

Included, Engaged and Involved Part 2: A Positive Approach to Managing School Exclusions – Scottish Government Consultation (Draft Guidance)

Response from Children in Scotland (December 2010)

Consultation questions:

Q1. Introduction, any comments on this section of the document?

The introduction provides a good general overview of the law, policy and practice in respect of school exclusions. Some additional information, however, may provide a more comprehensive context. In paragraph 6, an indication of the frequency, as well as the duration, of exclusion would be helpful. It would also be useful to include a brief summary of what does now – and should in future -- happen to children who are excluded, in terms of both procedure and provision of help.

Further explanation and analysis of what constitutes a circumstance identified as being 'seriously detrimental to order and discipline' (Para 3) – and thus, a trigger for exclusion -- would be a helpful addition to this guidance. It is vital that there is a reasonably consistent understanding and approach both within and across schools in taking this 'extremely serious decision'.

The consultation document reveals that the two most common reasons for exclusion are 'general and persistent disobedience' and 'verbal abuse'. And yet, the decision as to what constitutes – or the threshold for -- either of these criteria remains highly subjective. This is concerning at a policy level, e.g. when two schools in the same local authority act upon markedly different standards and thresholds, or when there is a *de facto* 'post code lottery' across education authorities, given that we live in a society where student mobility is not rare.

However, in terms of this guidance, the subjective differences in the definitions, standards and thresholds leading to expulsion are particularly pernicious when they occur *within the same school*. If X behaviour/language are okay (or routinely overlooked/tolerated without consequence) with some staff members, but lead to student expulsion when X behaviour/language occurs with other staff members in the same school, then students may think they are being 'set up' (albeit inadvertently) for punishment by the inconsistency and subjectivity of the staff.

Some pupils, of course, are 'experts' in sorting out what they can and cannot *get away with* in relation to all the school staff with whom they interact. So, they adjust their behaviour and language accordingly. However, other students are not clever in this way – especially those with certain kinds of learning and/or social/emotional difficulties. They find such adult subjectivity confusing and upsetting. It is not surprising that the statistics reveal that such already-disadvantaged pupils are also the most likely to end up being excluded. Clearly identifying and discouraging this *adult* problem would enhance this guidance.

The draft guidance does give welcome and appropriate attention to the importance of the school's ethos and the attitudes and behaviour of its staff members. However, the guidance would be more helpful if it was clearer about the specific ways in which these factors could both prevent and minimise the need for school exclusions. Similarly, the guidance supports additional CPD and other training, but the content of these (and relative merits of different types/approaches) are not as explicitly described as could be the case.

Paragraphs 8 and 9 raise more questions than they answer. Why is exclusion used more frequently by some schools than others -- and why do another set of Scottish schools never exclude students? What are the real circumstances/causes that distinguish temporary from permanent exclusions? What does now, and should in the future, happen to those children 'removed from the register'? Why have exclusions dropped so dramatically, and how has this been reflected in pupil outcomes? Why, despite many policy, practice and legislative developments, do looked after children and children with additional support needs still have the highest rates of exclusion -- even from provision that is intended to meet their particular needs? The answers to these queries could alter the guidance offered.

The guidance notes a strong correlation between school exclusion and future criminal behaviour (Para 11). What are readers of this point supposed to think or do in light of that correlation? It is possibly misleading to describe it as a *predictor*, as there is not equally solid evidence demonstrating that school exclusion is a cause of criminality among young people. The two circumstances in which an element of causality might be posited are: a) in cases when the crimes occur during the times when excluded students normally would have been in school; and, b) if the students take to heart the message/label of being 'bad' and subsequently live down to that negative expectation in the community, too.

Children who are excluded from school, and adults who become involved in the criminal justice system, share many characteristics that increase their risk of disadvantage and are likely to place them on life trajectories leading to adverse outcomes. Even if exclusion were banned, some young people doubtless would still be very likely to end up in the criminal justice system. It is important that the risk factors, often existing from early life, are also acknowledged and addressed

(consistently with the Early Years Framework and GIRFEC) as soon as possible -- thus minimising the likelihood of a pupil reaching the point where exclusion is considered (and as Para 13 indicates). This is also relevant to the following paragraph. What is important is that the efforts made by schools, other local authority staff and partner agencies to reduce exclusions is actually resulting in better attendance, improved behaviour and, most critically, better educational outcomes. A fall in the number of exclusions *per se* is not sufficient proof of positive change.

Q2. Purpose and guidance of structure

This section seems quite clear other than Paragraph 19 'community development learning staff' – does this mean 'community learning & development workers'?

Q3 Policy context

This section sets out clearly most of the relevant legislation and key policies of the Scottish Government. In paragraph 34, however, it should be made clear that 'throughout their education', in terms of the Additional Support for Learning Act, means from birth where necessary, not simply when the child enters school. Similarly, the guidance would be enhanced if the 'prevention' section made stronger reference to, and offered more specific connections with, the Early Years Framework.

In paragraph 36, it is important that the implications of Article 3 of the UNCRC are articulated. A decision to exclude a child should meet the test of being consistent with this principle.

In terms of local authority duties towards children 'in need', the Children (Scotland) Act 1995 should be mentioned.

Q4. Key Principles, any comments?

We agree with the key principles and would urge that they inform any decision to exclude. In particular, we believe that schools should ensure that every effort is made to prevent exclusion – not just once difficulties become apparent, but as soon as risk is identified – and that it is consistently and invariably seen (in keeping with this guidance) as a sanction of 'last resort'.

We also would like to see some reference to the importance of flexibility and individual responsiveness. Again, this is consistent with GIRFEC, but is not always adhered to in schools where a 'one size fits all' approach underpins disciplinary practice. There is a potential tension between the need for consistency (i.e. avoiding excessive subjectivity) and the need for flexibility. However, this is a tension that many schools recognise and deal with well – which means that it is a point that could be highlighted and illustrated through a specific case/example.

The principle that is not adequately articulated within this guidance concerns the crucial relationship between adult (staff) *actions* and student *reactions* leading to exclusion. The implicit assumption throughout this document is that every staff member is always behaving well/appropriately and is neither causing nor contributing to the negative behaviour leading to a student's exclusion. Both research and common experience, however, indicate that this is not the case. Unfortunately, it remains true that a small number of staff members treat a small number of children in bullying, negative or unprofessional ways on a regular basis – and even normally first-rate staff members (being only human) on some occasions fall short of the good conduct mark themselves.

And yet, this guidance does not explicitly and powerfully discuss the possibility of a 'cause and effect' dynamic in the relationship between a staff member and student – a dynamic that results in exclusion of the student, but no sanction for the staff member. The closest the guidance comes is in the excellent case study revealing how the clearly unacceptable behaviour of an autistic pupil was inadvertently provoked by the poor performance of the staff member in that lunchroom situation. The principle is that prior to making an exclusion decision, schools must make a reasonable effort to understand the role of staff members in the story behind an individual student's bad behaviour.

Q5. Prevention, Early Intervention and Staged Intervention

Despite the title of the section, there is little directly said about '*prevention*', i.e. doing what is possible to keep problems from developing in the first place. Given that the starting point for this guidance is when children enter school, it is understandable that emphasising the importance of the earliest years – from antenatal to pre-school – might not seem helpful or necessary. The seeds of some problems eventually leading to exclusion have already been sown and cannot be prevented. However, it would be good for school staff members to understand that they, too, have a vested interest in the successful implementation of Scotland's Early Years Framework and primary prevention.

There also are key prevention activities in which schools could and should engage – and therefore, that merit discussion in this guidance. Better coordination with the existing pre-schools and childcare providers in the catchment area could lead to better transitions into school and fewer problems at school. Particularly (but not exclusively) in schools serving multiple deprivation areas, placing a strong emphasis on social/emotional development and conflict resolution from the first day of the first year of formal education could have a positive preventative impact. Building the strongest and most positive possible relationships with mothers/fathers/carers from the outset will yield behavioural benefits for schools. And finally, school staff being better trained in both child development and in dealing well with additional support needs is a concrete prevention strategy that should be highlighted (with the others noted above) in this guidance.

We support the early intervention and staged intervention approaches spelled out in this guidance. We agree that there should be one over-arching plan for each child (Para 43) and that the statutory education plans (IEP, CSP) should sit within, and be consistent with, this framework.

The staged intervention approach, and building capacity in mainstream services, described in paragraph 45, are welcome, as is a move towards more localised decision-making. Again, we wish to reiterate that 'staged intervention' should mean action to reduce the likelihood of predictable difficulties, rather than waiting until they have begun to affect a child's education adversely.

We completely concur with the quote from the HMIe report in paragraph 50. Respecting and involving young people, no matter what their circumstances, will result in more positive behaviour and a better educational experience. It should not be assumed that all teachers understand and practice this in the most effective way. In many exclusions, the interaction between pupil and teacher has been pivotal; as noted earlier, responsibility is not all one-sided.

The extensive descriptions of effective interventions are useful, but it would have been helpful to have some sense of the impact (as well as the activity).

Q6. Consideration of Individual Circumstances. Any comments on this section, on child protection register or for whom there are previous or current concerns and those with ASN?

We have referred to this in our answer to question 1. We absolutely believe that individual needs and circumstances should inform all decisions about a child, and should be demonstrably in her/his best interests. While challenging behaviour is clearly not acceptable in a classroom setting, the response must take into account the individual's situation. Looked after children and those with additional support needs may be struggling with the effect of trauma, abuse, neglect and failure. These factors must be taken into account, even when this means, for example, that one child is not excluded for displaying behaviour that might lead to exclusion of another child having a very different set of circumstances. The high incidence of exclusion among certain groups indicates that schools are not always effective in responding well to their distinctive issues.

The lack of signposting to sources of information, advice and assistance on additional support for learning is a marked weakness of this section of the guidance. This should be corrected by including a description of, and references to, Enquire (the Scottish Government funded ASL service for parents, practitioners and pupils). There also should be signposting to mediation services, as a way of dealing with conflicts before – or after – they result in school exclusion. These independent mediation services (such as Resolve: ASL, operated

by Children in Scotland) can be found through the Scottish Mediation Network. They also could be the source of a good additional case study for this guidance.

Q7: Should there be more specific guidance on exclusion from special schools?

In line with what we have said above, yes. The same also is true about children receiving additional support of any kind in mainstream education (the majority of those with additional needs).

Q8: Decision making, managing exclusions and re-engagement. Any comments?

It is important that children who do not have active and positive parental support (Para 124) are not doubly disadvantaged. It is also essential that authorities make immediate and comprehensive arrangements to sustain continuity of education when pupils are excluded. While the provision of interim teaching support by many local authorities is commendable, it must be of sufficient frequency and duration to ensure that the child does not fall further behind educationally. After all, feeling frustrated and like a failure at school is one common reason why children act in unwelcome and negative ways.

Q9: Para137-141 should we provide more guidance around written notification to parent/carers?

Formal notification of any exclusion should always be given in writing.

Q10: Paras 149-152: need for additional guidance on timescales, reason and right of appeal?

Appropriate informational materials should be provided routinely to all parents/carers where a child has been excluded -- setting out the legal situation, rights and process of appeal, and sources of advice, help and support.

Q11: Paras 166-174: need for more guidance on timescales and alternative provision?

There should be much more specific guidance for authorities as to what constitutes an adequate and appropriate level and type of education in this context.

Re-engagement

Q12: Annex B- legislative position on exclusion, any comments?

Please see answer to question 11 above in respect of paragraph 31.

Parental roles/responsibilities

Q13: Annex D- Approaches to improving relationships and promoting positive behaviour. Any comments?

This is a useful summary of tried and tested approaches and resource materials. Some indication of effectiveness for each would be useful.

Q 14: Case studies and exemplification

Please see answer to question 13 above.

Overall comments

Showing what works as well as describing interventions would be valuable. Not enough emphasis is placed on GIRFEC principles – ensuring a customised, coordinated and personal response to each situation where exclusion is being considered. Early intervention does not mean sitting on an emerging problem to see if it spontaneously improves or gets worse. It means building an ethos of support in early life for children whose circumstances put them at greater risk of exclusion. This needs to be given more prominence in the document.

The biggest missing piece of the exclusion puzzle in this consultation document is the lack of guidance about the importance of – and practical signposting about – **properly assessing the underlying causes of problematic behaviour by pupils**. In particular, the guidance is virtually silent about the reality that some children have underlying – and too often, undiagnosed – medical conditions that explain some of their behaviour. To see, and deal with, only the behaviour and thereby, to ignore the deeper physical, mental health or other causal realities is to miss what may be the most crucial elements of an individual child's story.

To cite only one of numerous examples, some pupils have suffered brain and nervous system damage (e.g. from injuries or foetal alcohol exposure) that have left them literally unable to control their behaviour in acceptable ways within school. Foetal alcohol harm, for example, adversely affects the brain's 'executive functions' – i.e. the ability to *plan*, to *learn from experience* and to *control impulses* -- all of which are key to normal, acceptable school behaviour. Punishing children through exclusion for exhibiting behaviours not within their control is both counterproductive and cruel. The guidance should strongly encourage school staff members to consider the possibility that these are not simply undisciplined, wilful or 'bad' children – and point them in the direction of getting the information, advice and assistance required to make more accurate assessments of, and more useful referrals for, children whose behaviour has placed them on the road to exclusion from school.

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Children in Scotland is the national umbrella agency for organisations and professionals working with and for children, young people and their families. It exists to identify and promote the interests of children and their families and to ensure that policies and services and other provisions are of the highest possible quality and are able to meet the needs of a diverse society. Children in Scotland represents more than 400 members, including 90% of Scottish local authorities, all major voluntary, statutory and private children's agencies, professional organisations, as well as many other smaller community groups and children's services. It is linked with similar agencies in other parts of the UK and Europe.

The work of Children in Scotland encompasses extensive information, policy, research and practice development programmes. The agency works closely with MSPs, the Scottish Government, local authorities and practitioners. It also services groups such as the Cross Party Parliamentary Group on Children and Young People (with YouthLink Scotland). In addition, Children in Scotland hosts Enquire - the national advice service for additional support for learning, and Resolve: ASL, Scotland's largest independent education mediation service.