To Heads of all Schools*

Procedures Governing the Exclusion/Removal from the School Register of Children and Young People from School

INTRODUCTION

Exclusion procedures are governed by The Schools General (Scotland) Regulations 1975 as amended and the Education Scotland Act 1980 as amended. There are, therefore, certain legal requirements laid down in statute which must be fundamental to authority practice.

*Getting it Right for Every Child* is a national policy initiative that is fully supported by Glasgow City Council Education Services. The policy guidelines refer to all services for children and adult services where children are involved. Its purpose is to ensure that parents/carers and professionals work effectively together ensure the inclusion of children and young people and to give children and young people the best start and support for their learning, development, care, safety and welfare.

Education Services is committed to contributing to a multi-agency team involving, Social Work Services and other council services, NHS Greater Glasgow and Clyde and the voluntary agencies in order to provide an integrated approach meeting each individual’s identified needs.

Glasgow City Council’s revised Additional Support for Learning Policy, ‘Every Child is Included’ (2011) which embraces the Education (Additional Support for Learning) (Scotland) 2004 and the Education (Additional Support for Learning) (Scotland) 2009, makes clear the Council’s commitment to meeting the wider additional support needs of all children and young people. Many young people may require additional support, at some or all stages of their school careers, to ensure that barriers to learning and achievement are addressed.

Barriers to learning are many and complex and can include:

- The learning environment
- Family circumstances
- Disability or health needs
- Social and emotional factors

* Refers to all Units, Early Years, Primary and Secondary Schools.
In 2011 Education Services produced a Promoting Positive Behaviour Policy. The purpose of this policy is to ensure that each school and service has in place practice which reflects a common set of values, principles and an underpinning ethos which promotes positive behaviour and recognises that all children and young people deserve to achieve their potential. This should take place in learning environments with a positive, supportive and encouraging ethos, which facilitates improved relationships and behaviour and ensures the outcomes of the curriculum are met.

A range of systematic approaches exist to promote positive behaviour based on improved relationships, engagement, motivation and emotional well-being. Successful implementation of these approaches already exists in many Glasgow City Council schools.

In most circumstances children and young people benefit from these approaches and this allows them to address behavioural issues and manage their behaviour well.

In an extremely small minority of circumstances violent behaviour can pose a risk. Risk assessment plays a critical part in identifying and preventing potential violence. A commitment to prevent risk should come from senior managers and be translated into practical arrangements. It is crucial that employees have confidence in a risk assessment strategy which is designed to effectively prevent, control and minimise the risks involved.

In essence, the law does not recognise any differential between temporary and permanent exclusion. In practice however a distinction can be drawn between:

a) **Temporary Exclusion**: a time limited exclusion imposed by the head of school at the conclusion of which the child or young person returns to their current school;

b) **Permanent Exclusion**: a decision taken by the Executive Director of Education to remove a child or young person from the register of their current school. Such an action also necessitates the authority identifying an equivalent school in which the child or young person can continue their education, immediately or without undue delay.

A decision to move to a permanent exclusion can only happen following an Intimation of Serious Incident to the Head of Service or their delegated representative (Section 4).

In either case there must be sufficient grounds which would comply with the requirements in the legislation.

The views of the learner as well as those of the parents or carers should at all times be accurately represented, recorded and appropriately taken into account. As the views of learners may diverge from their parents or carers, it is not sufficient to assume that the views of parents or carers automatically reflect the views of the learner.

Care should be taken to ensure that a young person receives the same quality of information as does the parent/carer and that all young people have copies of communications made available to them. This stipulation now applies to any young person who has reached the age of legal capacity, which will generally be from 12 years upwards, unless there is evidence to the contrary.

Young people 16 years of age and over have all of the rights and responsibilities of adults.
<table>
<thead>
<tr>
<th>Contents</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>Section 1 Temporary Exclusion: General Guidance</td>
<td>4</td>
</tr>
<tr>
<td>Section 2 Temporary Exclusion: Procedures</td>
<td>5</td>
</tr>
<tr>
<td>Section 3 Assurance of Co-operation</td>
<td>7</td>
</tr>
<tr>
<td>Section 4 Serious Incidents: Intimation Procedures</td>
<td>9</td>
</tr>
<tr>
<td>Section 5 Serious Incidents: Planning Meetings</td>
<td>11</td>
</tr>
<tr>
<td>Section 6 Other Transitional Planning Meetings</td>
<td>12</td>
</tr>
<tr>
<td>Section 7 Risk Assessment</td>
<td>13</td>
</tr>
<tr>
<td>Section 8 Appeals</td>
<td>14</td>
</tr>
<tr>
<td>Section 9 Area Attendance Councils</td>
<td>16</td>
</tr>
<tr>
<td>Section 10 Children and Young People Looked After at Home and Away from Home</td>
<td>16</td>
</tr>
<tr>
<td>Section 11 Particular points of note for Heads of Schools</td>
<td>17</td>
</tr>
</tbody>
</table>
1. **TEMPORARY EXCLUSION**

1.1 The power to exclude temporarily is delegated to the head of school or whoever is their delegated representative if they are unavailable. The procedures outlined in this Management Circular must be complied with in full. Any divergence from the procedures may result in the exclusion being defined as incompetent, resulting in the child being reinstated without delay in the school and the exclusion being expunged from their school record.

1.2 Exclusion should be only one component of a positive approach to managing behaviour. Exclusion should be recognised as a final sanction invoked after all other appropriate action has been taken to support children and young people within the context of the school's Promoting Positive Behaviour Policy. Schools should have explored procedures and strategies directed at promoting positive behaviour, modifying the child’s behaviour, securing the interest and attention of parents/carers and employing appropriate support before imposing an exclusion.

1.3 Exclusions across Glasgow have been declining. The decision to exclude children and young people will always remain an option. Children and young people can be supported by the provision of alternative placements, both full and part-time or via support from outreach services in partnership with other agencies and organisations.

1.4 The continual development of systematic school supports and strategies to promote positive behaviour and inclusion should minimise the requirement to exclude the child or young person from the school premises. The period of exclusion should be as short as possible, normally two days. The maximum length of one single exclusion must not exceed 10 school days.

1.5 A single exclusion should not, barring exceptional circumstances, carry over from one academic year to the next, even when the exclusion takes place towards the end of the summer term.

1.6 The head of school, or their delegated representative, who carries out the exclusion should be aware that he or she may be required to justify such action as part of the appeals procedure and potentially in a court of law should the case go to the Sheriff Court or an Additional Support Needs Tribunal for Scotland (if appropriate). In all circumstances accurate recording of the circumstances and the decision making process is essential. It is also important to ingather as much information as possible.

1.7 In exceptional circumstances the head of school may review the grounds for exclusion or/ and the enactment of the exclusion process and decide to expunge the exclusion from the learners record. Should this decision be taken by the head of school, they should write formally to the parent and the young person that they have taken that decision and also notify the head of service.

1.8 These procedures apply to Additional Support for Learning schools as well as in respect of those children and young people with additional support needs who attend mainstream schools. Exclusion from an Additional Support for Learning school should only be considered in exceptional circumstances.

1.9 Whilst the additional support needs of the child must be taken into account, the grounds for exclusion are the same, irrespective of any additional support needs profile. A child or young person should not be excluded as a consequence of behaviour that results from their identified additional support need or disability unless that behaviour has consequences for the safety and wellbeing of staff and/or other young people.

However additional considerations apply where the learner has additional support needs. Support may include access to allied health professionals or educational psychology. Education still has a duty to provide these services whether on school premises or at an alternative venue. Such provision should continue notwithstanding the exclusion.
In terms of the Equality Act 2010 if a child or young person is excluded from school for behaviour connected to his or her disability this could potentially be deemed to be unlawful discrimination arising from the disability unless the school can justify the exclusion as being a proportionate means of achieving a legitimate aim. A legitimate aim may be to ensure the health and safety of children and young people and staff within the school. However, the school has a duty to make reasonable adjustments for the child or young person. Unless those adjustments have been made it may be difficult to show that the treatment was proportionate.

Within the framework of the Additional Support for Learning Act 2004 (as amended 2009) it is assumed that Looked After Children have additional support needs unless otherwise stated. Any Looked After Children who have additional support needs should be considered in this context to require support. Therefore when considering exclusion, the school should contact Social Work Services to ensure that a co-ordinated response to meeting the learners needs is put in place.

2. **TEMPORARY EXCLUSION: PROCEDURES**

2.1 When a decision is taken to exclude a child or young person the head of school or their representative must fully explain the reasons for the exclusion to the learner and parents or carers.

The views of the learner as well as those of the parents or carers should be accurately represented and appropriately taken into account. As the views of learners may diverge from their parent(s) or carer(s), it is not sufficient to assume that the views of parent(s) or carer(s) automatically reflect the views of the learner.

When a decision is taken to exclude a child or young person the school shall ensure that, on the day on which the decision is taken, the parent or carer and young person is informed orally and in writing of the decision and advised of a date, time and venue to meet with the appropriate member of school staff within three working days of the exclusion.

The return to school (post exclusion) meeting should focus on the reasons for the exclusion as well as strategies that will be implemented to support the young person back into school. The importance of partnership and co-operation being undertaken by the home and the school should also be a focus of this meeting. In addition, seeking agreement, from all parties, on the support package that will be implemented on the child’s or young person’s return to school is essential. All parties must agree to the support package and the child or young person, with parental or carer support, must agree to abide by the school’s discipline code. Please refer to Section 3.3 if agreement is not reached. This signed agreement from a child or young person who has additional support needs or a disability may not be possible due to the impact of their additional support needs/disability.

At this point schools should also open a Wellbeing Assessment and Plan if one does not exist or review and update the existing Wellbeing Assessment and Plan to reflect any change in circumstances and ensure that the support measures put in place are appropriately reviewed and monitored. It may also be appropriate to carry out a Risk Assessment (see Section 7).

2.2 If the young person is 16 years of age or over all copies of all correspondence should be directed to him/her personally and discussion about the exclusion held with them. They can agree to their parents being present at any subsequent meetings. Copies of the correspondence should be copied to the parents or carers, with the agreement of the young person, or where this is deemed to be appropriate.

2.3 In the case of temporary exclusions the parent or carer **AND** the young person must receive written confirmation of:

a) the reasons for the decision to exclude;

b) the conditions associated with return to school;

c) the appeal procedures;
d) the address to which reference should be made;

e) information on how to appeal the decision to exclude; and

f) any other information which the authority considers appropriate.

2.4 On the day of the exclusion, if the parent or carer is not available, the child or young person should be kept in school, and supervised until the end of the normal school day. A young person aged 16 years or over can be sent home.

2.5 The period of exclusion should be proportional to the level of misbehaviour - taking into account the context of the incident, the intent of the child or young person and any other relevant factors.

2.6 Where there are concerns regarding the care, welfare and protection of the learner, or where the learner is Looked After, Social Work Services should be informed of a decision to exclude and a co-ordinated response put in place to ensure the ongoing monitoring of the welfare of the learner as well as provision for their educational needs to be met. (See Section 10 for additional guidance of Looked After Children).

2.7 When the maximum period is imposed (10 days), on the day of exclusion Appendix 1 should be submitted to Children and Young People Support:

cypsenquiries@glasgow.gov.uk

2.8 Given the legal requirements to provide education during the period of exclusion, the following action should be taken by the school:

i. Exclusions for up to and including four days: homework programme to be provided and marked on the child’s or young person’s return;

ii. Exclusions for between 5-10 days: homework programme to be provided and marked on the child’s or young person’s return plus the offer of two tutorial sessions (time and location to be arranged by the school).

2.9 The authority does not require the details of arrangements put in place for any temporary exclusion of less than 10 days. It is required however that a full record of the action taken by the school is recorded and exclusion details input to SEEMIS Click and Go by the school. The information held should also reflect the level of co-operation shown by the child or young person and, where appropriate, the parent/carer.

2.10 Where a school imposes a 5-10 day temporary exclusion and cannot access a school member of staff to provide tuition, the school should submit a referral to Interrupted Learners Service via email unithead@ils.ea.glasgow.sch.uk and advise: cypsenquiries@glasgow.gov.uk. Alternative arrangements will have to be made, the cost of which will be charged against the school.

Children and young people who have additional support needs/disabilities in specialist provisions will require to have their educational needs met during periods of exclusion. This may involve the use of specialist support services as well as support from other agencies. The responsibility rests with the head of school to ensure that appropriate arrangements are made without delay.

2.11 As part of an initial support package on return to school it may be appropriate, particularly where a crisis has developed, for a learner to return to school on a part-time basis. Such arrangements should only be put in place when sanctioned by the head of service or their delegate and should be planned, transparent, mutually agreed between the school, the parents or carers and the child or young person, short term and kept to an absolute minimum. Scrupulous records should be kept, including records of attendance which accurately reflect the times that learners spend at home with parental or carer permission.
2.12 Given the legal duty to ensure that a child’s or young person’s views are recorded when any significant decision is taken regarding them, they must be given the opportunity, where possible, to have their views documented at the point of exclusion (see Appendix 1). The views of the learner as well as those of the parent(s) or carer(s) should be accurately represented and appropriately taken into account.

2.13 There will be occasions when the school feels that a risk assessment needs to be carried out to identify ways in which any current or future risk can be minimised that would allow the child to continue attendance at the school. The risk assessment should identify the priorities and needs of the child balanced against the strategies required to ensure the safety of all children and staff. See Section 7 for further information regarding risk assessment.

2.14 When imposing a temporary exclusion, schools must use the approved documentation:

- **Appendix 1**: Record of Temporary Exclusion - to be submitted in the case of a maximum exclusion
- **Appendix 2**: Incident Report Form
- **Appendix 3a**: Intimation to Parent/Carer
- **Appendix 3b**: Intimation to Young Person Over 12 - issued directly by school
- **Appendix 4**: Notification to Social Work Services (if Looked After)
- **Appendix 5**: Record of Post-Exclusion Interview (held within seven days of the exclusion)
- **Appendix 6a**: Assurance of Co-operation
- **Appendix 6b**: Assurance of Co-operation - Over 16
- **Appendix 7**: Confirmation that continuity of education has been safeguarded by issuing and managing of homework and/or involvement of Interrupted Learners Service
- **Appendix 12**: Risk Assessment should be completed as appropriate (see Section 7).

3. **ASSURANCE OF CO-OPERATION**

3.1 A post exclusion interview should, in normal circumstances, take place before the child/young person is readmitted. If the parent(s)/carer(s), (or in the case of a young person of 16 and over, the young person) agree to meet the head of school, or a nominated senior member of staff, and also agree to sign the standard written assurance (Appendix 6a or 6b) the child or young person should be re-admitted to school and the matter recorded.

The standard written assurance should be signed by the parent/carer or young person if 16 or over and by the head of school or his/her representative. It is vital, at this stage, to underline the importance of the partnership and co-operation being undertaken by the home or the child or young person and the school to lay the foundations for the child’s or young person’s improved behaviour.

It is good practice to ensure that the child or young person (under 16) also agrees to abide by any assurance given.

3.2 If in the course of the exclusion interview there is mutual agreement to modify the conditions specified in the initial exclusion letter (Appendix 3a or 3b) amendments should be noted on the Assurance of Co-operation Form. Where no amendments are made the Assurance of Co-operation Form should still be signed by both parties.

One copy of the assurance should be entered in the child’s or young person’s file and one copy should be given to the parent or carer and child or young person.
3.3 If the parent(s)/carer(s) or young person fail to agree to meet the head of school or the appropriate senior member of staff,

or

If the parent(s)/carer(s) (or in the case of a young person of 16 and over, the young person themselves) refuse to sign the written assurance then the matter should be reported to the Head of Service (or their delegate).

The Head of Service (or their delegate) will then request that the parent(s) or carer(s), or young person (16 years of age or over) sign the standard written assurance (Appendix 6a/6b as appropriate). The standard written assurance should be signed by the parent(s) or carer(s), or young person and by the authority representative. One copy of the assurance should be entered in the child’s or young person’s file and one copy should be given to the parent(s) or carer(s) and to the young person.

If this assurance is signed the child or young person will return to school immediately thereafter.

3.4 If the parent(s) or carer(s), or young person (16 years of age or over) fail to sign this written assurance the exclusion will be continued, a multi-agency meeting should be convened to consider an appropriate response to the next step. In these circumstances it may be appropriate that the matter be discussed at the Joint Support Team. The matter can be referred to the Area Attendance Council for non-attendance and the parent(s) or carer(s), or young person informed accordingly (see Section 9). A request can also be submitted to the Head of Service (or their delegate) of the Executive Director of Education to consider meeting all relevant parties should an assurance of cooperation not be signed.

On no account should a child or young person who is excluded from school be re-admitted without his/her parent(s) or carer(s) or in the case of a young person of 16 and over first signing the attached standard written assurance. This will be regarded by the authority as evidence of the parent(s) or carer(s) commitment to working in partnership with the school and to help ensure the child’s or young person’s own commitment. All signed assurances must be retained in the child’s or young person’s file. Heads of School should, however, consider any additional support needs that the child or young person has that may impact on the capacity of the child or young person to sign the written assurance.

3.5 Until an exclusion has been concluded in terms of the above procedures, the child or young person will be deemed to be trespassing should they enter school premises or playground areas. It is within the head of school’s discretion to contact Police Scotland if the child or young person will not leave voluntarily.

3.6 The parent or carer may not enrol a child or young person in another school until the exclusion process has been concluded.

3.7 Schools should also open a Wellbeing Assessment and Plan if one does not exist or review and update the existing Wellbeing Assessment and Plan to reflect any change in circumstances and ensure that the support measures put in place are appropriately reviewed and monitored. A risk assessment should be carried out if appropriate (see Section 7).
4. **SERIOUS INCIDENTS: INTIMATION PROCEDURES**

4.1 Should a Serious Incident take place in a school (see 4.4) then the head of school or their representative should inform the appropriate Head of Service (or their delegate) at the earliest opportunity. The head of school should make arrangements to remove the young person from the school, following consultation with, and the support of, parents or carers. Should the school be unable to contact the parent(s) or carer(s) or secure their support they must make appropriate arrangements to look after the child or young person for the remainder of that school day. If the young person is over the age of 16 they can be sent home without securing parental or carer support. Should the young person refuse to leave the school the head of school should consider involving the police after, if possible, discussing this matter with the Head of Service (or their delegate). The head of school must inform all relevant parties of the nature and circumstances of the incident and outline any management action taken at that stage. The young person should not return to school until a Serious Incident Meeting has taken place, this will normally be within five working days and until such times as the meeting has taken place, the young person should be subject to a five day temporary exclusion, with the head of school ensuring that the appropriate process and documentation has been followed. Schools should ensure as per Section 2.8 any disruption to the child’s or young person’s education is minimised and support is offered. Should the Serious Incident take place at a time when a child or young person is expected to sit Scottish Qualification Authority or other examinations the school must make arrangements to allow the young person the opportunity to sit those exams.

4.2 Heads of school, without delay, must complete and send the appropriate intimation of a serious incident to the appropriate Head of Service (or their delegate) using Appendix 9: Intimation of Serious Incident. They should also send any additional current, relevant information if available (see Sections 4.7 and 4.8).

4.3 Appendix 9 must be fully completed and contact details of all professionals and relevant agencies involved must be provided.

4.4 An intimation of a Serious Incident, containing information, which is relevant and factually accurate, should only be submitted if there is clear evidence that one of the categories for a Serious Incident has been breached within the normal opening times of the school and either in or in close proximity of the school premises (this would include school trips, work experience, etc.) viz:

i. Assault on a member of staff or other adult or child or young person.

ii. Drug trafficking (as opposed to drug taking which although serious, does not necessarily merit a permanent exclusion).

iii. Possession and/or use of an offensive weapon.

iv. Fire Raising.

v. Significant or persistent misconduct.

4.5 Although the criteria outlined above are met in order to progress an Intimation of Serious Incident, Heads of school could continue to exercise a level of discretion in determining whether a proportionate response to the incident may merit only a temporary exclusion or should be referred to the Head of Service (or their delegate) for consideration of permanent exclusion.

4.6 Having decided to follow the process for an Intimation of a Serious Incident the head of school must also advise the parent or carer AND the young person of the action taken by the school (Appendix 9a and 9b).
4.7 Within five days of the receipt of an Intimation of a Serious Incident the Head of Service (or their delegate) will consult with the head of school in order to review the documentation submitted in support of the Intimation of a Serious Incident. This will include consideration of:

- Wellbeing Assessment and Plan and other appropriate plans e.g. Care Plan; these should contain information on previous exclusion history;
- A chronology of significant events;
- Learning outcomes within an Additional Support Plan/Co-ordinated Support Plan;
- Any hitherto support and advice from the Psychological Service and other Education Services such as full and part-time outreach services and partner agencies;
- Any existing Risk Assessment.

4.8 For some children and young people the Serious Incident may be the first instance requiring action of this nature and consequently there may be no history of intervention or planning. The head of school should be able to evidence learning progress up to the point of referral. The Wellbeing Assessment and Plan will provide information on attendance and attainment up to the date of referral.

4.9 Following this initial consultation the Head of Service (or their delegate) will decide to:

i. Hold a Serious Incident Planning Meeting, which will take place no later than five working days after receipt of the referral.

   or

ii. Re-direct the referral and request that the referral is progressed via the Learning Community Joint Support Team, a multi-agency forum for the discussion and planning for children and young people.

   or

iii. Endorse the recommendation of the decision by the head of school that whilst this is a Serious Incident, a temporary exclusion is the most appropriate action.

The outcome of a Serious Incident Planning Meeting could result in the decision to exclude/remove a child or young person permanently from the school register. A permanent exclusion equates to a child or young person being removed from the school register. The power to exclude on a permanent basis lies with the Executive Director of Education or member of the Education Directorate in the absence of the Executive Director.

The exclusion relates only to the school from which the child or young person has been permanently excluded. The parent or carer should not enrol or submit a placing request to another school until the exclusion procedures have been completed. The authority has a statutory obligation to identify an alternative school/alternative educational provision immediately/without undue delay.

All communication by schools to the Head of Service (or their delegate) should be submitted to Children and Young People Support:

Email cypsenquiries@glasgow.gov.uk

Children and Young People Support will manage all Intimations of Serious Incidents on behalf of the appropriate Head of Service (or their delegate).
5. **SERIOUS INCIDENTS: PLANNING MEETINGS**

5.1 As per section 4.9(i) the appropriate Head of Service (or their delegate) will arrange a Serious Incident Planning Meeting, using Appendix 10. This will be a multi-agency meeting attended by staff from the school, the Psychological Service and relevant partner agencies as appropriate. The meeting will ensure that all strategies have been explored.

Based on the discussion, and information provided, the Head of Service (or their delegate) will decide to either:

i. Ask the Executive Director to permanently exclude the child or young person and identify a destination/receiving school.
   
   (Transfer to an alternative school following exclusion must be sanctioned by the Executive Director. The named alternative school will be required to admit the learner).
   
   or

ii. Direct the school to review the child’s or young person’s support plan (Wellbeing Assessment Plan) or establish a support plan where none previously exists and request that the referral is progressed via the Learning Community Joint Support Team, a multi-agency forum for the discussion and planning for children and young people.
   
   or

iii. Endorse the recommendation of the decision by the head of school that whilst this is a Serious Incident, a temporary exclusion is the most appropriate outcome.

5.2 Where a decision is made to permanently exclude and transfer a child or young person to another school the Head of Service (or their delegate) will decide which school will be the receiving school, the parent or carer and child or young person will be notified of this decision using Appendix 11a, 11b and 11c. A **Transition Planning Meeting** will then be arranged on behalf of the Head of Service (or their delegate) by Children and Young People Support in consultation with relevant schools and Psychological Services and other agencies as appropriate. This meeting will be held in the receiving school and chaired and minuted by the receiving school. The meeting should include the relevant staff from the receiving and excluding schools, Psychological Service and relevant partner agencies. At the appropriate juncture this would involve parents or carers and child or young person. The meeting should be arranged within five working days of the confirmation of permanent exclusion.

5.3 The process is not completed until the child or young person has successfully transferred to a new placement and has been enrolled there. Any alternative educational arrangements put in place should remain in place until enrolment in the new school.

5.4 In these circumstances it would be appropriate to complete a Risk Assessment. The Risk Assessment (Section 7), used in conjunction with an appropriate transition plan, Wellbeing Assessment Plan and an Additional Support Plan, will provide a clear overview of the strategies and planned outcomes intended to support the child or young person and minimise the risk to staff or other children and young people.
6. OTHER TRANSITIONAL PLANNING MEETINGS

6.1 Any child for whom serious concerns exist either in relation to persistent low incidence behaviour issues or emerging patterns of concerning behaviour, referral should be made to the relevant Learning Community Joint Support Team. The concerns will be explored by the Learning Community Joint Support Team and an Additional Support Plan developed to support that child or young person in their current school which will reflect both the nature of that child’s or young person’s need and have a multi-agency approach to meeting that need.

If after a period of implementation of the Additional Support Plan it is agreed by the relevant Learning Community Joint Support Team, with the explicit agreement of the parent(s) or carer(s), that a transfer of school is appropriate then this will be intimated to the relevant Head of Service (or their delegate) by the head of school. In this circumstance the chairperson of the Learning Community Joint Support Team should be satisfied that demonstrable and robust evidence exists to support transfer to another school. This should be an exceptional circumstance and only recommended to the Head of Service (or their delegate) when all strategies are exhausted.

Based on the information provided, the Head of Service (or their delegate) will decide either:

i. To approve the recommendation for transfer and ask the Children and Young People Support to identify a receiving school. A Transition Planning Meeting will be convened to facilitate such a transfer by the child or young person. At this point the parent or carer will be issued, by Children and Young People Support, with a Parental/Carer Placing Request Pro-Forma for submission to Children and Young People Support.

or

ii. To direct the school to again review the child’s or young person’s Wellbeing Assessment Plan, Additional Support Plan and any existing Risk Assessment.

6.2 If 6.1(i.): then a Transition Planning Meeting will be arranged on behalf of the Head of Service (or their delegate) by Children and Young People Support in consultation with relevant schools and Psychological Service. This meeting will be held in the receiving school and chaired and minuted by the receiving school normally within five working days. The meeting should include the relevant staff from the receiving and excluding schools, Psychological Services and relevant partner agencies. At the appropriate juncture this would involve parent(s) or carer(s) and child or young person.

6.3 The Transition Planning Meeting will follow the principles and practice for transition planning outlined in ‘Every Child is Included’.

6.4 The process is not completed until the child or young person has successfully transferred to a new placement and has been enrolled there. Whilst waiting for the child or young person to enrol/transfer to another school, it is the responsibility of the existing school to ensure that alternative educational arrangements are in place which ensure educational continuity and that links with the child or young person and family are maintained. As well as fulfilling legal obligations, this is particularly vital to ensure the best possible start and successful transition to the receiving school.
7. **RISK ASSESSMENT**

7.1 The Health and Safety Executive provides a general definition of what a risk assessment is:

"A risk assessment is simply a careful examination of what, in your work, could cause harm to people, so that you can weigh up whether you have taken enough precautions or should do more to prevent harm."

7.2 Risk assessment can be applied to individual learners or adults and is a complex process. Some children and young people may be considered to present a risk as a result of the violent behaviours they may demonstrate. In all such circumstances heads of school should carry out a formal risk assessment. In other circumstances Pupil Plans should reflect actions and strategies to be undertaken.

7.3 A risk assessment identifies the hazards, e.g. features of a child’s or young person’s violent or aggressive behaviour such as kicking or biting, the people who might be harmed, and sets out actions to be taken to prevent such harm. It is important that such risks are contextualised within pupil planning and are properly assessed. It is not always appropriate to exclude a child or young person for violent or abusive behaviour therefore it is essential that a proportionate response of the extent of the risk is properly assessed and appropriate measures, precautions, procedures and strategies are identified and recorded.

The five-step approach to risk assessment recommended by the Health and Safety Executive as a generic tool is essential to the control of all risk situations.

The process includes the following steps:

1. identification of problems;
2. identification of those at risk;
3. evaluation of the risks and responses to them;
4. recording of findings and proposals;
5. monitoring, evaluation and review of processes on a regular basis.

7.4 **How to carry out risk assessment in an educational context**

A risk assessment should identify:

1. behaviours of concern;
2. who might be at risk and how;
3. conditions that increase the probability of the behaviour occurring;
4. general preventative strategies to prevent an outburst occurring (e.g. changing the learning environment);
5. early behavioural indicators that the pupil may be losing self-control;
6. specific preventative strategies. This involves identifying initial signs of agitation and ways of defusing them;
7. procedures to be followed during an incident;
8. procedures to be followed after an incident;
9. how any risk assessments are to be incorporated into Pupil Plans (PRF) and reviewed;
10. who has agreed with the plan;
11. a specific review date.
In such instances the attached Risk Assessment template (Appendix 12) should be completed by a member of the school management team and fully discussed with relevant staff. The Risk Assessment should be regularly Reviewed and “closed” when no longer appropriate.

Good practice/Risk Assessment should be an integral part of planning to meet learners’ needs and should consider the learners educational history and the strategies that have worked (or not) to reduce risky behaviour.

8. **APPEALS**

8.1 Procedures to appeal against a decision to exclude can be made to the Education Appeals Committee. The procedures for this are outlined in Sections 8.2 - 8.25 below.

All appeals can be heard by the Education Appeals Committee.

However in certain circumstances (for example, where there is alleged disability discrimination) appeals against the exclusion of a child or young person who has additional support needs/a disability can be dealt with by the Additional Support Needs Tribunal for Scotland (see 8.26 and 8.27 below) and not the Education Appeal Committee.

8.2 A head of school will be informed if a parent or carer or a young person makes an appeal against the decision to exclude a child or young person 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. The Head of Service (or their delegate)/Senior Solicitor will arrange for the head of school to be suitably briefed prior to the Appeal Hearing or Sheriff Court proceedings and, in due course, will notify them of the results of such appeals.

8.3 The following Appeals procedure will apply when a parent or carer of a child, or a young person appeals against a decision to exclude. In the case of an appeal by a young person the relevant legislation in effect treats the young person as if he/she was an appealing parent or carer. This stipulation now applies to any young person who has reached the age of legal capacity, which will generally be from 12 years upwards, unless there is evidence to the contrary. Care should be taken to ensure that a young person appealing receives the same quality of information.

8.4 The parent or carer of a child, or a young person who has reached the age of legal capacity, has the right to appeal against the decision to exclude. Education Services may allow the child or young person to return to school after the exclusion period but pending the outcome of the Appeal Hearing. This is a decision that will be made by the Head of Service (or their delegate).

8.5 Following Section 2(2) of the Standards in Scotland’s Schools etc. Act (2000) the views of the child or young person should be sought in all practicable cases, even when it is the parent or carer who is taking forward the appeal.

8.6 The parent or carer, or young person makes the appeal to the Director of Legal and Administrative Services.

8.7 Legal and Administrative Services will inform Education Services that an appeal has been lodged.

8.8 The Head of Service (or their delegate) will inform the school.

8.9 The Authority’s solicitor will discuss the case with the Head of Service (or their delegate) and the school.

8.10 Prior to the Appeal Hearing formal evidence will be assembled. Copies of this formal evidence must be with the Education Appeal Committee at least 10 days before the date of the Appeal Hearing.

8.11 The Education Appeals Committee consists of a Councillor and two parents or carers, with one parent or carer in the chair.
8.12 Any person involved in the discussions about the exclusion may not be a member e.g. teachers, young people, parents or carers, parent members at/or connected to the relevant school.

8.13 The proceedings of the Committee will be in private.

8.14 The membership of the Committee changes for each hearing.

8.15 The appellant has a right to be present at the hearing and to be represented by a lawyer or anyone else whom they choose.

8.16 The appellant can be accompanied by up to three supporters including their representative.

8.17 The appellant can present a written statement to the hearing and present any further information they may wish. Either party can present oral evidence at the hearing.

8.18 Education Services will be represented and will bring such witnesses as it wishes. The school will be required to justify to the Appeals Committee the action taken in respect of excluding the child and that the action falls within one of the grounds prescribed by the regulations.

8.19 A member of the Scottish Committee of the Council of Tribunals has a right to be present at the hearing as an observer. The Scottish Committee has an oversight of hearings.

8.20 The Appeals Committee must give their decision within 14 days.

8.21 If the Appeals Committee annuls Education Services’ decision, then that decision is overruled and the exclusion nullified. The authority has no right of appeal against this decision.

8.22 The decision must be recorded in the Pupil Progress Record. This is the responsibility of the host School.

8.23 The child or young person must be re-admitted to the school from which he/she was excluded. Where the decision to exclude has been annulled on appeal, whether or not the exclusion period has been completed, any reference in the child’s or young person’s progress record may not be disclosed.

8.24 If the Appeals Committee confirms Education Services’ decision then the parent or carer has a further right of appeal to the Sheriff, provided they do so within 28 days of the Appeals Committee’s decision.

8.25 If there is no hearing within two months of the appeal or if the Appeals Committee do not fix a date for the hearing to continue within 14 days of an adjournment or if the Appeals Committee do not give a decision within 14 days after the end of the hearing it is deemed that the Appeals Committee have upheld Education Services’ decision.

8.26 Exclusion or removal from education are not subject to the council’s complaints procedures. The process for appealing an exclusion is outlined above.

8.27 In terms of the Equality Act 2010 if a child or young person is excluded from school for behaviour connected to his or her disability this could be alleged to be unlawful discrimination arising from the disability unless the school can justify the exclusion as being a proportionate means of achieving a legitimate aim. A legitimate aim may be to ensure the health and safety of children and young people and staff within the school. However, the school has a duty to make reasonable adjustments for the child or young person. Unless those adjustments have been made it may be difficult to show that the treatment was proportionate.

8.28 If a decision to exclude a child or young person is based on a disability or the needs arising out of a disability an appeal could be made to the Additional Support Needs Tribunal for Scotland and not the Education Appeal Committee. The claim can be made up to six months after the decision to exclude the child or young person. Both the parent or carer and the child or young person have an independent right to make a claim. A child of 12 or over is presumed to have capacity to make their own claim unless there is evidence to the contrary.
9. AREA ATTENDANCE COUNCILS

9.1 The Education Policy Development and Scrutiny Committee has delegated certain functions to Area Attendance Councils, which have a role to play when the parent(s) or carer(s) of an excluded child or young person of 16 have failed to comply with the procedures.

9.2 It may be appropriate for the head of school to recommend to the area Attendance Council that they pursue those matters in accordance with their delegated powers should such a course of action be deemed appropriate. This should only be resorted to only after careful consideration and where there has been evidence of failure to comply with support and engagement strategies over time, including discussion at the Joint Support Team.

9.3 Children and young people not attending school should be considered as having additional support needs in the first instance and schools should consider how these additional support needs are best met prior to referral to the Area Attendance Council.

The possible courses of action that may be undertaken are:

a) Referral to the Learning Community Joint Support Team;

b) recommendation of prosecution of the parent(s)/carer(s) for their child’s non-attendance at school;

c) referral to the Reporter to the Children’s Panel in consultation with the appropriate officials to ascertain whether or not grounds exist for bringing the child or young person before a hearing. It should be noted that Heads of School may also refer a child or young person to the Reporter. Such referrals would require to be made within as short a timescale as possible for this action to be effective.

N.B. Any referral to the Reporter must bear in mind the stipulations as outlined in the Children (Scotland) Act 1995 and existing operational protocols.

10. CHILDREN AND YOUNG PEOPLE LOOKED AFTER AT HOME AND AWAY FROM HOME

10.1 In November 2007, Glasgow City Council agreed its Corporate Parenting Policy. This policy is very clear that the needs of Looked After Children are the responsibility of all council employees, who are the “corporate parents” of the child or young person who is looked after by the local authority. As such we must consider the needs of Looked After Children as we would our own children.

10.2 Children or young people who are looked after come under the requirements of the Education (Additional Support for Learning) (Scotland) Act 2004. These requirements were strengthened by the Education (Additional Support for Learning) (Scotland) Act 2009. Looked After Children should have appropriate assessments, plans and additional supports in place to ensure that their educational experience is the best that it possibly can be.

10.3 The role of the Designated Manager for Looked After Children in schools was established following the publication of the ‘Learning With Care’ Report in 2001. As a result of this recommendation, a Designated Senior Manager for looked after children was identified in each educational school. Whilst ‘Learning With Care’ focuses on the education of children looked after away from home, Looked After Children and Young People: ‘We Can and Must Do Better’ Report 2007, relates to the education of all looked after children. Therefore, the role of the Designated Senior Manager for Looked After Children within schools extends to all Looked After Children within the school; not just those looked after away from home.

10.4 All core tasks of the Designated Senior Manager can be seen to fall within the 10 standards for personal care that schools should strive to offer to all children and young people. These standards are set out in ‘Happy, Safe and Achieving their Potential’ – A standard of support for young people in Scottish schools (2004). The Designated Senior Manager has a role in ensuring that the needs of looked after children are addressed, and for liaising with social work, health colleagues and carers on a regular basis to ensure that there is a joined up approach to assessing and meeting their needs. Given the negative impact that exclusion may have on the particular circumstances
around a child or young person who is looked after, the Designated Senior Manager must ensure that any decision to exclude is taken within this context and only following careful consideration of alternatives. If the decision is taken to progress the exclusion route then the processes identified earlier in this document should adhered ensuring that reference is made in relation to the child or young person's looked after status.

10.5 When difficulties arise with the behaviour of a Looked After Child, they should be referred to the Joint Support Team. The Joint Support Team will consider the referral and may recommend that a multi-agency case conference be convened, involving the parent or carer and, where appropriate, the child or young person, in order to identify the causes of the difficult behaviour and to put in place an appropriate plan and supports to ensure continuity of education at all times. Alternatively the Joint Support Team may make recommendations to provide additional or alternative supports. The school would then review the child or young persons' Wellbeing Assessment Plan as appropriate.

11. PARTICULAR POINTS OF NOTE FOR HEADS OF SCHOOL

11.1 It should be noted that the authority does not permit or condone harassment, which it interprets as any behaviour that appears or feels offensive, intimidating or hostile. Harassment related to a person's sex, gender identity or transsexuality, race, disability, sexual orientation, religion, non-belief or belief constitute discrimination and are unlawful under the Equality Act 2010, the Sex Discrimination Act 1975, Sex Discrimination (Gender Reassignment) Regulations 1999, Race Relations Amendment Act 2000, the Disability Discrimination Act 1995, Employment Equality (Religion or Belief) Regulations 2003, and Employment Equality (Sexual Orientation) Regulations 2003. The Protection from Harassment Act 1997, aimed specifically at stalking, makes a course of conduct amounting to harassment both a civil wrong and a criminal offence. It also introduces a further criminal offence of putting a person in fear of violence.

All employees and children and young people have a personal and legal responsibility not to behave in a manner that could be offensive to others. The authority, through the head of school and designated staff acting on their behalf, has a responsibility to investigate any complaints of harassment or bullying by staff or children and young people, and to ensure that all employees and students are made aware of this Code of Practice.

11.2 A written record must be kept of all procedures mentioned in this document and all information, including the reasons why a head of school or the SMT member, decided on a particular course of action, should be filed in the child’s or young person’s educational record. Comments should be specific/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, should the case go to appeal or an Additional Support Needs Tribunal for Scotland.

11.3 Appendix 1: Record of Temporary Exclusion Form should be completed at the point of exclusion. The record of the subsequent interview within the prescribed seven day period should be recorded using Appendix 5: Record of Post Exclusion Interview.

11.4 The Incident Report Form (Appendix 2), should also be completed and held on file in school. It will provide the basis for an authority audit of exclusions. This form should be completed at school level for every temporary exclusion. A copy of the Incident Report Form will be completed by Children and Young People Support.

11.5 It is vital that any serious offence committed by a child or young person be reported to the Police. (See Management Circular No. 22, Guidelines on police and legal issues affecting school children and young people and staff). Even where grounds exist for bringing a child or young person before a children’s hearing the grounds may be denied by the child or young person or by his/her parent(s)/carer(s). In such cases the hearing is powerless to act until the allegations have been proved in a process before the Sheriff.
Such offences could include, for example, some instances of theft, assault, vandalism, drug abuse, incidents of a sexual nature. Further clarification can be sought from the Head of Service (or their delegate) or from Education Services Solicitor or Chief Executive’s Office, Legal and Administration Services section. Every effort should be made to assist the police in their enquiries although it is preferable for interviews involving police officers and children and young people to take place in the child’s or young person’s home rather than in the school. This is particularly important in the case of primary aged children. It should be noted, however, that if the police insist on interviewing a child or young person in school, the child’s or young person’s parent(s) or carer(s) 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. If a child or young person is removed from the premises by the police the school should also immediately notify the parent(s) or carer(s).

Maureen McKenna
Executive Director of Education