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People Matter

Education, People & Business

Education Procedure Manual 3/11

EXCLUSION FROM SCHOOL

For

**Teachers and Employees on Scottish Negotiating Committee
for Teachers (SNCT) Conditions of Service**

Effective from: June 2023

Education, People & Business



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Version Control History

Version No.	Effective Date	Details of change from previous version	Date Approved	New version no.
	Nov 2020	Transfer to new template Updating terminology Appendices streamlined and removed to be stand-alone documents	02/06/2023	2.0

GDPR Statement

East Dunbartonshire Council holds, uses and processes information in accordance with the General Data Protection Regulations and all other relevant national data protection laws. Further information detailing how East Dunbartonshire holds and uses personal information and copies of privacy notices used throughout the Council are available on our website:

www.eastdunbarton.gov.uk/council/privacy-notice.

Policy Review Statement

This policy will be reviewed in line with:

- Legislative Change
- Changes to SNCT National Conditions of Service
- Other external factors
- Feedback on the effectiveness of the policy
- Requests for review by Elected Members, Trade Unions and/or Management

1.0 Purpose

- 1.1 This procedure manual emphasises the need for schools to focus on effective learning and teaching; promoting positive relationships and behaviour, and the employment of preventative approaches, which reduce the need to consider exclusion. Exclusion can be an acceptable action, but it should only be used as a last resort. Where exclusion is used, it should be as a proportionate response where there is no appropriate alternative.
- 1.2 This is intended to provide a supportive framework, within which schools can effectively work with children and parents to maintain positive relationships, behaviour and safety in schools.

2.0 Scope

- 2.1 This procedure applies to all pupils and teachers within East Dunbartonshire Council Schools and Educational Establishments.
- 2.2 The policy for additional support needs: Including Every Learner: Policy and provision for children and young people with additional support needs in East Dunbartonshire Council outlines the principles and processes for support provided to all children and young people within schools and establishments.

3.0 References & Related Documentation

- 3.1 The following documents have been referenced when considering this procedure:
- Equalities Act 2010
 - General Data Protection Regulation (GDPR)
 - Data Protection Act 2018
 - Pupils' Educational Records (Scotland) Regulations 2003
 - Education (Scotland) Act(s) (1980 and 2016)
 - Standards in Scotland's Schools Act (2000)
 - Additional Support for Learning Acts (2004) as amended
 - Parental Involvement Act (2006)
 - Getting it Right for Every Child (GIRFEC)
 - How Good is Our School 4 (HGIOS 4)/How Good is Our Early Learning and Childcare
 - Children and Young People (Scotland) Act (2014)
 - Getting it Right for Looked After Children and Young People, Early Engagement, Early Permanence and Improving the Quality of Care (2015)
 - Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions (2017)
 - United Nations Convention on the Rights of the Child
 - Every Child, Every Chance (2018)
 - Including Every Learner: Policy and provision for children and young people with additional support needs in East Dunbartonshire Council
 - The Education of Children and Young People who are Looked After by East

Dunbartonshire Council – Joint Protocol between Education and Social Work (2013)

- Care Review - The Promise (2020)
- Improving Additional Support for Learning – Morgan Review (2020)
- School Promoting Positive Relationships Policy
- Procedure Manual No.2/21: Management of Incidents of Violence Against Employees in Educational Establishments
- Procedure Manual No.2/35: Anti-Weapon/Knife Crime in Schools Guidance

3.2 The following forms and checklists are used when following this procedure:

- PM 3/11/F01 Key Considerations Prior to Exclusion Checklist
- PM 3/11/F02 Decision to Exclude Checklist
- PM 3/11/F03 Pupil's Return to School Checklist
- PM 3/11/F04 Standard Letter – Intimation of Temporary Exclusion (Pupil)
- PM 3/11/F05 Standard Letter – Intimation of Temporary Exclusion (Parent)
- PM 3/11/F06 Appeal Procedure Information Sheet
- PM 3/11/F07 Information on Appeals Process (Schools Only)
- PM 3/11/F08 Agreed Well-being Needs, Supports and Next Steps Form
- PM 3/11/F09 Standard Letter – Notification of Exclusion to Chief Education Officer
- PM 3/11/F10 Standard Letter – Meeting Request with Chief Education Officer
- PM 3/11/F11 Standard Letter – Removal from Register

4.0 Definitions

4.1 Child

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

4.2 Parent

Section 135(1) of the Education (Scotland) Act 1980 defines a parent as a guardian or any other person who is liable to maintain, or has parental responsibilities in relation to, or has care of, the child or young person.

4.3 Young Person

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

4.4 Age of Legal Capacity

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

Education (Scotland) Act 1980 to a pupil with such legal capacity.

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

5.0 Introduction

- 5.1 East Dunbartonshire Council is committed to ensuring that all children and young people are supported to learn and achieve within a supportive, safe environment. There is a shared process for practice to ensure joint planning and coordinated intervention in Children's Services. All children and young people should have access to positive learning environments and opportunities to develop their knowledge, skills, ambition, confidence and self-esteem to their full potential. Support should be appropriate, proportionate and timely. Early identification of universal and/or targeted support provides a framework for additional support where behaviour becomes more challenging.
- 5.2 East Dunbartonshire Council Wellbeing at Work Policy 2016 demonstrates the Council's commitment to the wellbeing and safety of all employees. Employees are encouraged to speak to their line manager/team leader at the first opportunity to discuss any concerns, worries or circumstances that have or could potentially have a detrimental impact on their safety or wellbeing. In situations where this is not possible, employees can contact the Human Resource Team for advice.
- 5.3 Prior to making the decision to exclude a child or young person from a school or learning establishment, the following principles must be upheld:
 - A consistent and well-maintained commitment to a whole-school ethos of prevention, early intervention and support as the context for the promotion of positive relationships, learning and behaviour
 - Everyone in a learning community should feel they are in a safe and nurturing environment
 - All children and young people have a right to education and education authorities have a duty to provide this education including to those who have been excluded
 - All children and young people need to be included, engaged and involved in their learning
 - All children and young people have the right to get the support they need to benefit fully from their education and fulfil their potential
 - Exclusion should be the last resort; it should always have a positive, purposeful intention for the learning or wellbeing of the child or young person and should not be viewed as punitive
 - Where exclusion is used, it should be as a proportionate response where there is no appropriate alternative, and the wellbeing of the children and young people should be the key consideration

- the time during and after the exclusion period should be used constructively to resolve the situation and ensure positive and appropriate support is in place
- At all times, a commitment to the United Nations Convention on the Rights of the Child should be demonstrated and developed:
 - inclusion (non-discrimination) - Article 2
 - best interests - Article 3
 - survival and development - Article 6
 - participation - Article 12.

6.0 Exclusion

6.1 Legal Context

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

6.2 Rights and responsibilities of the education authority/school

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

6.2.1 The power exists to exclude children and young people from school where it is considered:

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

'...are of the opinion that the parent/carer of the pupil refuses or fails to comply, or to allow the pupil to comply, with the rules, regulations, or disciplinary requirements of the school'.

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

6.3 Children and young people with additional support needs

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

school premises or an alternative venue.

- 6.3.2 Where it has been identified that a child's additional support need pertains to significant mental or emotional distress, and/or a difficulty to self-regulate, the school may seek support from a parent/carer to help the child de-escalate and to allow further planning to meet the needs of the young person at school level. This may, in some circumstances involve the child being taken home by the parent/carer. This is still recorded as an exclusion and meets the legal criteria set out above.
- 6.3.3 Exclusions are not punitive, but are a short-term measure to enable supportive planning around the child.
- 6.3.4 It is important to take a multi-disciplinary approach to the consideration of the need for exclusion with regard to children with additional support needs. Where possible, this should involve discussion about difficulties at school, involving the parents/carers and where appropriate the child or young person, in addition to other professionals, well in advance of exclusion being considered as an option.
- 6.3.5 Where a child has a Coordinated Support Plan, under *Section 10 of the 2004 Act*, the authority is required to carry out statutory review procedures to change the nominated school, or any other details. The school should therefore seek to balance the case for exclusion with the need to take all reasonable steps to ensure appropriate provision is made for the child's additional needs. This additional consideration would not prevent exclusion where this is deemed necessary.
- 6.3.6 Accordingly, it should be normal practice to involve appropriate education support services e.g. Inclusion Support Officers and Educational Psychologists. Where other professionals, e.g. family support workers, social workers, have a significant role in providing education, care and support for the child, their views should be sought when a decision to exclude is being considered. They should also be involved in planning educational provision during the period of exclusion.
- 6.3.7 Any decision to exclude must take account, and be in line with, the authority's Equalities duty, its duties under the ASL legislation and where one exists, its duty to provide the services stipulated within support/action plans and if necessary, Coordinated Support Plans.
- 6.4 Looked after and care experienced children and young people
 - 6.4.1 Research indicates that looked after/care experienced children and young people are significantly more likely to be excluded from school. Those children, who are looked after and accommodated in residential or foster care, will have particular care needs that require to be taken account of, if there is the possibility of exclusion.
 - 6.4.2 Appropriate inter-agency discussion regarding difficulties at school should take place well in advance of exclusion being considered as an option. East Dunbartonshire Council's joint protocol, *The Education of Children and Young People who are Looked After by East Dunbartonshire Council – Joint Protocol between Education and Social Work (2013)* states that where a looked after child is considered to be at risk of

exclusion the school should alert the link social worker, carer(s) and designated member of education support team e.g. Inclusion Support Officer and Educational Psychologist. This would provide an opportunity to devise a strategy to prevent a permanent breakdown in the child's educational placement. The responsibility for convening a formal case discussion rests with the school.

- 6.4.3 In all cases involving looked after or care experienced children, prior to possible exclusion, the Head Teacher should involve the Chief Education Officer in discussion and consideration of the implications of exclusion on the home or care placement to ensure appropriate arrangements can be made. The Head Teacher should ensure that Social Work are informed at the earliest opportunity. Social Work should also be invited to attend the return from exclusion meeting.
- 6.4.4 If a decision is made to exclude, this should be clearly documented with appropriate communication with those who hold parental responsibility and the child or young person's carers. Meetings to discuss support strategies and re-admission to school should be arranged in writing. Copies of all communication should be sent to the child or young person (if age appropriate) plus a trusted adult should explain to the child or young person the current situation and future plans. The child or young person should attend planned meetings and have an opportunity to have their views heard either by expressing them themselves or through their trusted adult.
- 6.4.5 If any child is on the Child Protection register or Vulnerable Child/Young Person Group, the Head Teacher should contact the Chief Education Officer prior to possible exclusion.

7.0 Principles To Prevent Exclusion

7.1 Prevention and Early Intervention

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

- 7.1.1 A key characteristic of schools that have been successful in minimising exclusion. This aim can be reflected in a wide range of aspects of operation of the school, including:
- the development of effective systems of support for individual children, integrated with well-designed systems for promoting positive relationships
 - a commitment to providing an appropriately differentiated curriculum for all children, which ensures they are motivated, achieve success and are appropriately challenged
 - the organisation of learning to ensure that all children are both challenged and supported
 - recognition that taking account of different learning approaches can make teaching more accessible and motivating for children, and
 - provision of additional support when this is required, as outlined in the EDC Additional Support Needs policy, *Including Every Learner: Policy and provision*

for children and young people with additional support needs in East Dunbartonshire Council.

- 7.1.2 Promoting positive behaviour policies in schools are crucial to the development of learning and schools should actively seek models of good practice.
 - 7.1.3 The *Including Every Learner: Promoting positive relationships and managing behaviour that challenges* document sets out a strategy for supporting pupils at the individual, classroom and whole school level. All schools and establishments should have a *Promoting Positive Relationships* policy, which is reviewed and updated regularly.
 - 7.1.4 All schools improve outcomes by ensuring that their work is underpinned by a shared understanding of wellbeing and in the dignity and worth of every individual child. They do this by developing positive and supportive relationships that are founded on a climate of mutual respect within a strong sense of community, shared values and high expectations.
 - 7.1.5 All members of the school community have a right to enjoy, as a basic right, a positive working and learning environment and to be protected from acts of violence. Violence is unacceptable and all incidents should be addressed using guidance detailed in East Dunbartonshire Council's Procedure Manual No.2/21: *Management of Incidents of Violence Against Employees in Educational Establishments*.
 - 7.2 Rights and Responsibilities of the Parent/Carer in Relation to the Exclusion of Pupils
 - 7.2.1 Schools should take proactive steps to ensure that the child or young person and family are at the heart of decisions and support planning. Children and young people should be given the opportunity to take responsibility for their learning and wellbeing, and should be involved in their own planning and decision-making in a way that is appropriate to their age and stage of development.
 - 7.2.2 Parents have the right to expect that a school will take all reasonable steps to ensure the safety and wellbeing of their child whilst at school. Schools should involve parents at an early stage if their child is behaving regularly in disruptive or disturbing ways.
 - 7.2.3 Parents should support their child's school in the implementation of agreed policies and ensure that their child behaves in accordance with such policies. Under Section 30 of the *Education (Scotland) Act 1980* a parent of a child of school age has a duty to provide efficient education for the child suitable to his/her age, ability and aptitude. Parents must do this either by causing their child to attend a public (education authority) school regularly, or by other means. Parents continue to be subject to this duty where their child is excluded and must therefore be encouraged to co-operate with the education authority in making any alternative education, including any special arrangements.
 - 7.2.4 Parents have the right to appeal against exclusion where their child does not have legal capacity or does not wish to exercise this right for themselves. This right is conferred by *Section 28H of the Education (Scotland) Act 1980*.
 - 7.2.5 Parents have a right to support by another professional or individual such as an
-

advocate. Under *the Equality Act 2010*, individuals have the right to request help and support from translation and interpreting services. The local authority must take all reasonable steps to meet this request.

- 7.2.6 Parents have the right to be accompanied to an interview with a solicitor and the Head Teacher should conduct this interview. If matters of concern arise, the Head Teacher should seek advice, by telephone, from Legal Services.
- 7.3 Rights and Responsibilities of Pupils of Statutory School Age in Relation to Exclusion
 - 7.3.1 Pupils who are considered to have legal capacity (from the age of 12), have the right to receive information concerning their exclusion. It is therefore important that pupils who are considered to have legal capacity are provided with information relating to their exclusion, and are invited to participate in any meetings. Where a pupil is considered to have legal capacity (or is over statutory school age), the appropriate standard letters (see Appendices) should be used by schools. All correspondence, should, however, be copied to the parents who should also be invited to attend meetings. The importance of involving parents, even where their child has legal capacity, is recommended.
 - 7.3.2 Section 41 of the *Standards in Scotland's Schools etc. Act 2000* introduces the right of appeal to pupils who have legal capacity. It should be noted that where a child with legal capacity decides to exercise this right of appeal, their parents are not able to exercise their right under Section 28H of the *Education (Scotland) Act 1980*. However, parents have every right to be fully involved in supporting their child during the appeal process.
 - 7.3.3 All children, including those with additional support needs, have the right to influence decisions about their education (including appeals for exclusions) from ages of 12 years and upwards. This is dependent on the capacity of the child and if the process is seen to have a detrimental effect on the child's wellbeing. Please refer to processes outlined in section Section 7.5.1 of this policy.
 - 7.3.4 Section 2(2) of the *Standards in Scotland's Schools etc. Act 2000* states that due regard should be given to the views of a child, as far as possible. This should be the case even where a child is not considered to have legal capacity.
 - 7.3.5 Pupils have a right to expect to learn in an environment where disruption is minimised and they are safe. Where pupils have been witness to, or experienced breaches of discipline, they should be offered appropriate support.
- 7.4 Rights and Responsibilities of Pupils Over Statutory School Age in Relation to Exclusion
 - 7.4.1 The rights and responsibilities detailed above also apply to pupils over the age of 16. In addition, pupils over statutory school age also have a right of appeal under Section 28H of the *Education (Scotland) Act 1980*.
- 7.5 Support for Head Teacher
 - 7.5.1 During any interviews with parents and pupils, a Head Teacher may be accompanied

by another member of staff. Should difficulties arise during an interview, it would be appropriate for the Head Teacher to reconvene the interview when individuals are able to contribute in an appropriate manner.

8.0 Management of Exclusion Procedure

8.1 Grounds for Exclusion

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

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

‘...are of the opinion that the parent/carer of the pupil refuses or fails to comply, or to allow the pupil to comply, with the rules, regulations, or disciplinary requirements of the school’.

8.1.2 Schools, when deciding whether exclusion is necessary, must have regard to the particular facts and circumstances surrounding individual incidents and an understanding of the needs and circumstances of the individual child, and take into account how their behaviour affects others. Form PM 3/11/F01 ‘Key Considerations Checklist’ details key considerations before decision to exclude is taken and highlight key considerations once the decision to exclude has been made (Decision to Exclude Checklist, PM 3/11/F02).

8.1.3 Any decision to permanently remove a child from the school roll rests with the Chief Education Officer.

8.2 Incidents Outwith School

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

8.3 Time Limits on Exclusion

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

- the wellbeing needs of individuals affected by the situation
- the breach of discipline which resulted in the exclusion, and
- any other relevant circumstances surrounding the pupil and/or the incident(s) on which the decision to exclude is based.

- 8.3.2 Legislation does however set down certain timescales relating to particular steps within the exclusion process; these are:
- on the first day of the exclusion, the school must inform the pupil (where they have legal capacity) and their parents orally and in writing of the decision to exclude; and the date, time and place where the Head Teacher or other member of the senior management team, shall be available to discuss the decision to exclude,
 - parents/carers and the pupil (where they have legal capacity) should have an opportunity to discuss the exclusion within 7 school days following the decision to exclude,
 - The 'Intimation of Temporary Exclusion (Pupils)' template letter (PM 3/11/0F04) should be sent to any pupil over the age of 12, and any pupil under 12 who is deemed capable of understanding the contents of the letter, as they may have a separate right of appeal and have a right to give their view,
 - The 'Intimation of Temporary Exclusion (Parents)' template letter (PM 3/11/0F05) should be sent to the parents/carers, explaining the position, and include reference to the right of appeal. The duty on education authorities to make alternative education provision for excluded pupils arises immediately when the pupil is excluded and must be discharged without undue delay.
- 8.3.3 The date the decision to exclude is taken, is counted as the first day of exclusion. Both start date and end date are inclusive. In all cases, the school should check that appropriate arrangements for the care of the child or young person are being made, before they are sent from school premises. Section 10 offers guidance in making decisions about individual cases of exclusion.
- 8.3.4 Any period of exclusion should be for as short a time as possible, normally 1 day. The maximum length of a single temporary exclusion must not exceed 3 days. Where a school seeks to exclude a pupil for more than 3 days it is necessary for the Head Teacher to discuss the matter with the Chief Education Officer especially if alternative arrangements are required for continuing educational provision. See section 9 for guidance on East Dunbartonshire Council's exclusion procedure.
- 8.3.5 A single exclusion should not, barring exceptional circumstances, span more than one academic year, even where a decision to exclude is taken during the last few days of the summer term. It is regarded as good practice to resolve exclusion and re-admission issues within the same academic year.
- 8.3.6 School exclusions must operate within the duties imposed by anti-discrimination, human rights and other relevant legislation. Therefore, local authorities and schools should keep fully aware of developments. This includes the *Equality Act (2010)*.
- 8.4 Use of Part-Time Timetables
- 8.4.1 Children and young people have a right to be provided with a school education (*Standards in Scottish Schools Act, 2000*). It should also be noted that children are to be educated in accordance with the wishes of their parent/carer (*Education (Scotland) Act 1980*). Part-time arrangements should only be considered as part of a planning

process that involves the team around the child.

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

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

8.5 Right of Appeal Against the Decision to Exclude

- 8.5.1 Parents or children over 12 years of age, (and if the child is deemed mature enough to understand the decision to exclude), have a right to appeal against the decision to exclude. The views of the child should be sought even when it is the parent taking forward the appeal. They should be notified of their right to appeal when they are informed of the exclusion unless it is considered that the wellbeing of the child will be negatively affected by exercising this right. An appeal can be made without limit of time under Section 28(b) of the *Education (Scotland) Act 1980*. The appeal must be made in writing to the Chief Education Officer. More information to support the rights of all children, including those with additional support needs can be found at <https://enquire.org.uk/asl/new-rights-children-additional-support-needs>.
- 8.5.2 The Chief Education Officer must acknowledge the appeal within 5 days. An appeal against exclusion may be made in the first instance to an Education Appeal Committee set up by the education authority under *Section 28D* of the *Education (Scotland) Act 1980*. A further appeal against the decision of the Education Appeal Committee may be made to the Sheriff Court.
- 8.5.3 The Head Teacher will be informed if a parent (or a child with legal capacity) makes an appeal against the decision to exclude. The Head Teacher is required to be a principal witness at the subsequent appeal hearing and if necessary the Sheriff Court. They will be required to provide a detailed summary of actions which led to the exclusion. The Chief Education Officer will arrange for the Head Teacher to be suitably briefed prior to the appeal hearing of Sheriff Court proceedings and, in due course, will notify them of the results of such appeals.
- 8.5.4 The parents or child over 12 years of age, and younger children deemed to have legal capacity, will be notified of the outcome of the appeal within 28 days of the appeal being lodged.
- 8.5.5 A decision to appeal should, in itself, have no effect on the length of the exclusion or on any conditions attached to the child's return. Once an appeal is lodged, the child may return to school following the period of exclusion, without parental assurance or conditions of return being met, pending the outcome of the appeal.

8.6 The Powers of the Additional Support Needs Tribunal Scotland

These powers have been extended to include cases related to discrimination in education, including exclusions of children with Additional Support Needs for reasons related to their disability. If a child, parent or carer disagrees with a decision about capacity or wellbeing, they can refer this to the ASNT.

Information about how to do this can be found on the ASNT website, www.asntscotland.gov.uk.

8.7 Unresolved Exclusions

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

8.8 Record Keeping

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

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

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

8.9 Monitoring and Evaluation

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

9.0 Local Exclusion Procedure Based on National Guidance

9.1 Seclusion

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

9.2 Serious incidents

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

- 9.2.1 In incidents of serious physical assault, a referral to the police should be made in consultation with the Chief Education Officer.
- 9.2.2 Where the incident is particularly serious and it is felt that, it may not be appropriate to return a child to his/her school at the end of the exclusion period then the matter must be discussed with the Chief Education Officer prior to any formal action being taken. If the Chief Education Officer agrees that a pupil has to be placed at another school as part of an exclusion, s/he will issue a formal letter to this effect to the parent and child or young person concerned. The designated person will work with the Chief Education Officer to arrange all aspects of this onward placement, in the best interests of the pupil. A transition planning meeting will be held in the receiving school and should be chaired and recorded by the receiving school. The meeting will involve the team around the child and will include the parent/carers and pupil in the development of robust planning to ensure a smooth and successful transition.
- 9.2.3 The process is not complete until the child has successfully transferred to a new placement. Where special arrangements for alternative education for the pupil are being made, other than at school, as far as possible, the quality, quantity and range of education which was previously available to the excluded pupil in school, prior to their exclusion should be provided. The need for any such special arrangements should arise only in exceptional cases and only as an interim measure prior to the pupil receiving full-time education, ideally within a school setting. Any alternative educational arrangements put in place should remain in place until enrolment in the new school.

9.3 Managing Incidents Involving Weapons

Referral should be made to the Procedure Manual 2/35 *Anti-Weapon/Knife Crime in Schools Guidance* if required.

9.4 Permanent Exclusion

- 9.4.1 Where a permanent exclusion is being considered, the Chief Education Officer will convene a meeting within 7 days at which the child's future will be discussed and a decision made regarding future education. The parent/carers should be advised not to enrol their child in another school until the exclusion process has been concluded, however they would still have the right to do so. If the decision or preference is for the child or young person to remain at a school within the authority, the Chief Education Officer will decide which school will be the receiving school; the parent/carers and child/young person should be notified of this decision. In these circumstances, transition planning will follow the process described above (8.2.2).

9.5 Procedures

East Dunbartonshire Council has developed three exclusion procedures (detailed

below) which are determined by the length and frequency of exclusions relating to an individual pupil. These are:

- Procedure A which should be followed where:
 - a pupil is given a single exclusion of less than 3 days; OR
 - the 1st and 2nd exclusions for an individual pupil total no more than 3 days in a school session.
- Procedure B which should be followed where:
 - a pupil has been excluded for a total of more than 3 days in a school session; OR
 - a pupil has been excluded for a 3rd time during a school session.
- Procedure C which should be followed where:
 - pupil misbehaviour is particularly serious, and it is felt that it may not be appropriate to return a pupil to their school.

10.0 Procedure A

10.1 Procedure A Scope

10.1.1 This procedure is to be followed where:

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

10.2 Pupil Considered to have Legal Capacity

10.2.1 The following procedure should be followed where a child is considered to have legal capacity (see Figure 1):

- The pupil should be told why they are being excluded.
- The pupil should be given the 'Intimation of Temporary Exclusion (Pupil) letter (PM 3/11/F04) together with the Appeal Procedure Information Sheet (PM 3/11/F06)).
- The pupil's parents should be sent a copy of Intimation of Temporary Exclusion (Parent) letter (PM 3/11/F05) together with a copy of the documentation given to their child. These should be sent via Recorded Delivery letter on the day that the decision to exclude is taken.
- The pupil should be given an opportunity to discuss the exclusion within 7 days of the decision to exclude. His/her parents must also be invited to attend the meeting.
- When the decision to exclude has been taken, the pupil should not be sent home until their parents have been advised and a check made that they will be at home when s/he arrives.
- If the parents are not at home and if they cannot be contacted to uplift their child from school s/he should remain in schools and be supervised, until the end of the normal school day.
- Where the pupil with legal capacity (where possible supported by his/her parents) agrees to meet with the Head Teacher (or a senior member of staff)

and signs the Agreed Well-being Needs, Support and Next Steps Form (PM 3/11/F08) the pupil should be re-admitted to school. Where possible, the standard written assurance should also be signed by the parent.

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

- 10.2.2 Under the above circumstances, there is no need for the matter to be reported to the Chief Education Officer.
- 10.2.3 Where the pupil refuses to meet with the Head Teacher to discuss the exclusion and his/her parents support their child's decision, the matter should be referred to the Chief Education Officer and the pupil should remain excluded from the school.
- 10.2.4 The Chief Education Officer will invite the pupil and his/her parents to a meeting. Where the written assurance is signed, the pupil will be re-admitted to school immediately thereafter. Where the pupil (supported by his/her parents) continues to refuse to give a written assurance, the exclusion from school will continue and the pupil and his/her parents will be advised by the Chief Education Officer of the possible consequences of their actions.
- 10.2.5 Where the pupil refuses to attend the meeting but his/her parents agree to the meeting and indicate that they wish to support the school's efforts to re-admit their child, the Head Teacher (or his/her representatives) should meet with the parents and explore the possible reasons for their child's refusal to return to school. In this situation, the parents should be offered as much support as possible by the school (and, if required, other agencies) in order to try to ensure that the pupil returns to school.
- 10.2.6 Where best efforts on the part of parents and the school are unsuccessful in obtaining the pupil's agreement to return to school, the Head Teacher should refer the matter to the Chief Education Officer who will discuss the need for specialist support and intervention for the pupil.
- 10.3 Pupil NOT Considered to have Legal Capacity
 - 10.3.1 The following procedure should be followed where a child is NOT considered to have legal capacity (see Figure 1)
 - Where appropriate, the pupil should be told why they are being excluded.
 - The pupil's parents should be sent a copy of Standard letter 'Intimation of Temporary Exclusion (Parent) (PM 3/11/F05) together with a copy of the Appeal Procedure Information Sheet (PM 3/11/F06). These should be sent via Recorded Delivery letter on the day that the decision to exclude is taken.
 - The pupil's parents should be given an opportunity to discuss the exclusion within 7 days of the decision to exclude. However, where it is considered to be appropriate and helpful for the pupil, the school should also try to involve him/her in any decisions/meetings.
 - When the decision to exclude has been taken, the pupil should not be sent home until his/her parents have been advised and a check made that they will be at home when s/he arrives.

- If the parents are not at home, and if they cannot be contacted to uplift their child from school, s/he should be kept in school and supervised until the end of the normal school day.
- Where the pupil's parents agree to meet with the Head Teacher (or a senior member of staff) to sign the Agreed Wellbeing Needs, Supports and Next Steps Form (PM 3/11/0F08) the pupil should be re-admitted to school. The Form (PM 3/11/F08) should be signed by the parents, the Head Teacher or his/her representative and the child if this is considered to be appropriate.
- A copy of the written assurance should be entered into the pupil's personal file and a copy should be given to the parent.

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

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

10.3.4 The Chief Education Officer will invite the parents (and where appropriate the pupil) to a meeting and will invite the parents (and where appropriate the pupil) to sign Form PM 3/11/F08. Where the Form is signed, the pupil will be re-admitted to school immediately thereafter. Where the parents continue to refuse to sign the Form, the exclusion from school will continue and the parents will be advised by the Chief Education Officer of the possible consequences of their actions.

10.4 Exceptional circumstances

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

All written assurances should be retained in the pupil's file.

11.0 Procedure B

11.1 Procedure B Scope

11.1.1 This procedure is to be followed where:

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

11.2 Pupil Considered to have Legal Capacity

11.2.1 The following procedure should be followed where a child is considered to have legal capacity (see Figure 1):

- Where the cumulative total of exclusions exceeds 3 days or when a pupil is excluded for the 3rd occasion in any school session it is evident that the efforts of the school, and the relevant support services, to achieve acceptable behaviour are running into difficulty.
- The pupil may again be excluded, and the same procedures followed as detailed in Procedure A. However, a copy of the Intimation of Temporary Exclusion (Pupil) standard letter (PM 3/11/F04) together with a copy of the Appeals Procedure Information Sheet (PM 3/11/F08) should be given to the pupil.
- A copy of the Intimation of Temporary Exclusion (Parent) standard letter (PM 3/11/F05) should also be sent to the pupil's parents together with copies of PM 3/11/F04 and the Appeals Procedure Information Sheet. These should be sent via Recorded Delivery letter on the day that the decision to exclude is taken.
- As with procedure A (in relation to a child with legal capacity), the pupil and his/her parents should be invited to discuss the exclusion as soon as possible, but within 7 days of the decision to exclude.
- The Chief Education Officer must also be informed of the exclusion. The Head Teacher should send the Chief Education Officer copies of all relevant correspondence, a copy of the covering letter (PM 3/11/ F09) together with a copy of the school's disciplinary log for the pupil.
- The Chief Education Officer, or designated representative, may arrange to meet the pupil and his/her parents to explain the seriousness of the position, which has now been reached. In every instance a letter will be sent to the pupil and his/her parents expressing the concerns of the Education Service and indicating that further, more serious action may require to be taken by the Service (PM 3/11/F10).

11.3 Pupil NOT Considered to have Legal Capacity

11.3.1 The following procedure should be followed where a child is NOT considered to have legal capacity (see Figure 1)

- Where the cumulative total of exclusions exceeds 3 days or when a pupil is excluded for the 3rd occasion in any school session it is evident that the efforts of the school, and the relevant support services, to achieve acceptable behaviour are running into difficulty.
- The pupil may again be excluded, and the same procedures followed as detailed in Procedure A. However, a copy of standard letter Intimation of Temporary Exclusion (Parent) (PM 3/11/F05) should be sent to the parents together with a copy of the Appeals Procedure Information Sheet (PM 3/11/F06). These should be sent by Recorded Delivery to the parents on the first day of the exclusion.
- As with procedure A (in relation to a child who does not have legal capacity), the parents (and where appropriate the pupil) should be invited to discuss the exclusion as soon as possible but within 7 days of the decision to exclude.
- The Chief Education Officer must also be informed of the exclusion. The Head Teacher should send the Chief Education Officer copies of all relevant correspondence, a copy of the covering letter (PM 3/11/F09) together with a copy of the school's disciplinary log for the pupil.
- The Chief Education Officer, or designated representative, may arrange to meet

the parents (and where appropriate the pupil) to explain the seriousness of the position, which has now been reached. In every instance a letter will be sent to the parents expressing the concerns of the Education Service and indicating that further, more serious action may require to be taken by the Service (PM 3/11/F10).

- Support services - in addition to a school's pupil support service, external agencies, which would include the Psychological Service and the ASN Service (inclusion Support Officers and outreach support), can provide a range of services for pupils.
- Further support may be available from inter-agency groups such as the school's pupil support group (PSG) and the locality liaison group (LLG) which could provide access to Social Work and in some cases Community Education and Health Services.

12.0 Procedure C

12.1 Procedure C Scope

12.1.1 This procedure is to be followed where:

- Pupil misbehaviour is particularly serious, and it is felt that it may not be appropriate to return a pupil to their school.

12.2 Serious Incidents

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

12.2.2 Where pupil misbehaviour is particularly serious or a further act of violence is committed, and it is felt that it may not be appropriate to return a pupil to his/her school at the end of the exclusion period then the matter must be discussed with the Chief Education Officer prior to any formal action being taken. If the Chief Education Officer agrees that exclusion and removal from the register is necessary, then a formal letter to this effect will be issued by the Chief Education Officer to the parent and where appropriate, the young person concerned. The Chief Education Officer will convene a meeting within 7 days of the date of exclusion at which the pupil's future will be discussed and a decision made regarding future schooling. (PM 3/11/F11).

Figure 1 below, provides an overview of the procedures.

Exclusion from School

Figure 1: Procedure for excluding a pupil from school

