



# School Attendance Policy and Guidance 2017 - 2018

Responsible Officer	Contact Details
Colin Briden	Tel: 01305 225728 Email: <a href="mailto:c.r.briden@dorsetcc.gov.uk">c.r.briden@dorsetcc.gov.uk</a>

Date issued: September 2017

## 1. Introduction

The attendance of children and young people at school is of vital importance. If children and young people do not attend school regularly their acquisition of skills and knowledge is interrupted and their educational achievements are potentially damaged.

This policy and guidance is designed to assist schools and parents (see definition on page 5) in Dorset with the advice required whenever dealing with attendance issues and to assist schools in dealing with low/poor attendance in the most effective and responsive way, thus contributing to keeping children safe and improving their outcomes, wellbeing and future prospects.

The policy is not exhaustive and recognises that attendance is a very complex and diverse issue and that each individual's circumstances will be different.

It incorporates the latest Government guidance, legislation and recommendations.

This document has been prepared by Dorset's School Attendance Service. It will be reviewed and updated as necessary and in response to Government legislation.

If you have questions, concerns or issues in relation to attendance matters then please contact the Attendance Service.

School Attendance Service  
Dorset County Council  
Monkton Park  
Winterborne Monkton  
Dorchester  
Dorset  
DT2 9PS

01305 225728

## 2. Aims

This Attendance Policy and Guidance aims to ensure that all schools and the local authority work together to promote the highest levels of regular attendance and thereby help Dorset's children and young people to achieve their full potential.

## 3. Principles

- School attendance is a high priority. Dorset County Council will work with all partners to promote and support good attendance.
- All children and young people have a fundamental right to education in order to achieve their maximum potential.
- Good attendance is secured when there is a strong culture of partnership between the Local Authority, School Governors, Headteachers, parents and other partners each with clearly expressed and understood roles and responsibilities. Parents/carers should be fully involved as key partners in securing regular school attendance.
- Early identification, communication and action on attendance problems are critical in achieving successful outcomes.

## 4. Statutory Framework

### **Section 7 Education Act 1996**

It is the duty of the parent of every child of compulsory school age\* to cause him or her to receive efficient full time education suitable:-

- To his/her age, ability and aptitude, and
- To any special educational needs he/she may have, either by regular attendance at school or otherwise
- The Supreme Court ruling on 6<sup>th</sup> April 2017 stated that 'regularly' means 'in accordance with the rules prescribed by the school'

*\*Compulsory school age begins at the start of the term following the child's 5<sup>th</sup> birthday and ends on the last Friday in June of the school year when they reach 16. From September 2015 all 16 year olds will be required to continue in education or training until their 18<sup>th</sup> birthday.*

## **5. Roles and Responsibilities**

### **5.1 Local Authority**

Dorset County Council will provide clear, consistent and timely support to schools by the appropriate use of legal action as set out in the statutory guidance. It is essential that good working relationships between the Local Authority and schools are established. Dorset County Council will have in place processes that are fair, consistent and rigorously applied with an appropriate and effective combination of support and sanctions for those parents who need it.

### **5.2 Schools**

Schools are expected to provide a statement on the importance of good attendance in the school prospectus along with regular reminders and information to parents and students. Schools will have clear and detailed practices for keeping registers and effective working procedures on attendance. It is expected that a school attendance policy has guidance on good practice; including procedures for swift follow up action on non-attendance and effective methods of communication between school and home. There should be regular monitoring and review of the school's attendance policy.

### **5.3 The School Attendance Service**

The School Attendance Service aims to:-

- Establish consistent county-wide legal advice and action on school attendance
- Offer advice, support and guidance to schools on whole school approaches to attendance
- Provide advice and support to school staff on school specific issues and individual cases
- Seek and share good attendance practice

From September 2017 a part traded service will be established which will enable schools to purchase a 'bespoke' service which will offer an agreed programme of work to meet a school's particular requirements. Statutory work will continue to be carried out by the School Attendance Team at no cost to schools.

## **6. Parent / Carer and Local Authority duties for children of compulsory school age**

### **6.1 Parental responsibilities**

Parents/carers are legally required to secure full-time education for children of compulsory school age. The education provision must be suitable to the child's age, aptitude and ability, and to any special needs the child has. This can be by regular attendance at school, alternative provision, or otherwise (e.g. elective home education). A child who is registered at school must attend regularly and punctually.

### **6.2 Duties of the Local Authority (LA)**

The local authority has statutory powers to bring legal action against parents/carers who:

- Fail to ensure regular attendance at school of a registered pupil
- Fail to ensure their child is receiving a suitable education - either by regular attendance at school or at a place where alternative provision is provided for them.
- The local authority has a duty under Section 437 of the Education Act 1996 to serve a notice or a school attendance order to the parent/carer.

### **6.3 Relevant legislation**

Only local authorities can prosecute parents/carers.\*

*\*In education law, and for the purposes of this document, the definition of a parent is as described in The Education Act 1996, Section 576. A parent means:*

- *All natural parents, whether they are married or not*
- *Any person who has parental responsibility for a child or young person, and*
- *Any person who has care of a child or young person i.e. lives with and looks after the child.*

*The local authority and school will need to decide who comes within the definition of parent/carer in respect of a particular pupil when using the legal measures, but generally parents/carers include all those with day-to-day responsibility for a child.*

For full details of the statutory guidance relating to school attendance and parental responsibility refer to:-

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/401467/parental\\_responsibility\\_measures\\_for\\_school\\_attendance\\_and\\_behaviour.pdf.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/401467/parental_responsibility_measures_for_school_attendance_and_behaviour.pdf.pdf)

This guidance contains details of the legal sanctions available to the local authority. Dorset's Penalty Notice Protocol is attached at Appendix A.

## **7. Attendance Guidance**

### **7.1 Admission and attendance registers**

- All schools are required to have an admission register and, unless all of its pupils are boarders, an attendance register.
- Every entry in the admission register and attendance register must be preserved for a period of three years after the date on which the entry was made (although schools should ensure they fulfil additional record-keeping requirements for looked after children.)

### **7.2 Contents of an attendance register**

- Schools must have clear procedures for completing attendance registers and teachers must complete them neatly and accurately as they may be required as evidence in a court of law.
- Schools must take the attendance register at the start of the first session of each school day and once during the afternoon session.

### **7.3 On each occasion they must record whether every pupil is:**

- present
- attending an approved educational activity
- absent, or
- unable to attend due to exceptional circumstances.

### **7.4 The school should follow up any absences to:**

- ascertain the reason
- ensure the proper safeguarding action is taken
- identify whether the absence is approved or not, and
- identify the correct code to use before entering it on to the school's electronic register

**NB:** If schools take the official afternoon registration at the end of the day they must ensure that pupils who have attended during the afternoon (but have subsequently missed the official register at the end of the day) are investigated through lesson monitor or class registers. If it is clear that a child was present for the afternoon session then the official register should be changed to present and not absent as appropriate. Schools should deal with truancy from registration as a separate discipline issue.

### **7.5 Inspections of registers and register checks**

School admission and attendance registers must be available for inspection during School hours by any:-

- of Her Majesty's Inspectors of Schools ~
- additional inspector (assisting the Chief Inspector)
- officer of the local (education) authority authorised for that purpose

## **8. Attendance Guidance**

### **8.1 Authorised absence**

Only the school can authorise a pupil's absence. An absence must not automatically be recorded as authorised simply because it is covered by a note from the pupil's parent/carer. If a pupil is absent, the absence must only be recorded as authorised if:

- the pupil has been granted leave of absence, i.e. the absence has been approved beforehand by the school, or
- the pupil is unable to attend because of sickness or some other unavoidable cause, or on a day that the pupil's parents/carers' religion sets aside for religious activities.

When appropriate, an absence initially recorded as authorised may subsequently be amended to unauthorised. In such circumstances all relevant details relating to the amendment must be recorded.

### **8.2 Unauthorised absence**

If the reason for a pupil's absence has not been established at the time the register is taken, the absence must be recorded as unauthorised. Any subsequent correction to a register recording an absence as authorised must be made as soon as is practicable after the reason for the absence has been established.

### **8.3 Approved educational activities**

An approved educational activity is either:

- an activity which takes place outside of the school, is approved by the school and is supervised by a person authorised to do so by the school, or
- attendance at another school at which the pupil is registered

### **8.4 Lateness**

A school must set a time for the attendance register to close. This time must be publicised to pupils and parents/carers. Dorset County Council supports the Department for Education's recommendation that schools keep the register open for up to 30 minutes after the start of the registration period. If a pupil arrives before the register has closed, the lateness must be recorded using the appropriate code (*L*), which will register as an attendance. If a pupil arrives after the register has closed this must be recorded using the appropriate code (*U*), which will register as an unauthorised absence.

If a pupil is frequently arriving after the attendance register has closed, the parent/carer is committing an offence by failing to ensure that the child is receiving full-time education and the parent/carer may therefore be issued with a Penalty Notice or prosecuted under the Education Act 1996, Section 444.

## 8.5 Removal from school roll

There are several circumstances when a pupil of compulsory school age must be removed from the admission register.

### These include:

- when a pupil has been registered at another school but is not being dual registered
- when a pupil has ceased to attend school and the parent/carer has indicated in writing to the school that the pupil is being electively home educated

A pupil's name cannot be removed from the admission register because of poor/irregular attendance, nor can it be deleted at the request of a parent/carer.

Where a pupil is on the roll of a special school the pupil's name must not be removed without the prior consent of the local authority.

## 8.6 Relevant Guidance and Information

It is expected that all schools follow the guidance on attendance registers and codes. This information also provides guidance on school terms and school days.

<https://www.gov.uk/government/publications/school-attendance>

The Education (Pupil Registration) (England) Regulations 2006 contains full details of the regulations relating to pupil registration and a full list of the grounds for removing a pupil's name from the admission register.

[http://www.legislation.gov.uk/ukxi/2006/1751/pdfs/ukxi\\_20061751\\_en.pdf](http://www.legislation.gov.uk/ukxi/2006/1751/pdfs/ukxi_20061751_en.pdf)



## 9. Children Missing Education (CME)

The government has placed a duty on local authorities (Education and Inspections Act 2006) to make arrangements to establish (as far as it is possible to do so) the identities of children in their area who are of compulsory school age and not receiving a suitable education.

Children Missing Education (CME) refers to all children of compulsory school age who are neither on a school roll nor being educated other than at school or who have been out of any educational provision for a substantial period of time.

All children, regardless of their circumstances, are entitled to a full time education which is suitable to their age, ability, aptitude and any special educational needs they may have.

A child going missing from education is a potential indicator of abuse or neglect. School and college staff should follow the school's or college's procedures for dealing with children that go missing from education, particularly on repeat occasions, to help identify the risk of abuse and neglect, including sexual exploitation, and to help prevent the risks of their going missing in future.

A procedure for CME can be found in the Pan Dorset Pan-Dorset Multi-Agency Safeguarding Policies and Procedures Manual.

[http://pandorsetscb.proceduresonline.com/chapters/p\\_ch\\_missing\\_care\\_hme\\_edu.html](http://pandorsetscb.proceduresonline.com/chapters/p_ch_missing_care_hme_edu.html)

Schools should put in place appropriate safeguarding policies, procedures and responses for children who go missing from education, particularly on repeat occasions.

It is essential that all staff are alert to signs to look out for and the individual triggers to be aware of when considering the risks of potential safeguarding concerns such as travelling to conflict zones, Female Genital Mutilation (FGM) and forced marriage.

The law requires all schools to have an admission register and, with the exception of schools where all pupils are boarders, an attendance register. All pupils must be placed on both registers.

**All** schools must inform their local authority of any pupil who is going to be deleted from the admission register where they:

- have been taken out of school by their parents and are being educated outside the school system e.g. home education;  
Kate Williams 01305 224762 email: [k.l.williams@dorsetcc.gov.uk](mailto:k.l.williams@dorsetcc.gov.uk))
- have ceased to attend school and no longer live within reasonable distance of the school at which they are registered;  
Jean Walker 01305 228444 email: [j.k.walker@dorsetcc.gcsx.gov.uk](mailto:j.k.walker@dorsetcc.gcsx.gov.uk)
- have been certified by the school medical officer as unlikely to be in a fit state of health to attend school before ceasing to be of compulsory school age, and neither he/she nor

his/her parent has indicated the intention to continue to attend the school after ceasing to be of compulsory school age;

- are in custody for a period of more than four months due to a final court order and the proprietor does not reasonably believe they will be returning to the school at the end of that period; or, have been permanently excluded.

Kate Williams 01305 224762 email: [k.l.williams@dorsetcc.gov.uk](mailto:k.l.williams@dorsetcc.gov.uk))

As stated previously the local authority must be notified when a school is to delete a pupil from its register under the above circumstances. This should be done as soon as the grounds for deletion are met, and before deleting the pupil's name from the register. It is essential that schools comply with this duty, so that local authorities can, as part of their duty to identify children of compulsory school age who are missing education, follow up with any child who might be in danger of not receiving an education and who might be at risk of abuse or neglect.

All schools must inform the local authority of any pupil who fails to attend school regularly, or has been absent without the school's permission for a continuous period of 10 school days or more, at such intervals as are agreed between the school and the local authority (or in default of such agreement, at intervals determined by the Secretary of State).

## 10.1 Relevant Guidance and Information

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/447595/KCSIE\\_July\\_2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/447595/KCSIE_July_2015.pdf)

## 11. Good practice guidance

### **Good practice: recording and monitoring attendance and setting targets to reduce absence**

#### 11.1 Recording attendance

If a school records information about attendance accurately, efficiently and effectively, it can use this to:

- identify pupils/families that require support and intervention
- provide detailed information to individual pupils and parents/carers
- provide regular reports to the governing body
- provide the Local Authority and the Department of Education with any information and data it requires
- identify ways in which levels of attendance and pupil progress can be improved
- recognise positive attendance rates overall and reward individual pupils for continued or improved good attendance

#### 11.2 Monitoring attendance

### **To help monitor attendance and absence levels, schools should:**

- ensure that appropriate codes are used to record pupil attendance and absence
- have a system in place to keep track of pupils during the day and help reduce/prevent post-registration truancy, e.g. by having spot checks or using a lesson monitoring

system; this should include pupils on roll but attending other educational provision or on temporary part-time provision

- provide clear information and accurate data to support services, so that they can intervene more quickly and effectively when concerns about poor attendance/punctuality arise
- report the school's attendance percentage for overall and persistent absence via the school's prospectus and website
- report annually to parents/carers their children's individual attendance rates
- set targets for individual pupils, teaching groups, year groups and/or the school as a whole to improve attendance

## **12. Good practice guidance**

### **How to improve attendance (including the role of the head teacher, school staff and governors) and attendance policies**

#### **12.1 How to improve attendance**

Schools can improve attendance by ensuring that pupils, parents/carers and staff are made aware of:

- the legality of regular attendance and punctuality
- how attendance correlates directly to attainment
- their responsibilities for ensuring regular and punctual attendance
- how poor or non-school attendance might link with potential safeguarding issues

#### **For both attendance and punctuality the role of the headteacher is to:**

- ensure that a member of the school's leadership team has lead responsibility for attendance and can influence the school's policies and procedures
- ensure all staff understand that children missing education is a potential indicator of abuse or neglect
- ensure that the impact of pupil/staff absence and lateness is regularly discussed at relevant staff meetings, both curriculum and pastoral, and is regarded as an area for school improvement.
- have procedures in place to identify and quickly follow up all absences, and that any interventions are monitored effectively
- ensure that information about the school's expectations and targets are included in the school prospectus, home school agreement, website, open days and transition days
- use newsletters and other communications to remind parents/carers how they can help their children achieve and maintain good attendance and punctuality.
- consider attendance a topic for staff training - to aid staff understanding of why some pupils do not attend, consider the impact of poor attendance and the reasons behind it, how to support pupils with differing reasons for absence; and how to use absence data to narrow differing rates of pupil progress
- promote awareness at class and whole-school level by including relevant data in regular, e.g. weekly, staff bulletins

- have systems in place for recording accurate and up-to-date absence data
- ensure that secondary school staff in particular take a register for each lesson to prevent pupils truanting from individual lessons
- ensure appropriate staff, e.g. class/form teachers, have an opportunity to get to know their pupils so that they can be aware of anything that might affect a pupil's attendance

### **13. Good practice guidance**

#### **13.1 The role of school staff is to:**

- promote a welcoming atmosphere which makes all pupils feel safe and valued.
- encourage and promote good relationships between themselves and parents/carers.
- include parents/carers in meetings about their child's attendance and involve them in any initiatives introduced by the school to promote attendance.
- ensure that pupils can access learning lost through periods of absence or irregular punctuality, and that absence data is used to identify pupils with potential gaps in learning or progress.
- ensure that all pupils, including those pupils with special educational needs, traveller pupils, pupils who speak English as an additional language, or pupils eligible for free school meals, receive suitable teaching that is monitored and adjusted as appropriate.
- set short and long-term attendance targets for individual pupils and groups of pupils

#### **13.2 The role of governors is to:**

- ensure that they receive regular attendance reports from the head teacher.
- ensure they set challenging targets for attendance and punctuality, and consider having a named governor with lead responsibility for attendance.
- ensure the inclusion of a governor as a member of a school attendance panel which deals with the poor attendance of individual pupils.

#### **13.3 Incentives for good attendance**

Most schools have schemes for rewarding good attendance. The most successful schemes include:-

- fair and consistent procedures which are adhered to by all staff.
- consultation with pupils about the form of rewards.
- short-term targets that are easily achievable.
- a method for pupils to monitor their own attendance and punctuality.
- a clear understanding amongst pupils and parents/carers of the attendance and punctuality levels needed to achieve a reward.
- a clear timetable for presenting rewards, for example each week, half term or full term
- the appointment of a member of staff with responsibility for ensuring that awards and certificates are available

Rewards can motivate all pupils and it is therefore advisable to reward not just 100% attendance, but also pupils with high levels of attendance, no unauthorised absence, or those who have made significant improvements in attendance and/or punctuality.

## **14. Good practice guidance**

### **14.1 Supporting pupils when they return from absence**

Supporting a pupil after a period of absence requires careful planning. In particular for those pupils who are returning after a long period of absence; or following a bereavement or specific traumatic event. Schools should have agreed procedures which help pupils return to school and all staff should be familiar with them. Sensitivity is vital and all staff should subtly welcome the pupil back. Procedures for dealing with pupils who return after an absence not only help the pupil involved, but also reduce disruption to other pupils.

#### **14.2 Prior to the pupil's return it is important that:**

- a return date is set in advance and all relevant staff are alerted, particularly the pupil's class teacher/form tutor, subject teachers and, if appropriate, the learning support team
- a named person is appointed to co-ordinate support for the pupil upon his/her return
- a special timetable or a phased return with learning support is considered upon the pupil's return:
- it is recommended that staff, particularly class/form teachers, discretely welcome the pupil back to school and help him/her to settle back in
- departmental/subject staff have specific procedures in place to enable the pupil to catch up with any work he/she may have missed.

## **Appendix A**

### **Dorset County Council Children's Services Penalty Notice Protocol**

#### **1. Legal Basis:**

Sections 444A and 444B of the Education Act 1996 empower designated Local Authority (LA) Officers, Head Teachers (& Deputy and Assistant Head teachers authorised by them) and the Police to issue Penalty Notices in cases of unauthorised absence from school. The Education (Penalty Notices) (England) Regulations 2007 require the Local Authority, in consultation with all of the above, to develop a code of conduct which must be followed when issuing Penalty Notices.

The issuing of Penalty Notices must conform with all requirements of the Human Rights Act 1988 and all Equal Opportunities legislation. These provisions apply to all persons who fall within the definition of a 'parent' as set out in section 576 of the Education Act 1996. By virtue of this section 'parent' includes: all natural parents, whether they are married or not; any person or body who has parental responsibility for a child (as defined by the Children Act 1989); any person who, although not a natural parent, has care of a child. Having care of a child means that a person with whom a child lives and who looks after a child, irrespective of what their relationship is with that child, is considered to be a parent in Education Law.

#### **2. Rationale for Issuing Penalty Notices:**

Regular and punctual attendance at school is both a legal requirement and essential for pupils to maximise their educational opportunities.

Children's Services will continue to investigate cases of non-attendance from school and, following appropriate casework, instigate legal action if applicable.

In law, an offence occurs if a parent/carer fails to secure a child's attendance at the school at which they are a registered pupil and that absence is not authorised by the school. Penalty Notices supplement the existing sanctions currently available under section 444 Education Act 1996 or section 36 Children Act 1989 to enforce attendance at school where appropriate. Children's Services delivers this LA responsibility.

#### **3. Circumstances where a Penalty Notice may be used:**

Penalty Notices can only be issued in cases where a pupil of compulsory school age has been absent and the absence has not been authorised by the school or where the pupil has persistently arrived late after the register has closed.

The level of absence that is necessary before a Penalty Notice can be issued is 10 or more half days of unauthorised absence within a 12 school week period.

The key consideration in deciding whether to issue a Penalty Notice will be whether it can be effective in helping to get the pupil who is missing education back into school.

A Penalty Notice is a suitable intervention in circumstances of parentally condoned truancy; where the parent is considered capable of securing their child's regular attendance but is not willing to take responsibility for doing so.

To ensure consistent and fair delivery of Penalty Notices, the following criteria for their use shall apply:-

- No one parent will receive more than three separate Penalty Notices resulting from the unauthorised absence of an individual child in any twelve month period.
- However, where families contain more than one poorly attending pupil, multiple issues may occur.

#### **4. Procedure for issuing Penalty Notices:**

The School Attendance Service (as part of Children's Services) will issue Penalty Notices for all Dorset Schools. Penalty Notices will only be issued by first class post and never as an on the spot action; this is to satisfy that all evidential requirements are in place and to meet health and safety requirements.

Children's Services will receive requests from schools, Dorset Police and neighbouring Local Authorities. Requests from Schools will be sent to the School Attendance Service following discussion with a member of the team. A Penalty Notice may be issued providing it does not conflict with other intervention strategies in place or other enforcement sanctions already being processed. Children's Services will respond to all requests within 10 school days of receipt and where all criteria are met, will:

##### **In cases of unauthorised absence**

- Issue a formal warning to the parent/carer of the possibility of a Penalty Notice being used.
- In the same letter set a period of 15 school days within which the pupil must have no unauthorised absence.
- Issue a Penalty Notice through the post at the end of the 15 day period if the required level of improvement has not been achieved.

##### **Unauthorised Leave during Term time**

In accordance with The Education (Pupil Registration) (England) Regulations 2006, as amended, a Penalty Notice can be issued in certain circumstances, for example where a parent takes a child on holiday during term time without the school authorising the absence. In such circumstances, although a minimum of 10 half day sessions of unauthorised absence will still apply before a Penalty Notice may be issued; the authorised person may issue a Penalty Notice without first issuing a formal warning to the parent as would otherwise be required. However s/he should still be satisfied that the parent was informed beforehand that, in some circumstances e.g. term time holiday, unauthorised absence could lead to a Penalty Notice being issued without further warning.

##### **Who can receive a Penalty Notice?**

Any Penalty Notice issued must be addressed to one parent but a Penalty Notice may be issued to each parent liable for the offence or offences.

An authorised person has discretion when deciding whether to issue one or more parents of a child with a Penalty Notice. This is to enable account to be taken of the specific circumstances in individual cases.

## **5. Roles and Responsibilities of the Local Authority**

Local Authorities (LAs) may, in the absence of any other agreement, only issue Penalty Notices in respect of pupils registered at a school in that LA area or, in the case of an unregistered pupil, who resides in their area or for whom that LA has arranged alternative provision. LAs may only issue Penalty Notices in respect of pupils registered at a school in another LA area or, in the case of an unregistered pupil, for which another LA has arranged alternative provision if they have an agreement to that effect with the other LA.

## **6. Procedure for withdrawing Penalty Notices:**

Once issued, a Penalty Notice will only be withdrawn in the following circumstances:

- Proof has been established that the Penalty Notice was issued to the wrong person.
- The use of the Penalty Notice did not conform to the terms of this Protocol.
- The Penalty Notice contains a material error.
- The Local Authority (LA) must withdraw the Penalty Notice if it is not paid in full and the LA has not, and does not intend to, instigate legal proceedings.

## **7. Payment of Penalty Notices:**

Arrangements for payment will be detailed in the Penalty Notice.

- Payment of Penalty Notice discharges the parent/carer liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered in the Penalty Notice.
- Payment of a Penalty Notice within 21 days is £60 and payment after this time but within 28 days is £120.

## **8. Non-payment of Penalty Notices:**

Non-payment of a Penalty Notice will trigger the prosecution process.

- Prosecution is for the offence to which the notice relates rather than for non-payment of the notice.
- In the case of unauthorised absence, if there is a prosecution, it will follow the usual procedure of a prosecution for irregular attendance (including considering an Education Supervision Order as an alternative, or in addition, to prosecution) under the provisions of section 444(1) or 444(1a) The Education Act 1996.

## **9. Penalty Notices and Excluded Pupils**

- Section 103 of the Education and Inspections Act 2006 places a duty on parents in relation to an excluded pupil. A parent has to ensure that their child is not present in a public place during school hours without reasonable justification during the first 5 days of each and every fixed period or permanent exclusion.



- Section 105 allows for a Penalty Notice to be given to a parent guilty of an offence under Section 103. The Penalty Notice allows a parent to pay a penalty as a way of discharging any liability for the offence of failing to ensure that their child is not present in a public place on the days specified in a notice given to them. The parent must have been notified by the school at the time of the exclusion of their duty and the days to which it relates.

#### **10. Procedure for Issuing of Penalty Notices in Cases of Exclusion**

- When a child is excluded from school – either for a fixed period or permanently – and the child is found in a public place during normal school hours on a specified day of exclusion, a Penalty Notice will be issued.
- In order for the parent to incur a Penalty Notice the school must give them notice informing them of the duty to ensure their child is not found in a public place; the days when this duty will apply and, as appropriate, of the arrangements for alternative provision.
- If the child has been provided with alternative provision and is not attending this provision then the parent will be liable under the unauthorised absence regulations.

#### **11. Non Payment of Penalty Notices – Exclusions**

- In the case of a prosecution of a parent who has failed to ensure their child is not found in a public place during a specified day of exclusion, the procedures, such as preparing and serving a summons, will be similar to those for unauthorised absence.

## **Appendix B**

### **Penalty Notices – A Guide for Schools**

Penalty Notices were introduced as a quicker route to prosecution of parents when a pupil has unauthorised absence. They can be used in two ways.

#### **Unauthorised Absence**

1. If a pupil has 10 or more unauthorised absences (half day sessions) within a 12 school week period then a Penalty Notice can be considered.
2. A school can request a Penalty Notice by completing the attached form and sending it to the School Attendance Team. Please include a record of the pupil's attendance.
3. The School Attendance Team will send a warning letter to the parent(s) stating that the pupil must have no unauthorised absence in the next 15 school days. If there is any unauthorised absence, a Penalty Notice will be issued. (Please note: In some cases if the warning letter has effected a major improvement in the pupil's attendance, we may consider issuing an additional 15 school day warning letter to see if the improvement can be maintained. We will discuss this with the school before issuing the second warning letter.)

#### **Holidays in Term Time (Unauthorised leave of absence)**

A Penalty Notice can be issued when a parent takes a child on holiday during term time without the school authorising the absence.

1. A minimum of 10 half day sessions of unauthorised absence will still apply before the Penalty Notice can be issued, however a warning letter will not be sent.
2. If there is a longer unauthorised holiday period or 10 unauthorised holiday absences and additional unauthorised absences on the pupil's record then a Penalty Notice will be issued.
3. A school can request a Penalty Notice for unauthorised holiday absence on the attached form.

A Penalty Notice must be addressed to one parent but may be issued to each parent liable for the offence.

## School Attendance

### Request for Penalty Notice Warning Letter (Unauthorised Absence)

Date .....

<b>School</b>	
<b>Name of pupil</b>	
<b>Date of birth</b>	
<b>Parent 1</b> Full name  Address	
<b>Parent 2</b> Full name  Address	
<b>School contact</b>  (Name & Tel Number)	
<b>Social Worker</b>	
<b>Any other information</b>	

N.B. If there are two parents with parental responsibility who you wish the letter to go to and they are not at the same address, please provide full details of both their addresses.

Email to: [c.r.briden@dorsetcc.gov.uk](mailto:c.r.briden@dorsetcc.gov.uk)

## Attendance Policy and Guidance

## School Attendance Request for Penalty Notice (Holiday)

Date .....

<b>School</b>	
<b>Name of pupil</b>	
<b>Date of birth</b>	
<b>Parent 1</b> Full name  Address	
<b>Parent 2</b> Full name  Address	
<b>School contact</b>  (Name & Tel Number)	
<b>Any other information</b>  (Including dates of holiday)	

**N.B. If there are two parents with parental responsibility who you wish the letter to go to and they are not at the same address, please provide full details of both their addresses.**

Email to: [c.r.briden@dorsetcc.gov.uk](mailto:c.r.briden@dorsetcc.gov.uk)

## Appendix C

### Holidays in Term Time

#### Guidance for Schools and Governors

##### Requests for approved leave of absence

##### Amendments to the Pupil Registration (England) 2006 Regulations state that:

*"Head teachers may not grant any approved leave of absence during term time unless there are exceptional circumstances. Head teachers should determine the number of school days a child can be away from school if the leave is granted".* Before any request for leave of absence is approved, a head teacher must be satisfied that there are *"exceptional circumstances"* justifying the request for leave of absence.

##### Defining exceptional circumstances

Many head teachers and school principals wish to define for their parents/carers what would constitute an exceptional circumstance, so that schools can be consistent in their response to any leave of absence requests received.

However, the Department for Education has not defined exceptional circumstances, except to explain that: *"Schools should consider each request individually taking into account the circumstances, such as: the nature of the event for which leave is sought; the frequency of the request; whether the parent/carer gave advance notice; and the pupil's attainment, attendance and ability to catch up on missed schooling"*. Guidance from the NAHT defines exceptional as rare, significant and unavoidable.

In relation to the practice of developing cluster or local school partnership letters (a blanket policy), schools need to ensure they remain lawful - in that head teachers have a discretionary power, and should consider each individual leave of absence request based on the circumstances of that family and the impact that absence will have on the child. Schools should not issue blanket policies where they state that they will only approve requests for leave of absence up to a certain duration, or where a pupil has a certain percentage attendance. Similarly, a refusal to authorise any leave of absence requests, or to automatically refuse certain categories of request, could be unlawful.

##### Dorset County Council advises that:

- where schools do operate a cluster or partnership response to requests for absence it remains acceptable and lawful to communicate with parents/carers examples of what you all would consider to be exceptional circumstances, as long as it is very clear that these are examples and every request will be considered individually
- the nature of the words *exceptional circumstances* are such that they indicate unusual events or an abnormal occurrence. It is therefore not possible to define in advance when a request will or will not be exceptional.

## **How do I decide if it is exceptional, whether to authorise and how many days?**

Although the decision is the head teacher's, to support your decision-making we would ask you to consider the following:-

Could this request for leave take place during the normal school holidays? If the answer is yes then it is not an exceptional circumstance. The Department for Education is clear that there is no parental/carer right for a family holiday and that cost, experiences for the child or overlapping with school holidays are not factors on which the decision should be made.

### **Dorset County Council's current advice is as follows:**

If it is an exceptional circumstance you still have to decide whether to approve the absence or not. This decision should be made by considering the frequency of the requests; the nature of the event for which leave is sought and whether the parent/carer gave advance notice. You do not have to approve leave of absence even if the reason given is exceptional.

Schools and head teachers should ensure that they are not discriminatory in their decision to approve leave in exceptional circumstances for Gypsy, Roma and Traveller children who may request this in addition to the extended leave covered by the *T* code. (If schools are using the *T* code correctly this would only be used for the time when a child is absent from school as the family are travelling for employment.) The decision to approve the leave should be made without consideration for leave taken for employment.

If you do approve leave of absence you need to make it clear the days you are authorising and from what time that approval takes place. For example, you may approve the absence for the immediate family wedding that takes place on the Wednesday, but may feel that due to the location of the wedding the child does not need to be absent for the entire week or for the two whole days of travel either side of the event.

### **Authorised approved leave of absence**

Dorset County Council anticipates that it will be rare for leave of absence for a holiday in term time to be authorised. Where it is approved the school should use the appropriate authorised absence code. If leave is not approved the absence should be coded as a **G**.

If a parent/carer takes a child on holiday during term time without obtaining the head teacher's consent beforehand, the pupil's absence must be recorded as unauthorised **G**.

The parent/carer is then committing an offence and may be issued with a penalty notice or prosecuted under the Education Act 1996, Section 444(1).

Authorised officers have the discretion to issue a penalty notice without warning where the parent/carer has chosen to take the child on leave during term time without authorisation.

### **Relevant legislation and guidance**

- The Education (Pupil Registration) (England) Regulations 2006.
- Education (Pupil Registration) (England) (Amendment) Regulations 2013, which came into force on 1 September 2013.