



## Authorised and Unauthorised Absence

Every half-day absence from school has to be classified as either authorised or unauthorised. This is why 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 you may be asked to provide medical evidence for your child before this can be authorised), medical or dental appointments which unavoidably fall in school time, emergencies or other unavoidable causes.

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 Local Authority for penalty notices and/or legal proceedings. Where the reason for a pupil's absence cannot be established that absence is recorded as unauthorised.

Unauthorised absence includes, but is not limited to:

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

Looking after other children or children accompanying siblings or parents to medical appointments

Their own or family birthdays

Day trips

Holidays taken during term time without leave, not deemed 'for exceptional purposes' by the headteacher – this may result in a local authority penalty notice

There is no entitlement in law for children 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 Head Teachers 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 rule of this school that a leave of absence shall not be granted in term time unless there are reasons considered to be exceptional by the Head Teacher, irrespective of the child's overall attendance. Only the Head Teacher or the Deputy (in the Head Teacher's absence) may authorise such a request and all applications for a leave of absence must be made in writing on the prescribed form provided by the school. Where a parent removes a child when the application for leave was refused or where no application was made to the school, a penalty notice may be issued in accordance with the Essex Code of Conduct.

A Penalty Notice may be issued where there have been at least 10 consecutive sessions of unauthorised absence for the purpose of a holiday, however, due to the importance of children 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 calendar weeks of September due to a term-time holiday.

'Exceptional circumstances' is defined 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 Head Teacher). 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, outside of school term time.

We will not consider applications for leave during term time:

At any time in September. This is very important as a child needs to settle into their new class 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, the school will not provide work for children to do during their absence.

The decision whether or not to authorise an absence will be conveyed to the parent(s) in writing and the possibility of a penalty notice being issued made clear.

The Essex County Council will issue a penalty notice based on the evidence supplied by the school. (See Essex Code of Conduct Appendix A) The proceeds of any fine are retained by Essex County Council and do not come to the school.

### Barriers to Good Attendance

The Deputy Head Teacher is the senior member of staff responsible for the strategic approach to attendance.

Attendance is monitored on a daily, weekly and half termly basis. The aim is that early intervention will resolve issues and prevent persistent absence. As a school we look to work with parents, as it is only through partnership that a positive impact can be made.

We recognise that children may struggle to attend school due to a variety of reasons. We take a compassionate and supportive approach to helping children and families address root causes in line with our whole school approach to Trauma Perceptive Practice (TPP).

We encourage any family experiencing difficulties to contact our Family Support Worker via the school office.

In the unlikely event that home and school partnership cannot improve overall attendance then support from the Local Authority Attendance Specialist will be sought.

### Absence Procedures

On the first day of absence the parent must contact the school as early as possible by either phone, email or in person with the reason for absence.

If we do not receive an explanatory message by 9.30am, a member of staff will contact the child's home/parents (this could include a home visit) to confirm that the child is safe and determine the reason for the absence.

If this course of action fails to identify the whereabouts of the child in question, then the police/social services may be informed.

Parents must continue to inform the school on any further days of absence.

Parents must inform the school at the earliest opportunity of any unavoidable planned absences (e.g. medical appointments).

### Lateness

The school day starts from 8:35am when children can begin to come into school

School gates close at 8:55am and any child arriving after this should be walked to the school office, signed into the late book and a reason stated. A late mark will be given in the register

The register closes at 9:20 am. In accordance with the Regulations, if your child arrives at that time or after they will receive a mark that shows them to be on site 'U', but this will not count as a present mark and it will mean they have an unauthorised absence for that session

We encourage any family experiencing difficulties in getting their child/ren into school on time to make an appointment with our Family Support Worker, to explore solutions.

Unexplained persistent lateness is treated seriously and families will be contacted.

## Deletion from Roll

For any children leaving the school, other than at the end of year 6, parents are required to complete a 'Children moving from school' form which can be obtained from the school office. This information is essential to ensure that we know the whereabouts and appropriately safeguard children.

Under Pupil Regulations 2006, all schools are now legally required to notify their Local Authority 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 Local Authority, as soon as the ground for deletion has been met in relation to that child, and in any event no later than the time at which the child's name is deleted from the register. This duty does not apply when a child's name is removed from the admission register at a standard transition point – when the child has completed the final year of education normally provided by that school.

## Monitoring & Review

This policy was approved by the Governing Body Autumn 2022 following a rewrite in line with the DfE publication 'Working Together to Improve School Attendance'.

It will be reviewed every year.

Date	Comments
Autumn 2022	Approved WGB September 29th
Autumn 2023	
Autumn 2024	

**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 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.

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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 for 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 the 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.

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 5th birthday and finishes on the last Friday in June of the school year in which they turn 16.

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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

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)

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.

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<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.*

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