



# **Guide for maintained schools on the management of pupil attendance**

**August 2023 revision**

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## 1. Introduction

Ensuring high levels of pupil attendance is a significant factor in children achieving positive outcomes. Children's achievement and aspiration are central to the local authority's (LA's) strategic aims with a key focus being to raise achievement to national averages and higher by narrowing the gap between the lowest achievers and other children.

Ensuring regular pupil attendance is a key factor in increasing participation and promoting inclusion. The effective management of pupil absence from school is vitally important, for clear evidence exists which confirms a strong link between pupil absence and low attainment. A positive attendance culture is best achieved when pupils, parents/carers, the school, and the LA work in partnership together.

The Education Welfare Service (EWS) seeks to maximise school attendance rates at all city state maintained schools by working in close partnership with each school to support their strategies. (The EWS undertakes enforcement action for all maintained schools where appropriate.)

[Working together to improve school attendance \(GOV.UK\)](#) sets out government expectations of schools and local authorities; this guidance sets out new statutory responsibilities for LAs which are scheduled to come into force from September 2023 or shortly thereafter.

The latest [Ofsted inspection handbook](#) incorporates attendance in the behaviour and attitudes section.

This policy and practice guide sets out the legal position regarding the attendance of school age children and young people, provides guidance on what schools should be doing to promote pupil attendance levels, provides general attendance related guidance, and also sets out the process for seeking to involve the education welfare service where a child's unauthorised absence is continuing despite efforts on the school's part to resolve the concerns.

### Statutory Support

The statutory work is essentially the work that only the LA can undertake:

- work undertaken from the point we receive a **holiday Penalty Notice (PN) request** from a school via the E form system
- Court work in respect of unpaid holiday PNs
- Contracts with parents (i.e., school attendance panels) – from September 2023 DfE advise that these are to be treated as a statutory function – see voluntary phase section for more information
- LA Final Warning letters / Interviewing a parent under caution (which we do in a limited number of cases prior to taking court action to determine whether they may have a defence if this is unclear)
- **children missing from education** referrals (non-starters or leavers) from the point where the school has taken all possible actions including home visits, checks with neighbours etc. and the family cannot be located.
- All work in respect of parents who have **elected to home educate** and whose children have been removed from roll. (Also, liaison with parents and schools prior to removal from roll where parents agree to engage to discuss their intentions.)
- For children not on a school roll and not receiving a suitable education otherwise, all School Attendance Order casework and enforcement action.
- Child employment and performance licensing related work.

## 2. The Legal Position Regarding School Attendance

The parent of every child of compulsory school age shall cause him (her) to receive efficient full-time education suitable -

(a) to his (her) age, ability and aptitude, and

(b) to any special educational needs he (she) may have,

either by regular attendance at school or otherwise.

(s.7 Education Act 1996)

The *Isle of Wight Council verses Platt* case considered by the Supreme Court in springtime 2017 makes it clear that regular attendance shall mean attendance in accordance with the school rules. Therefore, any non-attendance which is not in accordance with the school rules will be deemed unauthorised; it would be appropriate for enforcement action to be taken against a parent whose child has unauthorised absence from their school.

In relation to the Education Act 1996, *parent* includes any person who has parental responsibility for the child or has care of him (her) (s.576 Education Act 1996).

The EWS operates within a legal framework and executes the LA's statutory duty of ensuring that parents/carers fulfil their legal obligations. In the case of ongoing unauthorised absence, where it has not been possible to secure a child's regular attendance at school, or, in the case of child not on a school roll, it has not been confirmed that the child is receiving a suitable education otherwise (elective home education), legal action is taken (where appropriate) by the Service in the Magistrates' Court (s.437 - 446 Education Act 1996), or, in the Family Proceedings Court (s.35 - 36 Children Act 1989).

To take such action, the EWS must be satisfied that appropriate efforts have been made by the school to resolve the non-attendance, and that the evidential and public interest tests are met.

The Anti-Social Behaviour Act 2003 gives the Local Authority powers to issue Penalty Notices to parents/carers in respect of unauthorised absence from school, as an alternative to legal proceedings in the Magistrates' Court. Penalty Notice can be issued to each parent. This amounts to a fine of £60 if paid within 21 days, increasing to £120 if paid after this, but within 28 days. If unpaid thereafter, the matter is taken to court in the usual way. The LA is required to have a [Code of Conduct](#) on the use of Penalty Notices; the Code is available on the council's website. The [Enforcement Policy](#) is also available.

Where a case of irregular attendance proceeds to the Magistrates' Court, the maximum fine for failing to ensure regular attendance is £1,000 (S4441), which increases to a maximum of £2,500 and/or a community penalty or a prison sentence of up to 3 months on conviction of the aggravated offence (S444(1A)). Parents can also be given a Parenting Order, whereby they are required to attend parenting classes and comply with specific conditions of the order, which can last up to 12 months.

## 3. The Role of the Education Welfare Service (EWS)

The primary function of the EWS is that of ensuring that all children of compulsory school age, unless they are receiving a suitable education otherwise, that they are on a school roll and allowed the opportunity to take maximum advantage of the educational provision made available to them by regular attendance at the school.

Specialist duties carried out by the service include enforcement in relation to irregular attendance (Penalty Notices and prosecution in Magistrates' Court), managing child employment and

performance licensing (including the licensing of chaperones), work in respect of home educated pupils, work to ensure children who are missing from education (i.e., not on a school roll and not receiving a suitable home education) return to education, and also acting as supervising officers for Education Supervision Orders.

#### **4. The Role and Responsibilities of Schools Concerning the Registration and Attendance of Pupils**

All maintained schools are required to keep -

- (a) an admission register; and
- (b) an attendance register.

The requirements which schools must follow are contained within The Education (Pupil Registration) (England) Regulations 2006.

The **admission register** should include details of all pupils from the allocated or agreed start date at the school; it is from that date a pupil is deemed to be a registered pupil at the school.

The only grounds for deleting a pupil's name from the admission register are stated in the regulations and should be strictly adhered to.

Where the name of a pupil is deleted from the admission register, the school must update their SIMs records. Special schools must seek the authorisation of the LA before deleting any pupil, except when the pupil has died or been permanently excluded. There are also specific requirements introduced by **The Education (Pupil Registration) (England) (Amendment) Regulations 2016** concerning the responsibilities of all schools to share information with the LA on additions and deletions to the school roll. These requirements are detailed in the [LA and Maintained Schools Protocol on Management of Children Missing Education](#) which is available on the extranet.

The **attendance register** must be taken twice per day, once at the start of the morning session and at some point during the afternoon session; the timing of the afternoon registration is for each school to determine. Registration should close no later than 30 minutes after the beginning of the session or, the length of time of the form period, or the first lesson in which it is taken.

When taking the attendance register, schools are required to note the presence or absence of every pupil whose name appears on the attendance register. The Education (Pupil Registration) (England) Regulations 2006, s.6 (1) (b), requires schools to classify the absence of any pupil of compulsory school age as being authorised or unauthorised.

A child is deemed as being of compulsory school age at the beginning of the term following their fifth birthday (i.e., when they attain the age of five on or by the 31 August, 31 December or 31 March), until the last Friday in June of the school year in which they attain the age of sixteen (s. 52 Education Act 1997 and s. 8 Education Act 1996).

It should be noted that it is the school and not the parent(s)/carer(s) who determine whether the absence is authorised.

Where no reason is provided, or the school has reason to doubt the validity of an explanation offered for a particular absence, further information should be requested from the child's parent(s)/carer(s); the best course of action may be to leave the absence uncoded (i.e., as an 'N' code and not to authorise it) while the reason/s for absence are investigated.

#### **When absence should be treated as authorised**

- (a) The pupil has been granted leave of absence in accordance with regulation 7, Education (Pupil Registration) (England) Regulations 2006.

NB The Education (Pupil Registration) (England) (Amendment) Regulations 2013 (Statutory Instrument No 756) amended regulation 7 of The Education (Pupil Registration) (England) Regulations 2006 to the effect that head teachers are prohibited from granting leave of absence except where an application has been made in advance and they consider there are exceptional circumstances relating to the application.

(b) The pupil is unable to attend due to:

- i) sickness or unavoidable cause (which will apply in very limited circumstances);
- ii) religious observance; or
- iii) the school is not within walking distance of the pupil's home and the LA has not provided transport or enabled a place at a nearer school.

Walking distance to school is defined as being under two miles for a child under age eight and under three miles for a child aged eight and over. If a parent opts by way of parental preference to send their child to a school over the walking distances despite being offered a place at school within walking distance, they are not usually entitled to transport.

Further information on the [entitlement to transport](#) is available on the council's website.

Full details of all attendance and absence codes are available in the [Working together to improve school attendance \(GOV.UK\)](#).

Additional detailed **guidance on enrolment status and coding** is available on the Schools' Extranet.

### **Preservation of Registers:**

Registers are legal records and all schools must preserve every entry in the attendance or admission register for three years from the date of entry. As the attendance register is a record of the pupils present at the time it was taken, the register should only routinely be amended where the reason for absence cannot be established at the time it is taken and it is subsequently necessary to correct the entry. Where amendments are made, all schools must ensure the register shows the original entry, the amended entry, the reason for the amendment, the date on which the amendment was made, and the name and title of the person who made the amendment.

### **Notification of Pupil Absence**

All schools are legally required to share information from their registers with the LA as follows;

The name and address of any pupil who fails to attend school regularly or has missed school for 10 days or more without the absence being recorded as authorised. Schools who share their data with the LA on a routine basis are fulfilling this duty via that process. Schools who do not share the data are advised to review the relevant section of the [LA and Maintained Schools Protocol on Management of Children Missing Education](#) which is available on the Schools' Extranet.

## **5. School Based Strategies to Address Non-attendance and requesting EWS involvement**

Parents/carers and pupils need to be made aware from day one of the importance of regular and punctual attendance; the message needs to be reinforced regularly. From September 2022, all schools have been required to have an attendance policy that clearly sets out its expectations of parents/carers and pupils regarding attendance, punctuality, and the notification of pupil absence. This should be made known to all staff and parents/carers. Key elements of this policy can be stated in the school's prospectus, regular newsletters and in any parental guides on pupil attendance.

First day absence contact by school with the parents/carers of all pupils who are absent from school, where the reason for their absence is not known, is viewed as the single most effective short-term strategy towards tackling pupil absence from school and as such is strongly recommended by DfE on both attendance promotion and safeguarding grounds.

School attendance policies should include details of the support that could be offered in the event of a child not attending regularly and also, the escalation process including when support from the LA will be requested.

Where a need for support is identified, the arrangements for providing support will depend on the nature of the issues. Information on early help is available on the council's website by searching for early help. [Guidance on Thresholds](#) is available on the Leicester safeguarding children partnership board website.

Revised DfE attendance guidance ([Working together to improve school attendance \(GOV.UK\)](#)) introduces new thresholds for the involvement of the LA attendance support team ie EWS; schools are now required to satisfy the actions under the **Voluntary phase** before EWS can become involved. A full explanation of this with links to relevant templates is available in section 6.

## 6. Leicester city graduated attendance response

Details of Leicester City's model of best practice and graduated response to irregular school attendance. The process is based on the DfE guidance [Working together to improve school attendance \(GOV.UK\)](#).

### EXPECT

**Aspire to a high standard of attendance for all pupils and parents and build a culture where all can, and want to, be in school and ready to learn by prioritising school attendance improvement across the school.**

- Display a clear attendance policy on the school website which all staff, young people and parents understand
- Develop and maintain a whole school culture that promotes the benefits of good attendance
- Have a dedicated senior leader with overall responsibility for championing and improving attendance
- Accurately complete admissions and attendance registers
- Provide regular attendance training for staff
- Have robust daily processes to follow up absence
- Where daily contact cannot be made, consider safe and well checks / follow safeguarding procedures
- Communicate to parents their responsibility for school attendance including their legal duty
- Communicate risks of poor attendance with staff, parents and pupils
- Consider city council BERA approach
- Where absence is for more than 15 days due to ill health, consider Medical Needs Policy
- Work with other schools in the local area and the local authority to share effective practice where there are common barriers to attendance
- General actions specific to each school - may include;
  - Use of attendance data
  - Attendance trophies
  - Guidance for teachers/tutors on conversations on attendance
  - Positive messages in assemblies, parents' evenings, in newsletters, on posters, on website, texts
  - First day calling / encouragement
  - Walking bus, breakfast clubs, extracurricular offer

## MONITOR

**Rigorously use attendance data to identify patterns of poor attendance (individual and cohort level) as soon as possible so all parties can work together to resolve them before behaviours become entrenched.**

- Proactively use data to identify pupils/groups at risk of poor attendance
- Communicate concerning patterns/individual cases to SLT lead for attendance
- Follow attendance procedure to understand attendance issues (e.g., class teacher/form tutor communication with young people and parents)
- Continue to monitor attendance and feedback to SLT on a regular basis
- Engage with termly attendance meeting with LA
- Consider working with sibling(s) schools to monitor whole family attendance
- For young people with other agency involvement, for example those with a social worker, inform agency of attendance concerns, and participate in multi-agency / professionals' meetings
- Monitor and report instances of term time holidays to LA

## LISTEN, UNDERSTAND AND FACILITATE SUPPORT

### Voluntary phase - Assess, Plan, Review, Do

**When a pattern is spotted, discuss with pupils and parents, listen, and understand barriers to attendance and agree how partners can work together to resolve them.**

**Remove barriers in school and help pupils and parents access the support they need to overcome the barriers outside school. This might include an early help or whole family plan where absence is a symptom of wider issues.**

- Key staff to engage with and form trust-based relationships with young people who are at risk of absenteeism, to listen, understand barriers and support change
- Key staff to work with parents, to listen, understand barriers and support change
- Attendance letters (series)
- Training for teachers / tutors (identification / scripted intervention)
- Targeted group / pupil intervention
- PSP targets
- Attendance letters (series)
- Homework club
- Home visits
- Parents' Evening
- Where multiple issues exist/further investigation is needed, use an **assessment tool** (template available below) with pupil and their parents to understand and address the reasons for absence
- Where out of school barriers are identified, signpost and support access to any required services in the first instance
- Consider how to utilise support services, such as school pastoral team, mentors, school counsellor, Mental Health in Schools Team (MHST), SEMH team, Relate, school nurse, health and wellbeing officers and Early Help and advice, targeted youth support.
- Consider support information available on Leicester Family Hubs / DfE websites
- Act as lead practitioner where all partners agree the school is best placed to lead
- Where young people have other agency involvement, for example pupils with an EHCP, family support worker or social worker, ensure a joined-up approach.
- Consider moving to formal support phase if unauthorised absence continues – complete referral checklist (below)



## FORMALISE SUPPORT

Where absence persists and voluntary support is not working or not being engaged with, partners should work together to explain consequences clearly and ensure support is in place to enable families to respond. Depending on the circumstances, this may include formalising support through a parenting contract (panel) or education supervision order. Educational neglect should be considered at this point.

- Screening of checklist and supporting document - EWS to consider if minimum expectations have been met or if school should undertake alternative actions, or EWS involvement is not appropriate
- Schools / LA to consider using, and implementing a parenting **contract** – panel meeting to be arranged and attended by school, EWO, with parent/s and child (dependent on age and maturity)
- School to monitor compliance with a contract if one is in place following panel meeting
- If the unauthorised absence continues post panel, school to consider request to EWS for enforcement
- If school request further EWS action, based on all information, EWS make decision whether to move to the next stage – if agreed, LA issue Final Warning, or Interview under caution paperwork and EWS monitor attendance with school

## ENFORCE

Where all other avenues have been exhausted and support is not working, or not being engaged with, enforce attendance through statutory intervention or prosecution to protect the pupils right to education.

- If unauthorised absence continues, LA to consider penalty notice for ongoing absence (20 sessions minimum in 12 week period) or
  - LA to consider an Education Supervision Order and/or court action under S444
- Term time holidays – separate process to the above:**
- School to submit penalty notice form to the LA for unauthorised term time holiday (G Code)
  - Cases proceed directly to court in line with Enforcement Policy

### List of possible factors to consider during assessment (examples only)

- Health – both physical and mental, also conditions that impact on daily life
- Social – bullying or friendship issues, social media, cyber bullying, feeling of exclusion due to identity related factors
- Academic issues – work, teachers, exams, PE
- Transition issues – new school, new to the city, new to UK
- Home or family factors, parenting, routines, bereavement, parent in prison
- Peer group, vulnerability to risks in community, alcohol, drugs, CSE, radicalisation

### Attendance support plan template

An attendance support plan template is available for use in casework undertaken to resolve attendance concerns. Use of this form is not a requirement although any assessment template used will need to provide a framework for a thorough assessment.






- [Attendance support plan template](#)

## Pupil unauthorised absence – voluntary phase referral checklist

To request EWS involvement, schools are required to complete a referral checklist.

- [Pupil unauthorised absence – voluntary phase referral checklist](#)

### Summary of graduated response

<p><b>Expect</b></p> 	<p>School follows attendance policy - whole school approach to encourage good attendance.</p>
<p><b>Monitor</b></p> 	<p>School undertakes careful monitoring of all pupils' attendance and intervenes early.</p>
<p><b>Listen, Understand, &amp; Facilitate Support</b></p> 	<p>School escalation process. Casework for individual pupils / families. Thorough assessment and planning, involve school colleagues or external services as identified necessary (with consent where required). Review. EWS referral checklist where voluntary support has not been successful or engaged with.</p>
<p><b>Formalise Support</b></p> 	<p>School request EWS involvement – share checklist. (Consent not required.)  EWS response – usually either attendance panel meeting or advice to the school re alternative course of action.  If panel held and contract in place, school monitor. If unauthorised absence continues, school request further EWS action.  If agreed, EWS issue Final Warning, or Interview under caution paperwork (EWS decision based on all available information), and EWS monitor attendance with school.  EWS consider Education Supervision Order throughout process.</p>
<p><b>Enforce</b></p> 	<p>Penalty Notice or court action  (decision made by EWS based on all available information.)</p>

## 7. General guidance

### Children Missing Education (CME)

Section 175 of the Education Act 2002 places a duty on schools to safeguard and promote the welfare of all their pupils. Section 11 of the Children's Act 2004 places a similar duty on Children's Services and other statutory agencies who work with children and young people.

The Education and Inspections Act 2006 adds section 436A to the Education Act 1996 which requires all Local Authorities to make arrangements to enable them to establish (so far as it is possible to do so) the identities of children residing in their area who are not receiving a suitable education.

CME is widely regarded as a term that covers both children who are not on school rolls and not receiving a suitable education otherwise than at school, and children on rolls but with poor attendance. The operational arrangements for CME are detailed in a separate LA guidance document which is available on the extranet; [LA and Maintained Schools Protocol on Management of Children Missing Education](#)

Where a pupil on roll is not being seen in school, a risk assessment should be carried out by the school to inform the decision about the appropriate action that should be taken to ensure the pupil's safety. **The EWS Policy and practice guide for schools on absent pupils and safe and well checks** guidance incorporates a risk assessment and comprehensive guidance on this topic. The guidance is also available on the extranet.

### Leave of Absence Requests

It is the head teacher who determines whether an absence is authorised. Head teachers are prohibited from granting leave of absence except where an application has been made in advance and they consider there are exceptional circumstances relating to the application.

It is important that all school staff are aware of the school process and that if a parent/carer approaches them about a future potential period of leave, that they should refer them to the school procedure and avoid giving any indication to the parent about whether the request is likely to be agreed or not as this can significantly confuse matters.

Whenever a request has been submitted to a school, the head teacher should inform the parent(s)/carer(s) in writing of their decision to approve or decline the request, specifying dates and consequences where appropriate. Where the request has been declined by the school, the head teacher should explain the reason for declining the request, stating that, should the leave still be taken, any absences would be unauthorised by the school. Where the duration of the unauthorised leave warrants this, the parent(s)/carer(s) should be informed in writing that the unauthorised absence could result in the EWS issuing a Penalty Notice to each parent/carer or, in the case being taken directly to the Magistrates' Court.

Any absences due to an unauthorised period of leave (linked to a trip away) should be coded as 'G'. (Authorised leave of absence for trips away should be coded as 'H'.)

### Penalty Notices in Respect of Unauthorised Leave of Absence/Holidays

These are issued by the EWS on receipt of a properly completed E request with an 'EWS6 PN' form per parent i.e., an attendance certificate, from the school. It is both good practice

and extremely helpful in court if the school puts in writing to the parent(s)/carer(s) the basis for any decision **not** to agree to some or all of a holiday request.

A Penalty Notice is a fine of £60 per parent/carers per child if paid within 21 days, rising to £120 if paid after then but within 28 days. Where payment is not received after this time, the matter of unauthorised absence will be taken to court.

NB Whilst there is no right of appeal against a Penalty Notice, where parents/carers challenge the Penalty Notice with the EWS, there will inevitably be some cases where the parent/s or the EWO will need to approach the school requesting that they reconsider the decision to unauthorise the absence as would be the case where the parent had some new evidence of real significance which could lead to the school authorising the absence.

See Appendix A for detailed information on PNs.

The Enforcement Policy details circumstances where a PN will not be issued and instead, a case will be taken directly to court.

### **Pregnant schoolgirls / school age parents**

Regular meetings should be held in school to review the provision and support available. The pupil should continue to access their education at their school unless they are deemed medically unfit to attend school. In this case, the Children with medical needs policy may apply.

DfE guidance is that leave for maternity is treated like any other leave of absence. They advise that they would expect schools to act reasonably and grant a sufficient period of leave from school, taking into consideration the specific circumstances of each case. Also that ultimately, it is at the headteacher's discretion how much leave to grant.

### **Pupils who are Medically Unfit to Attend School**

The DfE specifies the circumstances under which schools should request medical evidence; see the information under the code for illness on page 9 in [Working together to improve school attendance \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/61222/Working_together_to_improve_school_attendance.pdf).

Parents should not be asked to obtain a letter of fit note from their GP. Possible sources of evidence schools may request include:

- Medical appointment card with one appointment entered
- Letter from a professional such as a hospital Consultant or Psychologist
- Evidence of a consultation with NHS 111
- Medication prescribed by a GP
- Copy of prescription
- Print screen of medical notes
- Letters concerning hospital appointments
- Slip with date, pupils name and surgery stamp, signed by Receptionist
- Text from GP or other medical professional noting an appointment

Parents may have other sources of evidence they can share.

LAs must comply with the provisions of Section 3 of the Children, Schools and Families Act 2010 which extended the duty in section 19 of the Education Act 1996 so that all LAs are

under a duty to arrange **full-time education for all children who, for reasons which relate to illness, exclusion or otherwise**, would not receive suitable education unless arrangements are made for them. The exception to this duty is where reasons that relate to a medical condition mean that this would not be in their best interests. The [Supporting the education of children with medical needs policy](#) and recoupment policies are available on the Schools' Extranet.

## Young Carers

It is important that schools and support services work closely with allocated Family Support workers to support this group of young people in accessing their education. The impact that their caring role has on young carers should not be underestimated and appropriate assessment is required to ensure young carers are receiving the appropriate support and if necessary, that adult services are involved. Referral is consent based – see [Help for young carers \(leicester.gov.uk\)](#).

## Medical / dental appointments

Where a pupil has a medical / dental appointment which results in them missing registration, their absence should be coded as 'M' (authorised absence). Clearly, this will adversely impact on attendance figures; school attendance policies should state that appointments should always be arranged outside of school hours (with limited exceptions), or where that is not possible, towards the end of a morning or afternoon session.

(Medical appointments should not ordinarily result in the whole day or even the whole session being missed).

## Travellers' Children

Travellers' children can be dually registered at more than one school. The school the child normally attends when not travelling is regarded as the 'base school' (provided the pupil has attended there in the last 18 months) and this school must keep a place open for traveller pupils whilst they are away travelling. If the child is receiving education at another school during such periods, the guidance on dual registration applies.

Travellers' children can be deleted from the roll of other schools if they are not currently attending that school (although not for absences due to such as illness). Where the parents have requested leave for travelling purposes and this has been authorised by the school, the register should be marked as authorised absence ('T' code). Code T only applies where the parent is of no fixed abode and they are travelling for business purposes as otherwise, children are required to attend school regularly as all other children. Travellers' children who are only registered at one school can be deleted from roll in the same way as other such pupils and in accordance with the registration regulations.

Section 444 (6) Education Act 1996 states that traveller pupils are required to attend at least **200 out of a possible 380 sessions per school year** - this is the case where the family is travelling for business purposes for the sessions the child absent from education provision.

## **Police Power to Remove Truants (s.16 Crime and Disorder Act 1998)**

Under a Police Operational Order, the police have the power to remove children who are truanting from the street or other public places; this includes shops etc. that are open to the public. Police Officers have the power to remove truants and to take them to a place of safety (which will normally be their school) during school hours. Schools should have procedures in place to receive any pupils who are returned to school as part of a joint EWS/police patrol or as part of an ongoing police operation.

The legislation does not make truancy a criminal offence in respect of the child; the legal responsibility remains with the parents/carers.

## **Personal Study Programmes**

It is recommended that all schools have a single central tracking folder which details all current arrangements for children on roll who have one or more sessions of provision out of school each week, including any children on a part-time timetable or on a managed move. The folder should include details of the arrangements and reviews.

Educational provision consists of a legal entitlement to 10 sessions per week and the widely accepted definition of full-time is as follows:

- key stage one – 21 hours
- key stage two – 23.5 hours
- key stage three – 24 hours and
- key stage four – 25 hours

If a pupil, for whatever reason, is not able to access this entitlement in school, and alternative arrangements are made, then it must be clearly recorded as a personal programme.

Where deemed appropriate i.e., in the best interests of the child, full details of the arrangements should be carefully recorded, including the arrangements for regular reviews.

The agreement should clearly state the conditions and expectations of the personal programme, including review arrangements and the course of action to be followed should the agreement break down.

For all pupils accessing education at another location other than the school, the school retains a 'duty of care' towards them. This includes dual and non-dual registered pupils. Where sessions are provided at off-site alternative provision, (provision other than at the Primary PRU / LPS / CHS or a special school), attendance at that provision is 'B' coded in the register, and as such the school must ensure that they are appropriately supervised and properly accessing their provision. If the pupil is not attending their provision, their absence should be coded with the relevant absence code in the school register and followed up appropriately.

All pupils of compulsory school age are entitled to a full-time education. In very exceptional circumstances there may be a need for a temporary part-time timetable to meet a pupil's individual needs. For example, where a medical condition prevents a pupil from attending full-time education and a part-time timetable is considered as part of a re-integration

package. Any pastoral support programme or other agreement must have a time limit by which point the pupil is expected to attend full-time or be provided with alternative provision. In agreeing to a part-time timetable, a school has agreed to a pupil being absent from school for part of the week and therefore, relevant sessions are recorded as authorised absence.

Where a pupil's part-time timetable includes start times during a session, but after the register has closed, those sessions should be recorded with a C code; the child was not expected to be present for registration and therefore, irrespective of whether the child attends at their appointed start time, the C code should be entered in the register for the session/s.

The DfE guidance on attendance is clear in that B coded 'Education Off-site' sessions are not intended for a pupil studying at home.

Any alternative provision must comply with: [DfE Alternative Provision – Statutory Guidance for Local Authorities](#).

### **Exceptional Use of “B” Code – on medical grounds and where a teacher is attending the pupils home.**

Pupils who are working at home during one or more session each week:

1. where a pupil is working at home in line with professional medical advice (under the Children's Hospital School or any other school), and
2. where a member of school staff is present for the whole of the specified duration of the session, and
3. there is a signed agreement between the school and the parents/carers.

Provided the above bullet points 1 -3 are met, that session may be 'B' coded. Point 3 is essential – a “B” code places responsibility for the pupil with the school. The Agreement should make it clear that responsibility remains with the parent/carer for the duration of the session which will most likely be shorter than a school session. The effect is to seek to ensure all risk remains with the parent/carer and to clarify that it is the parents/carers who are responsible for the pupil outside the session itself.

The overriding principles for a personal study programme are that they are safe, educationally appropriate and in the best interests of the young person.

If required, agreement templates are available from the EWS.

### **Part-time timetables and alternative provision – LA E system**

The Ofsted inspection framework for Local Authority Children's Services includes a focus on children *who are missing from education or who are being offered alternative provision*. The LA is therefore required to have knowledge and oversight of such arrangements. The E system is for schools to notify the LA about a pupil's provision when it is part-time and/or the pupil is attending alternative provision. The form should also be submitted when there is a significant change to previous details provided about a pupil's timetable. As the LA already receives information on pupils on roll at the Primary PRU, LPS and the CHS, there is no need for schools to submit an E form re children who are on one of these rolls in addition to their school only. Link to the online form - [School's Extranet \(leicester.gov.uk\)](#) .

## **Suspensions and permanent exclusions**

[DfE Exclusions Guidance](#) is available online. In the case of suspensions, schools have a duty under the Education and Inspections Act 2006 to provide suitable education that is supervised to any pupil from the sixth day onwards during a suspension. This may be through a reciprocal agreement with another school.

When a pupil is accessing the alternative provision, where they are not dual registered, they should be coded 'B' (approved educational activity) and any absences from the alternative provision should be recorded using the appropriate absence code. Where they are dual registered, all sessions at the other provision should be 'D' coded in the main school from which they are suspended/excluded. (Specific advice on enrolment status and the coding of dual registered / guest pupils is available on the Schools' Extranet.)

The Education and Inspections Act 2006 (s.103) places a responsibility upon parents to ensure that their child is not present in a public place during school hours during the first five days of their exclusion/suspension; failure to do so constitutes an offence. Under s.105 Education and Inspections Act 2006 parents can be issued a Penalty Notice where it is believed they have committed this offence. The head teacher can request that the EWS issues a Penalty Notice to each parent by completing a form (available from the EWS) and by including relevant documentation.

In cases where incidents have occurred of a serious nature which led to a decision on the part of the head teacher that the pupil must attend alternative provision, if the pupil's parent/s disagree with the decision, should dialogue fail to bring about a resolution, under section 29(3) of the Education Act 2002, the governing body may require pupils to attend at any place outside the school premises for the purposes of receiving education.

The LA provides education to permanently excluded pupils from the 6<sup>th</sup> day onwards.

[Suspension and permanent exclusion letter templates](#) are available on the Schools' Extranet. Additional guidance is also available on the process of permanent exclusions.

## **Alcohol and Drugs Policy**

The DfE and Department of Health have identified young people who truant from school as having an increased risk of developing substance misuse problems. For children and young people, substance misuse can impact on their education, their relationships with family and friends and prevent them from reaching their full potential.

The EWS recognises the increased risk of developing substance misuse issues for truanting young people and will actively screen young people at School Attendance Panel Meetings and during any other direct contact with the young person and/or parents. Any young person identified through this screening as having substance misuse issues, including substance misuse by others in the home, will be referred to both the designated person(s) in school and for a specialist substance misuse assessment (the latter with consent from the parent and/or young person).



## Parenting support / Parenting Contracts

There are a range of parenting courses delivered in the city and different sources of advice for parents/carers. Parenting course sessions cover aspects of parenting including understanding children, listening skills, developing strategies for managing behaviour and coping mechanisms. Access to these courses can be voluntary or as the result of a court order following prosecution for non-school attendance.

Parenting Contracts (Education and Inspections Act 2006) can be used to secure parents/carers engagement in ensuring their child attends school regularly. Such contracts utilised within the EWS usually take the form of School Attendance Panel Meeting agreements.

Further information is available in the [DfE Guidance on Parental Responsibility Measures](#).

## Elective Home Education

Parents have a legal right (s.7 Education Act 1996) to choose to educate their children other than by attendance at school. If a parent decides that they want to withdraw their child from school to be educated otherwise, they must state their intention in writing to the head teacher of the school. When a head teacher receives this notification, they must refer the matter to their designated EWO.

Section 178 of Keeping Children Safe in Education – September 2023 states the following: Where a parent/carer has expressed their intention to remove a child from school with a view to educating at home, we recommend that LAs, schools, and other key professionals work together to coordinate a meeting with parents/carers where possible. Ideally, this would be before a final decision has been made, to ensure the parents/carers have considered what is in the best interests of each child. This is particularly important where a child has special educational needs or a disability, and/or has a social worker, and/or is otherwise vulnerable.

In any event, the EWO will seek to contact the parent(s) to discuss their intention and plans, the implications of educating otherwise and the LA procedures.

Where a parent is clear that they are proceeding to home educate, for children without an EHCP, the pupil should be removed from the school roll in accordance with Regulation 8 (1) (d) of the Education (Pupil Registration) (England) Regulations 2006.

Where a child has an EHCP, the Special Education Service should be informed (in addition to the EWO) as soon as the parent's intention is known. Additionally, where the child attends a special school, they cannot be removed from roll without authorisation from the LA; the LA will need to ensure the **parent** has appropriate provision in place to meet the child's SEN. If this is agreed, the child's EHCP will be amended accordingly, usually with reference to the view of the LA being that the child's needs can be met in a particular type of school but recognising the parent's decision to take responsibility for the child's education themselves. (With regards to children on the roll of a special school, the LA has a process which enables a decision to be reached; the process includes a professionals meeting including a special school staff member ideally with extensive knowledge of the child.)

The EWO will inform the Home Education Adviser (HEA) about newly identified home educated children. Where the education provision is deemed to be unsuitable, and this

issue is not resolved, the EWO will be notified and the parent will be required to return their child to school, or satisfy the LA that the child is receiving a suitable education; this can be the case where more information is provided on the education the child is receiving or where improvements have been made.

Whereas there is no duty on the part of the LA to regularly monitor the quality of elective home education, the LA does have a duty to act where it appears that a child is not receiving a suitable education. Where a parent is saying that they electively home educating their child, failure on a parent's part to satisfy the LA that the child is receiving a suitable education may constitute an offence; the EWS follows the School Attendance Order route defined in the regulations in relation to children who are not on a school roll where a parent is saying they are home educating, but where the view of the LA is that the child is missing from education.

Further information including the [LA's Policy on Home Education](#) is available on the council's website.

### **Child employment and performance licensing**

Any young person of compulsory school age who is employed must have a licence issued by the City Council, in accordance with local byelaws. Such licences are not intended to stop young people from working, but instead protect young people from being exploited, or from damaging their health, well-being, or education while they are at work. The licence specifies the tasks, hours, days, and location relating to the young person's work.

Employment licences are dealt with by the EWS and will be issued if it is legal for the young person to undertake the work and the young person's well-being and education will not suffer. The young person's employer should request a licence from the EWS within no later than a week of the young person starting employment; agreement is sought from the young person's parent(s)/carer(s) and school. Licences should be available for inspection at any time; a licence will be withdrawn if the actual terms are found to be non-compliant with the regulations, or the employment is judged to be damaging the young person's health, well-being, or education.

Licences are also required for young people who model, or for those who are involved in certain performances. Children involved in performances must have a registered chaperone (if their parent is not going to be present with them), and their involvement in performances is limited to specified times and durations. The performance producer should request a licence from the EWS. Copies of the licence issued will be sent to the producer, the child's parent(s)/carer(s) and the child's school where relevant. The producer must ensure that educational provision is made where appropriate.

Absences from school due to performances can only be authorised by the head teacher; absences for unlicensed performances cannot be authorised. Further information is available from the EWS.

## **Advice for schools on absent parents with parental responsibility**

Advice from the DfE is that everyone who is a parent (whether they are a resident or non-resident parent) has a right to participate in decisions about a child's education and receive information about the child (even though for day to day purposes, the school's main contact is likely to be a parent with whom the child lives on school days). School staff must treat all parents equally, unless there is a court order limiting an individual's exercise of parental responsibility. Individuals who have parental responsibility for, or care of a child have the same rights as natural parents, for example:

- to receive information, for example, pupil reports
- to participate in school activities, for example, to vote in elections for parent governors
- to be asked to give consent to school trips
- to be informed of school meetings involving the child, for example, governors' meetings on a child's suspension or exclusion.

Legal advice from the City Council is that, where schools need parental consent for outings and other activities, head teachers should seek consent from the resident parent unless the decision is likely to have a long and significant impact on the child or the non-resident parent has requested to be asked for consent in all such cases.

In cases where the school considers it necessary to seek consent from both parents where one gives consent and the other withholds it, it is best to assume that parental consent has not been given. Such an approach safeguards the position of the school, ensuring it is not exposed to any potential civil liability, for example, if the child is injured while on a school trip.

In the case of a parental request to withdraw their child for the reason of home education (by the resident parent), it is advisable to notify the other parent unless there is a court order in place prohibiting the school from contacting the other parent or, if the parent has lost parental responsibility. If the other parent does not agree, the child should not be removed from roll and instead, the parents should be advised that they need to reach a mutually agreed decision and if this is not possible, one or other or both must seek legal advice on how they should proceed.

In cases where the school understands there is an absent parent with parental responsibility but where this parent is not on the child's contact list and has no contact with the school and would appear to play no part in the child's life, the school would not be expected to contact/notify them about trips, holidays, home education decisions etc.

## Appendix A - penalty notice guidance for schools

All references to holidays below relate to leave of absence.

The Local Authority is empowered by the Anti-social Behaviour Act 2003 to issue Penalty Notices (PNs) in relation to pupils' unauthorised absence (u/a) from school. The fine is £60 per parent/carer per child if paid within 21 days of issue, increasing to £120 if paid between 21 - 28 days. Any Penalty Notice not paid within 28 days will result in the matter being taken to court unless subsequent information leads to the PN being withdrawn.

The Education (Pupil Registration) (England) (Amendment) Regulations 2013 state that head teachers should not authorise leave of absence unless:

- An application has been made in advance by the parent with whom the child normally resides and
- The head teacher considers that there are exceptional circumstances relating to the application

**The Isle of Wight Council v Platt case considered by the Supreme Court makes it clear that regular attendance shall mean attendance in accordance with the school rules and therefore any non-attendance which is not in accordance with the school rules will be deemed unauthorised and it would therefore be appropriate to issue a PN.**

School letters and policies (including web based information) about u/a should refer to the fact that that a PN or a prosecution in the Magistrates' Court could ensue as some cases are too concerning to issue a PN and enforcement action will be appropriate; it is therefore necessary to avoid giving the impression that a PN is the only possible consequence of u/a.

**PNs can be issued in accordance with the LA Code of Conduct as follows:**

- PNs in respect of holidays/leave of absence not authorised by a school (code 'G')
- PNs in respect of a pupil who has been surveyed on two separate truancy patrols where the absences are not authorised
- PNs in respect of ongoing u/a (minimum of 20 u/a over a 12 week period).

Schools may request PNs in relation to unauthorised holidays, but schools do not request PNs issued in relation to truancy patrols and ongoing u/a – the decision to issue these will be made by the EWO in agreement with their supervising officer and in consultation with the school where appropriate. Prior to the issue of any PNs in relation to on-going u/a, there would have been a School Attendance Panel meeting held. (Similarly for cases relating to ongoing u/a where court action is initiated.)

### **PNs in relation to unauthorised holidays**

PNs are issued by the EWS on receipt of a completed E form with attendance certificates (EWS6 PN) submitted by the school. Requests **should be submitted within three school weeks on the child/ren's return to school from holiday/leave of absence.** It is essential for any subsequent court case that the school (without delay) puts in writing to the parent/carer the basis for any decision **not** to agree to some or all of a holiday request and that a copy of this letter is either submitted with the E form request or retained and provided to the LA if requested.

It is advisable that all members of school staff give a standard agreed response to any parent who raises the issue of leave/holiday outside of the school's process i.e., by referring to the process and avoiding giving a view on whether it is likely to be agreed.

To satisfy **rules of evidence** in any subsequent prosecution should the PN not be paid within 28 days:

- The **date period on the EWS6 PN** should cover each week during which there has been u/a in relation to the holiday and also any authorised absence in relation to the holiday as this form will also be used in evidence in court to demonstrate the overall absence should the PN remain unpaid.
- The **minimum number of days of unauthorised holiday** for a PN to be issued is generally set at four days. This is because any subsequent court action must be in the public interest. For example, it is unlikely that a PN would be issued for an excellent attender who has three or less days of u/a in relation to a holiday, for if unpaid, it is unlikely that any subsequent court action would be deemed to be in the public interest. (See \* below.)
- Where a pupil has four or more days of u/a relating to a holiday, on receipt of the completed documentation, a PN will be issued, providing the request for the PN is submitted without delay and always within a month of the pupil's return to school. The exception would be where the period of absence marks **the third such occasion for the child when considering the previous four school years where a decision may be made that a direct prosecution is appropriate.**

\*If a pupil fails to return to school on the agreed return date and misses less than four days, **exceptions may be made to the four day rule** if this has happened before and if the school has written to the parent to point this out to them. A copy of the letter could then be used in any subsequent prosecution to justify the action to the Magistrates. There may also be other exceptions to the four day rule where the u/a has had a significant impact on the child's education, for example, they miss exams. To summarise, PNs may be issued for less than four days of u/a when the history and/or the impact of the absence warrants this.

### **On-going unauthorised absence which also incorporates an unauthorised holiday**

Where a pupil has ongoing u/a and also has an unauthorised holiday, a PN can be issued in relation to the holiday with the usual Attendance Panel Interview process being followed in relation to the other u/a. Alternatively, the unauthorised holiday could form part of the evidence as part of any subsequent prosecution in relation to the ongoing u/a. However, if it appears likely that a prosecution will ensue for the ongoing u/a, the whole period should be addressed via prosecution action (and a PN should not be issued in relation to the holiday that was taken during the wider period of concern).

To minimise the possibility that a family will go away for an agreed period and then contact the school to say they are not able to return until a later date, it is advisable to state when the holiday is first requested that a condition of agreeing to the holiday is the parent/s providing a copy of the tickets to school. If the parent later states that return was delayed due to what could amount to unavoidable cause, further evidence of ticket changes should be requested to inform the decision on the appropriate action.

There are leaflets in different languages about PNs in the EWS area of the extranet that schools may like to use. If further information is required on PNs, schools should discuss this with their link EWO.

A training video is available on the PN E system on the extranet – [Schools' Extranet \(leicester.gov.uk\)](https://schools.extranet.leicester.gov.uk).

## Useful links

- [Working together to improve school attendance - Summary table of responsibilities for school attendance \(GOV.UK\)](#)
- [Mental health resources for children, students, parents, carers and school/college staff - The Education Hub \(GOV.UK\)](#)
- [Promoting and supporting mental health and wellbeing in schools and colleges \(GOV.UK\)](#)
- [Providing remote education: non-statutory guidance for schools \(GOV.UK\)](#)
- [Summary of responsibilities where a mental health issue is affecting attendance \(GOV.UK\)](#)
  
- [Family Hubs website \(Leicester City Council\)](#)
- [Children Missing Education policy \(Leicester City Council\)](#)
- [Safe and well checks policy \(Leicester City Council\)](#)
- Enforcement policy – under revision
  
- [Leicester and the Leicestershire and Rutland Safeguarding Children Partnerships Procedures Manual \(proceduresonline.com\)](#)

For queries in relation to this policy, please discuss with your link EWO, or e-mail [education.welfare@leicester.gov.uk](mailto:education.welfare@leicester.gov.uk).