupil rests with the relevant education authority. Accordingly, it is the responsibility of the authority to devise and implement policies and procedures on exclusion, which should take account of the guidance contained in this Circular. The role of the education authority is strategic, enabling and supportive. Exclusion policy should be seen in the wider context of an authority's duty under section 1 of the Education (Scotland) Act 1980:

"...to secure that there is made for their area adequate and efficient provision of school education..."

And under section 2(1) of the Standards in Scotlands Schools Act 2000:

“...to secure that the education is directed to the development of the personality, talents and mental and physical abilities of the child to their fullest potential.”

58. For reasons of accountability, and in the interests of all pupils, their families and school staff, it is important also that authorities make their locally produced guidelines available publicly in a form which is easily understandable.

59. An authority's policies and procedures must follow the requirements of appropriate legislation. They should provide a helpful and supportive framework within which individual schools can work effectively with pupils and parents to maintain discipline and safety in the school.

60. Where a child or young person is to be placed at another school following exclusion, education authorities should not only arrange, but also co-ordinate, all aspects of this onward placement, in the best interests of the child or young person. Parents and pupils should be included in any decisions regarding placement at another school, as referenced previously (see paras 48 and 49). It is good practice for education authorities to monitor equitable approaches to exclusion by all schools in their area, to safeguard the interests of vulnerable pupils.

61. Education authorities have powers and obligations regarding pupils not in attendance at schools including those excluded from school, and should have appropriate arrangements in place for such pupils.

62. When considering the provision of education for those excluded from school, authorities should (as provided in section 28 of the 1980 Act) have regard to the general principle that, so far as is compatible with the provision of suitable instruction and training and the avoidance of unreasonable public expenditure, pupils are to be educated in accordance with the wishes of their parent/s.

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63. In monitoring the use of exclusion, education authorities will be aware of their continuing obligations in respect of pupils who have been excluded. Accordingly, authorities are expected to have in place arrangements for the systematic review of individual cases with a view to early re-integration into school education wherever appropriate. The extent to which such arrangements should themselves be subject to review should also be considered.
64. It is important that the system of education provided for in an education authority's area should aim, as far as possible, to cater for **all** pupils for whom provision of education is sought. Education authorities will require to take account of any other legal obligations such as anti-discrimination legislation and human rights.
65. Also of relevance is SEED Circular 3/2002 which provides advice to enable education authorities to review their policies for children with special educational needs, in the light of the requirement in Section 15 of the Standards in Scotland's Schools etc. Act 2000, that the education of all children should be provided in mainstream schools, unless certain specified exceptions apply. One such exception is section 15(3) of the 2000 Act, which recognises that education of a child can sometimes be incompatible with the provision of efficient education for the children with whom the child would be educated. However section 15(3) makes it clear that such circumstances would be expected to arise **only exceptionally**.

The School

66. The focus of discipline is at school, rather than education authority, level. Effective and well-designed discipline, or behaviour, policies in school are crucial to the development of learning. In relation to such policies, schools should actively seek models of good practice - and education authorities should ensure they do so.
67. Pupils need to be taught and to learn the basic rules of good behaviour for their own benefit, the benefit of other pupils and the benefit of society as a whole. Schools should make clear what is expected of pupils, and how they are required to behave. Schools should aim to reward good behaviour as well as providing sanctions against inappropriate or poor behaviour.
68. All schools should have in place effective policies on discipline, or behaviour, which are the result of consultation with all members of the school community and are supported by, and promulgated to, all staff, pupils, parents and the School Board. The policies should be applied consistently throughout the school.

Education authority and school policy / guideline documents

69. It is suggested that at a minimum, an authority's policies and procedures, and those of an individual school which follow the authority's policies, should address certain fundamental aspects.

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70. *Aspects which should be addressed in both education authority and school documents:*

- Exclusion can be an acceptable action.
- Where exclusion is used it should be as a proportionate response in which there is no appropriate alternative.
- The principle that pupils and school staff have the right to work and learn in a safe environment with the minimum of disruption
- Exclusion should be used only as a last resort and in certain clearly prescribed circumstances;
- A clear definition of responsibility for the management of exclusion and alternative education provision at school and education authority level.
- The steps that the education authority must take to meet the terms of the legislation on exclusion. This should include the steps set down in Regulation 4A of the Schools General (Scotland) Regulations 1975, as amended, as to informing the pupils/parent/s. Letters to the pupil's parent/s, and to pupils where applicable, to explain the position, and to fulfil the statutory requirements, should be easily understandable and in a tone designed to elicit a constructive response;
- The steps which the education authority will take to ensure that the views of the pupil's parent/s, and the pupil, are appropriately established and represented and properly taken into account in reaching decisions about exclusions;
- Reasonable measures put in place to provide appropriate support for other pupils and staff, following a breach of discipline or when planning for an excluded pupil's reintegration into the school, with a brief note on the rationale for these measures for record
- The approach underlying policies on exclusion. This approach should be inclusive, i.e. one under which all pupils are treated equally and offered an educational experience which they value;
- Any additional considerations which should be made in respect of particular groups of pupils, including pupils with special educational needs (both recorded and non-recorded pupils), and looked after children;
- The importance of a multi-disciplinary approach and inter-agency co-operation, both generally, and specifically in relation to looked after children, pupils with special educational needs, and pupils in other particular circumstances; and

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- A mechanism to monitor and evaluate the use of exclusion and a commitment to rigorous audit and self-evaluation.

71. *Aspects specific to education authority documents:*

- authorities should ensure that all schools have in place appropriate school discipline, or behaviour, policies, which include a policy on exclusions;
- authorities, having powers and obligations as regards pupils not in attendance at schools, should ensure they have appropriate arrangements in place for excluded pupils which can be accessed quickly for pupils in this situation; and
- authorities should specify the range of provision available, and ensure it is designed to meet a range of needs. This may include school-based or off-site provision for pupils.

72. *Aspects specific to school documents:*

- the circumstances in which exclusion will be considered, which will reflect the fact that the school must act in accordance with the education authority's policies and procedures, as well as operating within relevant legislation;
- the circumstances in which alternative provision of education involving special arrangements will be sought, the type of provision to be accessed depending on the particular circumstances of the case;
- the need to provide all pupils with an appropriate and relevant curriculum. (However, it can be appropriate to depart from national guidelines in planned ways to address the specific needs of an individual pupil, if there is a clear alternative rationale in place that has been agreed with parents and is likely to improve attainment for the pupil concerned.);
- the circumstances where it may be expected that the school will ask the education authority to consider exclusion, in which a pupil may not be re-admitted to the same school in which the breach of discipline took place;
- the need for planned and coherent continuing professional development in promoting positive school ethos, in managing disruptive or disturbing behaviour effectively and in promoting positive behaviour;
- the importance of finding ways of working with the School Board (where there is one) and the parent body in preventing and solving problems (individual cases should never be discussed by the Board); and
- the information which schools will record on a decision to exclude in the pupil's progress record, and provision for removal of such information if a successful appeal against exclusion has been made.

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The School Board

73. School Boards should not discuss individual cases, not least in the interests of confidentiality. The Board should, however, play a pro-active role in the construction, on-going review and monitoring of school discipline, or behaviour, policies including those aspects related to exclusion.

The parent/s –

74. Parents have the right to expect that their children's safety while at school will be promoted and disruption to their education minimised.
75. The term "parent" also includes reference to guardians and carers. For a more comprehensive definition for the purposes of this guidance, please refer to Annex C.
76. The involvement of a child's parent/s in the education of that child is crucial in encouraging learning and also in promoting personal and social development. Schools should inform and actively seek the opinions and support of parents regarding school policies and expectations. In particular, parents should be consulted about discipline, or behaviour, policies. It is important that the school works in partnership with individual parents, as well as the parent body as a whole, and vice versa.
77. Parents have rights. These should be respected during any interaction they have with the education authority or school, including the right to information about their children's performance and progress. Parents should be involved at an early stage if their children are behaving regularly in disruptive, or disturbing, ways.
78. Parents may have the right to appeal against exclusion, where the pupil does not have legal capacity. 'Parent' includes guardians or others having parental responsibilities, see Annex C. (See paragraph 85 re the parent's advocacy role).
79. In the case of looked after children, the parent/s, should be advised about the decision to exclude the child whenever possible. It is essential that a social worker or carer with direct responsibility for the child should be informed of the decision to exclude, with due regard for the confidentiality of the child and the impact of the decision to exclude on the child's care arrangements and Care Plan.
80. In any contact the education authority or school have with a child's parent/s, recognition should be given to the fact that some parents may feel vulnerable, threatened, or extremely defensive when dealing with professionals and officials in the education system. Procedures should be established within both education authorities and schools to resolve parental concerns within a supportive and safe environment.

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81. Parents also have responsibilities. A parent of a child of school age has a duty under section 30 of the Education (Scotland) Act 1980 to provide efficient education for the child suitable to his or her age, ability and aptitude. This they must do 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 therefore they should co-operate with the education authority in making any alternative provision necessary, including any special arrangements. Parents are also expected to support the school in facilitating their child's compliance with any reasonable conditions of return, which may be in the form of written agreement if this is felt to be necessary.
82. Parents should ensure that their children attend school regularly, support the school in implementation of the agreed school policies, ensure that their children respect the agreed school policies and encourage them to behave properly, supporting the school in its efforts to tackle indiscipline.
83. Parents should also accept responsibility for their own behaviour. All members of the school and wider educational community have the right to be treated with respect. Any discussions between parents, the school or other authority staff should focus on the future of their child's education and how this can best be facilitated, for the benefit of all concerned. All parties should be able to expect their views to be heard and parents may at times require support to help them communicate these calmly and assertively, and should expect the views of others to be presented in the same way.
84. A parent also has an advocacy role, in promoting the views of their child. This is particularly crucial where their child is at risk of being, or has been, excluded. It is good practice to inform parents of how they might gain the support of another adult, professional or organisation, which might assist them or advocate on their behalf, to ensure that the child or young person receives the support he/she needs when he/she needs it. Children's Rights Officers also have an important role to play in supporting children who are being looked after by the local authority. Although a child of legal capacity, or a young person, has the right to appeal, the role of the parent in supporting the child or young person and promoting their views should be recognised and supported during this process.
85. Parents of pupils who have been witness to, or victims of breaches of discipline and who may require support should be involved in discussing how best to provide that support to their child.

The pupil(s) –

86. Pupils have the right to expect to learn in an environment where disruption is minimised and they are safe.
87. Pupils who have been witness to, or the victim of, breaches of discipline must be supported to maintain their confidence in the school and school staff, and to feel that their ongoing safety and wellbeing is paramount. They may not

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understand the authority's response to the incident and appropriate pastoral support or counselling may be required. They should have a named member of staff whom they may approach for support.

88. All pupils have the right to be treated fairly, as individuals, and to be offered an educational experience which is appropriate to their age, ability and aptitude and which they value. They have the right to receive information concerning their exclusion and to appeal, if they are of legal capacity.
89. Pupils should be consulted about discipline, or behaviour, policies within their school.
90. Whatever their age, children or young people should have their views taken into account, when schools and authorities make decisions about exclusion, so far as is reasonably practicable, taking account of age and maturity. In any relevant procedures, including appeals, the views of the pupil as well as those of the parent/s should be accurately represented and appropriately taken into account. As the views of pupils may diverge from their parent/s, it is clearly not sufficient to assume that the views of the parent/s automatically reflect those of the child or young person.
91. Pupils also have responsibilities. They are expected to attend school regularly, behave appropriately and respect the agreed school policies. They should be fully aware of the school rules and the school's responses to breaches of discipline.
92. Pupils should accept responsibility for their own behaviour. All members of the school and also the wider community have the right to be treated reasonably and with respect for their safety and feelings. Their personal and social education should enable their understanding of acceptable behaviour and social responsibility, and assist the development of personal skills in self management and resolving conflict in acceptable ways.
93. Young persons and pupils of legal capacity have the right to appeal against decisions to exclude them. It is good practice for authorities to provide Looked After Children with the support that might be expected from caring, well informed parents (see paragraph 83), and to make available to all pupils information on how they might seek the support of an adult, professional or organisation to assist them to advocate on their own behalf (see paragraph 38).

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Section 4: Monitoring the use of exclusion

94. The Scottish Executive will request reports as part of national monitoring, statistical returns being sought by mid-September each year for the immediately preceding school year.
95. Authorities are asked each year to collect certain statistics from schools on exclusion. The statistics relate to length of exclusion and numbers of pupils excluded.
96. The annual returns are now made via the ScotXed system. Handling of such data should be sensitive to the need for confidentiality for pupils and staff. Providing names of individuals is not a requirement of ScotXed data collection.
97. The information included should detail any delay, expressed in terms of the number of days before alternative educational provision was put in place for an excluded pupil, and the nature of the alternative that is provided in each case.
98. Authorities should use the information collected regarding exclusion of pupils to regularly evaluate and review their discipline or behaviour policy and practice. In addition, as a matter of good practice, authorities should require schools to submit summary data to them at regular intervals. It is for authorities to devise the necessary arrangements, but it is recommended that returns should be required from schools at no less than six monthly intervals. Authorities should identify relevant issues and factors for further action as necessary and should submit periodic reports to any committee appointed by the education authority with responsibility for school education.
99. Data collection by the Executive supports the evaluation of best practice in preventing and managing exclusions and helps to provide a national picture of practice.

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<p style="text-align: center;">Section 5: Self-evaluation and audit</p>
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100. In auditing their own practice with regard to the use of exclusion, education authorities and schools should have regard to legislative requirements and policy intention in relation to exclusion and protection of vulnerable pupils. They should also have regard to the various aspects of good practice (current principles of good practice are referred to in Annexes A and B of this Circular).
101. Schools should collect and analyse data on the pattern of exclusions within the school, not only to identify patterns in respect of individual pupils, but also to identify patterns which indicate the need for targeted support or review of practice. Such focus may be required in the case of particular departments within the school, particular members of staff, or in relation to aspects of the school's organisation and management. Following on from such auditing, education authorities and schools should take active steps to address any issues so revealed, for example through continuing professional development, additional guidance or targeted management support.

**Good practice in preventing the need for exclusion and avoiding its
inappropriate use**

In auditing their own policies and procedures with regard to exclusion, education authorities and schools should systematically consider the extent to which they have a range of aspects of good practice in place. Some of these aspects are highlighted here.

Scottish Ministers are committed to assisting and supporting education authorities in their continuing aim to reduce the need for exclusion and the educational opportunities potentially lost through exclusion. It is recognised, however, that there are circumstances where the use of this sanction is appropriate and where schools and education authorities will exclude pupils when they feel that such action is warranted. They must then act in accordance with the appropriate legislation and guidelines.

Scottish Ministers will continue to use the information collected to inform future policy and practice in relation to exclusion.

Guiding principle

As indicated throughout this Circular, while legitimate on occasion to meet the needs of the whole school, exclusion should be considered as a sanction of **last resort**, to be used only when all other reasonable courses of action have been exhausted, or are inappropriate in the immediate circumstances that prevail

Positive School Ethos

Where pupils 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 which often leads to exclusion can be significantly reduced.

With regard to the general management of school discipline, there is much that schools can do to promote good behaviour and relationships amongst their pupils and thus make it less likely that the circumstances which lead to the exclusion of pupils will arise. A school with a positive ethos will not only provide sanctions in response to poor behaviour but will also reward good behaviour. Positive recognition of good behaviour will help pupils learn the behaviour that is expected of them and promote a model of good discipline within the school. Schools should be aware that pupils may need to learn good discipline and should ensure that all teaching staff make clear what is expected of pupils in terms of their behaviour. All schools should seek to develop best practice approaches in promoting positive behaviour in explicit and carefully structured ways. The Discipline Task Group Report, "Better Behaviour - Better Learning" (2001), will provide schools with a source of ideas in this respect.

A vital component of a positive school ethos is an actively inclusive approach. A key characteristic of schools which have been successful in minimising exclusion is the explicit adoption of the aim of meeting the needs of all pupils who are part of their

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school community, whatever their ability, background or social circumstances. This aim can be reflected in a wide range of aspects of the operation of the school, including:

- the development of effective systems of support for individual pupils, integrated with well-designed discipline systems;
- a commitment to providing an appropriately differentiated curriculum for all pupils, which ensures they are motivated, achieve success and are appropriately challenged;
- the organisation of lessons to ensure that all pupils are both challenged and supported; and
- recognition that some pupils learn best by listening and talking and others by visual diagrams, pictures and presentations. Taking account of these different learning styles can make teaching more accessible and motivating for pupils.

Education authorities and schools should seek to ensure that they are achieving levels of best practice in these areas.

Where a pupil is moved to out-of-class facilities, whether located in school or off-site, ideally this should be used as a short-term strategy, aimed at supporting the pupil through their difficulties and enabling them to **resume normal classroom education as soon as possible**.

The recent report by HM Inspectorate of Education "Alternatives to School Exclusion" (2001), identifies key principles and recommendations which can support schools in becoming more inclusive for all children and young people.

Discipline, or behaviour, policies

The Discipline Task Group recommended that all schools in Scotland review their policies on discipline and good practice regarding the content of these policies is further explored in their report, "Better Behaviour - Better Learning" (p13-15).

Involving pupils in the creation and review of school discipline policies can lead to those pupils having a greater sense of ownership and commitment to the rules and sanctions involved. It can also create a heightened sense of pride in, and belonging to, the school itself.

The consistent application of agreed routine procedures for the management of pupils, in classrooms and in and around schools, will lead to a greater likelihood of pupils understanding what is expected of them and behaving accordingly.

Schools should evaluate policy on behaviour within the normal cycle of self-evaluation. Education authorities should take active steps to disseminate good practice in their areas.

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Support systems

Particular attention should be paid to the needs of all pupils as they go through **key transition stages**, such as attending a school or other educational establishment for the first time, including the transition from primary to secondary school.

Schools should develop re-integration strategies that will ensure that appropriate support is provided to pupils on their return to school. Consideration should be given to the contribution that can be made in such cases by other local authority staff, such as home-school links workers. It should also be recognised that school staff and/or other pupils may also require some level of support as a result of the pupil being excluded and on that pupil's return to school.

Appropriate teachers, and in some cases support staff, should have access to **relevant information** about pupils which may assist with learning and teaching. Education authorities must have regard to their duties under the Data Protection Act 1998 and the rights of young people to confidentiality must be respected. However, within the framework of relevant legislation, school policies should make provision for classroom teachers, as trusted professionals, to have access to appropriate information on the personal circumstances of a pupil where this is likely to have an impact on that pupil's personal and social development, and hence on their learning. Disclosure to teachers should be in accordance with agreed procedures and teachers so informed must then have due respect to the confidential nature of the information.

Education authorities should provide sensitive, well-publicised systems to provide practical, non-judgmental **support for teachers** experiencing difficulties with indiscipline, which can be easily accessed before difficulties escalate.

Early/staged intervention

Research has shown that many pupils who are excluded have pre-existing learning difficulties or social, emotional or behavioural problems which have not been fully recognised or addressed prior to a crisis point being reached.

Early, pro-active and positive interventions can make significant differences to the educational, social and personal outcomes for a child or young person and his/her family. Investment in early intervention strategies is crucial in reducing the need for exclusion. Schools should ensure that their disciplinary and pupil support systems are designed in such a way that appropriate early warning is given when any pupil is regularly behaving in disruptive or disturbing ways. When such warning is given, action should be taken, sensitive to the individual circumstances of the case, to address the difficulties. **The pupil's parent/s should be involved at an early stage** and schools should take care to develop positive, constructive relationships with the parent/s, despite the difficult circumstances which might prevail, in order to provide the best chance of mutual support in resolving the problems.

Where appropriate, the services of external agencies such as psychological services, social work services, health services and voluntary organisations should be engaged at an early stage, perhaps initially on a consultative and advisory basis, leading to more direct support or intervention if necessary. Many local authorities arrange for named social workers to link with schools on a regular basis.

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Multi-disciplinary approach and inter-agency co-operation

Integrated Community Schools create the context in which multi-disciplinary approaches can be developed and managed, involving a range of agencies in planning to meet the needs of a child and to make appropriate interventions when required, to prevent exclusion or manage re-integration of a child into the school following exclusion. This multi-agency approach can also provide appropriate support for pupils or staff who have been adversely affected by the behaviour of another pupil.

In many areas, the development of formal inter-agency policies, sometimes known as 'youth strategies', have provided a context in which improvements in the effectiveness of agencies working together have been achieved. The precise mechanisms will vary between authorities, but all should develop a strategy for promoting inter-agency collaboration appropriate to their specific circumstances. Good inter-agency co-operation improves co-ordination, efficiency and effectiveness, reduces frustration between professionals from different disciplines and makes better use of existing resources. The publications 'Schooling with Care?', published by the Department in 1994, 'Sharing Good Practice', published in 1997, and the Action Plan on Better Integrated Services for Children "For Scotland's Children", published in 2001, should help authorities and schools in this regard.

To be effective in addressing the needs of vulnerable children, local authority children's services plans need to refer not only to the role of social work services but also to the contribution of other services provided by the local authority, particularly education.

Good practice as regards a multi-disciplinary approach and inter-agency co-operation includes procedures for:

- ensuring that, at an early stage, schools and other agencies share information about pupils in difficulty, and consider what steps need to be taken to support those pupils and their families;
- co-ordinating a full range of appropriate assessments involving teachers and professionals from other agencies and integrating these to provide a picture of the whole child. The guidance issued by The Scottish Office on the Children (Scotland) Act 1995 and Circular 4/96 on Children and Young Persons with Special Educational Needs: Assessment and Recording sets out good practice and offers guidance on assessment;
- jointly planning, undertaking and reviewing programmes of intervention to address underlying difficulties identified;
- joint placement and review of pupils in specialised provision; and
- ensuring appropriate collaboration between education, social work and, where appropriate, other agencies, with regard to pupils in residential provision or children who are being 'looked after' by the local authority in children's home or other contexts.

It is essential that all professionals work in a cohesive, holistic and purposeful manner, **with the aim of restoring the child or young person to mainstream education where this is a realistic target.**

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Policies and procedures such as the above, should ensure that it is only in exceptional circumstances that a pupil is excluded from school or removed from a school register without a clear plan for appropriate alternative provision being established beforehand, and without supportive intervention having already been undertaken, frequently involving collaboration with other agencies. When these circumstances do occur, appropriate assessment procedures should be initiated as a matter of urgency, to ensure that the pupil is suitably placed as soon as possible.

Good practice in making decisions about exclusion in individual cases

Guiding principle

As indicated throughout this Circular, exclusion, while legitimate in protecting the interests of the whole school, should be considered as a sanction of **last resort**, to be used only when all other reasonable courses of action have been exhausted.

Consideration on an individual basis

It is not considered to be appropriate to set a specific national ‘tariff’ which ties specific types of exclusion to particular behaviours in a rigid or automatic way. In order that due account can be taken of local context, discretion regarding exclusions rests with education authorities. **In making decisions about exclusion the specific circumstances of the case and of the individual/s concerned need to be taken into account.**

Balancing the needs of all pupils

It is good practice to take decisions regarding exclusion on the basis of a balanced and comprehensive view of key factors, taking into account all relevant factors:

- The importance of maintaining confidence amongst pupils, parents and staff that the safety and wellbeing of the whole school community is a primary consideration.
- What steps may be taken to avoid the need for exclusion, considering whether any additional support can be provided that is likely to have a positive effect on any difficult or challenging behaviour, therefore preventing the need to resort to exclusion.
- What is in the **best interests of the pupil** in terms of meeting his/her educational needs. Consideration should be given to any social, emotional or behavioural difficulties which the pupil may have, the impact the exclusion will have on the learning and achievement of the pupil, and appropriate involvement of the pupils and his/her parents in planning to address behaviour and gain the most from educational opportunities

These factors should be taken into account in a balanced way before coming to a final judgement. Schools and authorities should ensure that they have as full an assessment of the pupil as possible, including input from other agencies such as social work services, and of the situation in the school, before coming to a decision.

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Risk assessment

The excluded pupil

In certain circumstances, a period of time excluded from school may bring about a significant increase in the extent to which a pupil is vulnerable and so 'at risk' in the community or at home. In these circumstances it will be particularly important that education and social work services should discuss the pupil's needs and behaviour and reach an agreed assessment of the risks to the pupil of continued exclusion. In assessing risks, it is important to work closely with the pupil's parent/s and the pupil. The assessment should identify and address any difficulties relating to home circumstances which would be likely to arise from exclusion. Where necessary, locally agreed child protection procedures involving all the relevant agencies may come into play.

Preventing incidents in school

A further aspect of risk assessment should be considered in relation to the challenges sometimes encountered when managing large numbers of pupils in difficult building or grounds layout. Schools and authorities should consider appropriate procedures and staffing to ensure the safety of pupils and staff.

Removals from the register

It is for education authorities to judge where it may be appropriate to delegate decision making regarding exclusion to senior staff either within authorities or their schools. Decisions on exclusion leading to removal from the register of any child must be taken in the context of the education authority's duty to provide for the education of all children and the duty to make alternative provision without undue delay for the excluded child. Any delegation of such decision making requires effective communication channels for all those involved in the decision-making process to ensure these duties are fulfilled.

Alternative education provision

The provision of alternative education is an immediate requirement in the case of **every** pupil excluded from school. This is in order to minimise any detrimental effects which deprivation of education may have on the pupil concerned.

When reaching a decision regarding the provision of alternative education to a pupil excluded from school, consideration should be given to the particular facts and circumstances surrounding individual incidents and/or pupils. It is therefore important to ensure, while planning the range of provision which authorities make available, that due regard be given to ensuring that a full range of interventions and placements are available and provided in appropriate numbers.

Nevertheless, a strong emphasis should be put on the development of provision which supports pupils in mainstream school attendance and, in so far as procedures do withdraw pupils from mainstream, they do so to the minimum extent necessary, and returns them to mainstream as soon as possible.

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Alternative educational provision may, under some circumstances, be aimed at addressing or resolving the immediate social, emotional or behavioural difficulties of the pupil as part of a strategy to enable the child or young person to make the most of his or her learning potential. It may also provide a mediation approach as part of the process of reintegrating an excluded pupil back into full-time school education. However, such an approach must not replace consideration of the learning needs of children and young people whose difficulties are long term or a feature of their ongoing special educational needs.

Terminology

The terms ‘temporary exclusion’ and ‘permanent exclusion’ are currently used by some education authorities and schools as a matter of practice, and for recording purposes. **The legislation does not make such a distinction. In legislative terms, a pupil is merely excluded.**

Exclusion

Previous terms used to describe the above have included ‘temporary exclusion’ ‘suspension’, ‘informal exclusion’, ‘cooling off period’ and ‘sending a pupil home’. **All such instances are forms of exclusion and must be recorded as such.** Education authorities and schools should no longer use the previous terminology.

We are aware that the term ‘temporary exclusion’ is still used, for example, in the ScotXed documentation for when a pupil is excluded from a school, but remains on the register of that school, being expected to return when the period of exclusion is completed.

Removal from the register

Previous terms used to describe the above have included ‘permanent exclusion’ and ‘expulsion’. Education authorities and schools should no longer use these terms.

The term ‘exclusion/removal from the register’ should be used in the ScotXed documentation when a pupil is excluded from a school and the pupil’s name is removed from the school register, the education authority having decided that the pupil should not return to that school.

Parent/s

For the purposes of this guidance, the definition of ‘parent’ is as in section 135(1) of the Education (Scotland) Act 1980: including 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.

Child

As in section 135 (1) of the 1980 Act: a person who is not over school age.

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Legal Capacity

The Age of Legal Capacity (Scotland) Act 1991 states that a person under the age of sixteen 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 and a child of twelve or more is presumed to have sufficient age and maturity. Such a person also has legal capacity to sue or to 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 1980 Act to a pupil with such legal capacity.

Young Person

As in section 135 (1) of the 1980 Act: a person over school age who has not yet attained the age of eighteen years.

Children with Special Educational Needs

Authorities should note anticipated changes to legislation concerning pupils with special educational needs, following which sections 14-19 of this guidance may be revised accordingly

A child or young person has special educational needs if they require additional or different education provision from that which is normally provided for children or young persons of their age, to help them learn effectively. For more information see "Children and Young Persons with Special Educational Needs: Assessment and Recording" (SEED Circular 4/96).

Looked After Children

The term 'looked after children' is as in section 17(6) of the Children (Scotland) Act 1995, and includes children who are looked after by a local authority in a residential establishment, a foster home or under a supervision requirement in their own home.

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