

## Attendance Policy

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## **THE STANWAY SCHOOL ATTENDANCE POLICY**

### **1. STATEMENT OF INTENT**

The Education Act 1996 states that all students should attend school regularly and punctually.

At The Stanway School we are committed to providing a full and efficient educational experience to all its students. We believe that if students are to benefit from education, good attendance is crucial. As a school, we will organise and do all we can to ensure maximum attendance for all students. Any problems that impede full attendance will be identified and addressed as speedily as possible.

Our school will give a high priority to conveying to parents and students the importance of regular and punctual attendance. We recognise that parents have a vital role to play and that there is a need to establish strong home-school links and communication systems that can be utilised whenever there are concerns about attendance.

If there are any problems that affect a student's attendance we will investigate, identify and strive in partnership with parents and students to resolve those problems as quickly and efficiently as possible.

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

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

Parents may be recognised differently under education law, than 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 the school referring to the Local Authority for sanctions and/or legal proceedings. This may include issuing each parent 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 may receive a fine up to £2500 and/or up to 3 months in prison. If a parent is found guilty in court, they will receive a criminal conviction.

If a parent has previously received a Penalty Notice for an offence of failing to ensure regular school attendance or been the subject of a prosecution for any child in relation to irregular school attendance, there may not be an opportunity to pay a further Penalty Notice; the case may proceed directly to court.

See Annex B for the Essex Code of Conduct

## **3. RIGHTS AND RESPONSIBILITIES**

### **The school:**

- expects students to attend school every day and be on time, properly equipped and ready to learn
- will encourage good attendance and will communicate with parents as soon as possible if there is a problem with attendance or punctuality
- staff will set a good example in matters of attendance and punctuality and will promptly investigate all absenteeism and lateness
- works with an external attendance agency - Aquinas, the Attendance Compliance Team (ACT) and families to promote good attendance. Our Aquinas Team will work with the school in partnership with parents/carers and students to resolve issues which affect attendance or punctuality as quickly as possible

- will work with families to promote good attendance
- will include in reports to parents on achievement their child's attendance at least annually
- has annual attendance targets set by Governors. It is expected that the whole school community will work together to achieve this target.
- will follow the DFE guidelines for children missing from education

### **Our Students:**

- are advised that their attainment is strongly linked to attendance, and research has shown that if students are to achieve their full potential, they must attend school every day.
- will attend lessons punctually
- can expect to be welcomed back and receive assistance following periods of absence in order to catch up
- will be listened to and respected
- will have individual records of attendance/punctuality acknowledged and monitored by the school and Aquinas.

### **Parents/Carers:**

- are responsible for ensuring their child attends school every day, punctually, properly dressed, equipped and in appropriate condition to learn
- are responsible for immediately informing the school of the reason for any absence by telephone call on the first morning of any absence, stating the expected return date where possible.
- should be aware that where the school does not receive an acceptable reason for a student's absence, it is required to record the absence as an unauthorised absence
- are advised that if attendance problems do develop, the school expects parents to work actively with school staff, Aquinas and ACT if needed.
- are informed here that ACT carries out statutory powers on behalf of the Local Authority to ensure that parents/carers fulfil their legal requirements in relation to school attendance
- can expect the school to keep them fully informed of their child's attendance/punctuality record. This information can also be readily accessed by parents on one of our Parental Engagement portals such as Go4Schools and Arbor
- should note that where a student's attendance falls or is in danger of falling below expectation, letters informing parents may be sent and there are likely to be attendance meetings in school with the student concerned. Where this fails to resolve poor attendance, parents will be contacted by phone or invited to a school based meeting where support and advice to improve attendance will be offered. If attendance still does not improve following this meeting, a referral may be made to ACT.
- should check the latest NHS advice to parents which at the time of writing is available here: <https://www.nhs.uk/live-well/is-my-child-too-ill-for-school/>

### **HOLIDAYS DURING TERM TIME**

**Parents/Carers should not take children on holiday in term time.** In EXCEPTIONAL\* circumstances a parent/carer may request leave of absence by writing to the school outlining the specific circumstances/reason behind their request for leave of absence. The request will be considered carefully taking into consideration the student's attendance record, family circumstances and timing of the request with regard to assessments and examinations. Any request for leave of absence MUST be made in advance (\*exceptional is determined at the discretion of the Headteacher).

Leave of absence or holidays taken without permission are recorded as an unauthorised absence. The school expects all students to attend school every day that they are required to do so. If there is an unauthorised term-time holiday, the school will use ACT to issue a Penalty Notice OR instigate prosecution proceedings to each parent/carer. Parents/carers who choose not to pay the Penalty Notice fine(s) within relevant time frames could face legal action in the Magistrates Court.

The maximum penalty for taking an unauthorised period of leave from school is £2,500 per parent, per child. Therefore one holiday taken by two parents for two children could amount to court fines of as much as £10,000, a three month custodial sentence and a criminal record

#### **4. REGISTRATION**

##### **Type of registration**

At The Stanway School we use Arbor as our electronic registration system. Form Tutors and class teachers ensure that registers are submitted at the beginning of the registration period and these are accessible in case of emergency.

All notes from parents regarding a student's absence will be collated and forwarded to the attendance officer for entering on the Arbor system.

##### **Start & Close of registration**

Registration begins at 8.40am and at the beginning of Period 4 each school day. Registers will be closed shortly after these times.

If a student arrives after the morning register has closed, they should report to Student Services to be recorded as late.

It is important to note that when a child arrives late to school, they miss important events like assembly, teacher instructions and pivotal career information and guidance. The table below shows how frequent lateness can add up to a considerable amount of learning being lost. This can seriously disadvantage students and disrupt the learning of others.

Minutes late per Day	Equates to Days of Teaching Which means this number of day lost in one Year Lessons missed
5 minutes	3 Days 15 lessons
10 minutes	6 Days 30 lessons
15 minutes	9 days 45 lessons

## Use of symbols

The following symbols are used in registers:

### DESCRIPTION MEANING CODE

**/ Present (AM)** Present

**\ Present (PM)** Present

**B Education off site** Approved Education Activity

**C Other authorised circumstances (not covered by another appropriate code/ description)**

Authorised absence

**D Dual registration (at another educational establishment)** Not counted in possible attendances

**E Suspension (no alternative provision made)** Authorised absence

**F Extended family holiday (agreed)** Authorised absence

**G Family holiday (NOT agreed or days in excess of agreement)** Unauthorised absence

**H Family holiday (agreed)** Authorised absence

**I Illness (NOT medical or dental etc appointments)** Authorised absence

**J Interview** Approved Education Activity

**L Late (before registers closed)** Present

**M Medical or Dental Appointments** Authorised absence

**N No reason yet provided for absence** Unauthorised absence

**O Unauthorised absence (not covered by any other code/ description)**

**P Approved sporting activity** Approved Education Activity

**R Religious observance** Authorised absence

**S Study leave** Authorised absence

**T Traveller absence** Authorised absence

**U Late (after registers closed)** Unauthorised absence

**V Educational visit or trip** Approved Education Activity

**W Work Experience** Approved Education Activity

**X Non-compulsory school age absence** Not counted in possible attendances

**Y Enforced closure** Not counted in possible attendances

**Z Student not yet on roll** Not counted in possible attendances

**# School closed to Students** Not counted in possible attendances

## **The legal status of registers**

The register is a legal document and must be marked accurately, recording students' attendance or absence and in the latter if authorised or unauthorised.

A certified extract of the register can be used as evidence in legal proceedings against parents for failure to ensure their child's regular attendance or in seeking an Education Supervision Order in respect of a student.

Registers must be kept for a minimum of 3 years following completion at the end of the academic year.

## **Staff responsible for processes**

A dedicated attendance officer is responsible for attendance issues and will check the registers on a regular basis to identify any attendance/punctuality concerns.

The administrative team are responsible for ensuring that registers are kept safely and are available for inspection to relevant professionals.

The form tutor is responsible for taking the register daily and for submitting it on time, once for the AM Registration session and once for the Afternoon Tutor session.

It is the responsibility of the Class Teacher to take the PM Registration session accurately at the beginning of Period 4. The Class Teacher is responsible for submitting the register on time.

The school will ensure that all staff are aware of the registration process and receive in service training on registration regulations and education law.

Each student should be called by name when the register is being taken. A student must not be marked as present unless physically seen by the Tutor/Class Teacher.

## **5. Procedures for following up absence**

It is the responsibility of the Parent/Carer to contact the school on the first morning of the child's absence and if an absence continues into a new week. All absences should be reported to school as early as possible on the first day of absence either by telephoning the school absence line on **01206 245059** or via email to **student.absence@stanway.school**. The students name, form group and reason for absence should be included.

We monitor all absences, and the reasons that are given, thoroughly.

If no contact is made, a telephone call may be made or a text message sent to parents requesting confirmation of Absence.

If there is still no response, the absence is unauthorised. A home visit may be carried out for



students where unauthorised/unexplained absences become a concern. If this is the case then this is likely to be carried out by Aquinas, a member of the Senior Leadership or Pastoral team. There may be times where the aforementioned are not able to attend a welfare check in which case, we may request support from our Police liaison officer.

Attendance is reviewed every week by the Attendance Officer, Assistant/Heads of Year and a member of the Senior Leadership Team.

A report is produced of every student whose attendance has fallen below expectation in the previous week and this is sent to the Head of Year. Where appropriate, letters, telephone calls, home visits and school-based meetings are implemented to address the issue and Aquinas may support the school in delivering this. If the student's difficulties are not resolved by these methods then a referral may be made to the ACT who will undertake a formal assessment. Where attendance does not improve then parents may be liable to legal action.

If the student is returning to school after an absence of longer than two weeks, in exceptional circumstances there may be provision to allow the student to ease back into the school system.

## **6. Understanding Types of Absence**

Any absence affects the pattern of a child's schooling and regular absence will seriously affect 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 has to be classified by the school (not by the parent), 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 absence**

Authorised absences are morning or afternoon sessions away from school for an unavoidable 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 absence**

By law, the only decision regarding the authorisation of a student's absence from school is the responsibility of the school and not the parent/carer. The School will only authorise persistent absence from school (characterised by the Government as less than 90% attendance) with medical evidence that is current.

This is not an exhaustive list however, examples of when an absence may be recorded as

unauthorised are:

- Minor ailments - these can often be treated with over the counter remedies and there is no need to remain absent from school. These include headache, cold symptoms, sore throats, coughs and aches and pains
- Shopping, hair issues or similar
- Missed bus, slept late or equivalent
- No uniform or issues regarding uniform
- Looking after brothers and sisters, unwell parents or minding the house
- Birthdays
- Unapproved holidays

Where attendance becomes a concern it may be necessary for the school, Aquinas or the ACT to ask the parent/carer to provide the school with written evidence of reason for absence for example:

- Appointment cards/letters/surgery stamp in student's planner on relevant day
- Medical certificate
- Letter from GP
- Copy of a prescription/prescribed medicines (where the prescription is for an illness that would ordinarily prevent attendance at school)

If a student approaches a block of 10 unauthorised days and contact with parents/carers cannot be made, a student may be reported missing in education to the local authority so that appropriate welfare checks can be made. Referrals may be made sooner where there are safeguarding concerns.

### **Persistent Absenteeism (PA) and Severe Absenteeism (SA)**

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 will cause considerable damage to any pupil's education and we need the full support and co-operation of parents to resolve this.

A pupil who has missed 50% or more schooling is defined by the Government as '**severely absent**'. Pupils within this cohort may find it more difficult to be in school or face bigger barriers to their regular attendance and as such are likely to need more intensive support across a range of partners.

## **7. Punctuality**

Poor punctuality is not acceptable and can contribute to further absence. Good time-keeping is a

vital life skill which will help 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 The Stanway School are:**

Gates close: 8.35am

Registration: 8.40 am

End of the school day: 3.15 pm

Children arriving after *8.40am* are required to come into school via the school office and sign in

Registers are taken at **8.40am** and your child will receive a late mark 'L' if they are not in by that time.

A weekly late report is generated for each HOY or AHoy so that appropriate action can be taken and parents will be contacted if there is a persistent issue.

Unauthorised lateness could result in the school referring to the Local Authority for sanctions and/or legal proceedings. If your child has a persistent late record, you will be asked to meet with a member of the year team or senior leader for attendance, but you can approach us at any time if you are having difficulties getting your child to school on time. We expect parents and staff to encourage good punctuality by being good role models to our children and celebrate good class and individual punctuality.

Where a student is persistently late the school will write to the parent/carer informing them that late arrivals after registers close will be recorded as unauthorised absences. The school will also issue detentions and operate a student reporting system for lateness.

**8. 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 and the child. If a parent thinks their child is reluctant to attend school, then we will work with that family to understand the root problem and provide any necessary support. We 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 Local Authority team/s. Where outside agencies are supporting the family, you may be invited to attend a Team Around the Family meeting (TAF) to consider what is working well and what needs to improve. An individualised early help plan will be agreed and subsequently reviewed.

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, or other vulnerabilities. High expectations of attendance remain however, we will work with families and pupils to support improved attendance whilst being mindful of the additional barriers faced. We can discuss reasonable adjustments and additional support from external partners where appropriate.

As a first port of call in trying to identify the root causes of persistent school absence, the school will use the Essex County Council's 'Let's talk' toolkit for preventing pupil absence and identifying and supporting children and young people (CYP) who have attendance difficulties, therefore reducing the need for statutory intervention. This toolkit has been developed in the context of Trauma Perceptive Practice (TPP), the Essex approach to understanding behaviour and supporting emotional wellbeing. The values of TPP enable us to view and review the experiences of the child/young person (CYP) through compassion and kindness, hope, connection and belonging.

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

### **9. Strategies for promoting attendance and punctuality**

Attendance statistics will be collected and used to inform pastoral and curriculum practices.

Expectations are made clear to parents with regard to attendance and punctuality in the Home School Agreement, school prospectus and annual report from the Governors.

The school will keep parents informed of their child's attendance through newsletters, parent's evenings and student reports.

Parents, students and staff will be regularly reminded of what constitutes authorised and unauthorised absence.

Parents will be informed of concerns regarding attendance and punctuality.

Students who have been absent for an extended period of time will be reintegrated back into school through a structured and individually tailored programme.

Any issues, which may cause a student to experience attendance difficulties, will be promptly investigated by the school (refer to Anti-bullying Policy and Equal Opportunities Policy)

The school Attendance Officer or designated member of SLT will have regular meetings with the Heads of Year/ Assistant Heads of Year, in order to identify and support those students who are experiencing attendance difficulties.

Form Tutors will regularly promote the benefit of attendance to school and will have positive conversations with individuals who begin to show concerns

Students will have an opportunity to regularly review their own attendance during form time and will have an opportunity to reflect on their attendance when applying for Stanway Standard Awards.

The school will recognise good attendance.

### **10. Strategies for recognising and rewarding good and improved attendance and punctuality**

The school will systematically report on and reward good attendance and improved attendance in the following ways (please note this is not exhaustive):

- Weekly assembly awards for tutor groups
- Reward breakfasts
- Form group Pizza lunch times
- Annual awards ceremonies
- Postcards home
- Certificates
- Free passes for jumping the lunch queue
- Doughnut week

**This policy will be reviewed on an annual basis and updated as appropriate.**

## Annex A: DfE guidance Summary table of responsibilities for school attendance. Sept 2022

### All pupils

Parents are expected to:	Schools are expected to:	Academy trustees and governing bodies are expected to:	Local authorities are expected to:
<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

Parents are expected to:	Schools are expected to:	Academy trustees and governing bodies are expected to:	Local authorities are expected to:
<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 the school is the 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 to identify, 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

Parents are expected to:	Schools are expected to:	Academy trustees and governing bodies are expected to:	Local authorities are expected to:
<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 pupils at risk of becoming persistently absent 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>Where there are safeguarding concerns, intensify support through statutory children's social care.</p> <p>Work with other schools in the local area, such as schools previously attended and the schools of any siblings.</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> <p>Where support is not working, being engaged with or appropriate, enforce attendance through legal intervention (including prosecution as a last resort).</p>

## Severely absent pupils

Parents are expected to:	Schools are expected to:	Academy trustees and governing bodies are expected to:	Local authorities are expected to:
<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

Parents are expected to:	Schools are expected to:	Academy trustees and governing bodies are expected to:	Local authorities are expected to:
<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 educational needs, 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

Parents are expected to:	Schools are expected to:	Academy trustees and governing bodies are expected to:	Local authorities are expected to:
<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>

## **Annex B**

### **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.

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[2] are authorised to do so.

## CIRCUMSTANCES IN WHICH A PENALTY NOTICE MAY BE ISSUED

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

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

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

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

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

### [Penalty notices for unauthorised leave of absence \(ULA\)\[3\]](#)

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.

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

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[1] 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.

[2] Accredited companies at time of this publication are Attendance Solutions Essex, Aquinas School Attendance Provisions and NEMAT Support Services

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

## **Annex 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.



