



From mountain to sea

Aberdeenshire
COUNCIL



Promoting Inclusion and Reducing Exclusions in Educational Establishments Guidance, 2022

Policy and Guidance Statement

The Scottish Government is committed to supporting and promoting Children's rights under the United Nations Convention on the Rights of the Child. The Education (Additional Support for Learning) (Scotland) Act 2004 (as amended 2009) requires Authorities to reduce barriers to learning. Aberdeenshire Council is obliged to meet the requirements of The Equality Act (2010) equalities legislation, which protects individuals from unfair treatment and promotes a fair and more equal society.

This Promoting Inclusion and Reducing Exclusion in Educational Establishments policy and guidance has been developed by The Promoting Inclusion and Reducing Exclusions in Aberdeenshire Working Group, representing colleagues from Aberdeenshire Headteachers' Association (ASHTA), Primary Headteachers' Council (PHTC), Educational Psychology, Social Work and Joint Trade Union Secretary.

The documents have been informed by: [The Schools General \(Scotland\) Regulations 1975, 1982, Amendment \(No 2\)](#); [Education \(Scotland\) Act 1980, 2016](#); [Standards in Scotland's Schools, etc. Act 2000](#); [Age of Legal Capacity \(Scotland\) Act 1991](#); [Equality Act 2010](#); [The Children and Young People \(Scotland\) Act \(2014\)](#) and have been shaped by the national [Getting It Right For Every Child \(GIRFEC\) strategy \(2008\)](#).

The guidance documents also aim to meet the recommendations made by the Scottish Government in [Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions, 2017](#)

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1 Scope

This policy replaces previous exclusion guidance, policies and procedures adopted by Aberdeenshire Council, and those developed by individual establishments and extends to all learning establishments.

2 Purpose and Principles

2.1 Purpose

Following the publication of *Included Engaged Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions*, (Scottish Government, 2017), it was recognised that the previous policy predates this National guidance.

The purpose of the policy and guidance is to define a clear and consistent protocol that schools must follow when considering, initiating and managing all aspects of the exclusion process.

All schools will have policies and practices in place to promote and support positive behaviour which take cognisance of [Aberdeenshire's Relationships, Learning and Behaviour Policy and Guidance](#)

School policies will have been developed in consultation with all members of the school community and will be regularly reviewed. Effective arrangements for learning and teaching and for a flexible, pupil-centred curriculum go hand in hand with an ethos of nurture, care and respect. However, even in the most nurturing and respectful school environment, there may be instances where behaviours displayed by children and young people, or actions taken by them are unacceptable.

The key to preventing exclusions is to implement universal practices that prevent problems arising in the first place and to intervene early when they do arise. A planned and staged approach should be taken to support pupils. A range of measures will be taken in the classroom or in the wider school to support children and young people in these circumstances. In most cases these approaches are sufficient to resolve the situation. Sometimes the situation is more complex and will require partnership working.

Exclusion is the most serious consequence that can be imposed on a pupil and must be a last resort. Where exclusion is used, it should be a proportionate response where there is no appropriate alternative. When considered necessary, it must be for as short a period as possible with the aim of improving outcomes for the child or young person and their wellbeing should be the key consideration. The time during and after the exclusion period should be used constructively to resolve the situation and ensure positive and appropriate support is in place for all.

2.2 Principles

This policy and guidance is based on the following key principles:

- All children and young people have a right to education and Aberdeenshire Council has a duty to provide this education;
- A consistent and well-maintained commitment to a whole school ethos of prevention, early intervention and support as the context for the promotion of positive relationships, learning and behaviour;
- All children and young people need to be included, engaged and involved in their learning;
- Everyone in a school or learning establishment should feel they are in a safe and nurturing environment;
- All children and young people have the right to get the support they need to benefit fully from their education and fulfil their potential;
- Exclusion should be the last resort; it should be for as short a time as possible, and always have a positive, purposeful intention for the learning and wellbeing of the child or young person;
- Exclusion should not be viewed as punitive;
- Where exclusion is used, it should be as a proportionate response where there is no appropriate alternative and the wellbeing of the child or young person.

3 Powers to Exclude

Regulations 4 and 4a of the Schools General (Scotland) Regulations 1975 as amended and the Schools General (Scotland) Amendment (No.2) Regulations 1982 lays out the power to exclude a pupil and the circumstances under which a pupil may be excluded; and the requirements on local authority where a decision to exclude has been taken. Head teachers have the power to exclude where:

Regulation 4 provides that an education authority shall not exclude a pupil from school unless the authority:

- *"are of the opinion that the parent of the child or young person refuses or fails to comply, or to allow the child or young person to comply, with the rules, regulations or disciplinary requirements of the school";*

or

- *"consider that, in all the circumstances, to allow the pupil to continue his/her attendance at the school would be likely to be seriously detrimental to the order and discipline in the school or the educational well-being of the pupils there."*

4 Impact of exclusion

The cost of exclusion can be seen in terms of wellbeing, attainment and later offending behaviour, with recognition that the negative impact of exclusion is cumulative. Children and young people can often become involved in a negative cycle of exclusion and non-attendance which are very likely to reduce social capital and significantly impact on later life chances. (*Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions*, 2017)

5 Equality Act (2010)

The Equality Act (2010) does not prohibit schools from excluding children or young people with particular protected characteristics, but it does prohibit schools under section 85(2)(e) from excluding children and young people because of their protected characteristic or from discriminating during the exclusion process.

Protected characteristics include:

- age
- disability
- gender re-assignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

6 Children and Young People with Risk Factors

National statistics on exclusions indicate that children and young people are more likely to be excluded where they:

- Are assessed or declared as having a disability;
- Are looked after;
- Are from the most deprived areas;
- Have an additional support need (ASN);
- Have an additional support need that has been identified as social, emotional and behavioural.

Appropriate support during and post exclusion plays a key role in reducing the likelihood of further exclusions (see 8.7 Post Exclusion: Resolution and Ways Forward)

6.1 Looked After Children

The Education (Additional Support for Learning Act) (Scotland) Act 2004, as amended 2009, states that all Looked After Children will be deemed to have additional support needs unless assessed otherwise. To exclude a Looked After Child requires very

serious consideration. Where possible and appropriate discussion with the team around the child should take place in advance of the decision being made. Where the child is excluded the team around the child should be notified.

Looked after and care experienced young people already potentially challenging circumstances are likely to be further exacerbated, and an additional loss of learning is likely. Exclusion from school may also have a significant impact upon their home lives. An exclusion from school may be the catalyst to a change in placement as the need to ensure appropriate care and supervision for the child or young person whilst excluded, may place a significant pressure on a parent or carer. The impact on both the child/young person and the wider system should not be underestimated.

“The Promise”, “The Plan 21-24” recommends that *“The formal and informal exclusion of care experienced children from education will end”*. Aberdeenshire is committed to meeting this recommendation.

All Aberdeenshire schools will be fully cognisant of this when considering the needs of care experienced children and young people.

6.2 Additional Support Needs (ASN)

Every child and young person has the right to have their additional support needs identified and met. The management of exclusions must take this into account and careful consideration must be given to the appropriateness of the support plan in place to meet the child or young person’s needs when considering exclusion.

Children and Young People with Additional Support Needs Including those with a Disability

In considering the exclusion of a child or young person with a disability as defined by the **Equality Act 2010**, schools should ensure they comply with the provisions of that Act in relation to **discriminatory behaviour** in the context of the exclusion from school.

The Equality Act 2010 states that it is discrimination when a person treats another **less favourably** than they treat (or would treat) others because of a protected characteristic.

A pupil has a disability for the purposes of the Act if he/she:

- Has a physical or mental impairment e.g. ASD or ADHD;
- Has an impairment which has a substantial and long-term adverse effect i.e. having lasted or is likely to last for more than 12 months;
- Has an impairment that impacts on his/her ability to carry out normal day-to-day activities. e.g. going to school, attending class, getting dressed or ability to concentrate.

Discrimination arising from disability occurs where a pupil is treated unfavourably because of something related to their disability. Excluding a pupil with a disability for behaviour that has occurred as a result of their disability may constitute unlawful disability discrimination.

It is a school's responsibility to make reasonable adjustments to enable learners to be successful. Making reasonable adjustments may include adaptations to the approach taken when responding to managing challenging behaviour. Head Teachers should speak with their QIO if concerns about discrimination arise when exclusion is being considered.

6.3 Child Protection Register / Concerns

Where consideration is being given to the exclusion of a child or young person who is on the child protection register, or are subject to on-going child protection procedures, the school's child protection coordinator should be informed. Where possible a discussion should take place with Children's Services Social Work prior to a decision being made in order that a risk assessment can be undertaken to ensure the child or young person will not be placed at further risk whilst excluded and if necessary appropriate provision can be put in place.

7 Steps in the Exclusion Process (see Appendix 2)

7.1 Prior to the Exclusion

Prior to taking a decision to exclude a school must carefully consider the facts and circumstances surrounding the incident/s including any mitigating factors.

Careful consideration must be given to any vulnerabilities that the child or young person may have and the potential impact of an exclusion on these vulnerabilities. An analysis of potential risks for that individual child or young person associated with an exclusion must take place. The safety and wellbeing of the child or young person is paramount. *(See Appendices 1 and 3a)*

7.2 Sending Home Without Excluding

All exclusions from school must be formally recorded. Children and young people must not be sent home on an 'informal exclusion' or sent home to 'cool-off'. Following an incident where the decision is made that the child or young person cannot remain in school, for one of the reasons specified in regulation 4 of the Schools General (Scotland) Regulations 1975 as amended, this must be recorded as an exclusion.

7.3 During Exclusion

Once a decision to exclude has been made, the school should ensure that the child or young person does not leave the school until their safety, health and wellbeing are assured and appropriate arrangements are in place.

On the same day as the decision to exclude has been taken, the school must notify the parents/carers/pupil verbally of this decision. Wherever possible, within 24 hours/1 school day, parents/carers/pupil must receive this information formally in writing, including the date, time and place where the Head Teacher, or other member of the Senior Leadership Team, shall be available to discuss the decision to exclude and plan next steps for the pupil returning to school. *(See appendices 4a, 4b, 4c)*

This meeting should be arranged before the child/young person's exclusion is due to end. It may be necessary for this to take place immediately prior to their return.

7.4 Provision of Education During an Exclusion

Section 14(3) of the 1980 Act places a duty on education authorities to make education provision for excluded learners. Aberdeenshire Council have a duty to, without undue delay, either:

- provide school education for the excluded pupil in a school managed by them

or

- make arrangements for the excluded pupil to receive such an education in any other school the managers of which are willing to receive the excluded pupil;

or

- make special arrangements for the excluded pupil to receive education other than at an educational establishment.

There is no legislative definition of 'undue delay'. However, the objective is to ensure the child or young person continues to receive an education while excluded. It is reasonable to expect alternative education provision to be in place after 2 days. This provision may include the sign-posting to online resources.

Where possible arrangements should be put in place to ensure that support from Children's Services Social Work, Allied Health Professionals or Counselling sessions continues during the period of exclusion.

7.5 Provision of Free School Meals During an Exclusion

Schools must ensure that children and young people who are in receipt of Free School Meals (FSM) must continue to receive this provision. Head Teachers in partnership with the FSM team will provide this to families through the direct payment system.

7.6 Length of Exclusion

The length of an exclusion should be proportionate and take into account individual circumstances. Where exclusion is used, it should be a short-term measure for the maximum of 5 school days to enable further assessments and planning and provide an opportunity for reflection for both the child or young person and staff involved. The school's QIO should be informed.

Where there are exceptional circumstances, an exclusion beyond 5 days may be required and this should be discussed with the school's QIO.

7.7 Post Exclusion: Resolution and Ways Forward (see Appendix 3b)

Prior to a child or young person returning to school careful consideration should be given to ensure that an appropriate support plan is in place if required. It is important that appropriate approaches and strategies (e.g. restorative approaches) are utilised

to ensure that the child or young person, parent(s), staff and peers are supported to enable a return to school to be positive.

There may be a requirement for intensive support on a pupils' return. Any additional resource implications which cannot be met by the school should be discussed with the Local Management Group (LMG).

It is good practice to meet with the child or young person and their parent/carer(s) to discuss their return to school and to agree the most appropriate supports moving forward. It is essential that this meeting is solution oriented and focuses on the best outcomes for the learner. It is important that the Support and Next Steps Meeting is not purely a list of 'dos and don'ts but is a positive and proactive discussion of strategies and interventions to support the child's/young person's return to school and reduce the risk of further exclusions.

A Support and Next Steps Meeting should focus on:

- The reasons for the exclusion and what the child or young person was communicating through their behaviour, so that any appropriate future support can be identified
- The essential partnership between home and the school and how both parties can work together to support the child/young person
- Strategies and supports that will be implemented to support the child or young person on their return so that this is a positive return

It may be that this meeting is required to take place online or by telephone to enable parents/carers and other relevant professionals to attend. Whilst there is no legal requirement for a meeting to take place prior to the return of a pupil from a period of exclusion, Aberdeenshire Council recognises this as good practice.

Where the pupil attends secondary, it would be appropriate for school staff to meet with the young person prior to them returning to class to discuss support and next steps, even if the young person's parent/carer does not attend.

8 Potential Legal Implications of Exclusion

In any circumstance where a decision to exclude has been taken by the Head Teacher or nominated Depute Head Teacher, it must be clear and transparent in terms of recording the investigation of the incident, the decisions taken and procedures followed, that the exclusion can be fully justified. The decision to exclude may be held up to public scrutiny, and in some instances in a court of law.

Head Teachers should be fully aware that should an exclusion be appealed through any legal process they will be required to justify their actions and decisions and demonstrate that not only were procedures followed, but that their actions could not be seen as being in breach of any pertinent [legislation](#). There is an expectation that paperwork will be produced at any subsequent appeals. (**See Appendix 7**)

9 Further support documents

This policy and guidance should be read in conjunction with:

Included Engaged Involved Part 2: [A Positive Approach to Preventing and Managing School Exclusions \(2011, 2017\)](#)

[United Nations Convention of the Rights of the Child](#)

Further support can be found in the following Aberdeenshire resources:

[Aberdeenshire GIRFEC Toolkit](#)

[Aberdeenshire ASN, Inclusion, Equity and Wellbeing site](#)