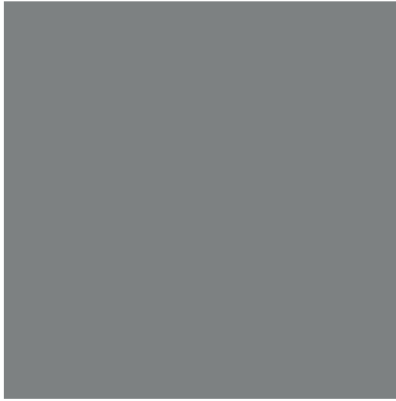




Improving Lives Together  
Ambition | Compassion | Integrity



# Fostering Inclusion and Reducing Exclusions

## Guidance for Education and ELC Settings



Education & Children's Services

## **CONTENTS**

### **Introduction**

#### **Part 1 - Guidance:**

- 1. Fostering Inclusion and Preventing Exclusion**
- 2. Children's Rights in relation to Exclusion**
- 3. Parental Engagement, Rights and Responsibilities**
- 4. Preventing and Seeking Alternatives to Exclusion Through Multi-Agency Partnership Approaches**
- 5. Additional considerations for Vulnerable Learners (Protected Characteristics)**
- 6. Taking the Decision to Exclude**
- 7. Definition of Exclusion**
- 8. Alternative Education Provision during Exclusion**
- 9. Rights to Appeal**
- 10. Part-time Timetables**

#### **Part 2 – Procedures**

- 11. Considering and Supporting Behaviours**
- 12. Learner exhibiting ongoing behaviours flow diagram**
- 13. Flow diagram on the day of exclusion**
- 14. Meeting to resolve and plan**
- 15. Template letters**

## **Introduction**

The purpose of this guidance is to set out the objectives underpinning the prevention of exclusion and where absolutely necessary, the management of exclusion in Perth and Kinross' schools.

Including all children and young people in decisions that affect them is a key aim for Perth and Kinross Council Education and Children's Services. Exclusion should be used as a last resort and must comply with the law in relation to Exclusions (contained within Regulation 4 of the Schools General (Scotland) Regulations 1975 as amended) and the Equality Act 2010.

This guidance applies to children and young people who are enrolled in a Perth and Kinross school or early learning and childcare setting, the parents and family of those children and young people, staff in schools, staff in Perth and Kinross council's Education service and agencies who support our learners/children and young people and families.

## **Part 1: Guidance**

### **1. Fostering Inclusion and Preventing Exclusion**

Including all children and young people effectively in education is a key aim for Education and Children's Services. Continuous positive engagement with education helps promote the development of happy and achieving children and young people.

Central to Curriculum for Excellence, Getting it Right for Every Child (GIRFEC) and the United Nations Convention on the Rights of the Child (UNCRC) is the need to proactively address barriers to learning for children and young people through personalisation of approaches and, in keeping with The Children and Young People (Scotland) Act 2014, support the wellbeing of our children and young people.

Included, Engaged and Involved Part 2: Preventing and Managing School Exclusions (2017), focuses on prevention and early intervention to reduce exclusions, responding to individual need in line with the principles of GIRFEC. It emphasises the need for learning establishments to place a greater importance on inclusion through effective learning and teaching; promoting positive relationships and behaviour; and employment of preventative approaches which reduce the need to consider exclusion. All Perth and Kinross schools are expected to have policies and practices in place to support positive relationships and behaviour, developed through consultation and engagement with all members of the school community.

The vision for approaches to relationships within Perth and Kinross is based around a core understanding of attachment that will drive attuned and healthy relationships as the foundation for learning within classrooms. This requires inclusive classrooms based on an ethos of nurture and good behaviour management, all bound by an understanding of care and appreciation for each other. Inclusive schools have:

- an ethos of mutual respect and trust, focusing on positive relationships and behaviour
- a focus on building and improving relationships with children and young people at risk of exclusion
- staged intervention approaches to ensure learners are included, engaged, and involved in their education

- effective and routinely reviewed support systems with well-designed targeted interventions that are timely and appropriate
- effective record keeping systems and plans, including Individualised Educational Programmes (IEPs), Child's Plans and Co-ordinated Support Plans (CSPs) are, in place where appropriate
- learner voice at the heart of decisions about learning and wider decision making
- quality professional learning for all staff
- a calm and welcoming environment with a nurturing ethos
- rules and routines which are short, simple, agreed, and positive

Additional Support Needs are met through a Staged Intervention Framework, through Universal, Additional, and Intensive levels of support. The framework acts as a guide to approaches but does not limit options or access to support.

Perth and Kinross Education and Children Services is committed to empowering staff by delivering high quality professional learning opportunities and supports the use of general and accredited de-escalation training. Opportunities will continue to be available for staff to develop confidence in effective de-escalation of situations where a child or young person is presenting distressed or challenging behaviour. Physical intervention training will be available for staff if it is deemed an appropriate support in their setting. Guidance will be reviewed following the expected updated Scottish Government advice on seclusion and restraint.

'Included, Engaged and Involved: Part 2' states that there are times when children and young people will exhibit distressed and challenging behaviour that could lead to an exclusion. Staff knowledge and detailed assessment of a child or young person's needs should be used to take account of and plan for prevention of the type of situation which may cause that child or young person severe stress or frustration that may lead to distressed and challenging behaviour. Staff should recognise that all behaviour is communication and endeavour to identify, where possible, the triggers that may lead to a child or young person acting in a distressed and challenging way.

Risk assessments and behaviour protocols are required where the behaviour could pose a risk to health and safety, this will inform the planned actions to mitigate a foreseeable risk. It is good practice to involve the child/young person and parent in the development of these. All completed risk assessments and behaviour protocols should be shared with the parents, child or young person and all relevant staff and professionals who may need to take forward the actions.

If a child does not have a Child or Young Person's Plan in place at the time of an exclusion being considered, the incident should trigger the need for a Child and Young Person Plan to be established.

To support learners at risk of exclusion, in line with legislation, actions at school level should include:

- Identifying barriers to learning and supports required
- Following the Staged Intervention Framework
- Analysing data to look for patterns and potential triggers
- Exploring with the child/young person, parents and plan partners what may help
- Making further adjustments to supports in place

Advice and expertise may be sought from Education staff such as QIOs and Educational Psychologists and a range of other services, such as Allied Health Professionals and Services for Children, Young People and Families.

Consideration should also be given to the needs of those who have been affected by the events that might lead to an exclusion, and appropriate levels of practical and emotional support provided. Restorative approaches are used to support areas of conflict and dysregulation, to ensure that we have sufficient strategies to encourage positive relationships and behaviour, in conjunction with any individual planning in place.

## **2. Children's Rights in relation to Exclusion**

Children have a right to education enshrined in Section 1 of the Standards in Scotland's Schools etc. Act 2000: "It shall be the right of every child of school age to be provided with school education by, or by virtue of arrangements made, or entered into, by, an education authority". Therefore, exclusion must be seen as an absolute last resort when all other interventions have been exhausted.

The United Nations Convention on the Rights of the Child (UNCRC) has been adopted into Scots' law. Therefore, all considerations in relation to children and young people need to be made with their rights at the forefront of our minds. The most pertinent rights, particularly in relation to exclusion, are set out below:

### Non-discrimination Article 2, Article 14

- All children in conflict with the law should have equality of opportunity. Practitioners should ensure that children and young people are not discriminated against and in particular give consideration to those children who may require additional support. Children with disabilities, children who are homeless, placed in residential care, Looked After, Gypsy/Traveller and children with English as an additional language need particular protection  
Steps must be taken to ensure that children who have been in conflict at their education setting or are at risk of exclusion do not face discrimination in relation to accessing education or employment

### Best interests of the child Article 3

- The best interests of the child must be at the heart of all decisions, both in terms of any child exhibiting distressed behaviours and in terms of those impacted by this behaviour. A rights-based approach recognises that children differ from adults in their physical and psychological development, and their emotional and educational needs. In order to protect the best interests of the child, rehabilitation and restorative justice must be at the forefront of all approaches that deal with children that exhibit these behaviours.

### The right to life, survival, and development Article 6

- Exclusion and missing education can have a detrimental impact on learner's development.

## The right to be heard Article 12

- The right of the child to express their views freely in all matters affecting them should be fully respected and implemented throughout. United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).
- All schools should have learner participation mechanisms in place to ensure the views of children and young people are sought and used to inform planning at both whole school, class and individual level.
- Independent advocacy can support a child or young person to express their own needs and views and to make informed decisions on matters which influence their lives. Advocacy workers do not make choices for children and young people. Instead, they support them to make their own choices. Workers can help support children or young people to attend a meeting or attend on their behalf. They can help the child to understand processes and circumstances they are facing. In Perth and Kinross advocacy support for children and young people is available through:

### **Children's Rights Officer**

Perth & Kinross Council – Jane Westall 07500 953454; [JWestall@pkc.gov.uk](mailto:JWestall@pkc.gov.uk)  
Services for Young People 68-86 Scott Street Perth PH2

### **Independent Advocacy Perth & Kinross**

Sarah Fogg & Andy Park, 01738 587887, [info@iapk.org.uk](mailto:info@iapk.org.uk) : IAPK 90 Tay Street  
Perth PH2 8NP

**My Rights, My Say** – Children in Scotland; for 12- 15 year olds living in Scotland

## The right to an inclusive education Article 24

- states parties shall ensure an inclusive education system at all levels and lifelong learning directed to ensure:
  - a) persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
  - b) persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
  - c) reasonable accommodation of the individual's requirements is provided;
  - d) persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
  - e) effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
- Section 41 of the 2000 Act extended the right of appeal in section 28H of the 1980 Act to children or young people with legal capacity. (The Age of Legal Capacity (Scotland) Act 1991 states that a person under the age of 16 has legal capacity to instruct a Solicitor where they have a general understanding of what it means to do so, and there is a general presumption that children aged 12 years or more are of

sufficient age and maturity to have that understanding). It is good practice for the education authority to send the intimation to the child or young person as well as the parent so that the learner has full knowledge of the decision since they may also have the right of appeal, as well as their right to express a view. It is good practice to keep parents of a young person informed and involved.

### **3. Parental Engagement, Rights and Responsibilities**

The term 'parent' is specifically defined in the Education (Scotland) Act as including "guardian and any person who is liable to maintain or has parental responsibilities in relation to, or has care of a child or young person".

Perth and Kinross Council expects schools and services to make every attempt to engage with parents, particularly when managing the behaviour of a child or young person is challenging. Parents can be positive partners who can support the school in delivery of a range of strategies and interventions. Unless a serious (possibly unexpected) incident has taken place, parents should be informed at an early stage when their child's behaviour begins to escalate and be helped to understand and where possible inform the strategies the school puts in place. In the event of an exclusion being considered, parents should be made aware of this. Parents also have responsibility to support their child's engagement in their education and to work in partnership with the school. Schools and parents need to build positive working relationships to ensure they can successfully work in partnership to improve the child or young person's experience of school.

A parent also has an advocacy role in promoting the views of their child. This is particularly crucial where their child is at risk of being, or has been, excluded. It is good practice to inform parents of how they might gain the support of another adult, professional or organisation, which might assist them or advocate on their behalf, to ensure that the child or young person receives support when needed. Although a child of legal capacity, or a young person, has the right to appeal, the role of the parent in supporting the child or young person and promoting their views should be recognised and supported during this process.

### **4. Preventing and Seeking Alternatives to Exclusion Through Multi-Agency Partnership Approaches**

A partnership approach is fundamental to preventing, or establishing alternatives to, exclusion. This is consistent with GIRFEC and recognises the complexity of the lives of some of our children and young people. When stressful situations are escalating, the plan partners in the team around the child or young person need to work collaboratively to consider how best to modify behaviours through identifying and addressing any root cause factors. For this holistic approach to assessment of wellbeing it is essential that partners have a clear understanding of their roles within the legislative framework and have a shared understanding of thresholds of intervention.

Key partnerships for schools include:

- Educational Psychology
- Social Work
- Health professionals appropriate to the child's/young person's needs
- Community Learning and Development

- The Third Sector
- The Children’s Reporter
- Police Scotland

Schools may work with statutory partners, community partners or other third sector organisation to review the holistic needs of a child or young person and how these can be best met. All have a valuable role to play in this as they may be able to contribute information if the child or young person’s behaviour is being affected by situations outwith the school environment. This collaboration can also help in designing and implementing a flexible and relevant learning pathway. Those at risk of multiple exclusions are often in need of a clear multi-agency focus on their learning progression. Whilst assessing need, the plan partners around the child and young person should consider wellbeing in the widest sense and how this is impacting on learning, to inform learning and support pathways.

A child or young person’s needs may necessitate a flexible approach as to how and where learning takes place. In this situation the responsibility for ensuring that this learning is appropriate, relevant and progressive continues to rest with the school. This includes when the child/young person is learning through a split placement approach out with the school, such as at Connections (primary resource) or Navigate (secondary resource).

There is also a range of internal and external agencies that provide key supports in alternatives to exclusion, such as, REACH, Youth Services and Perth Autism Support. Consideration should be given to ensure any partners are appropriately placed and qualified to meet needs. GDPR must be adhered to. Where a plan involves time for the child or young person in another environment, the school should aim to identify what helps the child or young person in that environment and focus on the transference of this learning including skills for school staff. The plan should enable the child or young person access to education with their peers as much as possible.

The plan partners in the team around the child and young person should consider:

- What is the trigger for the behaviours:
  - a breakdown in behaviour or in relationships in school or elsewhere?
  - changes in other areas of the child/young person’s life?
  - If there has been something missed in the assessment of needs?
  - if the plan to support needs is comprehensive enough and consistently delivered?
- Whether the learner requires additional adult (and/or peer) support in school or someone who can provide a different approach. If so, who can best provide this?
- How the views of the child or young person have been sought and acted upon?
- Whether parents/carers are sufficiently and supportively engaged to provide their views, both when things are working well and not so well?
- What each organisation can bring to the plan?

## **5. Additional considerations for Vulnerable Learners (Protected Characteristics)**

Exclusion can be extremely detrimental, as in addition to removing the opportunities to learn in school, it can convey a sense of rejection and have long-term negative outcomes for the child or young person. Scottish Government and local statistics show that there are identifiable groups who are vulnerable and more likely to be excluded such as those who have Additional Support Needs, are Looked After or care-experienced, or are involved with the Youth Justice system.



Children and young people who are vulnerable are likely to exhibit behaviours to communicate distress. This can be a sign of stress or feeling rejected. It is important that schools do all they can to interpret the behaviour so that partners can collaborate to address the cause. For some of our most vulnerable learners, unconditional positive relationships may be missing, leading to children and young people proactively seeking exclusion.

The Equality Act 2010 states that it is discrimination when a person with protected characteristic is treated less favourably than others are or would be treated. The protected characteristics are disability, gender reassignment, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

In situations where exclusion is being considered for a child or young person within the protected characteristics group, consideration should be given to whether the decision to exclude could be considered discriminatory. The Equality Act 2010 does not prohibit schools from excluding children or young people with protected characteristics, however it does state that it is unlawful to exclude a pupil because of a protected characteristic. Section 85 (2)(e) states that the responsible body of a school must not discriminate against a pupil by excluding the pupil from the school because of their protected characteristic or from discriminating during the exclusion process. Section 85(5)(e) provides that the responsible body must not victimise a pupil by excluding them from the school.

If consideration is being given to excluding a child or young person with a protected characteristic, a discussion with the school or Inclusion Services link Quality Improvement Officer is necessary, prior to the decision to exclude being made. If unable to make contact with a QIO, the Headteacher should seek advice from another Headteacher to support their decision making. Care must be taken when considering the exclusion of disabled children.

## **Disability**

For the purposes of the Act a child or young person has a disability for if he/she:

- has a physical or mental impairment e.g. ASD or ADHD although it should be noted that a medical diagnosis is not essential
- 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 learner is treated unfavourably because of something arising in consequence of their disability, such as a behaviour, and the action taken to exclude cannot be justified. Excluding a disabled learner for behaviour which arises from their disability is likely to result in unlawful disability discrimination, unless it can be shown that the exclusion was a proportionate means of achieving a legitimate aim.

For example, a learner with ADHD being excluded for refusing to sit at their desk, distracting other learners by talking and running around during classes, is likely to be unlawful as they were excluded for behaviour which is related to their disability. The action is unlikely to be viewed as a proportionate means of achieving a legitimate aim as no other efforts were made to support them by means of reasonable adjustments. It is a school's responsibility to make reasonable adjustments to enable our learners to be successful. Therefore, in situations where supports are in place but a behaviour that puts others at risk still happens, for instance a learner with ADHD who has an appropriate package of support in place but

still assaults another learner and/or staff, then an exclusion may be justified because the aim of the exclusion is to ensure the health and safety of others.

Making reasonable adjustments may require changes to disciplinary procedures and other policies in school. It may be necessary to disregard behaviour which is a direct consequence of a learner's disability e.g. disregarding swearing in class by a learner with Tourette's syndrome. Effective information sharing with all staff will be crucial in supporting the learner and consideration should be given as to how to share appropriate information with other children and young people. The duty to make reasonable adjustments requires a school to take positive steps to ensure that disabled pupils can fully participate in the education provided by the school, and that they can enjoy all the benefits, facilities and services that the school provides for other pupils. Many reasonable adjustments are inexpensive and will often involve a change in practice or policy rather than the provision of expensive pieces of equipment or additional staff.

A school's duty to make reasonable adjustments is an anticipatory one expected for disabled pupils generally, and therefore schools need to think in advance about what disabled pupils might require and what adjustments might need to be made for them.

Indirect discrimination can also take place. Indirect discrimination occurs when a school applies a provision, criterion or practice equally for all pupils or a particular pupil group. This can have the effect of disadvantaging those pupils with a protected characteristic as it doesn't take account of reasonable adjustments. It does not matter that the school did not intend to disadvantage the pupils with a particular characteristic in this way and school staff must bear the needs of pupils with disabilities in mind when planning.

Exclusion rates will be monitored by central officers to ensure that any potential of discrimination is identified and addressed. Head Teachers should speak with the school or Inclusion Service link Quality Improvement Officer and/or a member of the Legal Service if concerns about discrimination arise when exclusion is being considered.

### **Children and Young People who have an Additional Support Need, ASN, including Social, Emotional or Behavioural Needs**

Children and young people with additional support needs may not have a disability but still require reasonable adjustments to enable them to participate in their learning and the life of the school. The adjustments that need to be made can change over time.

Some situations, such as transitions increase stress levels and as such, children who are undertaking a transition such as moving from one-year group to another or into a new establishment are more likely to show an escalation in behaviour. Often vulnerable children display unsettled behaviours prior to or immediately after school holidays. Planning around this could help avoid a situation which will potentially lead to exclusion. Consideration should be given to planning transitions to ensure that effective practice is shared and built upon. If the decision to exclude is taken, consideration needs to be given to the child's wellbeing.

If a child or young person has additional support needs, steps must be taken to ensure that any additional provision, such as speech and language therapy, Child and Adolescent Mental Health Service (CAMHS) and/or Occupational Therapy related to those needs, continues during the period of exclusion. It should be ensured that alternative arrangements are made, including an alternative location where this work can be undertaken wherever possible. This would include alternative planning to ensure provision is in place for children and young people who attend other support facilities, such as Connections or Navigate, as part of their education provision. It may be necessary to undertake a risk assessment to minimise risk in these situations.

## Care Experienced Children and Young People

The Independent Care Review highlighted the concerns for children and young people who are care experienced: “The formal and informal exclusion of care-experienced children from school must end. Schools and Local Authorities must do everything required to support children to build positive relationships at school and maintain attendance, engagement and learning in a meaningful and supportive way. Schools in Scotland must also not exacerbate the trauma of children by imposing consequences for challenging behaviour that are restrictive, humiliating and stigmatising”.

Care Experienced (previously Looked After) children and young people require special consideration when there is a risk of exclusion. The Education (Additional Support for Learning Act) (Scotland) Act 2004, states that all Looked After Children and Young People are deemed to have additional support needs unless assessed otherwise. Care Experienced Children and young people fall into four main categories; those who are looked after:

- by a Local Authority in a residential establishment
- with foster carers on behalf of a Local Authority
- in their own home, subject to a Compulsory Supervision Order
- in a kinship care arrangement where the Authority has placed the child

The exclusion of Care Experience children and young people requires additional consideration since exclusion from school may have a significant impact upon their home lives. It may place additional pressures on them, parents or carers and also removes the ability for school to be a protective factor for some. Any actions being considered should minimise disruption or uncertainty. Local authorities have legal duties to ensure that Care Experienced children and young people have the same access to educational opportunities as other children and young people. These ‘corporate parent’ responsibilities include making additional arrangements to overcome disadvantage and participation in education in the broadest sense.

If a Care Experienced child or young person has escalating behaviours, it is important that the Lead Professional calls a Child and Young Person Planning/Professional’s meeting at the earliest opportunity to explore causes and solutions. This will allow partners to review the Child and Young Person’s Plan and establish if any additional measures are required to minimise the risk of exclusion. In most cases it will be appropriate to work through the risk assessment process to inform the plan and mitigate to minimise the risk. The Staged Intervention Framework should be reviewed to consider any alternative supports, where this may be a requirement.

Where a Head Teacher is considering an exclusion of a Care Experienced child or young person or a child or young person on the Child Protection Register, they must make every effort to contact the Social Worker, Lead Professional and/or the Duty Social Worker prior to excluding the child. Although the decision to exclude ultimately rests with the Head Teacher of the school, the discussion should include consideration of the safety of the child during the period of exclusion. If the child or young person is in a foster placement, then the foster carer should also be contacted for discussion at the earliest opportunity. Where it has not been possible to contact the Social Worker or their Senior, email communication of the exclusion should be provided to both.

It is also important to check SEEMiS for any child protection related alert. This may require alternative provision must be put in place urgently to ensure the ongoing monitoring of the welfare of the child and young person, as well as provision made for their education needs as described in the Child and Young Person’s Plan.

The Headteacher/Lead Professional should ensure that a Child and Young Person's Planning meeting is convened as a matter of urgency to ensure a risk assessment is undertaken to minimise risk to the child or young person while excluded. In most cases this meeting should take place within 3 days. The child or young person should be actively involved and participate in all stages of the process.

## **6. Taking the Decision to Exclude**

Exclusions generally fall into one of two categories: sudden, unexpected but serious incidents or on-going difficulties over an extended period where other supports have not had the desired effect. In exceptional circumstances such as assault, the use of weapons, substance misuse or grossly offensive behaviour, the Head Teacher may consider that the behaviour of a child or young person is such that the pupil should be excluded.

In responding to substance misuse related incidents, schools must follow education authority guidance and the information contained within Dealing with Drugs and Alcohol Related Incidents, Guidance for Tayside School [Drugs Related Incidents in School](#). In all such circumstances, parents or carers will be involved, and their cooperation expected. It should be understood by the child, young person and their parents that the Police will be contacted if drugs misuse is suspected or discovered. Even where the young person is aged 16 or over, their parents will still be contacted, and the young person notified accordingly. Where a child or young person discloses information that suggests that illegal drugs are taken either within or outwith school, that must be reported to the Head Teacher.

Before taking the decision to exclude in relation to any incident the following questions should be carefully considered:

- is the child or young person safe?
- does the child or young person have additional support needs; are they Care Experienced; on the Child Protection Register?
- is exclusion the last resort or are their other supports for the child or young person that could still be tried?
- were agreed support contingencies and protocols followed?
- does the frequency and seriousness necessitate exclusion?
- how have other children and young people and staff been affected and how could this be resolved?
- what is the likely longer-term impact of exclusion upon the child or young person, and their wider circumstances?

If the decision to exclude is taken, the Head Teacher must ensure that the child or young person does not leave school until safety, health and wellbeing are assured and appropriate arrangements are in place.

Each child and young person and situation must be looked at individually. It is very important to identify what the purpose of the exclusion is and what positive outcomes can be achieved by excluding a young person from education. This might include:

- Time to review the risk assessment and planning in place, to ensure the agreed support is in place
- To undertake further assessment to support the identification of needs, to ensure that any additional support is put in place

- the young person being helped to recognise harmful behaviours and create a plan to overcome them.
- supporting the young person to take responsibility for resolving the situation

Parents, children and young people must be given full reasons for the exclusion. It is not enough simply to quote the SEEMiS definition. A timescale should be agreed and shared.

Exclusion should not be used as a punishment. Each exclusion should reflect individual circumstances and should be as brief as possible. Consideration should be given as to whether there are other ways the matter could be dealt with. Exclusion must be the very last resort. Consideration should be given to the tasks which are required to be completed, i.e. review of risk assessment, in determining the duration of the exclusion. An exclusion should not exceed 5 days (one calendar week) without discussion with the school link Quality Improvement Officer.

Since exclusion can significantly impact upon learning and future (non) engagement with learning, it is necessary to consider how it will contribute to an improvement or change in the behaviour which is leading to exclusion. This careful consideration will help limit the impact on long-term life chances.

Given that exclusion is a very short-term option, consideration of exclusion should always trigger a re-evaluation of strategies of intervention used so far, and a further refinement of plans supporting learners. This will include consideration of:

- whether the exclusion is indicative of a breakdown in behaviour or in relationships
- whether the child or young person requires additional adult (and/or peer) support or a different approach. If so, who can best provide this?
- how the views of the child and young person have been sought and acted upon
- whether parents/carers have been sufficiently and supportively engaged, both
- when things are working well and not so well

## 7. Definition of Exclusion

The power to exclude rests with local authorities under Regulation 4 of the Schools General (Scotland) Regulations 1975 as amended. In addition to schools, this also applies to early learning and childcare settings under the management of education authorities, although the use of exclusion in such settings would be very unusual and would not reflect high quality inclusive practice.

The Education Authority can delegate power to exclude and in Perth and Kinross this decision has been delegated to Head Teachers. **Exclusions can be appealed, and decision making may have to be justified in court.**

Exclusion can be legally considered when:

- Allowing the pupil to continue attendance at the school would be likely to be seriously detrimental to order and discipline in the school and or the educational wellbeing of the pupils there; or
- The parent of the pupil refuses or fails to comply, or allow the pupil to comply, with the regulations or disciplinary requirements of the school. This legal ground is one which is uncommonly called upon in the context of effective partnership working. The Guidance for Schools on Parental Communication outlines the range of supports and strategies schools can deploy to foster and maintain good

communications with parents. Having a school Parental Communications Policy can help establish boundaries of home/ school communications and manage parental expectations.

Included, Engaged and Involved Part 2 is very clear that:

- exclusion should be a last resort
- exclusion should be a proportionate response where there is no alternative
- the purpose of the exclusion and impact on the child or young person should be taken into consideration
- exclusion should be a short-term measure with the aim of improving outcomes

Exclusion from school of a pupil other than in compliance with the Schools General (Scotland) Regulations 1975, shown above, has no legal basis. Accordingly, there is no legal basis for what might be termed ‘informal exclusions’ with schools requesting that children are collected to prevent an exclusion from occurring. Failure to comply with the Regulations in such circumstances may render the Authority open to legal challenge by the parents or the pupil.

Exclusion from school of a pupil other than in compliance with the Schools General (Scotland) Regulations 1975 as amended, has no legal basis. Accordingly, there is no legal basis for what might be termed “informal exclusions” with schools requesting that children are collected to prevent an exclusion from occurring. Failure to comply with the Regulations in such circumstances may render the Authority open to legal challenge by the parents or the pupil.

Temporary exclusion, suspension, informal exclusion: terms such as “temporary exclusion”, “suspension”, “informal exclusion” and “expulsion” have no place in policy or in the legal framework. All instances where parents are requested to not take a child to school or to take a child home from school, for all or part of the day are forms of exclusion and should be recorded as such. The only exception to this is when a child or young person is unwell. The term “exclusion” refers to exclusion for a fixed period which should be for as short a period as possible.

In some serious cases, where the exclusion cannot reasonably be resolved and where exceptional circumstances are so severe that the child or young person cannot be readmitted to the school, the headteacher should refer to their link Quality Improvement Officer (School Improvement), who will investigate and make recommendations to the Head of Education and Learning, as to whether the child or young person should be removed from the register.

In such cases, this should be managed as a supportive way forward for the child or young person with transition planning put into place, to bring some resolution to the situation and avoid unnecessary gaps in educational provision. Schools must still offer a date and time for a meeting within 5 days, as with all other exclusions.

In the event of a child or young person being removed from the register of a school the education authority must make alternative arrangements for that child or young person’s education.

## **8. Alternative Education Provision during Exclusion**

Without continuation of their studies the likelihood is that children and young people who are excluded will fall further behind in their education and be less able to achieve their potential. Section 14(3) of the Education (Scotland) Act 1980 requires the education authority to ensure that excluded children and young people are given the opportunity to continue their studies, without undue delay.

Section 127 of the Children's Hearing (Scotland) Act 2011 gives the National Convener of the Children's Hearing the power to refer a case to the Scottish Ministers where it appears to the Children's Hearing that a Local Authority is under a duty, in terms of Section 14(3) of the 1980 Act, to provide education for an excluded pupil (who is the subject of that Hearing) and the local authority is failing to comply with that duty. Consideration should be given to the best means of providing this support to continue learning which will be dependent upon the age and stage of the child/young person.

### **Requirements of Schools**

In all exclusion situations, even if the exclusion is only for one-day, schools are expected to:

- ensure continuation of any existing involvement, by the child or young person, in non-school based learning, for example: work experience, college course/s, unless there is a health and safety issue. It is important to note, that an exclusion applies only to a school establishment and therefore in community schools, the child or young person who is excluded can continue to access community facilities.
- ensure continuation of support specified for a child or young person with additional support needs, such as therapies, at an agreed location.
- consider the use of IT equipment and how this can be accessed safely and appropriately ensuring access is focussed to the child or young person's need.
- provide homework or class work and maintain contact with the learner on a regular basis.
- provide the name of a school contact who can address any concerns relating to the course work. It is anticipated that the nature of work given will be dependent upon the age and stage of the child or young person. This may include considering our responsibilities as a corporate parent.

## **9. Rights to Appeal**

When a Head Teacher decides to exclude, the parents and the pupil, if aged 12 or over (and of legal capacity), must be informed of their right to appeal against the exclusion decision. A pupil aged 16 or over has the sole right of appeal but his/her parents do not have such a right.

When parents or the young person have expressed their desire to appeal, in terms of good practice, the parents and/ or young person should also be informed that they can request a further meeting, designed to consider issues in school and to try to bring together the different parties to reach an agreement on the best way forward. Attending such a meeting does not prevent the parents' or the young person's right to appeal the exclusion decision but may help resolve the situation. Where an appeal has been made against exclusion, this will not affect the return date to school. The learner will return to school on the date set out in the exclusion letter. Appeals should be submitted to Education Appeal Committee.

The Headteacher will be informed if a parent or young person does decide to appeal a decision to exclude. An Education Appeal Committee should be held within 28 days of receipt of the reference. With the consent of both parties this timescale may be extended if necessary. At least ten working days before the date fixed for the Education Appeal Committee hearing, the Head of Legal and Governance must receive, from Education & Children's Services, copies of all relevant Information including, correspondence from the exclusion, reports and minutes of any relevant meetings. In addition, at least the day before the hearing, the Head of Legal and Governance should be advised as to whether the child or young person has been readmitted to school and if so, when.

There is no specific time limit for lodging such an appeal. In these circumstances, the Headteacher will be required to be a witness for the Education Authority at any appeal to the Appeals Committee and then as a witness for the Council in any further appeal (by the young person or parent) to the Sheriff Court. The Council Legal Services may require taking a statement from the Head Teacher and any other witnesses. At this time, the Solicitor involved would also advise those concerned as to the procedures involved at the appeal, whether before the committee or Sheriff.

The Equality Act 2010 also provides the right to make a claim (appeal) to the ASN Tribunal in respect of an exclusion where it is considered that there is discrimination in respect of a child or young person's disability. Claims may be made by the parent or the child (where the child (where the child has the capacity to make the claim)). A case conference call with the legal member and both parties will normally be fixed for shortly after the end of the case statement period to discuss how the hearing will proceed, confirm what witnesses are to be called and to agree a running order. The ASN tribunal makes its decision after carefully considering all the evidence and arguments presented.

<https://www.healthandeducationchamber.scot/additional-support-needs/12>

## **10. Part-time Timetables**

Perth and Kinross Council aims to ensure all learners are in full-time education and discourage the use of part-time timetables, since child and young people on part-time timetables are often vulnerable to becoming missing in education. In exceptional circumstances as part of a positive phased re-engagement strategy, and with the agreement of parents, the young person, partner agencies, a relevant personalised timetable may be developed by the school.

Following exclusion, schools, supported by the Education Authority should continue to ensure that learners attend school or another learning environment for 25 hours in primary schools and 27.5 hours for secondary schools (Guidance Circular 4/2002: Length of the school week: learners in special schools and units).

If a part-time timetable is used at any point, it should be developed for the child or young person through a Child/Young Person Plan and in line with supporting children and young people's procedures and should:

- state the intended purpose of the part-time arrangement
- include details of the arrangements for the education of the child and young person outwith school building
- the expected time span of the part-time arrangement (must be time related)
- the steps which will be taken to bring about full-time attendance



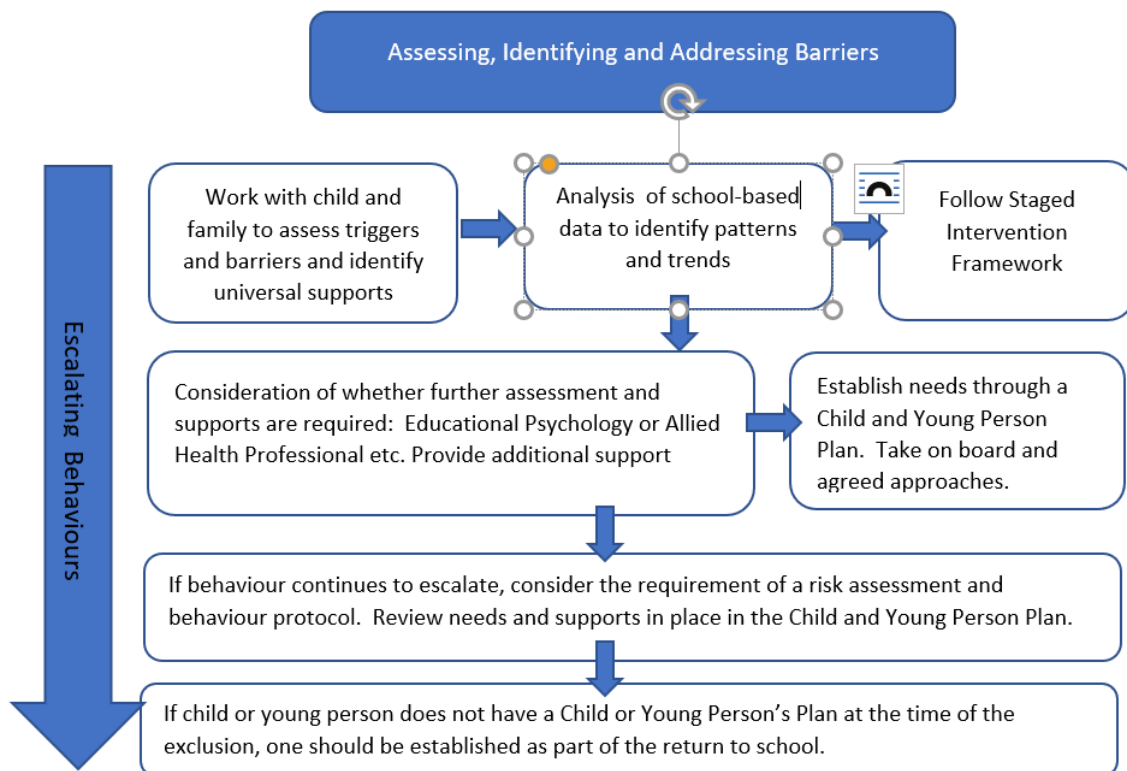
Part-time timetables are a temporary solution and regularly reviewed. Part-time arrangements should not exceed 6 weeks and should be subject to 3 weekly reviews. It is recognised that this approach can be used as a positive, planned and agreed strategy with parents and young people to re-integrate the learner. Such arrangements should be recorded in SEEMiS under Code PTX. Education and Children's Services will keep an accurate database of all learners on part-time timetables. This will be reviewed through school quality improvement visits.

In some cases, it may be appropriate for a child or young person to be intensively supported in an alternative provision, such as, Connections or Navigate, for a period of time whilst remaining on the roll and being the responsibility of the school. This would be provided as part of the education provision for a child or young people, where they would still be attending their enrolled mainstream school for part of their week. This is referred to as a 'split placement', where attendance is shared across two educational settings. This Where this is the case, the aim will be to return the child and young person to their own school with the skills to be successful there. Decisions on how best to support children and young people should be made by the team around the child and be recorded in a Child and Young Person's Plan.

## Part 2: Procedure

When a child or young person's behaviour starts to escalate to the extent that the Head Teacher is considering exclusion, the following Considered and Supporting Behaviours flow diagram and Learner Exhibiting Behaviour flow diagram should be followed:

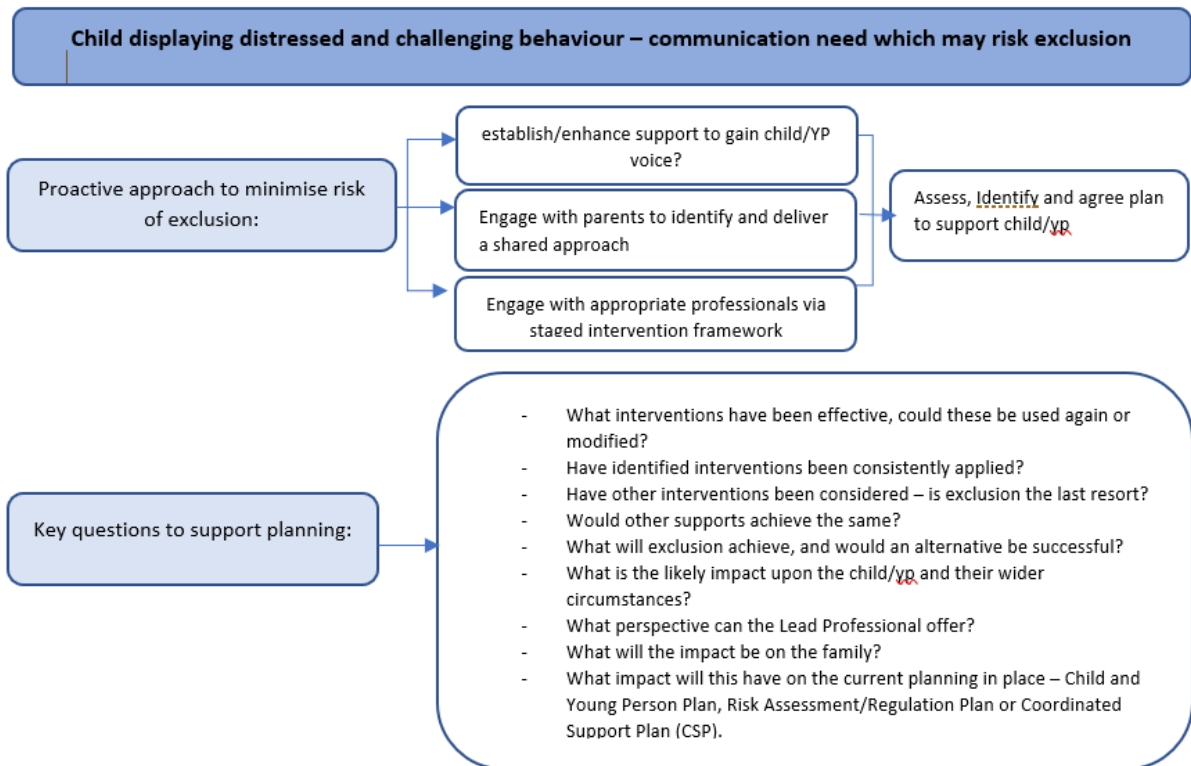
### 11. Considering and Improving Behaviours:



The checklist 1a page 53 from Included, Engaged and Involved Part 2 (hyperlink) may be helpful in supporting this process for senior leaders.

Checklist 1b page 55 for specific circumstances eg vulnerable, looked after.

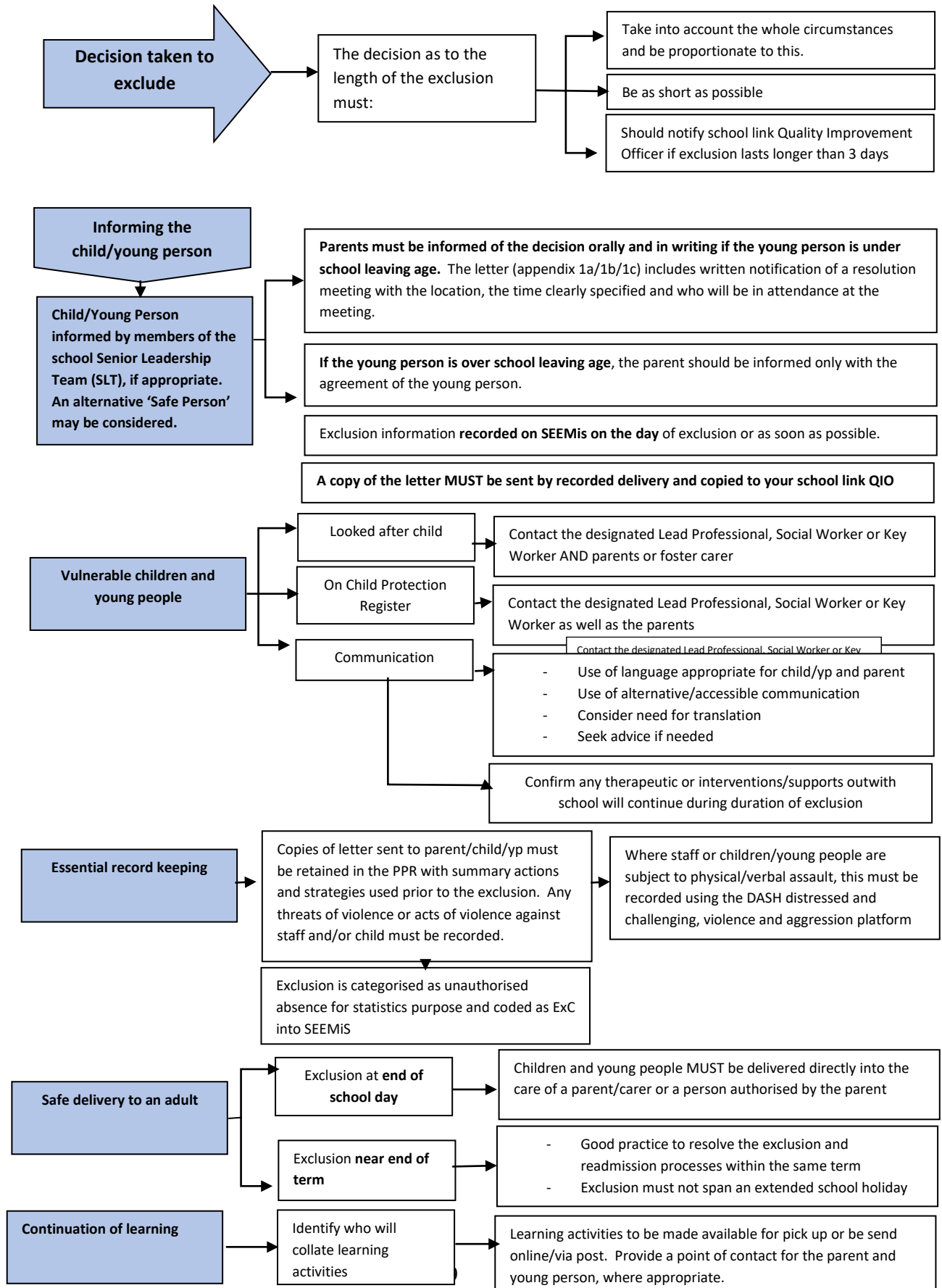
## 12. Learner exhibiting ongoing behaviours flow diagram:



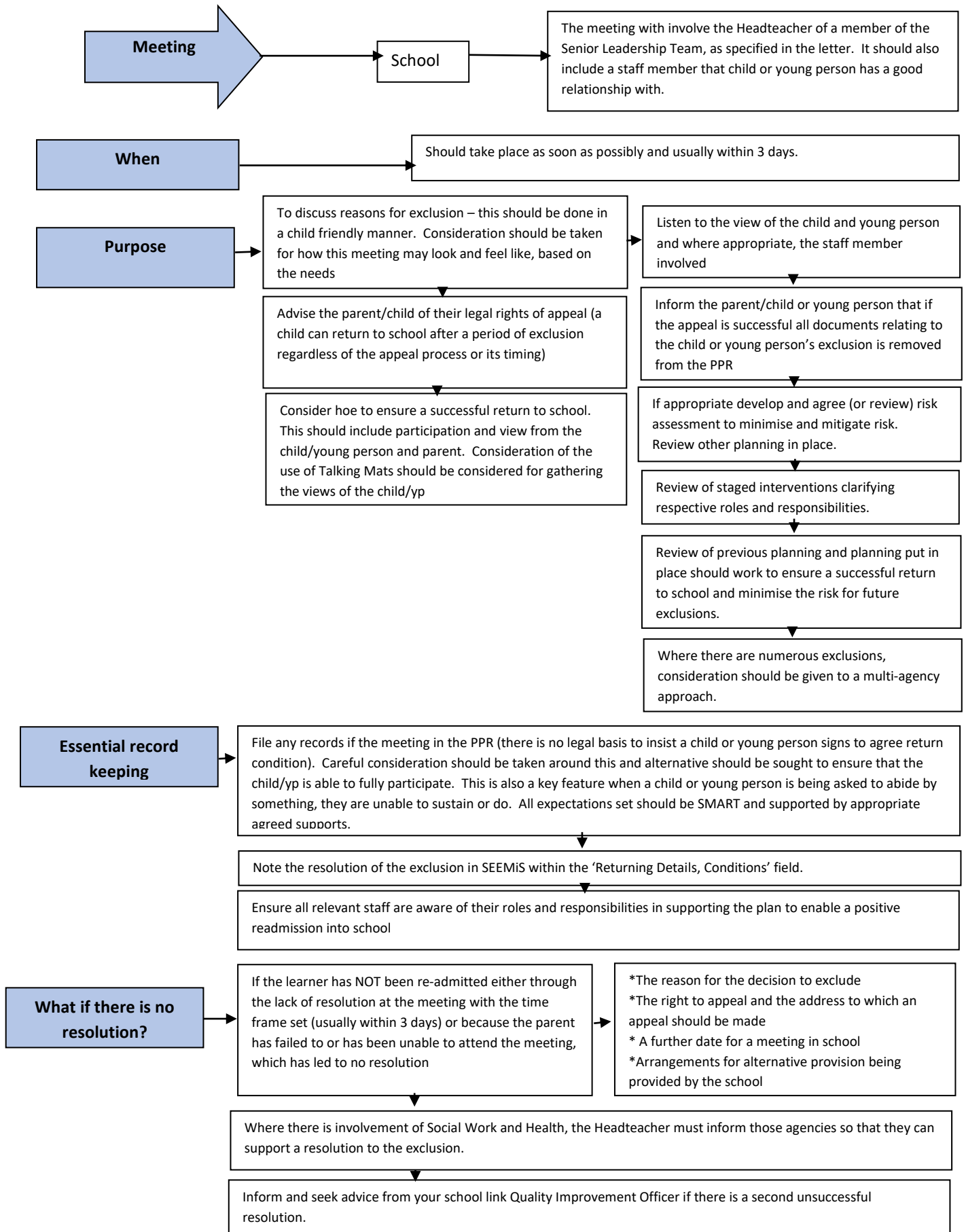
**Vulnerable (Protected Characteristics) Children and Young People – discussion with Lead Professional or Quality Improvement Officer to help inform decision, where required**

| On the Child Protection Register or current/previous child protection concerns  | Look After Child, LAC, our role as Corporate Parent   | Children with Additional Support Needs or disability (including young carers)   |
|---|---|---|
| Alternative to exclusion should be explored and exhausted with exclusion only being used in exceptional circumstances | Alternative to exclusion should be explored and exhausted with exclusion only being used in exceptional circumstances | Alternative to exclusion should be explored and exhausted with exclusion only being used in exceptional circumstances |
| Check <u>SEEMIS</u> for child protection message  | Review planning in place with Lead Professional   | Ensure compliance with the Equality Act 2010  |
| Consult Child Protection Officer and Social Worker/Lead Professional  | Risk assessment and regulation plan should be created or reviewed   | Has current planning in place, including risk assessment, been followed by all?                                       |
| Complete risk assessment to ensure child not at risk at home whilst excluded  | Ensure appropriate arrangements are in place at home to support care and wellbeing prior to exclusion taking place    | Taken account of the impact of exclusion on learning and support provision  |
| If excluded, alternative provision must be in place without delay.  | In exceptional circumstances, consult Social Worker/Lead Professional regarding consideration of exclusion            | Advise other professionals involved with the child to ensure continuation of their input                              |
| Plan for return to school for as soon as possible   | Plan for return to school for as soon as possible   | Consider the need for/ review all planning in place   |
|   |   | Plan for return to school for as soon as possible   |

### 13. Flow diagram on the day of exclusion



## 22. Meeting to resolve and plan



## 23. Template Letters

Template letters to be personalised and issued on school headed notepaper

Exclusion letter A [To parent/carer of a pupil without legal capacity]

Dear (Name of Parent/Carer)

Exclusion of (Pupil's Name and Date of Birth)

I regret to advise you that after careful consideration, I have today made the decision to exclude (pupil's name) from school for [number] days for the following reason/s:- [Give brief details of the behaviour, the circumstances and any other relevant information, including relevant previous incidents or context. There should be enough information to enable the recipient to understand why the pupil has been excluded - do not simply use the SEEMIS code]

I therefore consider that to allow (pupil's name) to continue attendance at the school is likely to be seriously detrimental to order and discipline in the school and/or the educational wellbeing of other pupils (Regulation 4(b) of the Schools General (Scotland) Regulations 1975).

It is important that we meet as soon as possible to discuss the circumstances that led to the exclusion. At this meeting we will also plan how we can all work together to support (child/young person's name) to have positive behaviour in school in the future and agree any conditions for readmission. I will meet with you and (child/young person's name) on [date, time and place]. Please contact the school to let us know you can attend this meeting or wish to make other arrangements.

In the meantime, (pupil's name) must not attend school or be present in the school grounds or take part in any school activities until the exclusion has been resolved. To ensure (child/young person's name) continues to access education learning materials will be provided by (email/hard copies sent home with pupil/etc). If you have any questions regarding the work provided to be completed please contact...

You have the right to appeal this exclusion to the Education Appeal Committee. If you wish to appeal you should do so in writing to:-

[educationappeals@pkc.gov.uk](mailto:educationappeals@pkc.gov.uk) or

The Clerk  
The Education Appeal Committee,  
Perth & Kinross Council, Council Buildings,  
2 High Street,  
PERTH, PH1 5PH  
telephone (01738) 475168

[This exclusion does not apply to (name of support service/split placement provision) and (pupil's name) should continue to attend there as normal]. I look forward to meeting with you on [date].

Yours sincerely

[Signature and Designation]

This letter has been sent by first class and recorded delivery post.

Exclusion Letter B [To a pupil with legal capacity]

Dear (Name of young person)

Exclusion of (Pupil's Name and Date of Birth)

I regret to advise you that after careful consideration, I have today made the decision to exclude you from school for the following reason/s:- [Give brief details of the behaviour, the circumstances and any other relevant information, including relevant previous incidents or context. There should be enough information to enable the recipient to understand why the pupil has been excluded].

I therefore consider that to allow you to continue to attend school would be likely to be seriously detrimental to order and discipline in the school and/or the educational wellbeing of the pupils there (Regulation 4(b) of the Schools General (Scotland) Regulations 1975).30

It is important that we meet as soon as possible to discuss the exclusion and plan how we can all work together to support positive behaviour in school and agree any conditions for readmission.

Accordingly, I will meet with you [and your parent/carer] on [date, time and place]. Please contact the school to let us know you can attend this meeting or to make other arrangements. In the meantime, you must not attend school or be present in the school grounds during the school day or take part in any school activities until the exclusion has been resolved. (Note that if school is based in a Community Campus the child/young person cannot be excluded from non-school activities.)

You have the right to appeal this exclusion to the Education Appeal Committee. If you wish to appeal you should do so in writing to: -

[educationappeals@pkc.gov.uk](mailto:educationappeals@pkc.gov.uk) or

The Clerk  
The Education Appeal Committee,  
Perth & Kinross Council, Council Buildings,  
2 High Street,  
PERTH, PH1 5PH  
telephone (01738) 475168

[This exclusion does not apply to (name of support service) and you should continue to attend there as normal]. I look forward to meeting with you on [date].

Yours sincerely

[Signature and Designation]

This letter has been sent by first class and recorded delivery post.

Exclusion Letter C [To parent/carer of a child with legal capacity, enclosing letter B]

Dear (Name of Parent/Carer)

Exclusion of (Pupil's Name and Date of Birth)

I enclose a copy of a letter which has been sent to (pupil's name). This informs (pupil's name) that they have been excluded from school and the reason for the exclusion. It is important that we meet as soon as possible to discuss the circumstances leading to the exclusion and plan how we can all work together to support positive behaviour in school and agree any conditions of readmission.

Accordingly, I will meet with you and (pupil's name) on [date, time, and place]. Please contact the school to let us know you can attend this meeting or to make other arrangements. In the meantime, (pupil's name) must not attend school or be present in the school grounds or take part in any school activities until the exclusion has been resolved.

Either (pupil's name) or you on behalf of (pupil's name) have the right to appeal this exclusion to the Education Appeal Committee. If you wish to appeal you should do so in writing to: -

[educationappeals@pkc.gov.uk](mailto:educationappeals@pkc.gov.uk) or

The Clerk  
The Education Appeal Committee,  
Perth & Kinross Council, Council Buildings,  
2 High Street,  
PERTH, PH1 5PH  
telephone (01738) 475168

I look forward to meeting with you on [date].

Yours sincerely

[Signature and Designation]

This letter has been sent by first class and recorded delivery post.



Exclusion Letter D [Unresolved exclusion to parent/carer, child with legal capacity or young person]

Dear (Name of Parent/Carer/and Child or Young Person)

Unresolved Exclusion of (Pupil's Name and Date of Birth)

I refer to our meeting arranged for [Date] and am disappointed you did not attend. You will appreciate that (pupil's name) remains excluded. As you know the reason for the decision to exclude is that [Brief description of the reasons for the exclusion. Repeat the paragraph from the exclusion letter here].

It is important that we meet as soon as possible to resolve the exclusion and plan how we can all work together to support positive behaviour in school. Accordingly, I will meet with you on [date, time and place]. Please contact the school to let us know you can attend this meeting or to make other arrangements.

In the meantime, (pupil's name) must not attend school or be present in the school grounds or take part in any school activities until the exclusion has been resolved. You have previously been advised of the right to appeal this exclusion to the Education Appeal Committee. If you wish to appeal you should do so in writing to: -

[educationappeals@pkc.gov.uk](mailto:educationappeals@pkc.gov.uk) or

The Clerk  
The Education Appeal Committee,  
Perth & Kinross Council, Council Buildings,  
2 High Street,  
PERTH, PH1 5PH  
telephone (01738) 475168

I look forward to meeting with you on [date].

Yours sincerely

[Signature and Designation]

This letter has been sent by first class and recorded delivery post.

Exclusion Letter E [Unresolved exclusion to parent/carer, child with legal capacity or young person]

Dear (Name of Parent/Carer/and Child or Young Person)

Unresolved Exclusion of (Pupil's Name and Date of Birth)

I refer to our meeting which took place on [Date] at which we failed to reach agreement with regard to (pupil's name's) re-admittance to school. You will appreciate that (you or pupil's name) remains excluded as a result. As you know the reason for the decision to exclude is that [Brief description of the reasons for the exclusion. Repeat the paragraph from the exclusion letter here].

It is important that we meet again as soon as possible to find a way to resolve the exclusion and plan how we can all work together to support (child/young person's name) to have positive behaviour in school. Accordingly, I invite you to meet with me on [date, time, and place]. Please contact the school to let us know you can attend this meeting or to make other arrangements. In the meantime, (pupil's name) must not attend school or be present in the school grounds during school time or take part in any school activities until the exclusion has been resolved. Alternative educational provision has been made for (you or pupil's name) [here state what the alternative provision is]

You have previously been advised of the right to appeal this exclusion to the Education Appeal Committee. If you wish to appeal you should do so in writing to: -

[educationappeals@pkc.gov.uk](mailto:educationappeals@pkc.gov.uk) or

The Clerk  
The Education Appeal Committee,  
Perth & Kinross Council, Council Buildings,  
2 High Street,  
PERTH, PH1 5PH  
telephone (01738) 475168

Yours sincerely

[Signature and Designation]

This letter has been sent by first class and recorded delivery post.

[Exemplar of a letter to a pupil with legal capacity]

Dear insert learners name,

I regret to advise you that after careful consideration, I have today made the decision to exclude you from school from insert dates inclusive for the following reason: On the insert accurate timing of incident your behaviour was completely opposite to the values of the school and with the behaviour that represents the best of you as a person.

Explanation of the facts and any actions taken by the learner and staff: When you arrived at Modern Studies you were in the middle of a heated discussion with another pupil. This had been going on since the previous class and concerned the other pupil's sexuality. You were berating the other pupil for being "gay". You threatened him by saying that you would fight him after school. This is a pupil who you have pestered on previous occasions and who was upset by the insults and threats that you made on this occasion.

Explanation of why the decision was taken to exclude:

All of this disrupts the good order of the school, the education of the class and your own education. Your language was inappropriate and there is a particular issue with the terms used to address the other boy: they are examples of homophobic abuse and, as sexuality is a protected characteristic, must be classified as bullying in school and would be taken very seriously by the authorities if such an incident was to occur outside school. Clearly, it is not acceptable to threaten physically pupils or staff.

In recent weeks you had a spell of several days in which you managed your behaviour much better. That is the insert learner name that we need to see in school. A repeat of similar behaviour to the above will lead to similar consequences. I therefore consider that in all the circumstances to allow you to continue attendance at the school would be likely to be seriously detrimental to order and discipline in the school and/or the educational wellbeing of the pupils there (Regulation 4(b) of the Schools General (Scotland) Regulations 1975).

It is important that we meet as soon as possible to discuss the exclusion and plan how we can work together to support positive behaviour and relationships in school. Accordingly, I have arranged for us to discuss the above incident on insert date and time. Please contact the school to let us know you can attend this meeting or to make other arrangements.

In the meantime, you must not attend school or be present in the school grounds or take part in any school activities until the exclusion has been resolved. You have the right to appeal this exclusion to the Education Appeal Committee. If you wish to appeal you should do so in writing to: -

[educationappeals@pkc.gov.uk](mailto:educationappeals@pkc.gov.uk) or

The Clerk  
The Education Appeal Committee,  
Perth & Kinross Council, Council Buildings,  
2 High Street,  
PERTH, PH1 5PH  
telephone (01738) 475168

I look forward to our telephone meeting with you on insert date and time.

Yours sincerely

(Signature and Designation)

