

Agenda Item 8

**Exclusion Guidelines and
Procedures, Service Circular No. 10**

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Agenda Item 8

Falkirk Council

Title: **Exclusion Guidelines and Procedures, Service Circular No. 10**
Meeting: **Education Executive**
Date: **29 May 2018**
Submitted By: **Director of Children's Services**

1. Purpose of Report

- 1.1. To present a revised policy on Exclusion Guidelines and Procedures for Children's Services.

2. Recommendations

2.1 The Education Executive is asked to agree:-

- (i) the revised policy on exclusions (Annex 1);
- (ii) to request the Director of Children's Services to present a revised policy to the Education Executive in 2019 incorporating the latest best practice guidance from Education Scotland.

3. Background

- 3.1. The Exclusion Guidelines and Procedures Policy was last agreed in 2012. This policy has been updated to align with Children's Services, which was formed in April 2015. The revised policy is presented for approval by the Education Executive (Annex1).

4. Considerations

- 4.1. The terminology used in the 2012 document is not consistent with the configuration of services to support schools in 2018. The policy will be further revised in light of the recently updated guidance from the Scottish Government, "Included Engaged and Involved Part 2" and will be brought to the Education Executive in 2019.
- 4.2. Annex 2 provides an overview of these amendments:
 - The paragraph in section 4.10 requiring the educational psychologist to be fully involved in the consideration of any exclusion of a child or young person with additional support needs has been removed.

- A further paragraph has been added to 4.10 of the guidelines, when considering the exclusion of a child or young person with additional support needs, that the school seek further advice from relevant agencies. This is to ensure that the needs of the individual child or young person are fully considered and any additional actions taken into account before making the final decision to exclude.
- Appendix 8, fourth bullet in relation to looked after children has been expanded to require schools to engage and consult with a broader range of professionals.

5. Consultation

- 5.1. Head Teachers have been consulted on the policy and are in agreement with the revised policy.

6. Implications

Financial

- 6.1 None

Resources

- 6.2 None

Legal

- 6.3 The revised guidance complies more effectively with the legislation on education, exclusion and the Equality Act 2010.

Risk

- 6.4 None

Equalities

- 6.5 Not required.

Sustainability/Environmental Impact

- 6.6 Not required.

7. Conclusions

- 7.1 The revised policy should be approved. It is updated in the 2018 context and refers to Children's Services rather than Education Service.

Director of Service

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Annex:

- Annex 1 - Service Circular No. 10, Exclusion Guidelines and Procedures
Annex 2 - Overview of Amendments

List of Background Papers:

None

Service Circular No 10

Exclusion Guidelines and Procedures

Annex 1



Falkirk Council
Children's Services

1. Introduction

- 1.1 The following principles should guide consideration of exclusion from school:
 - (i) the procedures described in this circular are mandatory and legally binding;
 - (ii) exclusion must be seen within the context of whole school procedures on discipline and codes of conduct and within the context of Falkirk Council's policies;
 - (iii) exclusion must be seen **only** as a last resort and all attempts should be made to work within the principles of Getting it Right for Every Child (GIRFEC) and Falkirk Council's key policy Learning to Achieve when making decisions affecting a young person;
 - (iv) headteachers should take into account that they may have to defend a decision to exclude in a court of law; and
 - (v) 'Informal exclusion' should not be part of an educational establishment's discipline procedures. A programme of re-integration may, in exceptional circumstances, result in part-time school attendance, but this must be supplemented by a full time package of support involving appropriate partners during this time.
- 1.2 The power to exclude a pupil from school lies with the Education Authority. The ability to exclude is, however, delegated to school level. The headteacher is responsible for ensuring that the procedures in this Service Circular are followed. On such occasions as the headteacher is not in school, the power to exclude a pupil is delegated to the member of staff deputising for the headteacher in his/her absence. The Council has a corporate parenting responsibility for some children; in such cases the headteacher has a duty to consider the wider legal responsibilities to the child.
- 1.4 Where consideration is being given to the exclusion of a child with Additional Support Needs account should be taken of the requirements outlined in 4.10. In circumstances where exclusion is considered to be necessary, they should be undertaken with due sensitivity for the well-being of the individual concerned and his/her peers. Where appropriate, relationship building skills should be an integral part of the pupil's Individualised Educational Programme (IEP).
- 1.5 If at any stage in the proceedings advice is required this should be sought, in the first instance, from an Education Team Manager, Educational Psychologist or ASL Adviser or, if further clarification is required, from Legal Services.
- 1.6 The focus of discipline is at school rather than education authority level. Effective and well designed discipline policies in school are crucial in supporting effective teaching and learning.

- 1.7 Socialised behaviour is dependent upon the establishment and the maintenance of good interpersonal relationships. It is accepted that such relationships are best nurtured in a school environment that is essentially restorative in nature and consequently, it is expected that all headteachers ensure that the ethos of their school is based upon such restorative principles.
- 1.8 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 reinforce good behaviour as well as enhancing an ethos that challenges unacceptable behaviours in a constructive and restorative manner.
- 1.9 All schools should have in place effective policies on establishing good interpersonal relationships and effective discipline. Such policies should be developed as a result of consultation with all members of the school community and are supported by, and promulgated to, all staff, pupils, parents and the Parent Council. The policies should be applied consistently throughout the school and must be available in a written format.

2. Multi-disciplinary approaches

- 2.1 It is the policy of the Falkirk Council Children's Services to limit the use of exclusion. An essential feature of these procedures is that schools will make the fullest use of the staged model as outlined in the Falkirk Framework for Behaviour Management (March 2009). It is essential that all headteachers are familiar with the staged model.
- 2.2 The staged model is by nature a multi-disciplinary model and all other relevant professionals must be fully involved in the management of any child or young person subject to exclusion (Appendices 1-3).

3. Terminology

- 3.1 **Exclusion** - previous terms used to describe exclusion have included 'temporary exclusion', 'permanent exclusion', 'suspension', 'informal exclusion', 'cooling off period' and 'sending a pupil home'. All such instances are forms of exclusion and should be recorded as such. The legislation does not make a distinction. In legislative terms, a pupil is merely excluded. Schools should no longer use the previous terminology.
- 3.2 In ScotXed documentation:
 - 'temporary exclusion' is used when a pupil is excluded from school, but remains on the register of that school, being expected to return when the period of exclusion is completed.
 - 'exclusion/removal from the register' is used 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.

- 3.3 **Parent** is defined as including a carer 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.
- 3.4 **Child** is defined as a person who is not over school age.
- 3.5 **Young person** is defined as a person over school age that has not yet attained the age of eighteen years.

4. The decision to exclude

- 4.1 The decision to exclude can only be taken by the headteacher or the member of staff who is acting as headteacher in his/her absence. However, it is possible for other members of staff to investigate incidents and prepare documentation in relation to exclusions. Such documentation must always carry the manuscript signature of the headteacher, or the acting headteacher in the appropriate places.
- 4.2 Exclusion has a statutory basis and this is contained in the Schools General (Scotland) Regulations 1975, which set out the only circumstances in which a pupil can be excluded from school. Regulation 4 states that "**an education authority shall not exclude a pupil from a school under their management to which he has been admitted, except where:**
 - (a) **they 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**
 - (b) **they 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".**

The first ground is not often used. Decision makers are advised to contact their Education Team Manager and/or to seek legal advice prior to excluding on this ground.

Almost all exclusions are based on the second ground. It should be noted that the statutory test here is wider than the application of a disciplinary sanction to misconduct.

- 4.3 There can be occasions where it is possible to exclude a pupil from school immediately. For example serious assault or where there is serious, excessive or aggressive misbehaviour regardless of whether or not the pupil has misbehaved previously as long as the statutory ground(s) above is (are) met. Such a decision must have due regard for any pupil disability (including diagnosed behavioural conditions) and the pupil's wider circumstances. In such circumstances the procedures outlined in this Circular, should again be followed. Should the behaviour appear to be of a criminal nature, Police involvement should be considered.

- 4.4 There may be occasions where exclusion of pupils for behaviour outwith school premises and outwith school hours is raised as an issue. The question of the exclusion of a pupil in such circumstances should be assessed by the headteacher in terms of whether or not the incident(s) is (are) likely to have an adverse effect on the order and discipline of the school or on the educational well-being of the pupils. Although the precise circumstances will always be the determinant, headteachers may find it appropriate to exclude for behaviour involved in travel to and from school, the test of such a decision is as explained in para 4.2. If necessary, advice should be sought from the Head of Education.
- 4.5 Pupils should not be excluded for cases of truancy or associated behaviour, such as absence from a particular class or lesson.
- 4.6 In taking the decision to exclude, the headteacher must additionally have due regard to:
- the application of restorative approaches in seeking to deal with the incident pertaining to the exclusion;
 - any disability or additional support need refer to 4.10;
 - the availability and suitability of other approaches or sanctions;
 - use of exclusion as a last resort;
 - exclusion within the context of a pupil's wider educational welfare; and
 - any other relevant circumstances.

4.7 Children on the child protection register

Children who are on the Child Protection Register are amongst the most vulnerable in our community. Schools will already be aware of children on the register and should be involved in case conferences and core group meetings as well as having copies of case conference minutes and reports. A headteacher, if considering exclusion, should be raising their concerns at an early stage through a case conference or core group meeting. The Head of Education should also be informed and their opinion sought in advance of any proposed exclusion. This will allow the case planning process to consider what alternative options might be available. Should an immediate exclusion be applied because of a serious incident then the responsible social work team manager and the senior social work manager for children and families should be notified immediately in order that a risk assessment can be carried out to consider the impact of the exclusion on the child within the family and/or community environment.

4.8 Looked after children away from home

Children looked after away from home are children who are residing outwith the family home and likely to be placed with either children's carers or in a residential setting. These children will be supervised by a social worker and be subject to looked after away from home reviews. School staff will be invited to participate in reviews and school records should indicate that the child is looked after away from home. It is the responsibility of the headteacher, if considering exclusion, to raise their concerns at an early stage with the responsible social worker in order to formulate a care plan to support the child or young person. Where exclusion is being considered the approval

of the Head of Education should be sought in advance of the exclusion. The case social worker, the carer (either children's carer or residential unit) should also be informed.

4.9 **Looked after children at home**

Looked after children at home are children on supervision orders who are residing in the community and the care of whom remains the responsibility of the parent or main carer. The school should be aware of children who are looked after as the Reporter to the Children's Panel will be requesting reports from the school. The social work team have the responsibility to notify the school that a child is on a supervision order. Looked after children at home are not accommodated by social work and therefore the parent requires to be notified when a child is excluded. In order to assist with the supervision of the child the responsible social worker should be informed at the same time as the parent. The approval of the Head of Education should also be sought in advance of the exclusion.

4.10 **Children with additional support needs**

Where a child or young person has a barrier to learning which calls for additional specialist support to be made available, then their additional support needs must be taken into account when considering a potential exclusion.

Before excluding a child or young person with additional support needs, account must be taken of previous advice that has been provided by all relevant agencies and has been agreed with the school regarding the child's needs including any advice from the school's educational psychologist.

Headteachers should give careful consideration to these factors when completing the relevant section in the Exclusion Checklist (Appendix 8).

The Equality Act 2010 makes it unlawful to discriminate against a pupil due to behaviour which is a manifestation of a disability. A disability is defined as something which has a longer term substantial effect on their daily life. Exclusion of a pupil whose behaviour is related to a disability may be unlawful disability discrimination.

Discrimination against such individuals may occur by:

- treating a disabled child or young person less favourably, for a reason relating to their disability, than someone to whom that reason does not apply; and/or
- failing to take reasonable steps to ensure that disabled children or young people are not placed at a substantial disadvantage in comparison with their non-disabled peers. This includes children whose disability may give rise to challenging behaviour. They need not have a formal diagnosis to be protected by the Equality Act 2010.

In addition to the appeal rights explained in Section 9 below, if there is a claim of discrimination or victimisation arising from the decision to exclude, the appropriate route to challenge the decision to exclude is through a claim to the Additional Support Needs Tribunals for Scotland. Both parents and the pupil have an independent right to

make a claim.

The test or ground(s) for exclusion are explained in para 4.2 but cognisance must be made of equalities issues as explained in para 4.12. However, a child or young person with additional support needs should also have these catered for as part of the alternative education provision (Section 11) made during the period of exclusion. Headteachers, if considering exclusion of a child or young person with additional support needs, should raise their concerns at an early stage with the school psychologist to seek advice on possible alternative strategies.

4.11 Children with a co-ordinated support plan (CSP)

Where a pupil with a CSP is at risk of exclusion, the school should seek to balance the case for exclusion with the need to take all reasonable steps to secure that the appropriate provision is made for the pupil's additional support needs. By the very nature of the legislation, any child or young person with a CSP must have the active involvement of both education and at least one other agency (such as social work or health). It is therefore essential in such instances that a 'team around the child' meeting be held in order to ensure that the needs are fully met during any period of exclusion.

4.12 Equalities and Discrimination

When an exclusion takes place, the headteacher or head of establishment must ensure that their procedures operate in line with the duties imposed by anti-discrimination, human rights, equalities and other legislation.

4.13 Potential legal implications of exclusion

In any circumstance where a decision to exclude has been taken by the headteacher or nominated depute, it must be clear and transparent in terms of recording the investigations made, the decisions taken and procedures followed, that the exclusion can be fully justified. At all times the headteacher or head of establishment should remember that the decision to exclude may be held up to public scrutiny, in some instances in a court of law. Headteachers must be fully aware that should an exclusion be appealed through any legal process, they will be required to justify their actions and demonstrate that not only were procedures followed, but that their actions could not be seen as being in breach of any pertinent legislation, including the consideration of alternatives to exclusion. There is an expectation that paperwork will be produced at any subsequent appeals.

See Section 9 for more details on the appeal process.

5. Imposing periods of exclusion

- 5.1 In determining the appropriate period for a given exclusion, the headteacher will have regard to the seriousness of:
- the breach of discipline which resulted in the exclusion; and
 - the child or young person's past disciplinary record.
- 5.2 There are other factors that should be taken into account in determining the period of exclusion:
- previous exclusion record of the pupil;
 - scale of sanction which has been applied to other pupils in similar circumstances or who were involved in the same incident;
 - circumstances in which the offence was committed, for example if there are grounds of either provocation or mitigation; and
 - the action and support being taken by other agencies such as the Police or social work.
- 5.3 However it is managed, exclusion will result in the disruption of a pupil's education. Extended periods of exclusion are therefore likely to have an adverse effect on the ability of pupils to re-integrate into school life and this in turn will bring a range of associated problems. All efforts should therefore be made to limit the length both of individual exclusions and the cumulative total of exclusion days for any given pupil, particularly where those would include the period immediately prior to examinations and attendance at examinations.
- 5.4 In respect of any one pupil:
- in any session, initial exclusions should not normally exceed 2 days duration, and in any event must be as short as possible. Suitable work must be supplied by the school for the young person to complete at home during their period of exclusion;
 - subsequent periods of exclusion may be lengthened taking account of paragraphs 5.1 and 5.2 above;
 - where a headteacher wishes to impose an exclusion or exclusions in excess of 5 days, permission should be sought from the Head of Education immediately;
 - where a child or young person is excluded for a period in excess of 5 days, or where the cumulative total of exclusions in a school session exceeds 5 days, the case should be considered automatically by a 'team around the child' meeting. This referral must be accompanied by a completed copy of Appendix 4a or 4b depending upon whether the pupil/young person is of primary or secondary age. A formal minute must be taken of this meeting and retained on file;
 - any exclusions, the cumulative total of which is in excess of 20 school days, in any school session, must be reported fully to the Head of Education for action. This referral must be accompanied by a record of relevant documentation/together with a minute of the most recent 'team around the child' meeting/which should have been chaired by a senior member of management. This referral must be accompanied by a completed copy of Appendix 4a or 4b, depending upon whether the pupil/young person is of primary or secondary age. The Head of Education (or

a nominee) will convene a meeting involving the parent, headteacher and any other relevant professional to re-admit the child to school.

- 5.5 Even at the point of first exclusion, headteachers may consider that it is appropriate to convene a 'team around the child' meeting as an early intervention method.
- 5.6 Where there is an incident of physical violence against a member of staff, an immediate exclusion is permissible provided the ground for exclusion has been established in terms of paragraph 4.2. Reference should be made to the Council's 'Violence to Staff' procedures.

6. Procedures: partnership with pupils, and parents/guardians

- 6.1 When a decision is being taken about excluding a child or young person, they have the right to have their views taken into account. Due weight should be given to their views in accordance with their age and maturity and these should be recorded. At this stage the implications of a child or young person over 12 years of age being able to appeal their own exclusion should be considered. While not essential, it can often be helpful in resolving and diffusing a situation to discuss the circumstances pertaining to the potential exclusion with parents prior to an actual exclusion decision.
- 6.2 When the decision to exclude has been taken, the child or young person must not be sent home until his/her parents have been advised and a check made that they will be at home when he/she arrives. A letter must be taken home explaining this decision to exclude. If the parents are not at home and if they cannot be contacted to uplift their child from school, the pupil should be kept in school and supervised until the end of the normal school day.
- 6.3 When a decision to exclude a pupil has been reached, a copy of the attached standard letter should be issued (Appendix 4a or 4b and 4c). Where a young person is aged over 16 or is of 'sufficient age and maturity' (see para 6.1) the letter should be supplied to the young person or child himself or herself. Standard letters for this purpose are attached at Appendix 4d). In all cases, correspondence should be sent by means of a recorded delivery letter, on the date that the decision to exclude is taken. The parents (or young person in the case of a pupil aged 16+) must be invited to attend the school as soon as possible thereafter but within 7 calendar days of the decision to exclude.
- 6.4 The resolution meeting with the pupil and his/her parents or guardian should be chaired by the headteacher or, in their absence the member of staff deputising for the headteacher, or where the headteacher deems it appropriate, a member of staff not below the level of deputy headteacher.

The resolution meeting should be run in a restorative manner and it is vital, at this stage, to underline the importance of the partnership and co-operation being undertaken by the home and the school to lay the foundations for the pupil's improved behaviour. The views of the pupil as well as those of the parent must be accurately represented and appropriately taken into account. It is not sufficient to assume that the parents' views automatically reflect those of the child or young person. Provided the parents, or the pupil in the case of a young person over 16, agree to meet the headteacher, and also agree to sign the attached standard home/school partnership

agreement (Appendix 7/a) the pupil should be re-admitted to school and the matter recorded. The standard home/school partnership agreement should be signed by the parent/carer, the pupil and by the headteacher. In the absence of the headteacher from school it may be signed by his/her representative. In addition to the standard written letter, signed as outlined, the resolution meeting should be minuted with clear actions and outcomes recorded. One copy of the home/school partnership agreement and the minute of the meeting should be entered in the pupil's file and one copy should be given to the parent.

Note that the legislation and guidance gives the power to set conditions before return to school but it does not oblige education authorities or schools to do so. There may be circumstances where headteachers, in consultation with the Head of Education, should use their discretion and instruct the pupil that they can return to school provided they comply with the rules, regulations and disciplinary requirements (which reflects the grounds for exclusion in para 4.2) without insisting on additional conditions or the home/school partnership agreement being signed.

- 6.5 Where a pupil who is excluded from school is re-admitted with the agreement of his/her parents or carer this can be regarded by the authority as evidence of the parents or carers commitment to working in partnership with the school to ensure the good behaviour of the pupil. Any signed assurances must be retained in the pupil's file.

Once the re-admission procedure has been completed, the school should plan the pupil's re-entry to classes and school life. This will invariably require a package of support to be assembled which will be consistent with the length of time that the pupil has been absent from school. This should be recorded on the standard form (Appendix 7/a) in the 'specific conditions' box.

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-inclusion issues within the same academic year.

7. Referral to the Head of Education

- 7.1 When the total of all periods of exclusion exceed 20 days in any school session, the case is sufficiently serious that it must be reported fully to the Head of Education along with the following information:

- the minutes of relevant 'team around the child' meetings;
- the home address and date of birth of the pupil;
- the full name of parent/guardian;
- a description of the incident actually provoking the exclusion;
- the date of exclusion and its duration;
- a completed copy of Appendix 4/a or 4/b (depending upon whether the pupil/young person is of primary or secondary age); and
- a summary list of pupil behaviour, including details of the previous exclusions.

The Head of Education or his professional representative, will then arrange to meet the pupil, his/her parents, the headteacher or, exceptionally, the appropriate member of the senior management team and the relevant support agencies. This meeting will be as soon as possible but in any event **within 14 school days of the decision to exclude.**

- 7.2 The letters at Appendix 6 should be used if the case is being referred to the Head of Education. This may be as outlined in paragraph 7.1 or additionally where an individual exclusion incident is deemed serious enough to merit referral; this must be discussed with the Head of Education.
- 7.3 The Head of Education or his professional representative, will decide on the future educational placement of the pupil but this will, in all but the most exceptional circumstances, be to return the pupil to their base school. In such exceptional circumstances the Head of Education may decide to arrange alternative educational provision or transfer to another school. In all such cases, the full case record will be made available to the headteacher of the receiving school or other appropriate officer. However, any such return will only be considered after the parents have signed the attached standard written assurance.

7.4 Transfers to another school (Service Circular 33)

For some pupils a fresh start at a new school is viewed as a positive way forward. The pupil would move to the new school for a trial period which would be reviewed regularly and carefully monitored. During the trial period the base school would retain responsibility for the pupil. However, following a successful trial period the partners would agree an appropriate date for the new school to take responsibility for the pupil. Due to the complex nature of these cases, very careful assessment and planning is required involving all key partners including the pupil. The procedure to be followed in Falkirk Council schools is outlined in SC33.

- 7.5 In some exceptional cases, a planned transfer will not be possible. Where the reporting in accordance with para 7.1 has been given to the Head of Education and there is no agreement by the parent to a transfer, the parent and pupil (where over age 12) should be given an opportunity to comment before any decision is taken. In these cases the Director of Children's Services retains the power to remove the pupil from the school role permanently.

7.6 Violence to staff

Where an offence is particularly serious or where the same perpetrator commits a second act of violence to a member of staff, full consideration should be given to that perpetrator's future in the specific establishment. A 'team around the child' meeting should be held, leading to a recommendation concerning the future education of the perpetrator. The teachers' associations should be kept informed within this context prior to submission of a recommendation. All incidents should be reported as detailed in Service Circular 39.

8. Particular points of note for headteachers

- 8.1 A written record must be kept of all procedures mentioned above and all information, including the reasons why a headteacher decided on a particular course of action, should be filed in a pupil's progress records. Comments should be specific and explicit including the names of teachers, dates, times and any other information that may be deemed to be relevant. This information may, in certain circumstances, be required to substantiate the authority's case in a court of law. Consistent with good practice in other aspects of educational documentation, therefore, headteachers should ensure that comment is restricted to areas that are within the professional judgement of the staff concerned. Similarly, documentation should not anticipate the opinions or decisions of the other professionals who may become involved in a particular case.
- 8.2 During interviews with parents by a headteacher or other senior members of staff, he/she should normally be accompanied by another member of staff as a witness and this should be recorded. It is also acceptable for a parent to be accompanied by one other person. This person would only be present to provide moral support, for the parent and could be asked to leave, if the circumstances dictate, at any time. If the parent requires the assistance of an interpreter, one should be arranged via the Bilingual and Travellers Pupils Support Service. "Informal" interpreters such as friends and family members should not be used.
- 8.3 It is possible that, even where grounds exist for bringing a pupil before a Children's Hearing, the grounds may be denied by the pupil or by his/her parents. In such cases the hearing is powerless to act until proof has been obtained from the Sheriff Court. It is therefore vital that, where a pupil commits a serious offence, this must be reported promptly to the Police. Such offences would include, for example, some instances of theft, assault, vandalism, incidents of a sexual nature and so on. Further clarification can be sought from the Head of Education or from Legal Services. Every effort should be made to assist the Police in their enquiries although it is preferable for interviews involving Police Officers and pupils to take place in the pupil's home rather than in the school. This is particularly important in the case of primary pupils. It should be noted however, that if the Police insist on interviewing a pupil in school, the pupil's parents should be contacted immediately to give them the opportunity to be present and the interview should be witnessed by a senior promoted member of staff (Service Circular 38).
- 8.4 Where the pupil involved is a young person over school leaving age but under 18 years of age, the attached standard letters in the appendices should be used (Appendix 4/d). They should be addressed to the young person and discussions about the exclusions should be carried out with the young person and not with the parents. Correspondence should, however, be copied to the parents. Again, it is extremely important not to deviate from the terms of the attached standard letters.

Headteachers should note that, in normal circumstances, young persons over 16 years of age cannot be brought before a Children's Hearing.
- 8.5 Parent Councils or other parental bodies should not discuss individual cases, not least in the interests of confidentiality. The Parent Council 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.

9. Appeals

- 9.1 In the legislation, a pupil who is of 'sufficient age and maturity' to understand what is involved in the appeals process has the same rights of appeal as a parent. The age of 12 years is usually taken as a reference point for considering whether 'sufficient age and maturity' has been reached. For practical purposes, therefore, children of secondary school age should generally be taken to have the same rights of appeal as their parents. The possibility exists, however, that younger children may be 'of sufficient age and maturity'. If in doubt, headteachers should assume that the child is of sufficient age and maturity. A parent and pupil may not both appeal. Advice can also be taken from Legal Services.
- 9.2 There is a right of appeal to an Education Appeal Committee set up by the authority in terms of the legislation. Appeals hearings are organised by the Chief Executive Office-Governance, Municipal Buildings, Falkirk. The Education Appeals Committee is governed by regulations. There is a separate appeal process also available for claims of discrimination or victimisation arising from the decision to exclude to the Additional Support Needs Tribunals for Scotland.
- 9.3 Headteachers will be informed if a parent makes an appeal against the decision to exclude a pupil and he/she will require to be the principal witness for the authority at the subsequent appeal hearing and, if necessary, in the Sheriff Court.
- 9.4 If the exclusion is subsequently successfully appealed, this means that the exclusion is non-valid. Schools are required to amend the attendance record and ensure non-disclosure of the exclusion as per the 1975 regulations and communicate the requirement not to disclose to parties previously informed of the exclusion (Appendix 10).

Any departure from the above procedures must only be made in the most exceptional circumstances and then only at the discretion of the Head of Education.

10. Monitoring

- 10.1 From August 1998 the Scottish Government required information to be collected in a standard format. This format is shown at Appendix 9 and is also available on the SEEMiS system. Schools should use the SEEMiS system since this will allow regular reports to be generated at Authority level. The form allows confidentiality to be maintained since the format uses a case number system. Records should, however, be maintained in such a way that pupils can be identified from the case number.
- 10.2 Schools should use the information contained in their monitoring system to review and update their discipline and exclusion procedures. It is anticipated that the Scottish Government will call for statistical returns on exclusion at the same time as the exercise on attendance rates. This will usually take place in mid-September for the preceding school year.

11. Alternative education provision

Excluded pupils should be 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 legal **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. As a minimum, at the point of their exclusion, all pupils must be provided with an individualised study pack, which mirrors their class work and, if appropriate, contains differentiated materials to support the current learning needs of the pupil.

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 3 school days of the exclusion, although good practice would have work issued for the first day of the exclusion.

Individual schools will need to be capable of providing resources for excluded pupils, including special arrangements as are discussed below. There will be key contact persons in the authority and the school who should assume responsibility for ensuring that appropriate and functional resources are provided.

Alternative education provision can be achieved by a variety of means as identified below:

- teacher supported homework programmes;
- access to school support base;
- other provision arranged by the other partners involved in the pupil's learning (Community Learning Development);
- ASL team/Mariner Support Service; and/or
- LAC Education team.

12. Conclusion

Children are entitled to receive an education. This principle is enshrined in international conventions such as the UN Charter and in Scots law. All evidence suggests that exclusion or movement between schools will limit the attainment of a child and therefore contribute to social disadvantage. It is therefore policy of the Falkirk Council Children's Services to limit the number of exclusions from schools so that this sanction is indeed a last resort. It is expected therefore that schools will develop approaches that complement the procedures in this Circular and which operate as alternatives to exclusion.

**PARENTAL ADVICE LETTER 1
LETTER TO PARENT/CARER
To be reproduced on school note paper**

Name of Parent/carer
Address

Dear

Pupil's Name (DOB), Class

I am worried about the way [name] is behaving in class. I have listed what has happened at the bottom of this letter.

It is important that I speak to you about this, so that we can work together to help your child. Could you please phone the school office, to arrange a time to talk to me.

I look forward to hearing from you,

Headteacher/Depute Headteacher

Brief details of causes for concern

cc: Relevant agencies.

Parental Advice Letter 2

Name of parent/carer

Address

Dear

Pupil's Name (DOB), Class

I am very worried about the way [name] is behaving in class. I have listed what has happened at the bottom of this letter.

This is serious and it is important we have a meeting about it.

Could you please come to the school on [date] at [time] to talk about this.

If you cannot come to the school at that time, can you please call the school to arrange another time for us to meet.

Yours sincerely

Headteacher/Depute Headteacher

Brief details of causes for concern

cc: Relevant agencies.

Parental Advice Letter 3

Name of parent/carer
Address

Dear

Pupil's Name (DOB), Class

I need to speak to you urgently about the way [name] is behaving in school. I have listed what has happened at the bottom of this letter.

If these problems do not stop, we may need to exclude [name] from school.

Could you please come to the school on [date] at [time] to talk about this.

If you cannot come to the school at that time, can you please call the school to arrange another time for us to meet.

Yours sincerely

Headteacher/Depute Headteacher

Brief details of causes for concern

cc: Relevant agencies.

Exclusion from School

Letter to Parent/Carer of pupil under 12

Name of parent/carer

Address

Dear

Pupil's Name (DOB), Class

[Name] has been excluded from school for [X] days from [date]. The reasons for the exclusion are on the next page.

[Name] should not come to the school during this time. [S/He] cannot take part in any school activity. We will send work home for [him/her] to do while excluded.

Please come to the school on [date] at [time] to meet with me. Please bring [name] with you. At this meeting we will talk about why [s/he] was excluded. We will also talk about what needs to happen so [s/he] can return to school.

We need you to agree to help us make sure [name] follows the school's rules. I hope we can agree a plan to get [him/her] back to school.

If you cannot come to the school at that time, can you please call the school to arrange another time for us to meet.

You have the right to appeal against this decision. If you come to the meeting, it will not stop you from appealing against the exclusion. For more information on how to appeal against the exclusion, please contact:

Chief Governance Officer
Municipal Buildings
West Bridge Street
Falkirk
Phone: 01324 506076

Yours sincerely

Headteacher/Depute Headteacher

Brief details of causes for concern

cc: Relevant agencies.

**Exclusion from School
Letter to Parent/Carer of pupil aged 12-15**

Name of parent/carer
Address

Dear

Pupil's Name (DOB), Class

[Name] has been excluded from school for [X] days from [date]. The reasons for the exclusion are on the next page.

I have also written to [Name] about this.

[Name] should not come to the school during this time. [S/He] cannot take part in any school activity. We will send work home for [him/her] to do while excluded.

Please come to the school on [date] at [time] to meet with me. Please bring [name] with you. At this meeting we will talk about why [s/he] was excluded. We will also talk about what needs to happen so [s/he] can return to school.

We need you to agree to help us make sure [name] follows the school's rules. I hope we can agree a plan to get [him/her] back to school.

If you cannot come to the school at that time, can you please call the school to arrange another time for us to meet.

You have the right to appeal against this decision. If you come to the meeting, it will not stop you from appealing against the exclusion. For more information on how to appeal against the exclusion, please contact:

Chief Governance Officer
Municipal Buildings
West Bridge Street
Falkirk
Phone: 01324 506076

Yours sincerely

Headteacher/Depute Headteacher

Brief details of causes for concern

cc: Director of Children's Services

**Exclusion from School
Letter to Pupil aged 12-15**

Name of pupil

Address

Dear [Name]

You have been excluded from school for [X] days from [date]. The reasons for the exclusion are on the next page.

I have written to your [parents/carers] to tell them you have been excluded from school. You should not come to the school without permission or take part in any school activity during this time.

Please come to the school, with your [parents/carers], on [date] at [time] to meet with me. At this meeting we will talk about why you were excluded from school. We will also talk about ways to help you follow school's rules and get on with your school work. We need you to agree to follow the school's rules before you can return to school.

If you cannot come to the school at that time, can you please call the school to arrange another time for us to meet.

You have the right to appeal against this decision. If you come to the meeting, it will not stop you from appealing against the exclusion. For more information on how to appeal against the exclusion, please contact:

Chief Governance Officer
Municipal Buildings
West Bridge Street
Falkirk
Phone: 01324 506076

Yours sincerely

Headteacher/Depute Headteacher

cc: Director of Children's Services

**Exclusion from School
Letter to Pupil aged over 16**

Name of pupil

Address

Dear [Name]

You have been excluded from school for [X] days from [date]. The reasons for the exclusion are on the next page.

You should not come to the school without permission or take part in any school activity during this time.

Please come to the school on [date] at [time] to meet with me. At this meeting we will talk about why you were excluded from school. We will also talk about ways to help you follow school's rules and get on with your school work. We need you to agree to follow the school's rules before you can return to school.

If you cannot come to the school at that time, can you please call the school to arrange another time for us to meet.

You have the right to appeal against this decision. If you come to the meeting, it will not stop you from appealing against the exclusion. For more information on how to appeal against the exclusion, please contact:

Chief Governance Officer
Municipal Buildings
West Bridge Street
Falkirk
Phone: 01324 506076

Yours sincerely

Headteacher/Depute Headteacher

cc: Director of Children's Services

**EXCLUSION FROM SCHOOL
REVERSE OF EXCLUSION LETTERS
(Appendices 4/a-d)**
To be reproduced on school note paper

Exclusion from School

(Name of Child) has been excluded from school in accordance regulation 4 of the Schools General (Scotland) Regulations 1975. The school is satisfied that in all the circumstances to allow the pupil to continue his attendance at the school would be likely to be seriously detrimental to order and discipline in the school or the educational well-being of the pupils there.

The particular incident(s) which gave rise to this exclusion is detailed below:-

Details of the incident/circumstances leading to exclusion and reason for decision to exclude:

Date:

Signature
Headteacher/Depute Headteacher
Date

For information: total number of days excluded to date

Total number of days excluded since the commencement of statutory education

Enc - Attendance Summary

**EXCLUSION FROM SCHOOL
EIGHTH DAY LETTER**
To be reproduced on school note paper

Name of parent/carer
Address

Dear

Pupil's Name (dob). Class

I wrote to you recently regarding the exclusion from school of your child. Unfortunately, you were unable to keep the appointment to resolve the exclusion. You will recall that the reason for the exclusion was _____.

I must inform you that the condition on which the exclusion will be resolved and your child may return to school is based on the expectation we have of all parents/carers; namely that you will undertake, as well as you are able, to ensure that your child complies with the rules, regulations and disciplinary requirements of the school. You are not prejudicing your right to appeal against the exclusion.

Given that your child may not attend school until the exclusion is resolved, I must request that we meet in school on (Date) at (Time). When attending this meeting you should bring your child with you. During this meeting the reason for your child's exclusion will be discussed further. It is hoped that the matter can be resolved satisfactorily.

If you are not able to keep this appointment please contact me as soon as possible in order to arrange another time.

You have the right to appeal against the decision to exclude your child. Further information on your right of appeal and about the exclusion procedures, may be obtained from:-

Chief Governance Officer, Municipal Buildings, West Bridge Street, Falkirk, telephone 01324 506076.

If you wish to avail yourself of the right of appeal you should write to the Chief Governance Officer at the address noted above.

In the meantime if I can be of further assistance, please contact me.

Yours sincerely

Headteacher/Depute Headteacher

Enc - Attendance Summary
cc Director of Children's Services

Exclusion from School

Letter to Parent/Carer following an unsuccessful initial meeting to resolve an exclusion

Name of parent/carer

Address

Dear

Pupil's Name (DOB), Class

We met on [date] but we were not able to agree a plan to get [name] back to school.

Since [name] may not attend school until we have agreed a plan, I would like to meet with you again on [date] at [time] to talk about this again. [Name] should come with you to the meeting.

If you cannot come to the school at this time, can you please call the school to arrange another time for us to meet.

I need to meet with one of [name]'s parents before I can allow [him/her] to return to school. We need you to agree to help us make sure [s/he] follows the school's rules. If you agree this, it will not stop you from appealing the exclusion.

You have the right to appeal against this decision. For more information on how to appeal against the exclusion, please contact:

Chief Governance Officer
Municipal Buildings
West Bridge Street
Falkirk
Phone: 01324 506076

Yours sincerely

Headteacher/Depute Headteacher

Enc Attendance Summary

cc: Director of Children's Services

**Exclusion from School
Referral to DoE – Letter to Parent**

Name of parent/carer

Address

Dear

Pupil's Name (DOB), Class

[Name] was excluded on [date] and has not yet returned to school. I have arranged two meetings with you but you have not come to them or arranged a new meeting. This is a very serious matter and I now have to refer this to the Director of Children's Services. Every parent has a duty to provide an education for their child. As [name] has not been to school for some time, the Director of Children's Services may decide to take action against you. The Education (Scotland) Act 1980 says that parents can be prosecuted if their child does not go to school regularly.

If you need any more information about this, please contact me.

Yours sincerely

Headteacher/Depute Headteacher

Enc Attendance Summary

cc: Director of Children's Services

**EXCLUSION FROM SCHOOL
PARENTAL/PUPIL AGREEMENT**
To be reproduced on school note paper

Home – School Partnership Agreement
(Pupil/Carers/Head Teacher)

I understand why (*PUPIL NAME*) was excluded from (*SCHOOL NAME*) and I agree to work in partnership with the school in seeking to support (*PUPIL NAME*) in improving his/her behaviour.

Specific Actions on the part of the school
(Example only)

Pupil name will use a behaviour monitoring log for a period of 4 weeks with a specific focus on classroom behaviour.

Teacher of pupil name will monitor the log each day by signing in the appropriate space.

Specific Actions on the part of the carer and pupil
(Example only)

Pupil name agrees to keep the log and hand it to the class teacher at the start of each period.

As carer of *pupil name* I agree to monitor the log by signing in the appropriate space each day.

I understand that any further serious breaches of school discipline may lead to further exclusion from the school.

SIGNATURE OF PARENT/CARER _____

SIGNATURE OF PUPIL _____

ADDRESS _____

SIGNATURE OF HEAD TEACHER / REPRESENTATIVE

DATE _____

NAME OF CHILD _____

DATE OF BIRTH _____

EXCLUSION FROM SCHOOL**PUPIL AGREEMENT**

To be reproduced on school note paper

Home – School Partnership Agreement
(Pupil/Head Teacher)

I understand why I was excluded from (SCHOOL NAME) and I agree to work in partnership with the school in seeking to improve my behaviour.

Specific Actions on the part of the school
(Example only)

Pupil name will use a behaviour monitoring log for a period of 4 weeks with a specific focus on classroom behaviour.

Teacher of pupil name will monitor the log each day by signing in the appropriate space.

Specific Actions on the part of the pupil**(Example only)**

Pupil name agrees to keep the log and hand it to the class teacher at the start of each period.

I understand that any further serious breaches of school discipline may lead to further exclusion from the school.

SIGNATURE OF PUPIL _____

ADDRESS _____

SIGNATURE OF HEAD TEACHER / REPRESENTATIVE

DATE _____

NAME OF PUPIL _____

DATE OF BIRTH _____

EXCLUSION FROM SCHOOL

EXCLUSION PROCEDURE CHECKLIST

In the event of an incident warranting consideration of exclusion decisions should not be made in haste. Careful consideration may suggest an alternative course of action or it may confirm the appropriateness of exclusion. In all cases there is a need to be able to justify decisions. This will support the school in the event that a parent appeals.

If exclusion is resorted to, this form should be sent electronically on completion on the day of the exclusion to the school's Team Manager at Sealock House to enable him/her to be fully informed if a parent submits a Complaint.

Has the school made sure that there is evidence of:

- Record of **investigation** (confirmation of events, special consideration, provocation, pupil's account etc.) undertaken before decision to exclude
 - Location of original witness statements.....
 - Location of pupil's account.....
 - Evidence of consideration of mitigating factors.....
- Consideration of **individual consequences** to pupil e.g. Looked After Child, pupil with Additional Support Needs (SC10, sections 3 and 4)
- Consideration of **alternatives** within school (Restorative Approaches, Isolation facility, reparation etc.)

- **For children and young people who are Looked After/Looked After Away From Home and/or pupils with Additional Support Needs including those with CSPs (See sections 4.8 to 4.11)**

The following have been taken into account prior to excluding:

- reports from Social Worker/Team Leader
- advice from ASL Adviser (LAC)
- advice from school's ASL staff
- advice from Educational Psychologist

Name of person advised.....

During periods of Exclusion:

Has the school arranged:

- Appropriate **work** provided from Day 1 (access, marking etc.)
- Arrangement of **resolution meeting** (support to parent/carer to attend)

For longer periods of exclusion, is there:

- **Alternative education provision** available after Day 3
- **On-going contact** in place to ensure preparation for return

EXCLUSION REPORT

Name of Pupil: _____ DoB _____ Form Class: _____

Incident/Interview Date: _____ Time: _____

Incident details:
Date of Resolution Meeting: _____ Time: _____
Staff Involved: _____
Exclusion Start Date _____ Return Date: _____ TOTAL DAYS _____
Incident occurred: <input checked="" type="checkbox"/> Inside Classroom <input type="checkbox"/> Outside Classroom: <input type="checkbox"/>

CIRCUMSTANCES

Fighting	34	Substance misuse - not alcohol	58	Threat of physical violence, no weapon, against staff	73
Spitting	35	Physical assault with no weapon against pupil	60	Threat of physical violence, using weapon or improvised weapon against pupil	74
Verbal abuse of staff	36	Physical assault with no weapon against staff	61	Threat of physical violence, using weapon or improvised weapon against staff	75
Verbal abuse of pupil	37	Physical assault using weapon against pupil	62	Threat to personal property against pupil	76
Fire raising	38	Physical assault using weapon against staff	63	Threat to personal property against staff	77
Damage to school property	39	Physical assault using improvised weapon against pupil	64	Malicious communications against pupil	78
Threat to school property	46	Physical assault using improvised weapon against staff	65	Malicious communications against staff	79
Indecent exposure	48	Damage to personal property of pupil	66	Slander and libel (inc website) against pupil	80
Sustained peer exclusion for the purpose of causing significant distress	51	Damage to personal property of staff	67	Slander and libel (inc website) against staff	81
General or persistent disobedience	53	Theft from pupil	68	Stalking of pupil	82

Insolent or offensive behaviour	54	Theft from staff	69	Stalking of staff	83
Refusal to attend class	55	Threat of sexual violence against pupil	70	Extortion from pupil	84
Parental non co-operation	56	Threat of sexual violence against staff	71	Extortion from staff	85
Substance misuse - alcohol	57	Threat of physical violence, no weapon, against pupil	72	Other	99

MOTIVATION

Racial	31	Disability of Victim	34	Substance Misuse - Alcohol	37	Assailant medical condition/disability	50
Gender/sexual harassment	32	Religion	35	Substance Misuse - Not Alcohol	38	Other known factor	90
Homophobia/Sexual Orientation	33	Sectarian	36	Territorial/Gang Related	39	Not Known	98

Looked After: Yes No If YES: Looked after away from home
 Looked after at home:
 Previously looked after:

Signed: _____ Position: **Head of House** Date: _____

Signed: _____ Position: **Headteacher** Date: _____

**EXCLUSION FROM SCHOOL
AMENDMENTS TO RECORDS**
To be reproduced on school note paper

Dear (Educational Psychologist/Social Worker)

You have previously been confirmed of (PUPIL'S NAME/DOB) being excluded from school on (DATES).

This decision has been overturned.

Please ensure that your records reflect this period is not to be disclosed as exclusion.

Yours sincerely

Headteacher

cc Director of Children's Services

Revision of Service Circular 10 - Exclusion Guidelines and Procedures

This document below outlines the changes made to Service Circular 10 (2012), and described in the 2016 version.

<u>Change</u>	<u>Page</u>
Reference to Education Services has been changed to Children's Services	Throughout
Reference to Director of Education changed to Director of Children's Services	Throughout
Reference to Head of Educational Support and Improvement, changed to Head of Education.	Throughout
Reference to QIO/M changed to Education Team Manager	Throughout
1.1 (iv), “and” added (grammatical correction)	1
Inserted new paragraph 4.10 “Before excluding a child or young person with additional support needs, account must be taken of previous advice that has been provided by all relevant agencies and has been agreed with the school regarding the child’s needs including any advice from the school’s educational psychologist. Headteachers should give careful consideration to these factors when completing the relevant section in the Exclusion Checklist (Appendix 8).”	5
Moved to second bullet point. Original text was present 4.10 “This includes children whose disability may give rise to challenging behaviour. They need not have a formal diagnosis to be protected by the Equality Act 2010.”	5
Deleted 4.10 “In all events, the school psychologist must be fully informed of the reasons leading to the exclusion being considered, and must contribute to and agree to the educational package that will be used during the exclusion.”	6
Extraneous full stop deleted. 8.3 “It should be noted however, that if the Police insist on interviewing a pupil in school, the pupil's parents should be contacted immediately to give them the opportunity to be present and the interview should be witnessed by a senior promoted member of staff. (Service Circular 38).”	11
Appendix 5/b “Phone: 01324 506116” corrected to 01324 506076	23
Appendix 6 – formatting changes	24
Added as paragraph 2 Appendix 8 “If exclusion is resorted to, this form should be sent electronically on completion on the day of the exclusion to the school’s Team Manager at Sealock House to enable him her to be fully informed if a parent submits a Complaint.”	27
Appendix 8, bullet point 4 “For children who are Looked After/Looked After Away From Home – consultation with Social Worker/Team Leader & advice to ASL adviser (LAC) Name of person advised..... ”	27

changed to

"For children and young people who are Looked After/Looked After Away From Home and/or pupils with Additional Support Needs including those with CSPs (See sections 4.8 to 4.11)

The following have been taken into account prior to excluding:

- reports from Social Worker/Team Leader
- advice from ASL Adviser (LAC)
- advice from school's ASL staff
- advice from Educational Psychologist

Name of person advised....."