

The logo for 'Support for Learners' (SL) features the letters 'S' and 'L' in a stylized, overlapping font. The 'S' is white with a yellow shadow, and the 'L' is white with a yellow shadow. The background is a gradient from yellow to red. Below the letters, the text 'SUPPORT FOR LEARNERS' is written in a yellow, sans-serif font.

# Management of Exclusion in Schools

September 2004



Highland Council Education, Culture and Sport Service

## **SECTION 1 - INTRODUCTION**

These procedures concerning exclusion from school conform to the recommendations outlined within the SEED Circular 8/03, Exclusion from Schools in Scotland: Guidance to Education Authorities, and builds on earlier advice in Circular 2/98. The Circular should be retained by schools for reference - the grounds for exclusion according to the legislation are detailed in Appendix 1. Head teachers are also referred to a further document – The Aide-memoire – for specific procedural advice.

The Management of Exclusions in School Guidelines are rooted in a philosophical framework which recognises that:-

- pupils have a right to learn in school without having their learning disrupted
- pupils have a right to feel safe in school
- Staff have a right to teach in an environment which is not subject to disruption and aggression.

Reflecting this policy context, key changes to previous Guidance are three-fold

- 1) Increased emphasis on ensuring the safety and positive teaching and learning environment for the whole school. Decisions on exclusion may be taken to safeguard the rights of all pupils to learn without fear of disruption.
- 2) Recognition of the responsibilities pupils and parents must share in promoting and maintaining positive behaviour in schools.

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

Whilst the Guidance seeks to draw attention to the particular needs of those pupils with Additional Support Needs, those pupils who are “Looked After” by the Authority, and those pupils on the Child Protection Register, these particular groups are highlighted in order to emphasise best practice when considering the needs of all children, rather than to suggest a different approach.

## **SECTION 2 - SCHOOL POLICIES AND PRACTICE ON EXCLUSION**

All schools should have in place effective policies on pupil behaviour, which are developed in consultation with staff, pupils, parents/carers and the School Board, and which are supported by all stakeholders in the school community. The school policy should be applied consistently throughout the school.

A school's policies and procedures should address aspects under the following headings:-

### **1 The circumstances under which exclusion can be used**

The principles that exclusion can be an acceptable action, that exclusion should only be used **as a last resort or in certain clearly prescribed circumstances**, and that where exclusion is used it should be as a proportionate response where there is no appropriate alternative.

The school should set out the circumstances in which exclusion will be considered, which will reflect the fact that the school must act in accordance with the education authority's policies and procedures as well as operating within relevant legislation. The school should acknowledge the importance of addressing problems early, through promoting positive behaviour management strategies, through early warnings, involvement of parents/carers, and referral to external agencies if appropriate. The school should also address the

approach underlying its policy on exclusions which should be inclusive i.e. one under which all pupils are treated individually and offered an educational experience which they value

## **2 Procedures**

The steps that must be taken to meet the terms of legislation on exclusion and Council advice on the management of exclusions.

## **3 Responsibilities**

Who is responsible for managing exclusions at school and authority level. In primary schools this would generally be the headteacher. In a secondary school this could be a depute headteacher for 1 to 10 day exclusions, but should always be the headteacher in exclusions of 11 days or more. Any decision to remove a pupil from the school register following an exclusion of more than 15 days must be a decision for the Area Education Manager in consultation with the headteacher.

## **4 Consultation**

The steps, which the school will take to ensure that the views of the parents/carers and also the pupil are accurately established and taken into account. This consultation process should, in most circumstances, take place before the exclusion decision, although it is recognised that in instances of gross misconduct, such consultation

might not be possible until after the exclusion decision. The importance of significant multi-disciplinary discussion and inter-agency co-operation, particularly concerning the circumstances of those pupils referred to in paragraph 9.

. (Please refer also to Appendix 2 of these Guidelines which reproduces advice contained in Circular 8/03 on “Good practice in preventing the need for exclusion and avoiding its inappropriate use” and “Good practice in making decisions about exclusion in individual cases”)

## **5 Return to school**

The conditions of return of a pupil to school, including appropriate support strategies for the excluded pupil, should be clearly defined and agreed in writing following a meeting with parents / carers.

The measures to be put in place to provide appropriate support for other pupils and staff when planning for an excluded pupil’s reintegration into the school..

In instances where conditions for return cannot be agreed, further discussion with the Area Education Manager should take place.

## **7 Evaluation**

A commitment to monitor and analyse the use of exclusion via statistics, self-evaluation and review.

## **8. Requirement to consider the continuing needs of pupils who have been excluded**

Schools are expected to pay regard to the continuing educational needs of pupils who have been excluded in collaboration with other services and agencies e.g. Pupil Support Service, Psychological Service, and Social Work Services. Circular 8/03 continues to emphasise the importance of meeting the educational needs of excluded pupils, highlights the duties to provide alternative education for them, **and, for the first time, suggests a maximum period of 10 days of interruption to education beyond which alternative education must be provided. Such details should be addressed at Area level at the time of exclusion.**

## **9. Special Circumstances**

Before excluding, schools should take account of individual circumstances in every case. There are, in addition, certain groups of pupils whose circumstances must have special consideration.

**-Pupils with Additional Support Needs, (including those who are Recorded as having Special Educational Needs)**

(NB Advice in relation to the following section is likely to change through anticipated Additional Support Needs legislation and Disability Discrimination Act case-law)

implications; further advice will be circulated. Further legal advice is available to headteachers through Legal Services (Tel 01463 702110)

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 young person in addition to other professionals well in advance of exclusion being considered as an option. The school should seek to balance the case for exclusion with the need to take all reasonable steps to ensure appropriate provision is made for the pupil's special educational needs.

Accordingly, it should be normal practice to involve the Area Co-ordinator of the Pupil Support Service and, where appropriate, particularly in instances where the child or young person experiences an Additional Support Need, the relevant educational psychologist. Where other professionals, e.g. social workers, family support workers, children's service 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, and when planning provision during the period of exclusion**

For pupils where an assessment process is taking place towards the possible opening of a Co-ordinated Support Plan the above procedures should also be applied.

Any decision to exclude does not affect the authority's duty to provide the services stipulated under the Record of Needs or Co-ordinated Support Plan.

## **-Looked After Children**

Research indicates that looked after children are 13 times more likely to be excluded from school.

**Effective and timeous collaboration between Education and Social Work Services is, therefore, central to good practice with pupils who are looked after by the local authority.** Where possible, this should involve appropriate inter-agency discussion regarding difficulties at school well in advance of exclusion being considered as an option.

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. **In all cases, prior to possible exclusion, the Designated School Manager should involve the child's nominated social worker in discussion and consideration of the implications of exclusion on the home or care placement to ensure appropriate arrangements can be made.** Discussions with other relevant persons should not be delayed should this not prove possible

## **- Pupils on the Child Protection Register**

Consultation with Social Work Services prior to a decision about exclusion is essential for any pupils on the Child Protection Register to ensure appropriate arrangements can be made

**-Pupils living in school hostels or lodgings.**

It should be noted, that although children living in school hostels or lodgings are not looked after, there are specific issues which require to be considered if such a pupil is being considered for exclusion. It is essential, in such circumstances, that appropriate discussion takes place with hostel wardens, landladies and the parents/carers of the pupil.

### **SECTION 3 – MANAGEMENT OF EXCLUSION PROCEDURES**

(NB Head teachers might also wish to refer to The Aide-memoire which is specifically designed to guide them through the stages of the exclusion process)

#### **Exclusions of 1 to 5 days**

On the same day as the decision to exclude has been taken, the school must notify the parents/carers in writing. Head teachers might also wish to consider involving all excluded children in the procedures for notification under the 1975 Regulations. Circular 8/03 also advises that it is good practice for schools to contact parents prior to the pupil being required to leave school premises. In all cases, the school should check that appropriate arrangements for the care of the child or young person are being made, before they are sent from school premises.

In accordance with Regulation 4(a), Schools General (Scotland) Amendment Regulations 1982 the exclusion letter should include a date, within 7 days, for a meeting when the headteacher and/or a member of the Senior Management Team are available, stating the time and place, the period of exclusion and the date on which the pupil is expected to return to school. This letter should explain the position to the parents/carers, being readily understandable whilst fulfilling the statutory requirements, and written in a tone likely to elicit a positive response. It may also state the conditions for accepting the pupil back to school. In some circumstances the school may regard a parental interview with the pupil present as a condition of return. This letter should include a reference to the right of appeal, and enclose Highland

Council's Information Leaflet on Exclusions for Parents/Carer (a sample letter is included in Appendix 3)

The date the decision to exclude is taken, is counted as the first day of exclusion. Exclusions of 1 to 5 days should be resolved **within 5 school days or earlier to ensure that an exclusion does not continue through school holidays.**

Should the parent wish to resolve the exclusion earlier, they should contact the school to make an appointment to discuss this.

#### **Exclusions of 6 to 10 days**

The school must notify the parents in writing on the same day as the decision to exclude has been taken. The maximum length of exclusion is 10 school days. The letter to the parents should give the reasons for exclusion and the conditions for resolving the exclusion. Recorded Delivery could be used where the school feels it is appropriate. The letter should also include a date and place, within 7 days, when the headteacher and/or a member of the Senior Management Team are available to meet with the parents. The letter should include reference to the right of appeal. If the school decide that the conditions for return include a parental meeting, then it should be arranged early in the exclusion, and in any case no later than 7 days from the date of exclusion. This leaves time for a further appointment to be made should the parents fail to attend for any reason.

The date the decision to exclude is taken, is counted as the first day of exclusion. Exclusions of 6 to 10 days should be resolved **within 10 school days or earlier to ensure that an exclusion does not continue through school holidays**

### **Exclusions of 11 to 15 days**

As in all exclusion, the parents must be informed of the decision to exclude in writing, on the day of the exclusion. The **maximum** length of exclusion is **15 school days**. In normal circumstance, an exclusion of 11 to 15 days should not be delegated to a deputy headteacher; it should be managed by the headteacher. The parental interview should be made early in the exclusion, no later than 7 days from the date of exclusion, in order that a further appointment can be made within the 15 days, should the parents be unable to attend the first appointment. Exclusions of 11 to 15 days should be resolved within 15 school days or earlier to ensure that an exclusion does not run through school holidays

### **Exclusions of more than 15 days**

Where a school seeks to exclude a pupil for more than 15 days it is necessary for the head teacher to discuss the matter with the Area Education Manager in order that to the Authority ensures appropriate arrangements are made for the pupil's continuing education. In these circumstances, head teachers should liaise with the Area Education Manager in order that a case conference can be convened to agree

appropriate action including arrangements for continuing education provision. Exclusions of more than 15 days should be resolved at the earliest possible opportunity.

### **Dealing with Serious Offences**

There will always be incidents where pupil behaviour will be of a serious nature requiring an immediate response by the Head teacher. These incidents would include:

- (a) physical, verbal or racist or sexual threats to staff and / or fellow pupils
- (b) unprovoked physical assault on staff and / or pupils
- (c) incidents which put the health and safety of staff and pupils at risk
- (d) drugs related incidents

Where a criminal offence has been alleged, head teachers should contact Legal Services (Tel 01463 702110) within the Council and/or the local Police.

The circumstances regarding such exclusions should be clearly prescribed and included in the school's Policy on Supporting and Managing Positive Behaviour and an appropriate reference should be included in the School Prospectus.

## **Communication with Parents / Carers**

The exclusion letter to parents / carers must include: (see Appendix 2)

- the statutory basis for the decision to exclude
- the reasons for the decision to exclude, and the justification
- the start and end date of the exclusion
- the conditions with which the pupil must comply to be re-admitted, if appropriate to the individual case.
- the offer of an interview with the head teacher or delegated member of staff, at which the pupil should be present unless in circumstances where this would not be appropriate
- a note of the right to appeal
- the address to which an appeal should be sent
- The Highland Council Information Leaflet for parents/carers on Exclusions

If the pupil is over 16 years of age, letters should be addressed to the parent/carer with a copy to the pupil. Head teachers might wish to consider sending such notification to all pupils deemed capable of understanding the contents, and to all pupils aged 12 and over

Copies of all letters as per the pro-forma (see Appendix 2) should be sent to the Area Education Manager.

**Where the pupil is a Looked After and Accommodated Child the letter should be sent to the foster carers or Manager of the Children's' Centre in which he/she is accommodated with a copy to the Children's Services Area Manager who will inform appropriate parties eg the natural parent(s), the Children's Reporter etc.**

### **Unresolved Exclusions**

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 Headteacher should seek to ensure the matter is resolved through the involvement of the Area Education Manager where appropriate.

It would be expected that the headteacher would, in attempting to resolve the exclusion, seek the co-operation of all other agencies available to the school, in particular Psychological Services, the Pupil Support Service and, where appropriate, Social Work Services, Legal Services or the Police. Pupils who attend the Tuition Service or Pupil Support Service remain on the register of the base school. Attendance monitoring will be carried out by the Tuition/Pupil Support Service and passed onto the base school.

**When an exclusion is resolved, appropriate recording of the exclusion should be made in the attendance reporting procedures in Phoenix. Schools are required to ensure that record keeping on exclusions and attendance is resolved on a monthly basis**

## **SECTION 4 – APPEALS PROCEDURES**

Parents, or pupils over 16 years of age, and younger pupils deemed to have legal capacity (typically, 12 years of age and older) have a right to appeal against the decision to exclude. They should be notified of their right to appeal when they are informed of the exclusion. 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 Area Education Manager who will pass the appeal to Corporate Services for processing.

Corporate Services must acknowledge the appeal within 5 days and advise the education authority accordingly. The education authority will then notify the school. An Appeal Hearing is to be held within 28 days of the appeal being lodged. The parents or pupil over 16 years of age, and younger pupils deemed to have legal capacity will be notified of the hearing date at least 14 days in advance.

Circular 8/03 states in Paragraph 34 that a decision to appeal should in itself have no effect on the length of the exclusion or on any conditions attached to the pupil's return. The new Circular also advises that the views of the pupil should be sought even when it is the parent taking forward the appeal.

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 unless **in the case of exclusions of more than 11 days, the authority consider the pupil's return to school pending the outcome of the appeal**

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

## **Notes**

- 1 The frequency of appeal against exclusion is low. Legal representation for the head teacher can be arranged where the Authority feels that this is appropriate
- 2 The implication of applying the above principle will be examined on a case-by-case basis.

