

**St. Aidan's Primary School  
A Church of England Academy**



**DISCRETIONARY LEAVE OF  
ABSENCE POLICY  
September 2017**

## Mission Statement

All children are unique and our main aim is to work in partnership with parents to develop the full potential of every child in our school. This underpins the positive ethos we foster, stated in our vision and mission statement:

***'Fulfilling potential, growing in God'***

### 1. INTRODUCTION

1.1 The reason for this new policy statement is to provide updated guidance which incorporates the most recent amendments to relevant statutory regulations:

- 'Advice on school attendance' - DfE document published February 2013
- 'Improving school attendance' - DfE report and recommendations produced by Charlie Taylor, the Government's Expert Advisor on Behaviour and Attendance, published April 2012
- 'Reducing absence – ensuring schools intervene earlier' – DfE report produced by Charlie Taylor, the Government's Expert Advisor on Behaviour and Attendance, published July 2011
- The Education (Pupil Registration) (England) (Amendment) Regulations 2013
- The Education (Pupil Registration) (England) (Amendment) Regulations 2011
- The Education (Pupil Registration) (England) (Amendment) Regulations 2010
- The Education (Pupil Registration) (England) Regulations 2006
- The Education (Penalty Notices) (England) (Amendment) Regulations 2013
- The Education (Penalty Notices) (England) Regulations 2007
- The Education Act 2006

Specifically, Regulation 7 of the Education (Pupil Registration) (England) Regulations 2006 has been amended to prohibit the proprietor of a maintained school from granting leave of absence to a pupil except where an application has been made in advance by parents/carers **and** the proprietor considers there are exceptional circumstances relating to the request.

1.2 The Human Rights Act 1998 requires that schools and local authorities apply their powers fairly and consistently.

The Equalities Act 2010 placed a general duty on all public authorities, including schools and local authorities, to have regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between peoples of different racial groups.

The Race Relations (Statutory Duties) Order 2001 also places a number of specific duties on schools and Local Authorities, including a duty to assess the impact of their policies on minority groups and to monitor the operation of those policies by ethnicity and make that information publicly available.

The Children Act 2004 places a duty on local authorities to make

arrangements through which key agencies co-operate to safeguard and improve the well-being of children and young persons in order to promote the five outcomes under the Every Child Matters agenda:

- Be Healthy
- Stay Safe
- Enjoy & Achieve
- Make a Positive Contribution
- Achieve Economic Well-Being

Likewise, in the case of education-related penalty notices for non-attendance (unauthorised leave in term-time or unwarranted delayed return from discretionary leave of absence without school agreement) we must also pay due regard to:

- the provisions covered in the DfE's 'Guidance on Education-Related Parenting Contracts, Parenting Orders and Penalty Notices' (2007); and
- the revised Blackburn with Darwen, Blackpool and Lancashire County Children's Services Authorities 'Joint protocol for issuing education-related Penalty Notices.' (May 2013)

The Schools and Education directorate has also produced revised guidance and procedures in relation to supporting 'Children missing from or not receiving a suitable education' and this protocol should always be read in conjunction with the above.

The criteria adopted by St. Aidan's CE Primary School to determine whether a request for leave of absence is approved must pay proper regard to the above equality issues, e.g. a parental request for leave of absence need not necessarily always involve a journey overseas.

- 1.3 St. Aidan's will ensure that parents/carers have access to clear, accurate information regarding their rights and responsibilities, e.g. when granting leave of absence the Headteacher will clearly specify (in writing) the leave of absence period agreed with parents/carers, because if this is not stipulated, the Headteacher will not have the legitimate lawful permission to remove the pupil from the school roll if the child fails to return to school at the 'expected' (as opposed to a formally agreed) time and, if challenged, the Headteacher will be deemed by the Courts to have acted unreasonably.
- 1.4 The school acknowledges that some parents may still occasionally want to take their children out of school for a period of time, beyond the normal school holiday pattern.

However, the amendments to the 2006 regulations have removed all references to family holidays, extended leave and the former statutory threshold of allowing up to ten school days leave per year for the purpose of a family holiday during term-time.

When considering applications for discretionary leave of absence, the Headteacher will now:

- be satisfied that the individual circumstances warrant granting leave;
- take into account the frequency of any such requests, the pupil's

attainment, overall attendance and ability to catch up on missed lessons; and then

- determine the number of days, if any, a child can be away from school.

Examples of exceptional circumstances which justify approval could include:

- members of the armed forces who are returning home from active duties
- emergency services personnel (Police, Ambulance, Fire and Rescue) who are unable to take leave at certain times of the year
- other employees who are prevented from taking family holidays outside term-time, e.g. a parent working abroad on a fixed time-period contract
- the death of an immediate family member, e.g. parent or sibling
- a child or parent/carer receiving medical treatment abroad
- a required religious pilgrimage such as Hajj
- families who can evidence that they have experienced genuine disruption to their originally agreed return travel plans, e.g. severe weather conditions or civil unrest.

The above examples are not necessarily exhaustive.

- 1.5 The connection between educational progress and absence is complex at an individual pupil level; any negative impact might be cushioned by a number of positive factors – parental engagement, the child’s knowledge and skill levels and the ability of the school to provide an appropriate level of support.

However, if children are taken out of school for a two week holiday every year and also miss the average number of days off for sickness and medical/dental appointments, then by the time they leave compulsory education at age sixteen they will have missed the equivalent of a year off school.

## **2. PUPILS WHO ARE UNABLE TO ATTEND SCHOOL AS A RESULT OF THE CHILD OR PARENT/CARER RECEIVING MEDICAL TREATMENT ABROAD**

### **2.1 Background**

The primary aim of educating children & young people who have medical needs is to minimise, as far as possible, the disruption to normal schooling.

St. Aidan’s is well placed to support the education of children undergoing medical treatment in local hospitals and we can access reciprocal support arrangements for children & young people who receive treatment elsewhere in the country. However, recent changes to the health economy now means that parents/carers have greater choice in where they and their children access treatment; including the option of seeking treatment abroad.

### **2.2 Regulations & guidance for coding pupil registers**

In September 2006 the Department for Children, Schools and Families issued guidance to schools and local authorities on applying the Education (Pupil Registration) (England) Regulations 2006. The section on keeping pupil registers

stated that schools should automatically treat illness as authorised absence and, with their local authority's help, support pupils' education throughout any illnesses, i.e. schools, local authorities and other agencies (e.g. health services) must work together to support sick children before raising the issue of deletion from the school roll.

However, the High Court has ruled that only schools, not parents or anybody else, can authorise a pupil's absence, and under the amended Education (Pupil Registration) (England) Regulations 2006 schools can still legitimately challenge parents/carers statements and/or request appropriate, additional, medical evidence, although there is no legal requirement for parents to provide a doctor's certificate **and** schools are advised not to request medical certificates unnecessarily, especially if an illness was not treated by a doctor at the time.

### **2.3 Procedure to be followed by the Headteacher when considering requests from parents/carers to authorise the absence of a pupil in order for them to receive medical treatment abroad:**

- Seek clarification from parents/carers as to whether the child has been diagnosed with a long-term or recurrent illness;
- discuss the most appropriate time to plan the treatment in order to help minimise disruption to the child's educational career, e.g. avoiding SATS and examination times;
- request the pupil's parents/carers to provide medical evidence from the child's UK hospital **consultant/paediatrician** to support approval of absence;
- ask parents for their consent to seek further advice from UK health professionals (e.g. school's health service) around potential further detriment to the child's health if the requested period of absence was not agreed and/or treatment is delayed because of concerns over the need to maintain continuity of education;
- request the pupil's parents/carers to provide (if possible/available) a letter from the hospital consultant/paediatrician in the country where the child will be receiving treatment, specifying:
  - a. the nature of the medical problem;
  - b. the type of treatment to be undertaken, and
  - c. the estimated recuperation period needed before the child can be declared fit enough to safely return to the UK;
- secure agreement from the parents/carers that they will contact the school if anything delays their expected return;
- give due consideration as to whether the child or young person is likely to be placed at more risk by being out of the country and not receiving a suitable education.

**In the majority of cases, after securing parental consent, the first point of contact should be the school nurse, who will liaise with community paediatricians and/or refer on as they see fit.**

### **2.4 Outcome of the meeting with the parent/carers:**

- Where the request is approved, then the school will notify the

parents/carers in writing of the decision and confirm the agreed date by which the child will be expected to return to school. This letter should also inform the parents/carers of the actions which could be taken if they fail to return on time, e.g. issued with a penalty notice for unauthorised absence;

- if the school does not grant permission, the Headteacher should write to the parents/carers explaining the reason why the request has been refused and warning them of the potential consequences for failing to ensure their child's attendance at school, e.g. they will be issued with a penalty notice and/or their child might be removed from the school roll.

## 2.5 Marking the school register

Under the advice & guidance provided to schools and local authorities by the Department for Education (DfE) on the use of codes to record pupil attendance, a registered pupil who does not attend school for medical reasons (illness) and does not access other alternative provision should be marked in the school register as an authorised absence (Code I).

In exceptional circumstances the Headteacher can also grant permission for a child to be absent from school (recorded as C) because of the parent/carers need to travel abroad for medical treatment.

However, in the case of a pupil who is absent from school without permission, then either 'Code G' for 'unauthorised family holiday' (when it's the parent/carer who is receiving the medical treatment) or 'Code O' for 'unauthorised absence not covered by any other description' (when it's the pupil who is receiving the treatment) should be entered in the register.

## 3. THE LEGAL POSITION

3.1 Under section 576 of the Education Act 1996 a parent is defined as:

*All natural parents, whether 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 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.*

It is the responsibility of parents of registered pupils of compulsory school age to ensure that their child attends school regularly. If the child fails to attend regularly at the school then the parent is guilty of an offence under s444 (1) of the Education Act 1996.

3.2 The Education (Pupil Registration) (England) (Amendment) Regulations 2013 state that leave of absence shall not be granted unless:-

- an application has been made in advance to the proprietor by a parent with whom the pupil normally resides; and
- the proprietor, or a person authorised by the proprietor, considers that

leave of absence should be granted due to the **exceptional circumstances** relating to the application

#### **4. EDUCATION PENALTY NOTICES FOR UNAUTHORISED ABSENCE DURING TERM TIME**

- 4.1 Section 23 of the Anti-social Behaviour Act 2003 brought into force measures under Section 444 of the Education Act 1996 which empower designated Local Authority officers, Headteachers and the police to issue education-related penalty notices to parents/carers in cases of their children's unauthorised absence from school and the whereabouts of excluded pupils in a public place at prescribed times.

Blackburn with Darwen Borough Council has agreed a joint code of conduct (protocol) with Lancashire Constabulary and Blackpool Borough and Lancashire County Councils, under which all the above named partners must operate. It is the statutory duty of local authorities to administer penalty notices on behalf of Academies.

- 4.2 The issuing of penalty notices must also conform to all requirements of the Human Rights Act and all equal opportunities legislation.

To ensure consistency and equitable delivery, the circumstances in which a penalty notice can be issued include:

- Parentally condoned absence
- **Unauthorised holidays in term time**
- **Unwarranted delayed return from discretionary leave (without school agreement)**
- Persistent late arrival after the register has closed
- Parents/carers failure to make arrangements to ensure that children who have been excluded from school due to misbehaviour are not in a public place at prescribed times during the first five school days of any exclusion.

The number of penalty notices which can be issued is restricted up to a maximum of three per pupil, per parent, in any one school year.

- 4.3 It is recommended practice to issue a formal warning (see section 4.5 above) and in such circumstances Headteachers should write to the parents/carers and remind them that their request for leave of absence has not been approved and they will face the possibility of being issued with a penalty notice for failing to ensure their children's regular attendance at school.

However, warning letters may not be issued in instances where leave of absence is either not requested by parents in advance or requested with insufficient notice for a warning letter to be sent.

- 4.4 In the case of a pupil **granted** leave of absence **but** that pupil then fails to return to school within 5 school days (10 sessions) of the agreed return date, a request to issue a penalty notice to the parents should be made to the Education Welfare Manager (*unless the school is satisfied that the pupil is unable to attend the school by reason of sickness or other unavoidable cause*) via completing the form 'Request for warning of a penalty notice'

(see Appendix 6b in the 'Improving school attendance in Blackburn with Darwen – making a difference' handbook)

- 4.5 Requests from schools to issue penalty notices for unauthorised leave of absence will always be considered by the Education Welfare Manager (EWM) provided that **all** relevant information is supplied in the specified manner, i.e.
- Copy of the completed 'Application for Discretionary Leave of Absence' form (see appendix 1)
  - Copy of the Headteacher's letter sent to parents/carers informing them of the school's decision
  - Copy of the individual registration certificate (paper or electronic version) confirming the pupil's unauthorised absences
  - 'Request for warning of penalty notice - Discretionary leave in term time' signed by the Headteacher (see appendix 2).

The EWM will then respond to all such requests for the issue of a penalty notice within 10 x school days, providing the relevant criteria are met.

## 5. (EXTENDED LEAVE) E-TRACKER SYSTEM

- 5.1 The Children Act 2004 places a duty on local authorities to make arrangements through which key agencies co-operate to safeguard and improve the well-being of children and young persons to promote the outcomes under the Every Child Matters agenda.

Section 436A of the Education Act 1996 (school attendance) as amended by the Education and Inspections Act 2006 requires all local authorities in England to make arrangements to enable them to establish the identities of children residing in their area who are not receiving suitable education.

- 5.2 Over recent years, concerns have continued to be raised not only about the impact of term-time holidays on children's attendance and attainment, but also around the welfare and safety of children who go abroad on extended leave – especially girls visiting southern Asia. This worry increases even further if children do not return to school on their expected date.

## 6. MANAGING DISCRETIONARY LEAVE OF ABSENCE

- 6.1 The parents are aware via this policy that :
- there is **no entitlement** to take their child on holiday during term-time without obtaining prior approval from the school
  - they recognise discretion will need to be applied to each leave request according to individual circumstances
  - it outlines the procedures whereby parents/carers can make applications for their child to be considered/granted discretionary leave of absence during term-time
  - it acknowledges and identifies the sorts of 'exceptional circumstances'

which may warrant the Headteacher granting discretionary leave of absence.

- 6.2 The local authority will continue to produce a pro-forma (see appendix 1) to standardise the leave application process. The pupil's parent(s) or carer(s) makes the application – the expression 'parent' includes any person who has parental responsibility for the child or who has care of her or him, e.g. this may include the corporate parent that the pupil resides with for children who are 'looked after' by The Local Authority.
- 6.3 If leave of absence is taken without the school's authorisation, then the absence, by definition, is unauthorised (registration codes G or O). This may result in a referral to an education welfare officer and the possible removal of the child's name from the school roll (admission register).

The Headteacher may choose to apply for a penalty notice to be issued to the parents/carers if or when the pupil meets the minimum evidential requirement of 10 school sessions (5 days) lost due to unauthorised absence in the current term **or** 20 sessions (10 days) lost across two consecutive terms.

- 6.4 Parents should also be advised that if their child fails to return to school within 10 school days of the agreed return date, their child's name may also be removed from the school roll, with no guarantee of re-admission. Similarly, this 10 day period would constitute an unauthorised absence (**registration codes G or O**) and could once again result in a penalty notice being issued by the Local Authority.

*The removal of a pupil's name from the school's admissions register can further disadvantage the child upon their return, e.g. loss of belonging, the amount of education lost before being enrolled at another school, and the negative effects of curricular and pastoral discontinuity. However, perhaps most importantly, it also penalises the pupil for the actions of her/his parents.*

*Consequently, it is recommended that if there are reasonable grounds to believe that a pupil is likely to return to the school within the next ten school days, then in such circumstances the Headteacher should wait and the pupil's name not be removed from the school's admissions register until the unauthorised absence reaches twenty days – **although possibly sooner if notified the Education Welfare Service and requested assistance to help locate the missing pupil.***

## **REVIEW OF THE POLICY**

This policy will be monitored regularly, to allow for amendments to statutory regulations, and reviewed every annually by the Headteacher in consultation with governors.

Any amendments to the policy arising from the review procedures will go to consultation with Governors for discussion, approval and ratification.

Mrs D Greenwood  
Headteacher  
September 2017