

# Education Enforcement Leave of Absence Policy

September 2019

## Introduction

- 1.1 This policy document has been developed to ensure that the Education Enforcement Team provides a clear statement of intent, expectation and consistent guidance in relation to the management of ALL term time leave of pupils who attend a school in Solihull. It has been produced to ensure all decisions are within the national legislation framework. Legally there is no entitlement for parents to take their child out of school during term time. Any application for a leave of absence must be in exceptional circumstances and the head teacher must be satisfied that the circumstances warrant the granting of leave.
- 1.2 This policy also responds to the updated guidance issued from the Department for Education (DfE) which states:-

### **Term-time leave of absence**

The [Education \(Pupil Registration\) \(England\) Regulations 2006](#)

Amendments to the 2006 regulations **make clear that head teachers may not grant any leave of absence during term time unless there are exceptional circumstances.**

This was reinforced by the Isle of Wight Supreme court judgement dated April 2017 which determined that children are expected to attend school every day that is open and that any absences would need to be determined by the school as authorised or unauthorised and that failure to ensure regular school attendance can lead to prosecution of parents/carers.

## **2. Rationale:**

- 2.1 This guidance is provided for parents/carers, schools, and governing bodies, on the processes for requesting permission for term-time absences, how requests will be considered, and how leave may be authorised in exceptional circumstances.
- 2.2 This guidance also addresses how schools should manage and respond to situations where leave is not authorised or agreed.
- 2.3 National guidance stipulates that family holidays should not be authorised by schools unless the Head teacher is satisfied that there are exceptional circumstances. This would be decided by the head teacher on an individual basis. There is strong evidence to indicate that significant absence from school during term time can have a negative impact upon a child's attainment and learning. Children are expected to attend school for 190 days per year: this leaves 175 days (including weekends) free for families to take holidays.
- 2.4 A family holiday should not be classed as exceptional. The head teacher should consider whether all other leave of absence requests are avoidable and exceptional, and the register marked accordingly (see further below)

### **3. Term time leave**

Solihull Metropolitan Borough Council recognises the important link between regular attendance at school and the educational attainment of children.

- 3.1 Action may be taken by Solihull MBC against parents/carers who fail to ensure that their child is properly educated. The action may result in a Penalty Notice, or prosecution in the Magistrates' court.
- 3.2 All requests for term-time leave will be considered by the school's head teacher. Each request for exceptional circumstances must be considered on its own merit. Head teachers will decide whether they regard the circumstances as exceptional (in which case they may authorise the absence). If they do not regard the absence as exceptional, the request should be refused.

### **4. Notifications/requests of term time leave in exceptional circumstances**

- 4.1 Parents should notify the school of term-time leave using the Absence Request Form provided by the school. They should do so in advance of making any travel arrangements, and should allow sufficient time for the school to consider the request.
- 4.2 Requests/notifications should include specific start and end dates, as this will formally constitute the leave period.
- 4.3 Any changes to dates agreed by the school will require a re-submission for authorisation prior to departure. If further leave is taken after a specified time, then the school must write to the parents stating that this will be unauthorised if this is the school's decision.

### **5. Family Emergency - where the school has not been notified of leave**

- 5.1 There will be some occasions where it has not been possible for the parent/carer to notify the school of the need for term time leave. Whilst emergency situations are often difficult, parents/carers are still required to notify the school of the absence (and the reasons for it) at the earliest possible opportunity.
- 5.2 Parents/carers taking their children out of school due to a family emergency are encouraged to consider:
  - The impact and appropriateness for their child;
  - Whether or not alternative care arrangements could be made for the child to remain in school, e.g. stay with an extended family member;
  - Limiting the amount of time absent from school.

In these circumstances the school must decide whether it agrees that the circumstances are exceptional. If so, the absence may be authorised. If not, the

absence should be recorded as unauthorised using the “O” code. The school may decide to authorise only part of the absence.

## 6. Considering the exceptional term time leave notification/request

- 6.1 The head teacher will consider all notifications for term time leave in accordance with the current legislation and this guidance.
- 6.2 It is good practice for head teachers to engage with parents/carers (wherever possible) to discuss any exceptional circumstances raised prior to making the decision.

## 7. Recording of leave of absence by the school

School attendance registers are legal documents and the information recorded in them can be used as evidence in legal proceedings. It is therefore imperative that the information contained is accurate and the correct absence code is used. All absences must be coded in accordance with Absence and Attendance Codes: Guidance for Schools and Local Authorities (DfE Sept 2018). The table below relates to coding leave of Absence:-

- If leave of absence is not deemed exceptional then G code should be recorded and a penalty notice should be requested.
- If the head teacher is not intending to request a penalty notice then they are effectively authorising the absence and therefore should code the absence as H.
- The majority of the leave of absence requests will fall into either of the highlighted categories. There may be some circumstances where other codes are used such as those below.

CODE	Description	Category
C	Other Authorised Circumstances (not covered by another code or description)	Authorised
<b>G</b>	<b>Family Holiday (NOT Agreed or days in excess of agreement)</b>	<b>Unauthorised</b>
<b>H</b>	<b>Family Holiday (Agreed) exceptional circumstances only</b>	<b>Authorised</b>
I	Illness (NOT medical or dental etc. appointments)	Authorised
O	Unauthorised absence - not covered by any other code/description)	Unauthorised
R	Religious observance	Authorised

## 8. The decision and informing the parent/carer by the school

- 8.1 The head teacher will reach a decision and inform parents in line with the school attendance policy.
- 8.2 Schools must ensure that appropriate arrangements are made to communicate the decision to families who have low levels of literacy or where English is not the first language.

A decision may result in the term time leave notification being (a) Authorised<sup>1</sup>, (b) Unauthorised<sup>2</sup> or (c) part Authorised and Unauthorised. For example, Mr X has requested 2 weeks` term time leave for his child. The school acknowledges that the reason given is important but feels that 2 weeks` absence is excessive and authorises 1 week`s leave, with the remaining 1 week being unauthorised.

## **9. Unauthorised leave Penalty Notice Fine**

- 9.1 A school may request the Council to issue a fixed penalty notice for unauthorised leave of absence for 10 sessions (5 school days) which can be 5 consecutive days or 10 sessions over split days. The penalty notice is for the sum of £120 but this is reduced to £60 if paid within 21 days of issue. Each parent will receive one penalty notice for each child. Where Penalty Notices are unpaid, the case may be referred for prosecution in the Magistrates` court.
- 9.2 It is the school`s responsibility to ask the Local Authority to issue fixed penalty notices, and therefore their responsibility to ensure all paperwork is complete and correct.

The School should provide the paperwork for pupils identified and this should include:

- Copy of the Request for Leave of Absence/notification date stamped by the school
- Response letters from the school refusing permission for the absence, or
- Evidence letter (if Leave of Absence form not submitted/notification)
- Attendance certificate signed by the head teacher
- Evidence that the school has acted in line with their own attendance policy

## **10. Solihull MBC and Schools process for dealing with unauthorised absence**

- 10.1 A decision to refuse a leave of absence request sends a clear message to the parent/carer that the school does not agree with the parents` reasons for the request. If the parent/carer still takes their child on holiday in term time, legal action should be considered if the school do unauthorise the absence. A fixed penalty notice may be issued as an alternative to proceeding directly to Court.
- 10.2 If parents/carers do not pay the penalty notice they may face prosecution under s444 of the Education Act 1996. This is for irregular school attendance rather than non-payment of the penalty notice. If found guilty of an offence, parents/carers can be sentenced to a fine of up to £1000 plus court costs and will receive a criminal record.
- 10.3 All documents that are sent to Education Enforcement Team must be secure and accurate for a penalty notice to be considered and to make a successful case in court. The Council will not take legal action on inaccurate paperwork provided by schools, and correcting that paperwork (if possible) will cause delay.

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## **11. Communicating the policy to parents/carers**

11.1 School's attendance policies should be communicated to parents/carers annually. It is considered good practice for schools to:

- Refer to this policy in the school's own Attendance and Behaviour Policy, which should be reviewed regularly.
- Promote the school's policy on the attendance board and in the school newsletter.
- Provide parents/carers with a leaflet covering key points.
- Promote the policy at Parents' Evenings and school events for new starters.
- Make reference to the policy in home/school agreements.

**All schools can contact the Education Enforcement Team at any time for advice and guidance on 0121 779 1737 or [educationenforcement@solihull.gov.uk](mailto:educationenforcement@solihull.gov.uk)**