

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Education Operational Delivery Committee
<b>DATE</b>	26 November 2020
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Minimising Exclusion Policy
<b>REPORT NUMBER</b>	OPE/20/221
<b>DIRECTOR</b>	Rob Polkinghorne
<b>CHIEF OFFICER</b>	Eleanor Sheppard
<b>REPORT AUTHOR</b>	Mhairi Shewan
<b>TERMS OF REFERENCE</b>	1.1.5

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### **1. PURPOSE OF REPORT**

1.1 To seek approval for the refreshed Minimising Exclusion Policy.

### **2. RECOMMENDATIONS**

That the Committee:-

- 2.1 note the work undertaken to review the current Exclusion Policy; and
- 2.2 approve the refreshed Minimising Exclusion Policy

### **3. BACKGROUND**

3.1.1 The current Exclusion Policy was written in 2017 and predicated the publication of the updated [Included, Engaged and Involved part 2: Preventing and Managing School Exclusions](#).

3.1.2 The refreshed policy presented to Committee takes account of:

- Getting it Right for Every Child (GIRFEC)
- United Nations Convention on the Rights of the Child (UNCRC)
- United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)
- The Children and Young People (Scotland) Act 2014
- Schools General (Scotland) Regulations 1975 as amended
- Equality Act 2010
- Health and Safety at Work etc. Act 1974
- Standards in Scotland's Schools etc. Act 2000
- Education (Scotland) Act 1980
- Children's Hearing (Scotland) Act 2011
- The Age of Legal Capacity (Scotland) Act 1991

### **3.2 The Aberdeen City Context**

3.2.1 Statistics on exclusions from schools in Scotland indicate that children and young people are more likely to be excluded where they:

- have a disability
- are looked after
- are from the most deprived areas
- have an additional support need
- have an additional support need that has been identified as social, emotional and behavioural

3.2.2 In the most recent Scottish Government statistics 2018-19, Aberdeen City recorded 52.9 exclusions per 1000 pupils compared to the local authority average of 21.6. Our statistics show:

- On average 65%-73% of exclusions are for boys
- 4.2% of pupils excluded during August 2020 had a registered disability
- 60.4% of pupils excluded during August 2020 had an additional support need
- Of those excluded in secondary, 50% involved fighting or physical assault, this figure is 38% for primary
- Despite a steady reduction in levels of exclusion in primary, secondary school exclusions remain high in some schools

3.2.3 The refreshed policy will support the positive and proactive planning and understanding required for children and young people who are at risk of exclusion, highlighting meeting the needs of children and young people with disabilities, additional support needs and those who are looked after.

3.2.4 The Policy and guidance of 2017 remained static documents and quickly dated as updated national guidance was published. It is proposed that the guidance associated with the policy be published within the Education Sharepoint site and kept under routine review. It is hoped that some of the best practice across the city can be captured to inform the work of others across the city.

### **3.3 Learning from recent national publications**

3.3.1 Included, Engaged and Involved Part 2: Preventing and Managing School Exclusions, 2017 focuses on prevention, early intervention and response to individual need in line with the principles of GIRFEC. It emphasises that learning establishments place importance on inclusion through effective learning and teaching; promoting positive relationships and behaviour; and employment of preventative approaches.

3.3.2 Highlighted features of inclusive schools include:

- Ethos of mutual respect and trust, focusing on positive relationships and behaviour
- Focus on building and improving relationships with children and young people at risk of exclusion
- Leaders who are visible, communicate effectively and support staff to understand decisions
- Staff who are inclusive and flexible in their approaches to learning
- Effective Plans including IEPs and Child's Plans in place
- Well-designed targeted interventions and resources that are timely and appropriate

- Learner voice at the heart of decisions about learning
- 3.3.3 Research has shown that the single most significant factor in successful learning outcomes is the teacher and the quality of dialogue enjoyed by the learner and teacher.
- #### 3.4.1 Reviewing the Policy
- 3.4.2 A range of data sets were reviewed to gather initial information to support the review of this policy. These included taking account of the updated national guidance, revising the monthly exclusion data already available and reviewing Quality Improvement Visits. Time has been spent reviewing the impact of approaches used to support a reduction in levels exclusion in schools and consideration of data held by the legal team such as references to the ASN Tribunal.
- 3.4.3 The total number of primary school exclusions is at a three year low. Exclusion levels across secondary schools vary significantly suggesting that some schools have very effective approaches in place to minimise exclusion. As central officers have increased the regularity of data monitoring the number of exclusions has reduced.
- 3.4.4 The recently endorsed Accessibility Plan highlighted the need to ensure that staff have a solid understanding of Education (Additional Support for Learning) (Scotland) Act (2004) and the Equality Act 2010 and this will be built into our professional learning calendar.
- 3.4.5 An early engagement survey was issued to help identify key themes, challenges and positive comments on the current policy and guidance. Views were sought from parents and carers, parent representative groups, third sector partners, agencies, education staff including senior leadership teams, teachers and support staff. A full analysis of the responses is available in Appendix A.
- 3.4.6 This engagement was positive over 11 days with 886 responses, 718 representing parents and carers and 160 from education staff. 72% felt the current policy was successful but there were a number of learning points to help inform the refresh.
- 3.4.7 Themes identified included the need for consistency of implementation of the policy, with a clear procedure to follow. Parents highlighted the need for an understanding of disability and additional support needs and the impact this may have on behaviours in particular for those with autism. Also highlighted was the need for the policy to clarify legislation and all those involved to be clear on their rights within this. An accessible version of the policy was sought.
- 3.4.8 Qualitative data was sought to complement this process. This was mainly gathered through digital consultation with parents, learners, children's services staff, voluntary organisations, identified through direct engagement with previous consultations and areas of interest. Key learning from interviews was the need for all to be clear on their legislative duties, to support vulnerable learners including disabled learners and those who are looked after.

**3.5 The Policy and associated guidance was refreshed to:**

- Clarify legal duties are met (particularly direct and indirect discrimination under the Equalities Act and the right to appeal)
- Further promote proactive approaches to a nurturing environment linked with Supporting Learners programme
- Share best practice
- Streamline the procedure

3.5.1 The redraft of the policy, procedure and guidance was issued for wider consultation with learners, parents and carers, education staff, agencies, partners and professional associations over 14 days. Responses were collected digitally and through direct contact.

**3.6 Consultation and Engagement:**

- 3.6.1 The refreshed policy was made available for a two week consultation from October 23<sup>rd</sup>. This included an online consultation, follow up contact if requested, a virtual face to face meeting was offered for parent and carers and a similar meeting for education staff.
- 3.6.2 Feedback was invited from learners, parents, school staff, organisations, so that final amendments could be made prior to presenting the policy to Committee. 93% of respondents advised that the policy was easy to follow, that rights are clarified. 90% of parents and carers found the responsibilities with regard to disabilities and equalities clear.
- 3.6.3 Feedback from formal consultation highlighted a need to clarify the right of parents and carers and young people to refer to the additional support needs (ASN) Tribunal, clearer guidance on supports available as an alternative to exclusion and how support should be developed in partnership. Revisions included suggestions from Barnardos, Autism Network Scotland and recommendations from learners. All of these changes have been taken into account in the refreshed policy and guidance.
- 3.6.4 It is proposed that the associated guidance for schools remain a live document and that officers invest time in capturing some case studies from schools with low levels of exclusion.
- 3.6.5 The revised policy, procedure and guidance provide a clear framework to empower schools to operate within. The refreshed guidance will help promote inclusive and proactive approaches to minimising exclusion and will be supported by a suite of professional learning.
- 3.6.6 Exclusion levels will be closely monitored to inform a regular review of the procedure and guidance associated with the policy and inform the design of supporting professional learning.
- 3.6.7 After ratification by committee, an accessible version of the policy for learners, parents and carers will be created.

### **3.7 Implementation and Monitoring**

- 3.7.1 Overall progress will be monitored and reviewed through the Quality Improvement team and Supporting Learners programme which makes regular updates to the Committee. The accompanying Minimising Exclusion Procedure and Guidance will be reviewed and updated as necessary and at least yearly to ensure that it remains up to date.
- 3.7.2 The Minimising Exclusion Policy should be reviewed and refreshed within three years.

### **4. FINANCIAL IMPLICATIONS**

- 4.1 There are no direct financial implications arising from the recommendations of this report. Recommendations in the plan will make use of existing budgets.

### **5. LEGAL IMPLICATIONS**

- 5.1 The Local Authority has many legal duties including those of:
- The Education (Additional Support for Learning) (Scotland) Act 2004
  - The Children (Scotland) Act 1995
  - The Equality Act 2010
  - The Children and Young People (Scotland) Act 2014

The approach outlined in this Report will assist the Council to fulfil these duties more effectively. Research highlights that exclusion incidents are a significant factor in determining positive or negative long term outcomes for children and young people. The reviewed Minimising Exclusion Policy and Guidance will help reduce exclusion incidents and ensure all exclusions are managed within the current legislative framework.

### **6. MANAGEMENT OF RISK**

Category	Risk	Low (L) Medium (M) High (H)	Mitigation
<b>Strategic Risk</b>	N/A		
<b>Compliance</b>	Non-compliance with legislation, and legal challenge (reference to the School Placings and Exclusions Appeals Committee, Disability Discrimination, reference to ASN Tribunal)	M	Mitigated by services developing understanding to better meet the needs of our young people in Aberdeen City working in partnership with learners and families.
<b>Operational</b>	Staff are overwhelmed as staff feel unable to meet	L	Mitigated by offering high quality professional learning for staff to ensure that they

	the needs of children and young people including those who are vulnerable, disabled or have additional support needs.		meet their statutory duties under The Education (Additional Support for Learning) (Scotland) Act 2004 and Equality Act (2010)
<b>Financial</b>	Risk of impact of not resourcing at earliest opportunity.	L	Mitigated by realigning services to better meet the needs of our young people in Aberdeen City, understanding of disability and additional support needs.
<b>Reputational</b>	Risk of not achieving positive outcomes for children and young people and their parents and carers  Risk Disability Discrimination claims and references to the ASN Tribunal	L	Implementation of the policy and guidance will enable planning and early intervention thereby reducing potential risk.
<b>Environment / Climate</b>	N/A		

## 7. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
<b>Aberdeen City Local Outcome Improvement Plan</b>	
Prosperous Economy Stretch Outcomes	Children who have their learning and wellbeing needs well met are more able to contribute to a prosperous economy. This requires schools to be well led.
Prosperous People Stretch Outcomes	The proposals in this report seek to ensure the best use of resource in the system, promoting an understanding of the circumstances of individual children and young people to ensure that appropriate and timely personalised support is available to them.  Child Friendly City which supports all children to prosper and engage actively with their communities by 2026.
Prosperous Place Stretch Outcomes	Underpinning the work of all schools in Aberdeen City is achieving excellence and equity for all.
UK and Scottish Legislative and Policy Programmes	This report takes into account the local authority's legal obligations in respect of the legislation below:

	<p><b>The Education (Additional Support for Learning) (Scotland) Act 2004</b></p> <ul style="list-style-type: none"> <li>Duties with regard to meeting the needs of children and young people with additional support needs.</li> </ul> <p><b>The Equality Act 2010</b></p> <ul style="list-style-type: none"> <li>Duty to ensure we are not discriminating disabled learners directly or indirectly.</li> </ul> <p><b>The Standards in Scotland's Schools Etc. Act 2000</b></p> <ul style="list-style-type: none"> <li>Duty of education authority in providing school education</li> <li>Raising standards</li> <li>Requirement that education be provided in mainstream schools</li> </ul> <p><b>The National Improvement Framework</b></p> <ul style="list-style-type: none"> <li>Education Authorities are under a duty to endeavour to secure improvement in the quality of education of school education which is provided in the schools managed by them and to carry out the duty with a view to achieving the strategic priorities set out in the National Improvement Framework.</li> </ul>
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## 8. IMPACT ASSESSMENTS

Assessment	Outcome
<b>Impact Assessment</b>	Required
<b>Data Protection Impact Assessment</b>	Not required

## 9. BACKGROUND PAPERS

None

## 10. APPENDICES

- Aberdeen City Council Minimising Exclusion Policy 2020
- Aberdeen City Council Minimising Exclusion Guidance 2020
- Analysis of early engagement responses

## 11. REPORT AUTHOR CONTACT DETAILS

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