

## **Absence from School for Exceptional Circumstances- Guidance for Schools**

### **Legislative Background**

The Education (Pupil Registration) (England) Regulations 2006 were amended in September 2013. The amendments made clear that Head teachers **may not** grant any leave of absence during term time unless ‘exceptional circumstances’ exist. The regulations also stated that Head teachers should determine the number of school days a child can be away from school if leave is granted for ‘exceptional circumstances’. All references to family holidays and extended leave as well as the notional threshold of ten school days have been removed.

The Supreme Court Judgement (*Isle of Wight v Platt 06.04.2017*) clarified that in **section 444(1) of the Education Act 1996**, to attend school “regularly” means “in accordance with the rules prescribed by the school”. It is, therefore, advisable that all schools define what acceptable level of attendance is for their school. Given the wording within the judgement, our advice to all schools is that you include within your attendance policy a statement that you “expect attendance at school to be 100%, unless there are exceptional or unavoidable reasons for absence.”

***Note: If holiday / term time leave is not authorised, the school must use the ‘G’ code to mark the absence. Where G codes have been used to record absences and meets the criteria for a Penalty Notice fine to be issued, the school MUST refer to Local Authority. This is in line with school’s (including academies) responsibility to report irregular school attendance to their Local Authority.***

### **Frequently Asked Questions**

The information below is designed to help schools understand how and when leave of absence in exceptional circumstances may be granted. This guidance has no statutory authority and is not imposed upon schools.

The decision to authorise absence is at the head teacher’s discretion based on their assessment of the situation. Circumstances vary from school to school and so there can be no absolute rules on this subject.

Term times are for education. This is the priority. Children and families have 175 days off school to spend time together, including weekends and school holidays. Heads will rightly prioritise attendance. The default school policy should be that absences **will not** be granted during term time and **will only** be authorised in exceptional circumstances.

It is acceptable to take a student's previous record of attendance and student's academic progress into account when making decisions. Also, whether the absence falls within any national tests or exams.

Any examples provided below are illustrative rather than exhaustive. The fundamental principles for defining 'exceptional' are "**rare, significant, unavoidable, short**". By 'unavoidable' we mean an event that could not reasonably be scheduled at another time.

### **Example Questions frequently asked:**

#### **1. What are exceptional circumstances?**

Exceptional circumstances are one off events which are unavoidable, examples may include the death of a close relative, attendance at a funeral, respite care of a looked after child, a housing crisis which prevents attendance.

#### **2. Some requests for absence have already been approved by the school. Do these still stand, or should they now be considered under the new policy?**

If an absence has been approved by the school, for whatever reason under an old policy, it should be honoured under those conditions. Families will have made arrangements, and it would be unfair to expect them to rearrange things, especially as there could be a cost involved. At the time the request for absence was made, they did so under the arrangements for term time holidays that were in force at the time. A decision should not be changed retrospectively that may be detrimental towards the family.

#### **3. Can the policy be used to cover major family events?**

The policy is intended to help Head teachers manage requests for absence from school. Each request will be considered under "Exceptional Circumstances" and the decision conveyed to parents.

#### **4. Can the policy be applied to a family crisis, e.g. to visit a dying relative?**

The policy is intended to help Head teachers manage requests for term time absence from school. Each request will be considered under "Exceptional Circumstances" and the decision conveyed to parents. One or two day's absence from school to visit a dying relative should be recorded as a 'C'.

#### **5. Some families go on a trip of a lifetime. Could this be an authorised absence?**

No, this would constitute a family holiday. There is no longer a provision for Head teachers to authorise term time holidays. Therefore these absences should be unauthorised ("G" code) and families advised they should take their trip in the school holidays.

**6. A family from abroad, or who have a significant number of relatives abroad, may spend an extended period in another country. Could this be an authorised absence?**

Situations where a family is returning to visit relatives for a short period of time should be actively managed by the school. Head teachers should discourage families from taking trips during term time, whatever the reason given.

**7. Could an absence to attend a religious observance or festival be an authorised absence?**

Absence that is due to religious observance must be authorised. The Education Act 1996 S444 (3) (c), states “on any day exclusively set apart for religious observance by the religious body to which his/her parent belongs”. The day should be marked as ‘R’ where there is an element of worship associated with the religious observance. This code should only be used for days that are set apart by the religious body (not the parents).

**8. What happens if a parent is a self-employed worker e.g. a Farmer, is an employee with fixed holiday dates, or is on a holiday rota set by their employer?**

Some employment may make it difficult for families to spend time together in the six week summer holidays. However there are other school breaks when such family time can be used. A decision by parents not to spend time together in the other school holiday times, i.e. Christmas or Easter break, because of poor weather (for example) should not be a reason for authorising absences during the warmer school terms. It would be advisable for Headteacher to discuss this with families and support them to investigate alternative non-school times throughout the year. It is advisable for parents to discuss this with their child’s school prior to making any arrangements for absence during school term times.

Legislation no longer allows Head teachers to authorise 10 days absence from school for a term time holiday. Head teachers should bear in mind that those who are self-employed are able to select when they take their annual leave.

**9. What if parents say the child is ill?**

The primary consideration is that the parent has the responsibility to prove their child was ill.

Example 1: Parent applies for absence from school that is not authorised. Child is then absent and parent calls to say the child is ill

Parents would then need to prove their child was ill. Should evidence be provided to support the absence then it may be authorised.

Example 2: No absence request form received, parent calls school to say the child is ill. The school are suspicious that the child is fit and well.

Under these circumstances a visit should be made to the family home straight away and a calling card left asking the parents to contact school as soon as possible. If the family are on holiday they will not receive the card and will not call the school. A telephone call to a parent's mobile phone may also indicate they are abroad by the different dialling tone. You may wish to consider contacting another family member from the child's contact list as this may provide some useful information.

Example 3: No absence request form received, parent calls school to say the child is ill. The school have no suspicions until the child returns to school where suspicions are then raised, i.e. child tanned and talking about their family holiday.

School should send the suggested "Suspected Holiday Letter" in the first instance and then refer to the Education Welfare Legal Panel for a Penalty Notice to be considered. You may want to send any evidence to support your suspicion.

#### **10. Which parent receives the fine?**

Where both parents live together and have day-to-day care and also any absent parent who has frequent contact with the child and is named in the child's school records may receive a fine for each of their children. This will include parents who allow their child to go on holiday with another family member or friend of the family.

#### **11. Who is fined when parents do not live together?**

The situation can become complicated where parents do not live together and both wish to remove their child from school at separate times during the same academic year.

School must write to both parents (regardless of which parent applies) advising them of the decision to authorise or not authorise the absence.

Where parents are separated, if an absence request form is submitted by the parent not involved with the absence, then both parents may be fined.

When making a request for a PN fine to be issued, the school may need to investigate further to establish which parent went on holiday with the child, especially if both parents do not live together and hence one parent will not have day to day care for the child or the absent parent may not be aware of the child being taken on holiday. If a parent can prove that they did not have day to day care and did not maintain any contact with the child and did not go on holiday with the child then in the interest of justice, we cannot issue a PN fine.

### **12. What is the role of the Governing Body?**

The Governing Body usually delegate their decision-making power to the Headteacher on the subject of whether to authorise absence or not, therefore the Headteacher has overall discretion. However, if parents are not satisfied with the decision, they may follow the school's usual complaints procedure and seek to consult the Governing Body. The Local Authority cannot override any decisions made by the head teacher and therefore any appeals to the Council will be redirected to the school.

### **13. Who is considered to have parental responsibility?**

The definition of a parent is anyone who has parental responsibility for the child and/or any adult with day to day care and responsibility. (**Section 576 Education Act 1996**). This will include step parents and cohabiters, partners of older pupils if the partner is over 18 years of age and they are living together, other relatives with residency orders.

### **14. Do I need to consult with a school where a sibling attends?**

Yes. If a child from your school has a sibling attending another school in Cambridgeshire it is important to reach a decision with the other school as to whether the request is authorised or not. This will ensure consistency across the County and avoid different decisions for members of the same family. Some schools have elected to meet with parents prior to reaching a decision.

### **15. Can a Penalty Notice be issued for lateness to school?**

Yes. Although this scenario does not fall under exceptional circumstances rule, it is important to remind schools that Lateness after the close of the school register will be marked as unauthorised absence ("U" code). Repeated unauthorised absence due to lateness meets the criteria to issue a PN fine in the same manner as general unauthorised absence from school.