



# St John's Green Primary School

Learn to Live, Live to Learn

Headteacher Mr Simon Billings  
Deputy Headteacher Mrs Tina Bourne  
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We ♥  
Maths



We are all  
writers ...



We are growing  
our learning

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## Attendance Policy (September 2020)

### Covid-19 pandemic

St John's Green Primary School will implement all DfE policies and guidelines relating to attendance during the Covid-19 pandemic. From September 2020 the expectation is that all pupils will attend school and the Pupil Attendance Policy will be reinstated and implemented.

If parents or students have concerns about attendance during the pandemic they should speak to the school office in the first instance. The school's risk assessment refers to attendance and the steps that the school will take to promote attendance at the current time.

### 1 Introduction

We expect all children on roll to attend every day, when the school is in session, as long as they are fit and healthy enough to do so. We do all we can to encourage the children to attend, and to put in place appropriate procedures. We believe that the most important factor in promoting good attendance is development of positive attitudes towards school. To this end, we strive to make our school a happy and rewarding experience for all children. We will reward those children whose attendance is very good. We will also make the best provision we can for those children who, for whatever reason, are unable to come to school.

Under the Education (Pupil Registration) Regulations 1995, the governing body are responsible for making sure the school keeps an attendance register that records which pupils are present at the start of both the morning and the afternoon sessions of the school day. This register will also indicate whether an absence was authorised or unauthorised.

St John's Green Primary School recognises that positive behaviour and good attendance are essential in order to raise standards of pupil attainment and to give every child/young person the best educational experience possible.

This policy is written with the above statement in mind and underpins our school ethos to:

- promote children's welfare and safeguarding
- ensure every pupil has access to the full time education to which they are entitled
- ensure that pupils succeed whilst at school
- ensure that pupils have access to the widest possible range of opportunities at school, and when they leave school

For our children to gain the greatest benefit from their education it is vital that they attend regularly and be at school, on time, every day the school is open unless the reason for the absence is unavoidable.

### 2 School Attendance and the Law

Under the 1996 Education Act, parents and carers are responsible for ensuring their children attend school regularly and punctually. Failure to do so could result in legal action being taken against them by the Local Education Authority.

The register is a legal document and schools must, under the Education (Pupil Registration) Regulations 2006 take a register at the start of the morning session, and again during the afternoon session. Since September 2006, schools have been required to use statutory registration codes (*see Appendix A*).

Under the Education (Pupil Registration) Regulations 2006, only the school (and not parents/carers) can authorise an absence. Where the reason for a pupil's absence cannot be established at the time the register is taken, that absence shall be recorded as unauthorised. If a reason for absence is provided by the parent/carer, the school may decide to grant leave of absence which must be recorded as authorised using the appropriate national code. ***It is therefore vital that parents notify the school by 9.30 a.m. of their child's absence giving the school a reason. The school accepts phone messages, e-mail messages and text messages for this purpose and the contact details are at the top of the weekly newsletter and in all communication from the school.***

Amendments to the 2006 regulations have come into force as of September 2013 and references to family holiday, extended leave and the statutory threshold of ten school days have been removed. The amendments make it clear that headteachers may not grant any leave of absence during term time unless there are exceptional circumstances. Headteachers should determine the number of school days a child can be away from school if the leave is granted.

If parents do not apply for leave of absence in advance of taking it, the absence will be recorded as unauthorised. If parents keep a child away for longer than was agreed, any extra time is recorded as unauthorised. If the pupil fails to attend school within 10 school days immediately following the date the pupil was due to return and the school has no reasonable grounds to believe that the pupil is unable to attend the school by reason of sickness or any other unavoidable cause and **both the school and the Local Authority have failed, after reasonable enquiry, to ascertain where the pupil is** the pupil can be removed from roll and referred to Children Missing Education (CME).

Where a family chooses to take a holiday during term time, the absence will be coded as unauthorised (G code) and a Penalty Notice may be issued to each parent for each child (where 5 or more days of unauthorised absence are recorded as a result).

If leave of absence is taken without the request having been agreed, the absence will be recorded as unauthorised. This may result in the Local Authority issuing a Penalty Notice, in accordance with the Essex Code of Conduct (£120 per parent, per child / £60 if paid within 21 days), where there have been 10 sessions or more of unauthorised absence recorded. If this penalty is not paid the Local Authority will instigate legal proceedings against the parent/carer in the Magistrates Court. *In addition to the above criteria, due to the importance of pupils settling into school at the commencement of the school year, penalty notices may also be issued if there have been at least 6 consecutive sessions of unauthorised leave of absence during the first two weeks of September.*

The decision whether or not to authorise an absence should be justifiable and the reason for rejection must be recorded and conveyed to the parent(s) in writing. A letter refusing a request should explain the reason it is not deemed to be an exceptional circumstance and that a penalty notice may be issued if the absence is taken without the school's permission.

In a small number of cases the school could have concerns about a pupil's welfare, such as that the pupil will be **forced into marriage** whilst abroad. In such cases, the school should seek support from the Local Authority.

### 3 Definitions

#### Authorised absence

- An absence is classified as authorised if the school has received notification from a parent/carer, and the child has been away from school for a legitimate reason. For example, if a child has been unwell, the parent writes a note or telephones the school to explain the absence.

- Only the school can decide that the absence is authorised. Parents do not have this authority. Consequently, not all absences supported by parents will be classified as authorised. For example, if a parent takes a child out of school to go shopping during school hours, this will not mean it is an authorised absence.

#### Unauthorised absence

Unauthorised absences are those which the school does not consider reasonable and for which no 'leave' has been given. This type of absence can lead to the Local Authority using sanctions and/or legal proceedings.

Unauthorised absence includes:

- parents keeping children off school unnecessarily e.g. because they had a late night or for non-infectious illness or injury that would not affect their ability to learn.
- absences which have never been properly explained
- children who arrive at school too late to get a mark on the attendance register
- shopping trips
- looking after other children or children accompanying siblings or parents to medical appointments
- their own or family birthdays
- holidays taken during term time without leave- 5 days unauthorised absence will lead to a penalty notice being triggered by the Local Authority
- day trips
- other leave of absence in term time which has not been agreed

#### 4 If a child is absent

When a child is absent unexpectedly, the class teacher will record the absence in the register, and will inform the school office, which will endeavour to contact the child's parents/carers.

A note may be sent to the school prior to the day of absence, e.g. if a child has a medical appointment.

If there is any doubt about the whereabouts of a child, the class teacher should take immediate action by notifying the school office. The school will then be in contact straight away with the parent/carer, in order to check on the safety of the child.

All absence will be recorded in the registers with the set codes (see Appendix A)

#### 5 Requests for leave of absence

We believe that children need to be in school for all sessions, so that they can make the most progress possible. However, we do understand that there are circumstances under which a parent may legitimately request leave of absence for a child to attend, e.g. religious observance. We expect parents to contact the school at least a week in advance, but normally this request will be authorised.

**The school will not authorise absence for special treat days for example – birthdays.**

Parents do not have the right to withdraw their children from school for up to ten school days for an annual holiday. **As stated earlier the amendments to the 2006 Education act remove the option to apply for up to 10 days family holiday.**

**The school will however consider requests for Leave of absence in exceptional circumstances.**

**At St John's Green Primary School 'exceptional circumstances' will be interpreted as:**

**... being of unique and significant emotional, educational or spiritual value to the child which outweighs the loss of teaching time. The fundamental principles for defining 'exceptional' are events that are "rare, significant, unavoidable and short". By 'unavoidable' we mean an event that could not reasonably be scheduled at another time.**

A letter must be attached to the request form (appendix B) outlining the 'exceptional circumstances' for which leave of absence is being applied for. **Any requests for leave of absence will only be considered by the school if the child has 97% attendance or better in the 14 weeks preceding the request.**

Should the school decide not to authorise a leave of absence, then the reason for the rejection will be recorded and conveyed to the parent(s) in writing.

However, the school has a statutory duty to discourage parents from removing their children from education for any reason as absences may have a negative impact on the pupil's educational attainment and progress. **A pupil who takes 10 days absence will only attain 94.7% attendance in the year. 10 days absence also means the pupil will miss 50 hours of education.**

The school will not consider requests for leave of absence

1, During September or in the case of a Foundation pupil starting school in January, during January.

2, During assessment and test periods in the school's calendar affecting your child.

3, When a pupil's attendance record already includes any level of unauthorised absence or they have already been granted authorised leave within that academic year.

### ***Popular question – Can I take my child on holiday in term time?***

*The current law does not give any entitlement to parents to take their child on holiday during term time. Any application for leave must be in exceptional circumstances and the Headteacher must be satisfied that the circumstances warrant the granting of leave.*

*Parents can be fined for taking their child on holiday during term time without consent from the school.*

## **6 Long-term absence**

When children have an illness that means they will be away from school for over five days, the school will do all it can to send material home, so that they can keep up with their school work.

If the absence is likely to continue for an extended period, or be a repetitive absence, the school will contact the support services, so that arrangements can be made for the child to be given some tuition outside school.

At St John's Green we recognise our culturally diverse nature. We also appreciate and value the fact that parents/carers may wish to take their children back to their country of origin to enable them to fully understand their roots. **Parents may apply to take their children back to their country of origin by making an application using appendix B.**

## **7 Repeated unauthorised absences**

The school will contact the parent or guardian of any child who has an unauthorised absence. If a child has a repeated number of unauthorised absences, the parents or guardians will be initially informed of the school's concern through a letter. If attendance does not improve the parents or guardians will be asked to visit the school and discuss the problem. If the situation does not improve, the school will then contact the Education Welfare Team, who will visit the home and seek to ensure that the parents/carers understand the seriousness of the situation.

## **8 Persistent Absenteeism (PA)**

A pupil is defined by the Government as a 'persistent absentee' when they miss 10% or more schooling across the school year for whatever reason. Absence at this level will cause considerable damage to any child's education and we need a parent's fullest support and co-operation to tackle this.

We monitor all absence, and the reasons that are given, thoroughly. If a child is seen to have reached the PA mark or is at risk of moving towards that mark we will inform the parent. PA pupils are tracked and monitored carefully. We also combine this with academic tracking where absence affects attainment. All our PA pupils and their parents are subject to a school based meeting and the plan may include: allocation of additional support through the School Nurse, Local Attendance Adviser, Home School Liaison Worker, Local Authority, Family Solutions or Social Care. We may also use circle time, individual incentive programmes, individual targets and participation in group activities to support us in raising attendance.

### **Actions the school will take in the event of persistent absence**

Children with less than 95% attendance in a half term review will be written to by the school advising them of the amount of absence their child has had and unless the school is aware of extenuating circumstances, will request a meeting with the parents.

If a child is raised as a concern in a subsequent review then the school invites the parents/carers in for an attendance meeting with the school's EWO. Following this meeting the child's attendance is discussed and actions put in place to promote improved attendance.

Further to the above the school will also ask for medical proof if a child is subsequently absent, otherwise the absence will be recorded as un-authorised.

If after the above actions have taken place and attendance has not improved then the school's EWO will begin legal proceedings against the child's parents/carers.

## **9 Lateness**

Poor punctuality is not acceptable. If a child misses the start of the day they can miss work and do not spend time with their class teacher getting vital information and news for the day. Late arriving pupils also disrupt lessons, can be embarrassing for the child and can also encourage absence. Good time-keeping is a vital life skill which will help our children as they progress through their school life and out into the wider world.

### **How we manage lateness**

The school day starts at **8.45 am (Abbey Field for children in EYFS, Year 1, Year 5 and Year 6)** and at **9.00 am (Town for children in Year 2, Year 3 and Year 4)** when the bell is rung for children to come into school. Registers are taken at **8.50 am (Abbey Field)** and **9.05 am (Town)** and your child will receive a late mark if they are not in class by that time. Children arriving after **8.45 am (Abbey Field)** and **9.00 am (Town)** when the children have been taken off the playground and into their classes are required to come in to school via the school office. If accompanied by a parent, the parent will sign them into our 'Late Book' and provide a reason for their lateness which is recorded. The school may send home 'late notes' in order to keep parents informed.

At **9.20am** the registers will be closed. In accordance with the Regulations, if your child arrives after that time they will receive a mark that shows them to be on site, but this will **not** count as a present mark and it will mean they have an unauthorised absence. This may mean that you could face the possibility of a Penalty Notice if the problem persists. If your child has a persistent late record you will be asked to meet with the School Welfare Officer and/or Family Support Worker, but you can approach us at any time if you are having problems getting your child to school on time. We expect parents and staff to encourage good punctuality by being good role models to our children and celebrate good class and individual punctuality.

In the case of persistent lateness (more than twice a week) arriving after the school start time. 5 minutes after the school day begins, the school writes to the parents advising them of the disruption to both the school day and the child's education. Any child who arrives 15 minutes after the start of the school day – will be marked down as an un-authorised absence unless the reason given by the parent/carer is plausible. i.e. car breaking down.

Should the lateness continue to be persistent then the parents/carers will be invited in to the school to talk with the Headteacher about strategies to improve timekeeping.

If lateness continues then the school will involve the EWO and legal proceedings may be instigated.

## 10 Absence Procedures

If a child is absent from school the parent/carer must follow the following procedures:

- Contact the school on the first day of absence before 9.30 am. The school accepts phone messages, e-mail messages and text messages for this purpose and the contact details are at the top of the weekly newsletter and in all communication from the school, or call into school personally and speak to the office staff
- Contact the school on every further day of absence, again before 9.30am
- Ensure that your child returns to school as soon as possible

If your child is absent we will:

- **Telephone or text you on the first day of absence if we have not heard from you**
- Write to you if your child's attendance is below 95%
- Invite you in to school to discuss the situation with our Family Support Worker or Headteacher if absences persist
- Refer the matter to the Local Authority to request a formal School Attendance Meeting if attendance deteriorates following the above actions

## 11 The Missing Education and Child Employment Service

Parents are expected to contact school at an early stage and to work with the staff in resolving any problems together. This is nearly always successful. If difficulties cannot be sorted out in this way, the school may refer the child to the Local Authority. Local Authority Officers work with schools, families and other professionals to reduce persistent absence and improve overall attendance. If attendance does not improve, legal action may be taken in the form of a Penalty Notice (See Annex A for the Essex Code of Conduct), prosecution in the Magistrates Court or the application of an Education Supervision Order, designed to strengthen parental responsibilities and ensure improved attendance.

## 12 Deletion from Roll

For any pupil leaving St John's Green Primary School, other than at the end of year 6 parents are required to complete a 'Pupils moving from school' form which can be obtained from the school office. This provides school with the following information: Child's name, class, current address, date of leaving, new home address, name of new school, address of new school. This information is essential to ensure that we know and safeguard the whereabouts of all of our pupils.

## 13 Rewards for good attendance

All the children who have 100 per cent attendance in any one term will receive a reward for their attendance, awarded at the last assembly of the term.

A class award will be given termly to the class that has the best overall attendance for that term.

A class award will be given termly for the class that has the most 100% children.

A weekly attendance award will be awarded to the class that has the best attendance for the that week.

## 14 Attendance targets

The school sets attendance targets each year. These are agreed by the senior staff and governors at the annual target-setting meeting. Targets are challenging yet realistic, and based on attendance figures achieved in previous years. The school considers carefully the attendance figures for other similar schools when setting its own targets.

## 15 Monitoring and review

It is the responsibility of the governors to monitor overall attendance, and they will request an annual report from the headteacher. The governing body also has the responsibility for this policy, and for seeing that it is carried out. The governors will therefore examine closely the information provided to them, and seek to ensure that our attendance figures are as high as they should be.

The school will keep accurate attendance records on file for a minimum period of three years.

The Office Administrator will be responsible for monitoring attendance in the school, and for following up absences in the appropriate way. If there is concern about a child's absence, they will respond in line with this policy. If there is a longer-term general worry about the attendance of a particular child, this will be reported to the headteacher, who will contact the parent/carers.

This policy will be reviewed by the governing body every two years, or earlier if considered necessary.



**NEW ATTENDANCE CODES, DESCRIPTIONS AND MEANINGS**

<b>CODE</b>	<b>DESCRIPTION</b>	<b>MEANING</b>
<b>/</b>	Present (AM)	Present
<b>\</b>	Present (PM)	Present
<b>B</b>	Educated off site (NOT Dual registration)	Approved Education Activity
<b>C</b>	Other Authorised Circumstances (not covered by another appropriate code/description)	Authorised absence
<b>D</b>	Dual registration (i.e. pupil attending other establishment)	Approved Education Activity
<b>E</b>	Excluded (no alternative provision made)	Authorised absence
<b>F</b>	Extended family holiday (agreed)	Authorised absence
<b>G</b>	Family holiday (NOT agreed <u>or</u> days in excess of agreement)	Unauthorised absence
<b>H</b>	Family holiday (agreed)	Authorised absence
<b>I</b>	Illness (NOT medical or dental etc. appointments)	Authorised absence
<b>J</b>	Interview	Approved Education Activity
<b>L</b>	Late (before registers closed)	Present
<b>M</b>	Medical/Dental appointments	Authorised absence
<b>N</b>	No reason yet provided for absence	Unauthorised absence
<b>O</b>	Unauthorised absence (not covered by any other code/description)	Unauthorised absence
<b>P</b>	Approved sporting activity	Approved Education Activity
<b>R</b>	Religious observance	Authorised absence
<b>S</b>	Study leave	Authorised absence
<b>T</b>	Traveller absence	Authorised absence
<b>U</b>	Late (after registers closed)	Unauthorised absence
<b>V</b>	Educational visit or trip	Approved Education Activity
<b>W</b>	Work experience	Approved Education Activity
<b>X</b>	Non-compulsory school age absence	Not counted in possible attendances
<b>Y</b>	Enforced closure	Not counted in possible attendances
<b>Z</b>	Pupil not yet on roll	Not counted in possible attendances
<b>#</b>	School closed to pupils	Not counted in possible attendances



## Appendix B - Guidance to Headteachers on leave of absence

### APPLICATION FOR LEAVE OF ABSENCE DURING TERM TIME

Leave of absence may only be granted by a person authorised in that behalf by the proprietor of the school. As from 1st September 2013, the Education (Pupil Registration) (England) (Amendment) Regulations 2013 amended Regulation 7 to prohibit the proprietor of a maintained school from granting leave of absence to a pupil, except where an advance application has been made by the parent with whom the pupil normally resides, and the proprietor considers that there are exceptional circumstances relating to the application. Taking your child out of school during term time could be detrimental to your child's educational progress. A pupil who takes 10 days absence will only attain 94.7% attendance in the year. 10 days absence also means the pupil will miss 50 hours of education.

There is no entitlement to parents to take their child out of school during term time, however, you may apply to the school for leave of absence if you believe there are exceptional circumstances.

If the absence is not authorised and the holiday is taken, the case will be referred to the Education Welfare Service who may issue a Penalty Notice for £120 (or £60 if paid within 21 days) to each parent for each child taken out of school.

**Please complete one application per child.**

Name of Child	
D.O.B:	
Class:	

Date of First Day of Absence: \_\_\_\_\_

Date of Return: \_\_\_\_\_

Number of Days Requested: \_\_\_\_\_

**Important: A letter must be attached to this request, outlining the 'exceptional circumstances' for which a leave of absence is being applied for.**

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

Name: \_\_\_\_\_

**School/office use only:**

Attendance % preceeding 14 weeks			
Number of sessions absence this academic year	Auth	Unauthorised	Total

## Annex A

# **ESSEX CODE OF CONDUCT PENALTY NOTICES FOR PARENTS OF TRUANTS AND PARENTS OF PUPILS EXCLUDED FROM SCHOOL ANTI-SOCIAL BEHAVIOUR ACT 2003 SECTION 23**

The purpose of this local code of conduct is to ensure that the powers are applied consistently and fairly across the Local Authority area to all Essex residents.

The Government requires Local Authorities to issue a code of conduct and any persons issuing Penalty Notices to a parent<sup>1</sup> must do so in accordance with this protocol. Essex County Council is legislatively responsible for administering the Penalty Notice scheme and will do so in accordance with a number of legislative and non-legislative requirements.

The Essex code has been agreed following consultation with;

- Essex County Council representatives – Attendance Compliance Team and Essex Legal Services.
- Representatives from Governing Bodies and Headteachers of Essex Schools
- Essex Police
- Persons accredited under Essex Police's Community Safety Accreditation Scheme (CSAS)

The Code of Conduct is in accordance with the following legislation;

### **LEGISLATIVE FRAMEWORK FOR EDUCATION PENALTY NOTICES**

The legal framework governing school attendance and the responsibilities of parents of excluded pupils, schools and the LA is set out in a succession of acts, regulations and other guidance.

#### **Education Act 1996**

Under Section 7 of the Act: the parent is responsible for making sure that their child of compulsory school age receives efficient full time education that is suitable to the child's age, ability and aptitude and to any special educational needs that the child may have, this can be by regular attendance at school, or otherwise (the parent can choose to educate their child themselves). If it appears to the LA that a child of compulsory school age is not receiving a suitable education, either by regular attendance at school or

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<sup>1</sup> All those defined as a parent under Section 576 Education Act 1996 are parents for the purpose of these provisions. This means that all natural parents, whether they are married or not; any person who, although not a natural parent, has parental responsibility (as defined in the Children Act 1989) for a child or young person; and any person who, although not a natural parent, has care of a child or young person. Having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child, is considered to be a parent in education law. Parent means each and every parent coming within the definition (whether acting jointly or separately) and should not be taken to mean that provisions only apply to parent in the singular. As with prosecutions under Section 444 Education Act 1996 a penalty notice may be issued to each parent liable for the offence.

otherwise then they must begin procedures for issuing a School Attendance Order under Section 437 of the Education Act 1996.

If a child of compulsory school age who is registered at a school fails to attend the school regularly the parent is guilty of an offence under Section 444(1) of the Education Act 1996. In addition, if it can be proved that a parent knew of the child's non-attendance and failed to act, then they may be found guilty under Section 444(1 A). This offence (known as the higher or aggravated offence) can lead to a warrant being issued compelling a parent to attend court and conviction may result in a higher level fine and/or a custodial sentence.

On 6 April 2017, in the case of *Isle of Wight Council v Platt* [2017] UKSC 28, the Supreme Court ruled that the word 'regularly' means 'in accordance with the rules prescribed by the school.'

### Anti-social Behaviour Act 2003

<http://www.legislation.gov.uk/ukpga/2003/38/contents>

The Act added two new sections (444A and 444B) to the Education Act. It introduced penalty notices as an alternative to prosecution under Section 444; the issuing of penalty notices is governed by:

- The Education (Penalty Notices) (England) Regulations 2007
- The Education (Penalty Notices) (England) (Amendment) 2013

<http://www.legislation.gov.uk/uksi/2013/757/contents/made>

### Children Act 1989

<http://www.legislation.gov.uk/ukpga/1989/41/section/36>

### Crime and Disorder Act 1998

<https://www.legislation.gov.uk/ukpga/1998/37/section/16>

### Education and Inspections Act 2006

<http://www.legislation.gov.uk/ukpga/2006/40/contents>

### The Education (Pupil Registration) (England) Regulations 2006 (Amended 2013)

<http://www.legislation.gov.uk/uksi/2013/756/regulation/2/made>

## **AUTHORISATION TO ISSUE PENALTY NOTICES**

Primary responsibility for issuing penalty notices rests with the Local Authority (LA). It has been agreed that the Attendance Compliance Team, on behalf of Essex LA, will usually issue penalty notices. The Service will administer the scheme from any funds obtained as a result of issuing penalty notices.

Head Teachers (and Deputy Head Teachers and Assistant Head Teachers authorised by the head teacher) and police, and persons accredited by the community safety accreditation scheme are all able to issue the notices under the Act, although there is no requirement for them to do so.

In Essex it has been agreed that the Police and Head Teachers will not issue penalty notices to parents. Persons accredited through the Community Safety Accreditation Scheme<sup>2</sup> are authorised to do so.

## **CIRCUMSTANCES IN WHICH A PENALTY NOTICE MAY BE ISSUED**

Penalty Notices apply to pupils of statutory school age, which commences the term immediately following the child's 5<sup>th</sup> birthday and finishes on the last Friday in June of school year in which they turn 16.

Penalty notices will only be issued as a conclusion to a series of processes and when all attempts to address school attendance matters have been unsuccessful. If a previous Penalty Notice has been unsuccessful, rationale and justification should be provided as to why issuing another Penalty Notice would improve the attendance of the student. If schools are not aware of any previous or current legal interventions they must email [attendancecompliance@essex.gov.uk](mailto:attendancecompliance@essex.gov.uk). A response will be sent within 3 working days.

Parents cannot be penalised more than once for the same period of absence.

Domestic and European legislation and case law makes it clear that when serving a formal Notice in criminal proceedings, the recipient must be clearly and unambiguously identified. For the Purpose of issuing a Penalty Notice under this Code, the parent's first and last name must be cited on the Notice and any covering letter.

Essex partners have agreed to use Penalty Notices for the following circumstances however the offence under s444 Education Act 1996 is the same whether issued for unauthorised leave of absence (ULA) or irregular school attendance (ISA):

### **Penalty notices for unauthorised leave of absence (ULA)<sup>3</sup>**

Penalty Notices may be issued where there have been at least 10 consecutive sessions of unauthorised absence for the purpose of a holiday, whereby a parent made an application to the School which the Head Teacher has deemed not for exceptional circumstances. In addition, a Penalty Notice may also be issued, whereby the parent did not submit a leave of absence request, however the school have reason to believe the absence was for the purpose of a holiday and should not be authorised as parent has not provided any additional evidence which the Head Teacher deems appropriate to support the absence.

In addition to the above criteria, due to the importance of pupils settling into school at the commencement of the school year, Penalty Notices may also be issued if there have been at least 6 consecutive sessions of unauthorised absence during the first two weeks of September due to a term-time holiday.

The Local Authority requests that for Penalty Notices to be issued, parents must be duly warned of the legal ramifications under separate cover if they remove their child from school for the purpose of a holiday. Schools/Academies must reference the use of Penalty Notices within their Attendance Policy which must be available to all parents/carers online and/or in hard copy within the school, accessible to parents to read.

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<sup>2</sup> Accredited companies at time of this publication are Attendance Solutions Essex, Aquinas School Attendance Provisions and NEMAT Support Services

<sup>3</sup> Truancy/unauthorised/irregular school attendance refers to absence from school without permission or good reason and the absence is unauthorised by the school.

Schools should remind parents of the protocol regarding leave of absence during term time.

### Penalty Notices for Irregular School Attendance (ISA)

Penalty Notices may be issued where there has been at least 10 sessions of unauthorised absence during the previous 10 school weeks.

Parents must have been issued with a Legal Action Warning Letter with accompanying Legal fact sheet and given opportunities to inform the school of any factors impacting on their ability to ensure their child attends school regularly. Warning letters are valid for 18 calendar weeks.

The Local Authority advises that the following template is used for irregular school attendance referrals as this has been specifically designed to enable the progression of cases if appropriate. This letter must be on headed paper from the school or accredited persons issuing the notice. The legal fact sheet must be included

[https://schools.essex.gov.uk/pupils/Attendance\\_Compliance/Documents/Legal%20Action%20Warning%20Letter%20for%20schools.docx](https://schools.essex.gov.uk/pupils/Attendance_Compliance/Documents/Legal%20Action%20Warning%20Letter%20for%20schools.docx) .

Failure to adequately issue warning to parents may result in the Penalty Notice being withdrawn or not issued.

All penalty notice referrals or notifications from Accredited Persons must be sent via Essex County Council's online portal and all relevant pre-referral work in accordance with the Local Authority requirements must be uploaded alongside the referral/notification.

The Local Authority must be satisfied that the substantive offence in accordance with s.444 Education Act 1996 has been committed prior to issuing a Penalty Notice. Evidence of attempts to address attendance concerns within the previous 8 weeks prior to requesting or notifying of a Penalty Notice must be submitted. Satisfactory evidence includes letters, notes of home visits, meetings, telephone calls etc.

*N.B. for ULA and ISA PN's consideration should always be given to whether it is appropriate to issue to absent parents.*

### Number of Penalty Notices which can be issued for Irregular school attendance/unauthorised leave of absence

Discretion will be used to enable up to two penalty notices to be issued to each parent for each child within a twelve month period. If the law continues to be broken around school attendance the Attendance Compliance Team may instigate legal proceedings.

### Number of Penalty Notices which can be issued for pupils identified during a school attendance and exclusion sweep

School attendance and exclusion sweeps take place in Essex and children stopped are often with parents condoning the absence.

If the Head Teacher has not authorised the absence of a pupil stopped by a Local Authority Officer and Police Officer on a sweep and there has been at least 9 unauthorised absences for that pupil during the preceding 10 schools weeks, school will issue a legal action warning letter to the parent within 14 days. If there are any further unauthorised absences, during the following 18 calendar weeks a referral to the Attendance Compliance Team may be submitted for a Penalty Notice to be issued.

Essex will issue no more than two penalty notices to a parent in a twelve month period for pupils identified on a school attendance and exclusion sweep. If the law continues to be broken around school attendance the Attendance Compliance Team will instigate legal proceedings.

### Excluded children

When a child is excluded from school, the parent will be responsible for ensuring that their child is not found in a public place during normal school hours on the first five days of each and every fixed period or permanent exclusion. (Section 103 Education and Inspections Act)

The excluding school must have notified the parent informing them of their duty and warning that a penalty notice could be issued.

Where there is more than one person liable for the offence, a separate penalty notice may be issued to each person.

Where a pupil is present in a public place in the first five days of a fixed period exclusion the Essex Local Authority would issue a penalty notice if the school is in their area. Where the child has been permanently excluded, it would be the authority where the child resides.

### Number of penalty notices which can be issued for exclusion

Essex will issue a maximum of 2 penalty notices per parent for each child during a 12 month period.

### Number of penalty notices which can be issued for unauthorised leave of absence

Essex will issue no more than two penalty notices to a parent in a twelve month period for unauthorised leave of absence. If the law continues to be broken around school attendance, the Attendance Compliance Team will consider further legal interventions.

## **PAYMENT OF PENALTY NOTICE**

The penalty for each parent issued with a Penalty Notice is £120 for each child, however if paid within 21 days of receipt of the notice, it is reduced to £60. (Service by post is deemed to have been effected, unless the contrary is proved, on the second working day after posting the notice by first class post).

All penalties are paid to the LA and revenue generated is retained to administer the system and contribute towards s444 prosecutions following the non-payment of the Penalty Notice.

If the penalty is not paid in full by the end of the 28 day period, the Attendance Compliance Team will either prosecute for the offence to which the notice applies or withdraw the notice. The prosecution is not for non-payment of the notice but is a prosecution for irregular school attendance – Education Act 1996 Section 4441.

There is no statutory right of appeal against the issuing of a penalty notice.

### WITHDRAWAL OF PENALTY NOTICE

A penalty notice may be withdrawn by the local authority named in the notice under the following circumstances:

- Where the local authority deems it ought not to have been issued i.e. where it has been issued outside the terms of the local code of conduct or where the evidence does not support the issuing of a penalty notice
- It appears to the local authority that the notice contains material errors
- Where it has been issued to the wrong person named as the recipient.

### CO-ORDINATION BETWEEN THE LOCAL AUTHORITY AND ITS LOCAL PARTNERS

The Attendance Compliance Team and its local partners will review this Code of Conduct bi-annually unless local needs require otherwise.

### VERSIONS

Original Code of Conduct was introduced in September 2004.

Most recent revision - November 2017

Revised March 2019 for implementation from April 2019



## Annex B

### DfE “The link between absence and attainment at KS2 - 2013/14 academic year”

The analysis of the link between overall absence ....and attainment when taking prior attainment and pupil characteristics into account showed that, for each KS2 and KS4 measure, overall absence had a statistically significant negative link to attainment – i.e. every extra day missed was associated with a lower attainment outcome.

