



## **Attendance Policy Academic Year 2023/24**

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## 1. Introduction

Hogarth Primary School (HPS) 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.

The law entitles every child of compulsory school age to an efficient, full-time education suitable to their age, aptitude, and any special educational need they may have. It is the legal responsibility of every parent/carer to ensure that their child receives that education either by attendance at a school or by education otherwise than at a school.

Where parents/carers decide to have their child registered at school, they have an additional legal duty to ensure that their child attends that school regularly. This means that their child must attend every day that the school is open, except in a small number of allowable circumstances, such as being too ill to attend or being given permission for an absence in advance from the school.

The Department for Education (DfE) has produced guidance for maintained schools, academies, independent schools, and Local Authorities (LAs): [Working together to improve school attendance](#). The HPS Attendance Policy reflects the key principles of that guidance.

This Policy is written with the above guidance in mind and underpins the HPS ethos to:

- promote children's welfare and safeguarding;
- ensure that 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.

The Policy has been developed in consultation with governors, teachers, local Headteacher Associations, the LA and parents and carers. It seeks to ensure that all parties involved in the practicalities of school attendance are aware and informed of attendance matters in school and to outline the school's commitment to attendance matters. It details the responsibilities of individuals and groups involved and the procedures in place to promote and monitor pupil attendance.

This Policy aims to raise and maintain levels of attendance by:

- Promoting a positive and welcoming atmosphere in which pupils feel safe, secure and valued;
- Raising awareness of the importance of good attendance and punctuality;
- Ensuring that attendance is monitored effectively and reasons for absences are recorded promptly and consistently.

For 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. **It is a HPS rule that pupils must attend every day, unless there are exceptional circumstances and it is the Headteacher (HT), not the parent/carer, who can authorise the absence.**

## 2. Promoting Regular Attendance

HPS believes in developing good patterns of attendance, and sets high expectations for the attendance and punctuality of all of its pupils from the outset. It is a central part of the HPS vision, values, ethos, and day-to-day life. HPS recognises the connections between attendance, attainment, safeguarding and wellbeing.

**The name and contact details of the senior leader responsible for the strategic approach to attendance in HPS is:**

Mr. R. Watson (HT)

Email: office@hogarth.essex.sch.uk

Helping to create a pattern of regular attendance is the responsibility of parents/carers, pupils and all members of HPS staff.

To help everyone to focus on this, HPS:

- Provides parents/carers with details on attendance in its newsletters;
- Celebrates excellent attendance by displaying and reporting individual and class achievements;
- Rewards good or improving attendance;
- Celebrates attendance in weekly celebration assemblies;
- Reports to parents/carers regularly on their child's attendance – school reports are sent out three times a year and attendance is shared at two parent consultation evenings;
- Contacts parents/carers should their child's attendance fall below the HPS target for attendance.

## 3. Understanding Types of Absence

Any absence affects the pattern of a child's schooling and regular absence seriously affects their learning. Any pupil's absence or late arrival disrupts teaching routines and so may affect the learning of others in the same class. Ensuring a child's regular attendance at school is a parental responsibility and allowing absence from school without a good reason creates an offence in law and may result in prosecution.

Every half-day absence from school must be classified by the school (not by the parent/carer), as either **authorised** or **unauthorised**. Therefore, information about the cause of any absence is always required. Each half-day is known as a 'session'.

**Authorised absences** are morning or afternoon sessions away from school for a genuine reason, such as illness (although parents/carers may be asked to provide medical evidence for their child before this can be authorised), medical or dental appointments, which unavoidably fall in school time, emergencies, or other unavoidable cause.

**Unauthorised absences** are those, which the school does not consider reasonable and for which no 'leave' has been granted. This type of absence can lead to the school referring to the LA for penalty notices and/or legal proceedings.

Unauthorised absence includes the following. However, this list is not exhaustive:

- parents/carers keeping children off school unnecessarily, for example, 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 after the close of registration are marked using a 'U'. This indicates that they are in school for safeguarding purposes. However, this is counted as an absence for the session;
- shopping trips;
- looking after other children or children accompanying siblings or parents/carers to medical appointments;
- their own or family birthdays;
- holidays taken during term-time without leave, not deemed 'for exceptional purposes' by the HT, may result in school applying to the LA to issue a penalty notice, or, if you have previously been issued a penalty notice, the school may request a direct prosecution by the LA;
- day trips;
- other leave of absence in term-time, which has not been agreed.

#### **4. 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 any reason; this can be authorised or unauthorised absence. Absence, at this level, causes considerable damage to any pupil's education and HPS needs the full support and cooperation of parents/carers to resolve this.

#### **5. Absence Procedures**

Learning starts at 08:25.

Children must be in school by 08:45, when the registers close.

The registers are completed by class teachers on SIMs using the statutory codes. 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. After registers are completed, the School Office staff inspect them for any non-attendees. Class teachers record a child's attendance, or otherwise, using the statutory codes.

Parents/carers of any children, who are not in School, need to contact the School Office staff to report the absence by 09:00. There is an expectation that all parents/carers do this. This is done by calling the School Office and leaving a message on the answerphone, which is available 24 hours a day. Parents/carers can also contact the School Office in person. All reported absences are completed using the same codes in the registers.

Once all absences have been checked against messages received, the School Office:

- Telephones or texts parents/carers on the first, and every subsequent, day of absence, if HPS has not heard from them. However, it is the responsibility of parents/carers to contact HPS.

If the School Office is unable to contact parents/carers by telephone, staff telephone emergency contact numbers, send letters home, and a home visit may be made in the interests of safeguarding.

A referral is made to the LA if no contact has been made with parents/carers by the tenth day of absence (or sooner, if deemed appropriate), at which point the absent child is designated as “missing from education.”

A list of attendance for each class is recorded in the School Office with children absent marked.

Any children arriving between 08:40 and 09:10 are given a late mark. Parents/carers are asked to sign their child in electronically, and to provide a reason for the absence.

Any children arriving after 09:10 are given an unauthorised absence (U) code in the register.

The HT is informed of any absent children, who currently have low attendance, or are a safeguarding concern.

The same attendance register is completed at 13:30 at the start of the afternoon session.

#### **If absence continues, HPS:**

- Writes to parents/carers if their child’s attendance is below 95%, or where punctuality is a concern;
- Invites parents/carers into school to discuss the situation with the HT or a member of the HPS Senior Leadership Team (SLT);
- Creates a personalised action/support plan to address any barriers to attendance;
- Offers signposting support to other agencies or services, if appropriate;
- Refers the matter to the LA for relevant sanctions if attendance deteriorates following the above actions.

## **6. Lateness**

Poor punctuality is unacceptable and can contribute to further absence. Good timekeeping is a vital life skill, which helps children as they progress through their school life and out into the wider world.

Pupils, who arrive late, disrupt lessons and, if a child misses the start of the day, they can feel unsettled and embarrassed, miss vital work and important messages from their class teacher.

#### **The times of the start and close of the school day for all pupils at HPS are:**

Gates open: 08:25;

Doors open: 08:25;

Registration closes: 08:45;

End of the school day: 15:10 (Reception), 15:15 (Years 1, 2, 3, 4, 5 and 6).

### **How HPS manages lateness:**

- The school day starts at **08:25** when children can begin to come into school.
- Registers are taken at **08:45** and children receive a late mark 'L' if they are not in by that time.
- Children arriving after **08:45** are required to come into school via the School Office. They need to be accompanied by a parent/carer and parents/carers must sign children in using the electronic system and must provide a reason for their lateness, which is recorded.
- At **09:15**, the registers are closed. In accordance with the Regulations, if a child arrives after that time, they receive a mark that shows them to be on site - 'U', but this does **not** count as a present mark, and it means that they have an unauthorised absence.
- HPS may contact parents/carers regarding lateness.
- From time to time, a member of HPS staff undertakes a 'Late Gate' check, greeting late arrivals at the main entrance to the school.

Unauthorised lateness could result in HPS making a referral to the LA for sanctions and/or legal proceedings. If a child has a persistent late record, parents/carers are asked to meet with the HT, but they can approach the school at any time if they are having difficulties getting their child to school on time. HPS expects parents/carers and staff to encourage good punctuality by being good role models to children, and celebrates good class and individual punctuality.

## **7. Understanding Barriers to Attendance**

Whilst any child may occasionally have time off school because they are too unwell to attend, sometimes they can be reluctant to attend school. Any barriers preventing regular attendance are best resolved between the school, the parents/carers, and the child. If a parent/carer thinks that their child is reluctant to attend school, HPS works with that family to understand the root problem and provides any necessary support. HPS can use outside agencies to help with this, such as the School Nurse, Mental Health and Emotional Wellbeing support services, a Child and Family Support Worker or the relevant LA team/s. Where outside agencies are supporting the family, parents/carers may be invited to attend a Team Around the Family meeting (TAF) to consider what is working well and what needs to improve.

Some pupils face greater barriers to attendance than their peers. These can include pupils, who suffer from long-term medical conditions, or who have special educational needs and disabilities (SEND), or other vulnerabilities. High expectations of attendance remain. However, HPS works with families and pupils to support improved attendance whilst being mindful of the additional barriers faced. HPS can discuss reasonable adjustments and additional support from external partners, where appropriate.

See Appendix A for summary tables of responsibilities for school attendance.

## **8. Local Authority Attendance Support Services**

LA Attendance Specialists work strategically by offering support to schools, families, and other professionals, to reduce persistent absence and improve overall attendance.

Parents/carers are expected to work with HPS and the LA to address any attendance concerns. Parents/carers should proactively engage with the support offered, aiming to resolve any problems together. This is nearly always successful. If difficulties cannot be resolved in this way, HPS may consider more formal support and/or refer the child to the LA.

If attendance does not improve, legal action may be taken in the form of a penalty notice (see Appendix B for the Essex County Council 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.

## **9. School Attendance and the Law**

By law, all children of compulsory school age must receive an appropriate full-time education (Education Act 1996). Parents/carers have a legal duty to ensure that their child attends school regularly at the school at which they are registered.

Parents/carers may be recognised differently under education law vs. under family law. Section 576 of the Education Act 1996 states that a 'parent', in relation to a child or young person, includes any person, who is not a parent (from which can be inferred 'biological parent'), but who has parental responsibility, or who has care of the child.

A person typically has care of a child or young person if they are the person with whom the child lives, either full- or part-time, and who looks after the child, irrespective of what their biological or legal relationship is with the child.

Unauthorised absence may result in HPS referring to the LA for sanctions and/or legal proceedings. This may include issuing each parent/carer with a penalty notice for £120, reduced to £60, if paid within 21 days, or referring the matter to the Magistrates Court whereby each parent/carer may receive a fine of up to £2,500 and/or up to three months in prison. If a parent/carer is found guilty in court, they receive a criminal conviction.

See Appendix B for the Essex County Council Code of Conduct.

**There is no entitlement in law for pupils to take time off during the term to go on holiday.** In addition, the Supreme Court has ruled that the definition of regular school attendance is "in accordance with the rules prescribed by the school".

The Education (Pupil Registration) (England) Regulations 2006 were amended in September 2013. All references to family holidays and extended leave have been removed. The amendments specify that HTs may not grant any leave of absence during term-time unless there are "exceptional circumstances", and they no longer have any discretion to authorise up to ten days of absence each academic year.

It is a HPS rule that a leave of absence shall not be granted in term-time unless there are reasons considered to be exceptional by the HT, irrespective of the child's overall attendance. Only the HT or their designate (not the LA) may authorise such a request, and all applications for a leave of absence must be made, in writing, on the prescribed HPS form. Where a parent/carer removes a child, when the application for leave was refused, or where no application was made to HPS, the issue of a penalty notice may be requested by HPS in accordance with the Essex County Council Code of Conduct.

A penalty notice may be issued where there have been, at least, ten consecutive sessions of unauthorised absence for the purpose of a holiday. However, 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, six consecutive sessions of unauthorised absence during the first two calendar weeks of September due to a term-time holiday.



## **At HPS 'exceptional circumstances' are interpreted as:**

... being of unique and significant emotional, educational, or spiritual value to the child, which outweighs the loss of teaching time (as determined by the HT). The fundamental principles for defining 'exceptional' are events that are "rare, significant, unavoidable and short". By 'unavoidable' HPS means an event that could not reasonably be scheduled at another time, outside of school term-time.

### **HPS does not consider applications for leave, except in exceptional circumstances during term-time:**

- at any time in September. This is very important as children need to settle into their new class at the start of the academic year as quickly as possible.
- during assessment and test periods in the school's calendar affecting a child.
- 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.

If leave of absence is authorised, HPS does not provide work for children to do during their absence. Parents/carers are, however, advised to read with their children and encourage them to write a diary while they are away.

## **10. Deletion from Roll**

For any pupil leaving HPS, other than at the end of Year 6, parents/carers are required to complete a 'Leavers' form, which can be obtained from the School Office. This provides HPS 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 HPS knows the whereabouts and appropriately safeguards all of its pupils, even those who leave HPS.

It is crucial that parents/carers keep HPS updated with current addresses and contact details for key family members in case of emergency.

Under Pupil Regulations 2006, all schools are now **legally required** to notify their LA of **every new entry** to the admission register **within five days** of the pupil being enrolled. In addition to this, **every deletion** from the school register must also be notified to the LA, as soon as the ground for deletion has been met in relation to that pupil, and, in any event, no later than the time at which the pupil's name is deleted from the register. This duty does not apply when a pupil's name is removed from the admission register at a standard transition point – when the pupil has completed the final year of education normally provided by that school.

## **11. Absence data**

HPS uses data to monitor, identify and support individual pupils or groups of pupils when their attendance needs to improve. Persistently absent pupils are tracked and monitored carefully. HPS also combines this with academic tracking, as increased absence affects attainment.

HPS shares information and works collaboratively with other schools in the area, LAs, and other partners when absence is at risk of becoming persistent or severe.

## **12.Summary**

HPS has a legal duty to publish its absence figures to parents/carers and to promote attendance.

Equally, parents/carers have a duty to ensure that that their children attend school, on time, every day.

*All HPS staff and the Local School Committee are committed to working with parents/carers and pupils as this is the best way to ensure as high a level of attendance at HPS as possible.*

## Appendix A: DfE Guidance Summary Table of Responsibilities for School Attendance - September 2022

### All Pupils

<b>Parents are expected to:</b>	<b>Schools are expected to:</b>	<b>Academy trustees and governing bodies are expected to:</b>	<b>Local authorities are expected to:</b>
<p>Ensure their child attends every day the school is open except when a statutory reason applies.</p> <p>Notify the school as soon as possible when their child has to be unexpectedly absent (e.g. sickness).</p> <p>Only request leave of absence in exceptional circumstances and do so in advance.</p> <p>Book any medical appointments around the school day where possible.</p>	<p>Have a clear school attendance policy on the school website which all staff, pupils and parents understand.</p> <p>Develop and maintain a whole school culture that promotes the benefits of good attendance.</p> <p>Accurately complete admission and attendance registers.</p> <p>Have robust daily processes to follow up absence.</p> <p>Have a dedicated senior leader with overall responsibility for championing and improving attendance.</p>	<p>Take an active role in attendance improvement, support their school(s) to prioritise attendance, and work together with leaders to set whole school cultures</p> <p>Ensure school leaders fulfil expectations and statutory duties.</p> <p>Ensure school staff receive training on attendance.</p>	<p>Have a strategic approach to improving attendance for the whole area and make it a key focus of all frontline council services.</p> <p>Have a School Attendance Support Team that works with all schools in their area to remove area-wide barriers to attendance.</p> <p>Provide each school with a named point of contact in the School Attendance Support Team who can support with queries and advice.</p> <p>Offer opportunities for all schools in the area to share effective practice.</p>

## Pupils at risk of becoming persistently absent

<b>Parents are expected to:</b>	<b>Schools are expected to:</b>	<b>Academy trustees and governing bodies are expected to:</b>	<b>Local authorities are expected to:</b>
<p>Work with the school and local authority to help them understand their child's barriers to attendance.</p> <p>Proactively engage with the support offered to prevent the need for more formal support.</p>	<p>Proactively use data to identify pupils at risk of poor attendance.</p> <p>Work with each identified pupil and their parents to understand and address the reasons for absence, including any in-school barriers to attendance.</p> <p>Where out of school barriers are identified, signpost and support access to any required services in the first instance.</p> <p>If the issue persists, take an active part in the multi-agency effort with the local authority and other partners. Act as the lead practitioner where all partners agree that that the school is best placed lead service. Where the lead practitioner is outside of the school, continue to work with the local authority and partners.</p>	<p>Regularly review attendance data and help school leaders focus support on the pupils who need it.</p>	<p>Hold a termly conversation with every school, discuss and signpost or provide access to services for pupils who are persistently or severely absent or at risk of becoming so.</p> <p>Where there are out of school barriers, provide each identified pupil and their family with access to services they need in the first instance.</p> <p>If the issue persists, facilitate a voluntary early help assessment where appropriate. Take an active part in the multi-agency effort with the school and other partners. Provide the lead practitioner where all partners agree that a local authority service is best placed to lead. Where the lead practitioner is outside of the local authority, continue to work with the school and partners.</p>

## Persistently absent pupils

<b>Parents are expected to:</b>	<b>Schools are expected to:</b>	<b>Academy trustees and governing bodies are expected to:</b>	<b>Local authorities are expected to:</b>
<p>Work with the school and local authority to help them understand their child's barriers to attendance.</p> <p>Proactively engage with the formal support offered – including and parenting contract or voluntary early help plan to prevent the need for legal intervention.</p>	<p>Continued support as for pupils at risk of becoming persistently absence and:</p> <p>Where absence becomes persistent, put additional targeted support in place to remove any barriers. Where necessary this includes working with partners.</p> <p>Where there is a lack of engagement, hold more formal conversations with parents and be clear about the potential need for legal intervention in future.</p> <p>Where support is not working, being engaged with or appropriate, work with the local authority on legal intervention.</p>	<p>Regularly review attendance data and help school leaders focus support on the pupils who need it.</p>	<p>Continued support as for pupils at risk of becoming persistently absent and:</p> <p>Work jointly with the school to provide formal support options including parenting contracts and education supervision orders.</p> <p>Where there are safeguarding concerns, ensure joint working between the school, children's social care services and other statutory safeguarding partners.</p>

## Severely absent pupils

<b>Parents are expected to:</b>	<b>Schools are expected to:</b>	<b>Academy trustees and governing bodies are expected to:</b>	<b>Local authorities are expected to:</b>
<p>Work with the school and local authority to help them understand their child’s barriers to attendance.</p> <p>Proactively engage with the formal support offered – including any parenting contract or voluntary early help plan to prevent the need for legal intervention.</p>	<p>Continued support as for persistently absent pupils and:</p> <p>Agree a joint approach for all severely absent pupils with the local authority.</p>	<p>Regularly review attendance data and help school leaders focus support on the pupils who need it.</p>	<p>Continued support as for persistently absent pupils and:</p> <p>All services should make this group the top priority for support. This may include a whole family plan, consideration for an education, health and care plan, or alternative form of educational provision.</p> <p>Be especially conscious of any potential safeguarding issues, ensuring joint working between the school, children’s social care services and other statutory safeguarding partners. Where appropriate, this could include conducting a full children’s social care assessment and building attendance into children in need and child protection plans.</p>

## Support for pupils with medical conditions or SEND with poor attendance

<b>Parents are expected to:</b>	<b>Schools are expected to:</b>	<b>Academy trustees and governing bodies are expected to:</b>	<b>Local authorities are expected to:</b>
<p>Work with the school and local authority to help them understand their child's barriers to attendance.</p> <p>Proactively engage with the support offered.</p>	<p>Maintain the same ambition for attendance and work with pupils and parents to maximise attendance.</p> <p>Ensure join up with pastoral support and where required, put in place additional support and adjustments, such as an individual healthcare plan and if applicable, ensuring the provision outlined in the pupil's EHCP is accessed.</p> <p>Consider additional support from wider services and external partners, making timely referrals.</p> <p>Regularly monitor data for such groups, including at board and governing body meetings and with local authorities.</p>	<p>Regularly review attendance data and help school leaders focus support on the pupils who need it.</p>	<p>Work closely with relevant services and partners, for example special education need, educational psychologists and mental health services to ensure joined up support for families.</p> <p>Ensure suitable education, such as alternative provision, is arranged for children of compulsory school age who because of health reasons would not otherwise receive a suitable education.</p>

## Support for pupils with a social worker

<b>Parents are expected to:</b>	<b>Schools are expected to:</b>	<b>Academy trustees and governing bodies are expected to:</b>	<b>Local authorities are expected to:</b>
<p>Work with the school and local authority to help them understand their child's barriers to attendance.</p> <p>Proactively engage with the support offered.</p>	<p>Inform the pupil's social worker if there are any unexplained absences and if their name is to be deleted from the register.</p>	<p>Regularly review attendance data and help school leaders focus support on the pupils who need it.</p>	<p>Regularly monitor the attendance of children with a social worker in their area.</p> <p>Put in place personal education plans for looked-after children.</p> <p>Secure regular attendance of looked-after children as their corporate parent and provide advice and guidance about the importance of attendance to those services supporting pupils previously looked after.</p>



## Appendix B – Essex Code of Conduct

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

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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.

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 ISSUES**

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

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

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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.

Penalty Notices may be issued where there have 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 school 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.

## Appendix C - 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.

