



Harnham C.E. Junior School

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Harnham C of E Junior School Attendance and Punctuality Policy 2023-24

Policy Agreed Date	
Policy Published (including on website) Date	
Next Review Date	
Signed by M Camp Chair of Governors	Signed by Headteacher
Date:	Date:

Safeguarding Statement

At Harnham C of E Junior School we respect and value all children and are committed to providing a caring, friendly and safe environment for all our pupils so they can learn, in a relaxed and secure atmosphere. We believe every pupil should be able to participate in all school activities in an enjoyable and safe environment and be protected from harm. This is the responsibility of every adult employed by, or invited to deliver services at Harnham C of E Junior School. We recognise our responsibility to safeguard all who access school and promote the welfare of all our pupils by protecting them from physical, sexual and emotional abuse, neglect and bullying.

1. Introduction

- a. In May 2022 the DfE published new guidance “**Working together to improve school attendance: Guidance for maintained schools, academies, independent schools and local authorities**”. The guidance became statutory from September 2023.
- b. The guidance is clear that improving attendance is everybody's business. It provides advice for local authorities, schools, governing bodies, trusts and parents to support and maintain high levels of school attendance.
- c. Harnham Junior School supports the principles, practice and procedures outlined in the DfE School attendance document. We believe pupils can only take full advantage of their education by regular and punctual attendance at school or otherwise to ensure continuity of learning.
- d. The Education Welfare Service, for the Local Authority (LA), has the responsibility to implement the statutory duties in relation to school attendance. It acknowledges that both the LA and schools must apply their powers fairly and consistently.
- e. The Education Welfare Service has a key function in working closely with schools, families and teams within the Children's Services and other agencies, both statutory and voluntary, in order to promote excellent levels of attendance and punctuality at school or otherwise.
- f. The Education Welfare Service acknowledges and supports the equal opportunity policies of the Council and recognises the need to strive against discrimination in all forms.
- g. At Harnham Junior School we understand that regular school attendance is the key to enabling children and young people to maximise the educational opportunities available to them and become emotionally resilient, confident adults who are able to realise their full potential and make a positive contribution to their community. School is the foundation for preparing children and young people for life as adults. We are committed to providing an education of the highest quality for all our pupils/students and endeavour to provide an environment where all pupils feel valued and welcome.
- h. For our children to gain the greatest benefit from their education it is vital that they attend school regularly and punctually. Parents and the school community share the responsibility for supporting and promoting excellent school attendance and punctuality for all.
- i. This policy represents our commitment to support pupils to achieve 100% attendance. It sets out the principles, procedures and practice the school will undertake. Strategies to improve attendance are in place and the sanctions and possible legal consequences of poor attendance and punctuality are also detailed-
- j. This policy will be reviewed, amended as necessary and published annually in accordance with current legislation and guidance.

2. Aims of the Attendance Policy

- a. We believe that the foundation for good attendance is based on a strong partnership between

school, parents and the child. This includes clear communication with parents and pupils regarding our expectations of what is required to secure excellent attendance for pupils at our school.

b. At Harnham Junior School we will:

- Provide regular information about attendance through regular communications through newsletters/website.
- Include attendance information in reports about your child's performance in school and how any absence may be affecting their attainment.
- Work with families and children to achieve maximum attendance.
- Work closely as a school to ensure that we are doing everything we can to improve attendance.

c. At Harnham Junior School we expect:

- Pupils to arrive at school every day on time and ready to learn.
- Parents to work with the school to ensure that their child attends regularly

3. The Legal Framework – Roles and Responsibilities

- a. Under section 7 of the Education Act 1996, parents must ensure their children are educated. For most parents/carers this means registering their child at a school and ensuring their regular attendance. Failure to do so can result in the issue of a Penalty Notice or being prosecuted.
- b. By law schools are required:
- To take an attendance register twice a day: at the start of the morning session and once during the afternoon.
 - To report to the LA pupils who fail to attend regularly or who are absent for ten consecutive school days or more without known reason
- c. By law the attendance register must show for every session, whether a pupil is present, absent, attending approved educational activity or unable to attend due to exceptional circumstances.
- d. DfE Guidance says that schools must have a policy on how long registers should be kept open; best practice is that this should be for a reasonable length of time but not that registers are to be kept open for the whole session.
- e. Authorised absence is where the school has given approval in advance for a pupil of compulsory school age to be away or has accepted an explanation offered afterwards as a satisfactory justification for the absence. All other absences are unauthorised.
- f. Reference to the guidance contained in the Wiltshire LA Attendance Policy and the responsibility of the Education Welfare Service in discharging the statutory duties of the Local Authority in respect of non-attendance at school.
- g. The law says that ensuring a child receives education is a parent/carer's legal responsibility (Section 444 of the 1996 Education Act). For most parents this means registering their child at a school. Permitting absence from school that is not authorised by the school creates an offence in law and parents/carers who do not secure their child's regular attendance at

school may be issued with a Penalty Notice or referred to the Wiltshire Education Welfare Service for prosecution in the magistrates' court.

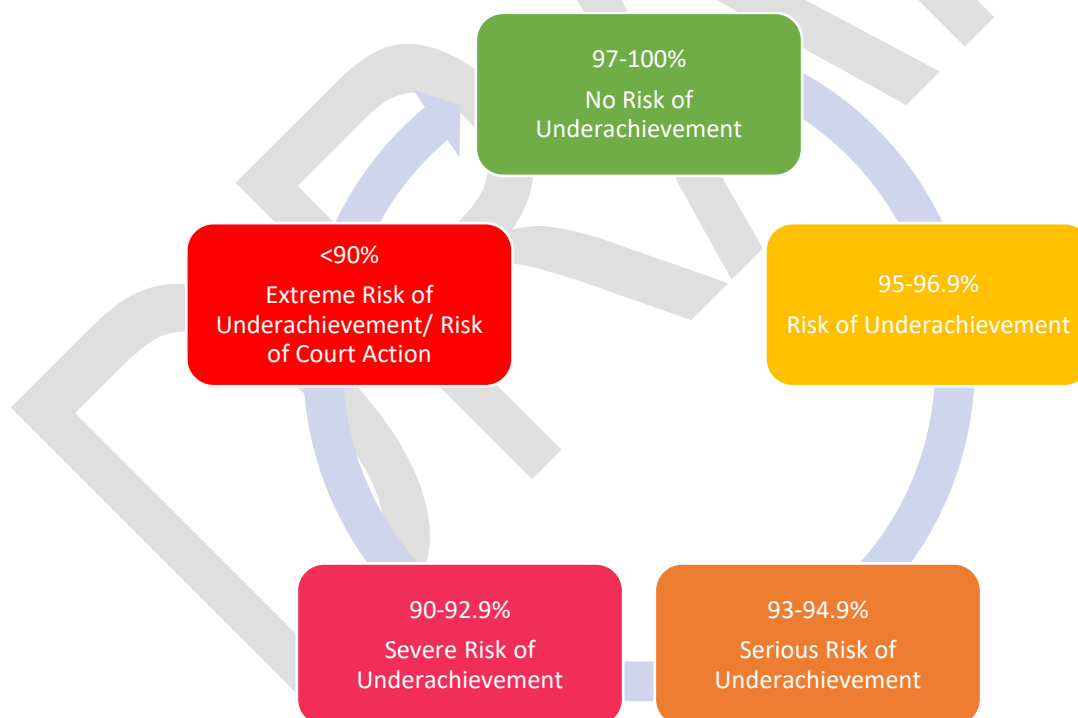
- h. To avoid this happening, we will work with parents and carers to address irregular or poor attendance to ensure full-time attendance.
- i. Authorised absences are those that have been agreed by the headteacher.
- j. Unauthorised absences are those where no valid reason has been provided for absence or those absences which the headteacher has not agreed.

4. Partnership Working – roles and responsibilities

Do you know these facts about absence and attendance?

Research suggests that a pupil who misses 17 days of school a year will drop 1 GCSE grade in attainment. (DfE)

95% equates to half a day off every two weeks in a school year
90% equates to a day off every two weeks in a school year
85% equates to one and a half days off every two weeks in a school year
80% equates to one whole day off every week in a school year
A secondary age pupil whose attendance is 80% will have missed ONE WHOLE YEAR of education by the time they leave school



“Better attendance at school by pupils improves their educational achievements and, in turn, their lives and prospects. Even a small reduction in absence would result in many pupils receiving greater benefit from their education.” The National Audit Office.

- a. At Harnham Junior School attendance is the business of everyone in our school community. The governors and all staff are committed to supporting all pupils to achieve excellent attendance and regularly review school procedures and strategies to support this.

Updated Attendance Policy - January 2023

- b. We expect that parents and carers will work with us if school absence becomes a concern. Parents and carers can help to promote positive attendance by:
- Ensuring children arrive at school on time, before registers close, appropriately dressed and in a 'condition to learn' (i.e. not too tired or too hungry) and with the right equipment for the day.
 - Working in partnership with us to help their child(ren) gain an appreciation of the importance of attending school regularly.
 - Working in partnership with us to take an active interest in their child's education.
 - Working in partnership with us and other agencies (as appropriate) to resolve problems relating to non-attendance or which may have a negative impact on their child's attendance.
- c. The Head teacher is responsible for:
- Ensuring this policy is communicated, implemented and applied fairly and consistently in all classes.
- d. The Head and Attendance Lead are responsible for:
- Maintaining attendance profile through assemblies, staff meetings, monitoring, registration process, target setting across year groups, liaison with the EWO, parent/carer contact, school attendance meetings, attending Local Authority Attendance Meetings (LAAM).
- e. The Governors with specific accountability for attendance are responsible for:
- Ensuring that this policy is implemented and applied via delegated responsibility to the Headteacher.
 - Reviewing and approving this policy.
- f. The Governing body are responsible for:
- Ensuring the Headteacher puts measures in place to address pupil attendance.
- g. All staff members are responsible for:
- Being aware of this policy and its content and raising any concerns about a pupil's attendance with the Attendance Lead or Head.
- h. Pupils also have a responsibility to make sure they follow school procedures made known to them for receiving their registration mark, in particular when arriving late.

5. Procedures

- a. Legally the school register must be taken twice a day.
- b. At Harnham Junior School, children are allowed to go straight to class from 8:30am. The register is taken at 8:40 am (morning registration time) and we expect all children to be in class by this time. The register is taken again during the afternoon session which starts at 1pm.
- c. Morning registration will remain open for fifteen minutes, closing at 8:55am.

- d. Pupils who arrive after 8:40am are late, and will be reported in the register as code L.
- e. Pupils arriving after the registers have closed will be coded U (Late after registers close) which counts as an unauthorised absence for the whole session.
- f. Absence is recorded as unauthorised, until a satisfactory reason is provided. If the reason given is not satisfactory and/or evidence of the reason cannot be provided, the absence will be coded as unauthorised. Ongoing and repeated lateness after the close of registration is considered as unauthorised absence and may be taken into account if any legal action is taken.
- g. We will contact parents to address and improve attendance where:
- A pupil's attendance falls below e.g. 95% - Communication (letter or conversation) with parent by class teacher, Headteacher, Attendance Lead or Parent Support Advisor (PSA).
 - A pupil's attendance falls below e.g. 90%.
 - A pupil has more than 3 weeks where they haven't achieved full attendance in a term (In Wiltshire there are 6 terms in an academic year)
 - A pupil has more than 4 recorded lates in a term
 - A pupil has a regular pattern of absence
- h. Parents are asked to:
- Notify the school when their child is unable to attend, with a reason, on the first and subsequent days of absence. Parents should make contact with school before the start of the school day. Please phone the school office on **01722 327218**.
 - Keep the school informed, in cases of ongoing absence. A note from a pupil's home does not mean an absence becomes authorised. The decision whether or not to authorise an absence will always remain with the school.
 - Arrange medical or dental appointments outside of school hours unless there is urgent need for an appointment.
 - Tell the school if their child is going to be late, the reason why and expected time of arrival.
 - Only request leave of absence/holiday in term time if it is for an exceptional circumstance. The process for requesting leave of absence is explained further in this policy. The following are examples of unauthorised absence:
 - Birthdays
 - Minding other younger children in the family
 - Staying at home because other members in the family are unwell
 - Day trips and holidays
- i. We will contact parent/carers if a child is absent and the parent/carer has not advised that the child will not be in school. Parents can expect contact on every occasion of an **un-notified** absence. The Office Staff will initially phone parents within an hour of registers closing. If we cannot speak directly with parents/carers then we will make contact with nominated emergency contacts to try and establish the reason for absence; this is in line with school safeguarding procedures.

- j. If, after 3 days of absence, your child has not been seen and no contact has been made with the school, a home visit may be made by school staff, to ascertain the safety and well-being of your child and establish the reason for absence from school.
- k. After 10 days of unexplained absence and no contact with the school, we are obliged to notify the local authority. The local authority will follow their procedures for Children Missing from Education (CME) and parents may expect contact and visits from an Education Welfare Officer to ascertain the well-being and safety of your child.

6. Requesting leave of absence in exceptional circumstances

- a. In accordance with Department for Education guidance, leave of absence from school including for holidays in term-time, may only be authorised in exceptional circumstances.
- b. Parents are required to complete a leave of absence request form which must outline the exceptional circumstances for which the leave has been requested.
- c. Leave of absence request forms must be completed in advance of the dates requested. We do not give retrospective agreement for leave of absence so any absence not advised to the school in advance will be unauthorised.
- d. Requests will be considered by the headteacher, and parents and carers will be advised if their request is agreed.
- e. Any pupil who has taken a term time holiday will be required to provide medical evidence if they are ill in the period directly before or after the dates advised to school.
- f. Parents/carers will be asked to provide evidence if a pupil does not return to school on the agreed date following a holiday as a result of delayed or cancelled flights or other travel arrangements.
- g. Where an extended unauthorised leave of absence is taken, it is likely that parents will be issued with a penalty notice. This will be in the sum of £120 per parent/carer for each child, but is reduced to £60 per parent/carer for each child if paid within 21 days of issue.

7. Collecting your child from school

- a. We ask that all parents/carers ensure that they are able to collect their children from school on time. School finishes at 3:15pm.
- b. If parents are unable to collect their child as usual then they will need to communicate the alternative arrangements they have made with the school. We will not release children in these circumstances to anyone who we have not been advised of.
- c. If children remain uncollected from school the protocol is that the School Office will call parents/carers and then the child's emergency contacts.
- d. If a child is still not collected after an hour, the Safeguarding leads/Headteacher are informed. The child will either be taken to After School Club (and parents/carers charged) or Children's Services will be contacted.

8. Consequences of persistent and severe absence

At Harnham Junior school we will always work with you to address any attendance concerns. If we have been unable to resolve the issue, despite a number of interventions, then we may have to refer you to the local authority. The Education Welfare Service has a range of actions available which include:

- 1) The parents/carers may be issued with a penalty notice, which carries a fine of £120, per parent, per child. This is reduced to £60 if paid within 21 days of issue. If not paid at all, court action will be initiated.
- 2) The local authority may initiate court action under Section 444 of the Education Act 1996, which could lead to fines of up to £2,500, imposition of orders such as Parenting Orders or even imprisonment.
- 3) In some cases, action may be taken under the Children Act 1989 to protect the welfare and development of the child.

9. Monitoring attendance and Strategies for Improving and Maintaining Good Attendance

- a. Formal Attendance Reviews will take place at the end of each term. This will include monitoring of registers to analyse overall absence for each pupil and identify pupils with low attendance, a pattern of absences that may lead to Persistent Absence (PA), Severe Absence (SA) patterns and levels of broken weeks, lateness, authorised absence and unauthorised absence and reasons for absence.
- b. A pupil is classed as a persistent absentee when they miss 10% or more schooling across the school year and as a severe absentee if they miss more than 50% of schooling for whatever reason, whether it be authorised or unauthorised, or a mixture of both. Absence at this level is doing considerable damage to a child's educational prospects and we need parents' full support and encouragement to tackle it.
- c. PA and SA pupils are tracked and monitored carefully through our pastoral system, and we combine this with tracking academic progress to assess the effect on the pupil's attainment. Absence for whatever reason disadvantages a pupil by creating gaps in his or her learning.
- d. The Attendance Lead will be responsible for putting in place actions for each pupil of concern. Initially we will try to resolve the problem with parents/carers and this may involve requesting medical evidence in order for the school to authorise any further absence due to ill health and/or an attendance meeting with the Attendance Lead.
- e. We may ask parents to agree to a Parenting Contract which details how we will work together to improve attendance. However, if absence continues the school may make a referral to the Local Authority for interventions that may include penalty notices and court action.
- f. At Harnham Junior School, we take every opportunity to promote excellent attendance for all pupils. We are a caring school community where the needs of all pupils are carefully considered.
- g. Harnham Junior school provides and promotes a welcoming and positive atmosphere so that pupils feel safe, and know that their presence is valued.

- h. If there are specific issues which might impact on your child's attendance it is important that you talk to us so that we can support you and your child. You can speak to our Attendance Lead/SENCO, Parent Support Advisor or Headteacher by contacting them via the school office.
- i. There may be times when we ask other agencies to become involved to help us understand and work with you to encourage regular school attendance. (eg Wiltshire Council, school health, Ethnic Minority and Traveller Advisory Service, Medical Needs Reintegration Service). If we feel that this would be helpful we will discuss with you first.
- j. We are very keen to listen to the views of children and parents with regard to attendance matters and we welcome any feedback which helps us to shape how we work with families to address attendance issues and reward excellent attendance.
- k. The attendance policy will be reviewed annually by governors and school staff to ensure that it continues to meet the needs of the school community.
- l. We will ensure that the policy reflects current DfE and Local Authority guidance so that parents may be assured of the standards that we strive to achieve.
- m. All new parents and staff are introduced to the policy and information on attendance in the school prospectus. It is also accessible on the school website.
- n. School attendance will feature in the school newsletter and we will advise parents of any changes to policy and procedures.
- o. Our policy is available in other languages if required.

Appendices

Appendix 1: Attendance Registers: National Absence and Attendance Codes

Appendix 2: Grounds for deleting registered pupils from school admission registers

Appendix 3: Children Missing from Education or who may otherwise be at risk

Appendix 4: Penalty Notice Code of Conduct

Appendix 5: template letters (letter 1 and letter 2)

Appendix 6: Penalty Notice Form

Appendix 1

ATTENDANCE REGISTERS: NATIONAL ABSENCE AND ATTENDANCE CODES PRESENT

Code / \: Present in school / = am \ = pm

Pupils must not be recorded as present if they are not in school during registration. If a pupil were to leave the school premises after registration, they will still be counted as present for statistical purposes.

Code L: Late arrival before the register is closed. Schools should actively discourage late arrival and be alert to patterns of late arrival. All schools are expected to set out in their attendance policy the length of time the register will be open, after which a pupil will be marked as absent.

This should be the same for every session and depending on the structure of the school day not longer than either 30 minutes after the session begins, or the length of the form time or first lesson in which registration takes place. A pupil arriving after the register has closed should be recorded as absent using code U, or another absence code that it is more appropriate

AUTHORISED ABSENCE

The national absence codes must be used. Schools cannot add to the list of codes or use their own local codes. In order to be useful to schools in helping them identify patterns of absence, it is essential that there is consistency of use by staff within each school.

- C Leave of absence granted by the school in exceptional circumstances (not holiday) (eg bereavement, performances, temporary part-time timetable, maternity leave)
- E Excluded but no alternative provision made (usually for short periods of suspension)
- H Family holiday (agreed)
- I Illness (NOT medical or dental appointments)
- M Medical / Dental appointments
- R Religious Observance
- S Study leave (Yr 11 only)
- T Traveller absence (where the family is known to be travelling or has informed of travelling for the purposes of work)

APPROVED EDUCATION ACTIVITY

- B Educated off site (*NOT dual registration and not for a pupil at home doing school work.*)
- D Dual registration (*ie pupil attending other establishment*)
- J Interview (with a prospective employer or another educational establishment)
- P Approved sporting activity (*arranged by school*)
- V Educational visit or trip (*arranged by school*)

UNAUTHORISED ABSENCE

- G Family holiday (*NOT agreed or days in excess of agreement*)
- N No reason yet provided for absence.
- O Unauthorised absence
- U Late (*after registers closed*)

UNABLE TO ATTEND DUE TO EXCEPTIONAL CIRCUMSTANCES

- Y School site is closed or partially closed due to unavoidable cause **or** the transport provided by the school or local authority is not available and the pupil does not live within a safe walking distance **or** a local or national emergency has resulted in widespread travel disruption which prevents the pupil from attending school. Pupil is in custody for less than 4 months and returning to school at the end of their custodial period.

ADMINISTRATIVE CODES

- X Pupil not of compulsory school age not required to be in school

Z Prospective pupil not on the admission register (to set up registers in advance of pupils joining school)

Planned or partial school closure (eg school holidays, teacher training, school used as polling station, staggered starts for different year groups)

Appendix 2

GROUNDNS FOR DELETING REGISTERED PUPILS FROM SCHOOL ADMISSION REGISTERS (Regulation 8(1) of the Education (Pupil Registration) (England) Regulations 2006)

The Education (Pupil Registration) (Amendment) (England) Regulations 2016 places duties on all schools in England, including **academies** and **independent schools**.

See: <http://legislation.data.gov.uk/ukxi/2016/792/made/data.html>

These duties include providing the local authority (LA) with information about **pupils both leaving and joining the school** at non-standard transition points, i.e. in-year moves or when a pupil leaves before the end of that school's final year of education e.g. a pupil leaving at the end of Y8 so not going into Y9 at that school.

- A** Where a pupil is subject to a school attendance order but another school is substituted by the LA or where the LA revokes it as the child will to receive efficient full-time education otherwise than at school.
- B** Where a pupil is registered at another school (except where it has been agreed the pupil should be registered at more than one school).
- C** Where a pupil is registered at more than one school and any other school at which the pupil is registered has agreed.
- D** Where a pupil has ceased to attend the school and it has received written notification from the parent that the pupil is receiving education otherwise than at school.
- E** Where a pupil (other than a boarder) has ceased to attend and no longer ordinarily resides at a place which is a reasonable distance from the school.
- F** Where a pupil granted leave of absence but:
 - (i) the pupil has failed to attend the school within the ten school days immediately following the end of the leave
 - (ii) the school does not have reasonable grounds to believe that the pupil is unable to attend the school by reason of sickness or any unavoidable cause; and
 - (iii) the school and the local authority have failed, after jointly making reasonable enquiries, to find the pupil.
- G** Where a pupil has been certified by the school medical officer as unlikely to be in a fit state of health to attend school before ceasing to be of compulsory school age, and neither he nor his parent has indicated to the school the intention to continue to attend the school after ceasing to be of compulsory school age.
- H** Where a pupil - that he has been continuously absent from the school for a period of not less than twenty school days and —
 - (i) at no time was his absence during that period authorised;
 - (ii) the school does not have reasonable grounds to believe that the pupil is unable to attend the school by reason of sickness or any unavoidable cause; and
 - (iii) the school and the LA have failed, after jointly making reasonable enquiries, to find the pupil.
- I** Where a pupil is legally detained for a period of not less than four months and the school does not have reasonable grounds to believe that the pupil will return to the school at the end of that period.
- J** Where the pupil has died.
- K** Where the pupil will cease to be of compulsory school age before the school next

meets and—

- (i) the pupil will cease to attend the school; or
 - (ii) the pupil does not meet the academic entry requirements for admission to the school's sixth form.
- L** Where a pupil at a school other than a maintained school, an academy, a city technology college or a city college for the technology of the arts, has ceased to be a pupil of the school.
- M** Where a pupil has been permanently excluded from the school.
- N** Where the pupil has been admitted to the school to receive nursery but is not being educated beyond this at the school.
- O** Where the pupil is a boarder at a maintained school or an academy and where charges for board and lodging remain unpaid by the pupil's parent at the end of the school term to which they relate.

Pupils not of compulsory school age (Regulation 8 (3))

The following are prescribed as the grounds on which the name of a pupil not of compulsory school age is to be deleted from the admission register:

- 3 (a) That he has ceased to attend the school, or, in the case of a boarder, that he has ceased to be a pupil of the school;
- b) That he has been continuously absent from the school for a period of not less than twenty school days and (i) at no time was his absence during that period agreed by the proprietor; (ii) the proprietor does not have reasonable grounds to believe that the pupil is unable to attend the school by reason of sickness of any unavoidable cause; (iii) the proprietor of the school has failed, after reasonable enquiry, to ascertain where the pupil is;
- c) that the pupil had died;
- d) where the pupil has been admitted to the school to receive nursery education, he has not on completing such education transferred to a reception, or higher class at the school; or
- e) that he has been permanently excluded from the school.

Appendix 3

CHILDREN MISSING FROM EDUCATION OR WHO MAY OTHERWISE BE AT RISK

<https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

Aspects of Safeguarding and preventing Children Missing Education contained within the Education (Pupil Registration) (England) Regulations 2006:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/550416/Children_Missing_Education_-_statutory_guidance.pdf

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Wiltshire Council

Penalty Notice - Code of Conduct

Rationale

- 1.1 Regular and punctual attendance of pupils at school is both a legal requirement and essential for pupils to maximise the educational opportunities available to them. Wiltshire Council's Education Welfare Service will investigate cases of irregular attendance from school and, where appropriate, instigate legal action. Penalty Notices offer a means of swift intervention to deal with unauthorised absence to avoid this becoming entrenched.
- 1.2 Under Section 7 of the Education Act 1996, parents are responsible for ensuring that their child of compulsory school age receives efficient, full time education that is suitable to the child's age, aptitude and ability and to any special educational needs the child may have. This may be by regular attendance at school or otherwise.
- 1.3 Parents are defined in Section 576 of the Education Act 1996: all natural parents, whether they are married or not; any person who has parental responsibility for a child; and any person who, although not a natural parent has care of a child. Having care of a child means that a person with whom a child lives and who looks after a child irrespective of what their relationship is with that child, is considered to be a parent in education law.
- 1.4 If a child of compulsory school age who is registered at a school fails to attend regularly at the school then the parent is guilty of an offence under Section 444(1) of the Education Act 1996. It is the commission of this offence that can trigger the use of a penalty notice. If a penalty notice is used by the Local Authority it provides the parent with an opportunity to discharge liability for the offence and avoid court proceedings.
- 1.5 Wiltshire Council may prosecute for offences under Section 444 (1) of the Education Act 1996. Possible defences available include the following:
 - The pupil's absence was authorised by the school
 - The pupil was ill or prevented from attending by unavoidable cause
 - The absence was on a day exclusively set aside for religious observance by the religious body to which the parent belongs
 - The school is not within walking distance of the child's home and the LA has made no suitable arrangements
 - The parent can show that their trade or business requires them to travel, and the child has attended school as regularly as the nature of the trade or business allows, and the child has attended school for at least 200 sessions during the preceding twelve months

- 1.6 Under Section 103 Education and Inspections Act 2006 a parent of an excluded pupil must ensure that the pupil is not present in a public place at any time during school hours on a day which is one of the first five school days to which the exclusion relates or, where that exclusion is for a fixed period of five days or less, any of the days to which the exclusion relates, and is stated in the notice under section 104 (Education and Inspections Act 2006) to be a day on which Section 103(2) applies. If the excluded pupil is present in a public place at any time during school hours on a school day falling within Section 103(2), the parent commits an offence (section 103(3)). A Penalty Notice may be issued by the Local Authority to offer the parent/s an opportunity to discharge liability for this offence. Wiltshire council may prosecute for offences under Section 103 Education and Inspections Act 2006. A possible defence is reasonable justification for a parent to fail to comply with their duty under Section 103(2) of the act.

Legislation

- 2.1 The Education (Penalty Notice) (England) Regulations 2007 supports offences under section 444 of the Education Act 1996. Penalty Notices supplement existing sanctions available under Section 444 of the Education Act 1996 or Section 36 of the Children Act 1989 to enforce attendance at school or alternative provision. There is no legal requirement to consider a Penalty Notice before proceeding to a section 444 prosecution.
- 2.2 Section 105 The Education and Inspections Act 2006 allows a penalty notice to be issued in respect of excluded pupils in a public place (as mentioned above).
- 2.3 The Anti-Social Behaviour Act 2003 (section 23) adds two sections (444A and 444B) to the Education Act 1996. These sections introduced penalty notices as an alternative to prosecution and enable parents to discharge potential liability for conviction for that offence by paying a penalty.
- 2.4 If it appears that an offence under section 444(1) of the Education Act 1996 has been committed and none of the defences outlined above apply, then consideration can be given to issuing a penalty notice
- 2.5 Penalty Notices will require the parent of a child of compulsory school age whose attendance has been unsatisfactory to pay a penalty currently £120 if paid within 28 days, reduced to £60 if paid within 21 days as stated in the Education (Penalty Notices) (England) (Amendment) Regulations 2013, statutory instrument No 757. (Figures correct at the time of writing, subject to amendment by further Statutory Instrument)
- 2.6 This Code of Conduct complies with the requirements as set out in Sections 14 – 16 of the Education (Penalty Notices) (England) Regulations 2007
- 2.7 The issuing of Penalty Notices must conform to all requirements of the Human Rights Act 1998 and Equality Act 2010

Procedure

- 3.1 In Wiltshire Penalty Notices will be issued by the Education Welfare Service by first class post. In any case where the Penalty Notice is not paid within the prescribed period and

where it is not appropriate to withdraw the Penalty Notice the Education Welfare Service will instigate action through the Magistrate's Court as required by legislation. Prosecution in such cases will be for the offence to which the Penalty Notice relates.

- 3.2 No parent shall receive more than three separate penalty notices resulting from the unauthorised absence of an individual child in any twelve-month period
- 3.3 Penalty Notices will be issued individually to each parent for each child according to each parent's liability for the offence or offences. An authorised officer has discretion when deciding to issue a penalty notice to one or more parents of a child. The specific circumstances in each individual case will be the determining factor.
- 3.4 The Education Welfare Service will receive requests to issue penalty notices from schools / academies / colleges in Wiltshire, Wiltshire Police and neighbouring Local Authorities. The Education Welfare Service will take forward these requests providing that:
 - The circumstances of the case meet the criteria for the issue of a penalty notice as specified in this code
 - All necessary information is provided to the Education Welfare Service in order to establish that an offence, under section 444 (1) of the Education Act 1996 for failure to secure regular attendance or section 103(3) of the Education and Inspections Act 2006 for failure to comply with a duty towards an excluded pupil, has been committed.
- 3.5 The Education Welfare Service will ensure that the issuing of Penalty Notices is closely monitored to make certain that they are not duplicated, not issued where prosecution proceedings for the same offence are being considered and that recipients pay the relevant fine within the time frames specified.

Criteria for the Issuing of a Penalty Notice

- 4.1 Penalty Notices can be issued where a pupil has accrued 10 unauthorised sessions within the six- month period prior to the request being made or evidence of an offence under s.103 (3) Education and Inspections Act 2006 is established.
- 4.2 The issue of a penalty notice will be preceded by having previously issued a formal warning letter to each parent / carer. The letter will:
 - Raise concern regarding the level of the unauthorised absence and give advice regarding contact with the school and the Education Welfare Service
 - Advise the parent of the powers of the Local Authority to issue penalty notices
 - State the number of unauthorised absences accrued which give rise to the formal warning being issued
 - Notify the parent that additional unauthorised absence may lead to a penalty notice if no improvement is effected within an agreed period – the standard period shall be fifteen school days except where exceptional circumstances apply e.g. deliberate parentally condoned absence or where a pupil has been located on a truancy sweep / located by the Police during school time and there are additional occurrences of unauthorised absence.
- 4.3 Penalty Notices will not be issued for pupils in the care of the Local Authority. Any attendance concerns will form part of the pupil's Personal Education Plan.

- 4.4 With effect from 22 March 2020 Wiltshire Council will **not** issue Penalty Notices for unauthorised absence **directly related** to the Covid-19 pandemic until such time as the Department for Education (DfE) deems appropriate.

Circumstances in which a Penalty Notice will be issued:

- 5.1 If in the view of an Education Welfare Officer the issuance is deemed appropriate in cases where a parent or parents continually fail to provide an explanation or fails to provide a justifiable explanation for a pupil's absence and this is recorded as an unauthorised absence by the proprietor of the school. This could include late arrival after the register has closed which is recorded as an unauthorised absence where these total 10 or more sessions.
- 5.2 For pupils stopped during a truancy sweep or located by Police during school hours where there are found to be additional unauthorised absences totalling 10 or more sessions
- 5.3 Following a request from a School / College / Academy for intervention where the circumstances appear to have been totally avoidable (e.g. too tired after a late night, a birthday treat, family / friends visiting, shopping) where this is unauthorised and these total 10 or more sessions
- 5.4 Where a school/college/academy makes a notification for an instance of unauthorised leave of absence (holiday during term time) which totals 10 or more sessions continuous or aggregated within the previous six months and within the current academic year and where the proprietor has not given permission or where permission was not sought prior to the unauthorised leave of absence being taken
- 5.5 Following notification from a neighbouring Local Authority
- 5.6 For pupils who are stopped by Police in a public place during the first five school days of an Exclusion, whether for a fixed period or permanent exclusion or, where that exclusion is for a fixed period of five days or less, any of the school days to which the exclusion relates as specified in section 103(2) of the Education and Inspections Act 2006 and is stated in the notice under section 104 to be a day on which the parent is subject to this subsection.

Procedure for withdrawing Penalty Notices

- 6.1 A Penalty Notice may be withdrawn by Wiltshire Local Authority if the Authority determines that:
- It ought not to have been issued
 - It ought not to have been issued to the person named as the recipient
 - It is materially defective
- 6.2 Where a penalty notice has been withdrawn in accordance with the above a notice of the withdrawal will be issued to the recipient and any amount paid by way of penalty in pursuance of that notice shall be repaid to the person who paid it. No proceedings shall be continued or instituted against the recipient for the offence in connection with which the withdrawn notice was issued or for an offence under section 444 (1A) of the Education Act 1996 arising out of the same circumstances.

- 6.3 A Penalty Notice cannot be withdrawn because of an inability to pay
- 6.4 If a Penalty Notice is not paid in full before the expiry of the period of paying it and Wiltshire Council has neither instigated proceedings for the offence to which the notice relates nor is contemplating such proceedings, then the notice will be withdrawn.
- 6.5 If a Penalty Notice has been issued for unauthorised absence **directly related** to the Covid-19 pandemic **after** 16 March 2020 this will be withdrawn by Wiltshire Council immediately.
- 6.6 If a Penalty Notice has been issued for unauthorised absence **directly related** to the Covid-19 pandemic **before** 16 March 2020 any action relating to this will be suspended until such time as the Department for Education (DfE) deems appropriate.

Appeals

- 7.1 There is no statutory right of appeal against the decision to issue a penalty notice and the sole authority to authorise absence rests with the Headteacher of the school / academy / college
- 7.2 The Education (Pupil Registration) (England) Regulations does not permit Headteachers to give authorisation for absence retrospectively.

Payment of Penalty Notices

- 8.1 The arrangements for the paying of penalty notices will be detailed on the Penalty Notice
- 8.2 Payment by way of instalment is not permitted. Payment should be made in full according to the dates as stipulated on the Penalty Notice

Non-payment of Penalty Notices

- 9.1 Non-payment of a Penalty Notice will normally result in prosecution under the provisions of section 444 of the Education Act 1996 or prosecution under section 103 of the Education and Inspections Act 2006

Publicity

- 10.1 All schools / academies / colleges / alternative education provisions intending to use penalty notices must:
- Set out the establishment's process for managing absence
 - Ensure that all parents / carers are aware of the process to request leave of absence during term time
 - Make notifications to the Local Authority without delay when the particular criteria is reached
 - Publish details regarding arrangements of managing absence within the establishment's Attendance Policy

**Appendix 5:
Template letters (letter 1 and letter 2)**

Letter One

Dear Parent/ Guardian of:

Class:

School Attendance

I would like to thank you for following the school procedure regarding your child's attendance. (name of child) has been absent recently and you called the school each day to keep us informed. I would like to let you know how this has affected (name of child)'s attendance which is currently at X%. Please find enclosed a copy of (name of child)'s registration certificate.

Regular attendance is extremely important. Missing school impacts on learning.

If your child has a medical condition which could impact on attendance, please ensure the school is fully aware.

Please continue to work with the school. You are more than welcome to contact us to discuss any queries or concerns you may have.

Yours sincerely

(name)

Letter Two

Dear Parent/ Guardian of:

Class:

School Attendance

I am writing to advise you that (name of child)'s attendance has fallen to X%. I am concerned that (name of child) is missing a significant part of their learning. I have enclosed a copy of (name of child)'s registration certificate which shows an analysis of attendance, punctuality and whether the absence is authorised or unauthorised.

Regular attendance is extremely important, as missing school can impact on learning.

I will continue to monitor (name of child)'s attendance and look forward to seeing an improvement. Should it fall further, I shall be inviting you to attend a School Attendance Meeting (SAM) and the school may request medical evidence for any further absences.

If there are any particular circumstances which the school may not be aware of which is preventing (name of child) attending school regularly, please do not hesitate to contact me.

Please continue to work with the school. You are more than welcome to contact me to discuss any queries or concerns you may have.

Yours sincerely

(name)

