



## **Malmesbury C of E Primary School**

Company Number 08483768

“Growing together in wisdom and love; discovering  
life in all its fullness.”

# **Attendance Policy**

This policy has been developed in accordance with Wiltshire Council's and  
Education Welfare Service's Local Authority Attendance Policy (June 2017)

Version: 1.1

Issue date:	January 2017
Review date:	January 2022, May 2023
Date of next policy review:	May 2024

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# ATTENDANCE POLICY

## 1. Introduction

- 1.1 Excellent education is vital to the lives of all children and to our society as a whole. Whilst it is known that the life chances of children may not be equal from the outset of their lives for various reasons, education can help to redress this imbalance and help to ensure that every child has the chance to fulfil their potential. Malmesbury C of E Primary School and the Local Authority (LA) support the principles, practice and procedures outlined in the DfE school attendance document; 'Departmental advice for maintained schools, academies, independent schools and local authorities.'
- 1.2 Regular attendance supports the values, ethos and curriculum of the school and thus is an essential foundation of raising pupil attainment. Absence from school can seriously disrupt pupils' continuity of learning and can impede the learning of the whole class. Not only do children they miss out on taught lessons, but many children find it difficult to catch up when they return to school.
- 1.3 Poor or irregular attendance places children at risk and in some cases can result in them being drawn into patterns of anti-social or criminal behaviour.

## 2. Purpose

- To assist the Local Authority, through the Department for Education (DfE), to work within a legal framework and discharge its duties with regard to ensuring that a child for whom they are responsible is receiving a suitable education by regular attendance at school or otherwise.
- To support and enable the academy to fulfil its legal responsibilities with regard to pupil attendance.
- Identify areas of responsibility.
- Promote partnership working between the LA, academy and parent/carers by offering guidance and assistance in meeting their responsibilities in this area.
- Assist in creating a framework which promotes consistent practices and procedures.

## 3. Policy Aims

- Ensure that children and young people make the best use of their educational opportunities by attending regularly, punctually and in a state of readiness for learning.
- Emphasise a commitment to promoting excellent attendance and punctuality.
- Ensure that everyone within the school community understand the issues and procedures for attendance.
- Fulfil the statutory duties in relation to school attendance and set an attendance target.

- To encourage, recognise and reward good attendance.

#### **4. RESPONSIBILITIES OF PARENTS AND CARERS**

4.1 Parents/carers are responsible under Section 7 of the Education Act 1996 for ensuring that their children of compulsory school age receive an efficient education suitable to their age, ability, aptitude and any special educational needs which they may have. Most parents/carers choose to fulfil this responsibility by registering children at a school.

4.2 Parents/carers also have a legal responsibility to ensure their child's regular attendance.

4.3 Failure to comply with either of the above requirements can result in the issue of a Penalty Notice or prosecution.

#### **5. RESONSIBILITIES OF THE SCHOOL**

5.1 The school is responsible for supporting the attendance of their pupils and for managing concerns or issues which may lead to non-attendance.

5.2 The school must take an attendance register twice a day: at the start of the morning session and once during the afternoon. The school must report to the LA pupils who are absent for ten consecutive school days or more without known reason, or sooner than ten days if there is cause for concern. The school must also report pupils whose accrue five or more days of unauthorised absence in a six-month period. If a pupil has a medical absence which leads to more than fifteen days' consecutive absence then the LA must also be notified.

5.3 By law the attendance register must show for every session, whether a pupil is present, absent, attending approved educational activity or unable to attend due to exceptional circumstances.

5.4 Authorised absence is where the school has given approval in advance for a pupil of compulsory school age to be away, or has accepted an explanation offered afterwards as a satisfactory justification for the absence. All other absences are unauthorised.

##### **5.5 New Pupils Joining a School - Expected First Day of Attendance**

Pupils join the school roll from the beginning of the first day on which the school has agreed, or has been notified, that the pupil will attend and must be listed in both the admission and attendance registers from that day. If a pupil has accepted a place at the school and fails to attend on the agreed date, school must follow up the absence to ensure that the pupil does not lose their place and that any safeguarding and missing from education concerns are addressed.

#### **6. RESPONSIBILITIES OF THE EDUCATION WELFARE SERVICE**

6.1. The Local Authority discharges its statutory duty to ensure regular school attendance through Education Welfare Officers within the Education Welfare Service.

In doing so it enables schools and parents/carers to meet their respective responsibilities.

6.2. The primary responsibility of the Education Welfare Service is to promote the excellent attendance of all pupils in Wiltshire, thereby contributing to raising pupil attainment.

6.3. Academies may contract with the Education Welfare Service to work in close partnership to promote regular school attendance. Currently Malmesbury C of E Primary School does not purchase this service as our relatively high attendance rate and existing Parent Support Advisor renders it uneconomic to do so. The school currently follows up unexplained pupil absence daily by telephone/text. The Head Teacher and Admin Officer monitor attendance and lateness levels and contact parents/carers on a case by case basis. Additional support is given by the Parent Support Advisor. However should in house management prove ineffective the academy will consider contracting with Education Welfare Services, particularly in its statutory role. See Point 9.

6.4 The school participates in meetings with the Education Welfare Service 3 times a year to review its practice in relation to attendance.

## **7. PARTNERSHIP WORKING**

7.1 Parent/carer responsibilities include the need to:

- Ensure that their child arrives at school on time (8.50-9.00am, appropriately dressed and in a 'condition to learn' (i.e. not too tired or too hungry to learn, Please talk to the school if you require support - support might be available for any parents/carers who require support).
- Work in partnership with the school to help their child/children gain an appreciation of the importance of attending school regularly and punctually.
- Work in partnership with the school to take an active interest in their child's school career, to reinforce school policies/arrangements on homework, behaviour and approach to learning, to attend parents' evenings and other meetings where necessary.
- Notify the school if their child is absent. Contact with the school needs to be made on each day of absence, ideally first thing in the morning. Contact can be by Parentmail or telephone (the school's electronic home communication system). Parents/carers should provide an explanation for the absence and the likely duration.
- Inform the school of circumstances which may affect their child's attendance at school, and work in partnership with the school and other agencies (as and when appropriate) to resolve issues relating to non-attendance.
- Acknowledge that they have been in receipt of the school's Attendance Policy.
- Avoid where possible arranging medical or dental appointments during school hours. The school reserves the right to request evidence of appointments or sickness absence.

- Seek permission from their child's head teacher (or authorised representative) by submitting a Leave of Absence request form as far as possible in advance of the first proposed day of absence. This could be for the purposes of a religious observance, such as Eid, medical appointment, or for any other reason. Each request should be considered individually and should meet the circumstance of being 'exceptional' if authorisation is being considered. The cost of holidays is specifically excluded as a reason for authorising absence.
- The school has a web page dedicated to absence, which contains detailed information for parents and carers.  
<https://malmesburyprimaryschool.co.uk/absence-school/>

*NB. It is the head teacher's decision to register an absence as either authorised or unauthorised.*

## 7.2 School Responsibilities (for which the Head Teacher is ultimately responsible):

- To ensure attendance records are maintained accurately and up to date and to maximise attendance rates as a priority, with regular collation, monitoring and review of attendance data. Whole school attendance in the last 'normal' academic year (2018-2019) was 95.9%. There were unusual (medical) circumstances which affected this figure. It was also affected by a stricter approach to marking children late, linked to the introduction of electronic registration. In 2019-20, 2020-21, 2021-22 and 2022-23, Covid-19 has significantly affected attendance figures, along with a surge in illnesses held back by isolation and social distancing. Emergency codes and procedures have now been removed and Covid is recorded as any other illness. The overall national attendance rate in the academic year up to April 17 2023 was 92.4%. At Malmesbury Primary school the figure was 95.4%. Nationally, 22.5% of children were 'persistently absent', which is defined as having overall attendance below 90%. This compares to 11.7% at Malmesbury Primary. Our attendance figures are currently 0.5% below pre-pandemic levels. Returning to and exceeding those levels is a priority for the school. We will continue our focus on attendance, following up all persistent absence.
- Support parents/carers in ensuring regular and punctual attendance.
- To respond promptly to any issue which may lead to non-attendance or irregular attendance. The School Office staff operate a 'first day contact' procedure for all unexplained absences. All staff must ensure accurate registration, follow-up notes and parent/carer contact if agreed.
- At the outset of intervention by the school, the parent/carer should be given a formal written notification explaining the actions that may be taken. It is good practice to make sure parents/carers understand the consequences of failing to ensure their child's regular attendance, in particular that the case could result in a penalty notice and/or court proceedings.
- Be sensitive to the needs of the individual pupil and/or parent/carer. This should be reflected in the ways in which attendance issues are addressed.

For example, schools should recognise that some parents/carers have difficulty understanding written communications. They should also recognise the reluctance of some parents/carers to come into school.

- Produce a whole School Attendance Policy which is consistently applied and clearly communicated to all parents/carers.
- Ensure that parents/carers are made aware that any authorisation for a leave of absence in term time will only be granted in exceptional circumstances, in line with the law, and where a leave of absence in term time is not agreed or no application has been made or the pupil does not return on the agreed date, that absence will be unauthorised and the parent/carer may incur a penalty notice.
- The Governor with specific responsibility for attendance is Laurence Mussett.

## **8. PROCEDURES**

### **8.1. ATTENDANCE REGISTERS**

8.1.1 Attendance registers are legal documents which may be required as evidence in court.

8.1.2 Schools are required to take an attendance register at the start of the morning session and once during the afternoon session. The Education (Pupils' Attendance Records) Regulations 1991 and the Education (Pupil Registration) (England) Regulations 2006 stipulate that schools should maintain an attendance register for each class containing the names of all pupils in the class.

8.1.3 Taking the register is a key part of the school day and should be seen as such by both the staff and pupils.

The following action must be taken:

- On each occasion schools must record whether every pupil was present, absent, present at approved educational activity or unable to attend due to exceptional circumstances.
- If a pupil of compulsory school age is absent the register must also show whether the absence was authorised by the school or not.
- Authorised absence means that the school has either given approval in advance for the pupil to be away or that an explanation offered afterwards has been accepted as satisfactory justification. Consistent and accurate use of register codes within schools will allow teachers and EWOs to determine quickly the basis of the authorised absence in question.
- The law requires absences not agreed in advance to be recorded as unauthorised unless and until a satisfactory explanation is forthcoming. National absence and attendance codes are indicated at **Appendix A**. All staff taking registers (including supply staff) are made aware of these.

- The School Office operates a first day response to unexplained pupil absence.
- Grounds for deleting registered pupils from school admission registers are detailed in Regulation 8 – see **Appendix B**.

## **8.2 Keeping Attendance Registers**

- Particular attention should be paid to accurate registration. Incomplete entries or inappropriate authorisation of absence can seriously impede the work of Education Welfare Officers and may compromise subsequent court proceedings. Blanks should not be left in registers. A pupil is either marked present or absent at the time of registration while the register remains open. The attendance register should not be left open throughout the session. Attendance registers will be closed 10 minutes after the registration session has opened (at 09.10am for morning registration and variable for afternoon registration according to year group).
- Pupils arriving to class after registration has started, but before registration closes, will be marked 'late before registers close' (L – present). Pupils arriving after registration has closed will be marked 'late after registers close' (U – unauthorised absence).
- Schools may keep registers manually or electronically. Whichever is used, schools must use the national absence and attendance codes. This facilitates the process of providing attendance statistics, particularly through the School Census system as well as enabling schools and Local Authorities to benchmark themselves against each other and identify schools that might have good practice to consider adopting.
- Whenever a change is made, both the original entry in a register and any subsequent amendment must be clearly distinguishable. For inspection purposes, the school's electronic registers must also show the reason for change, when it was made and who made it.
- Entries in manual registers must be made in ink and entries in electronic registers must have the same degree of permanence.
- The appointed member of the admin will monitor attendance daily and highlight any issues to the Head Teacher.
- The governing body (which is responsible for the attendance register) must register with the Data Protection Registrar under the Data Protection Act 1998. Further advice can be found under [www.ico.org.uk](http://www.ico.org.uk)

## **8.3 Security and preservation of admission and attendance registers**

- The school has password protection systems in place to ensure that both the admission and the attendance registers are secure in order to prevent unauthorised or improper access to the information. These systems also ensure that the integrity of the data is protected. All electronic systems including electronic registers are backed up on a daily basis in order to ensure that staff can quickly recover from systems failure. These back-ups are stored securely and open to inspection for three years.



- At the end of each school year, schools must create “historical” copies of the admission and attendance registers which must show all of the information that was recorded in them that year. These copies must be stored for at least 3 years.

## **9. MONITORING AND EVALUATION**

In order to evaluate the effectiveness of procedures and strategies, this attendance policy will be reviewed every year, though any changes in the law or guidance will be incorporated as soon as possible.

Attendance is monitored by the Admin officer on a daily basis. Concerns are reported to the Head Teacher for further action. Class teachers should also maintain an awareness of absence and how this impacts on children’s learning, and report any concerns to the Head Teacher. The Head Teacher maintains an overview of children’s attendance and will liaise with other staff to improve children’s attendance on a case-by-case basis. The school employs a parent support advisor who may be contacted to help parents/carers who are struggling to get their children to school regularly.

Overall targets are set for attendance figures each year. These take account of national averages, which are statistically adjusted using deprivation indicators. The school aims to be in the top 25% of schools for attendance. Our target for 2023-24 is for attendance to exceed 96.5%. Specific issues, such as the timing of staff training days, have a significant effect on attendance. Wherever possible staff training days are set to coincide with the local secondary school and to complete full weeks of holiday. However, the primary purpose of these days, which is developing staff, must not be compromised. Good attendance is regularly encouraged in the school newsletter.

Attendance figures are reported to the Governors’ Staffing and Curriculum Committee annually. They are also published in the directors’ annual report, with the academy’s accounts.

Staff will be trained as required in order to ensure accurate, timely and secure recording of attendance data. Electronic registration is now used in school. This has brought significant efficiency gains. Class teachers are made aware of pupils in their class who have had poor attendance in previous years.

The school has a low-tolerance policy with children arriving late. Any child not present in the classroom at 09:00 is marked as late. Any child arriving after the register closes at 09:10 is marked as being absent for the morning session. While this has a negative impact on our attendance figures, it is in the long term interests of children in encouraging a timely start to the school day.

## **10. USE OF LEGAL ACTION**

10.1 Parents/carers who persistently fail to ensure their child’s attendance at school are neglecting their welfare. Where the school’s attempts to secure an appropriate attendance level has failed, a referral will be made to the Education Welfare Service

and to Social Services. In practice, poor attendance rarely stands alone, but is often one indicator in a wider picture of neglect.

10.2. If it becomes known to the LA that a parent/carers has failed to register a child of compulsory school age at a school and they does not intend to educate the child otherwise than at school, the Education Welfare Service will be notified and, if necessary, serve a School Attendance Order under Section 437 of the Education Act 1996.

10.3. If a pupil who is registered at a school fails to attend that school regularly without a legitimate reason the Education Welfare Service may take legal action by laying a summons against the parents/carers before the Magistrates' Court under Section 444 of the 1996 Education Act, or by applying for an Education Supervision Order relating to the pupil under Section 36 of the Children Act 1989. Section 444AS and s444B of the 1996 Education Act (introduced by the Anti-Social Behaviour Act 2003) also enables the issue of Penalty Notices as an alternative to prosecution. A Parenting Order can be issued by Magistrates as an ancillary order to a section 444 prosecution.

10.4. Legal proceedings under Section 444 of the 1996 Education Act will usually only be used as part of a planned intervention aimed at effecting the pupil's return to regular school attendance. However, in cases where parents/carers wilfully withhold a pupil from school, or persistently refuse to co-operate with efforts aimed at effecting a return to satisfactory school attendance, the Education Welfare Service will take legal proceedings on the grounds that no other course of action is available. A decision about whether to recommend legal proceedings would normally be taken at a Court Assessment Interview chaired by a senior officer of the Education Welfare Service.

10.5. The Education Welfare Service will consider applying for an Education Supervision Order when a parent/carers finds it difficult to exercise an effective influence over a child who has developed a pattern of poor attendance. Education Supervision Orders will not usually be applied for in relation to pupils in Years 10 and 11.

10.6. All cases are formally reviewed and considered for legal action if necessary. If, after legal action has been taken, the child still fails to attend school regularly the Education Welfare Service will keep the case open and will, if deemed appropriate take further legal action at a subsequent date.

10.7. Approval will be given by the appropriate Education Welfare Service Professional Lead and the County Solicitor before legal proceedings are commenced.

10.8. Before an application is made for an Education Supervision Order other possible means of dealing with the pupil's poor attendance will be explored. The Education Welfare Officer will consider an Education Supervision Order as a possible means of dealing with the child's poor attendance and will be of the view that the Order will have a significant effect on the child's attendance at school. In such cases social care will be consulted about the appropriateness of applying for such an Order.

## **11. COMMUNICATING THE CONTENTS OF THE ATTENDANCE POLICY**

As with other policies, the information contained within the school's Attendance Policy is communicated widely and openly disseminated to parents/carers, pupils, staff and governors by means of the following:

- The policy given to all new parents/carers when their child is first registered at the school
- Parents/carers attention being regularly drawn to the Attendance Policy through the school newsletter and other home-school communications
- The policy is posted on the school website [www.malmesburyprimaryschool.co.uk](http://www.malmesburyprimaryschool.co.uk)
- Relevant aspects of the policy are raised regularly through school assemblies, staff training events and meetings of the Governing Body.
- The policy is made known to new staff as part of their induction and to those providing supply cover

The Attendance Policy should also be read in conjunction with related policies, including:

- Anti-Bullying
- Behaviour and Discipline
- Equality and Diversity
- SEND
- Freedom of Information
- Secure Data Handling

## **APPENDIX A**

### **ATTENDANCE REGISTERS: NATIONAL ABSENCE AND ATTENDANCE CODES**

#### **PRESENT**

- Pupils present at morning registration should be recorded with an oblique stroke, with a stroke in the reverse direction for the afternoon session ie **Λ**
- The presence of a pupil who has arrived at school late, but while the register remains open should be marked by the symbol **L**.

#### **AUTHORISED ABSENCE**

The national absence codes must be used. Schools cannot add to the list of codes or use their own local codes. In order to be useful to schools in helping them identify patterns of absence, it is essential that there is consistency of use by staff within each school.

- C Other circumstances (*eg bereavement, agreed special occasions, performances, other approved absences not covered by other codes*).
- E Excluded
- F Extended family holiday (agreed)
- H Family holiday (agreed)
- I Illness (NOT medical or dental etc. appointments)
- M Medical / Dental appointments
- R Religious observance
- S Study leave
- T Traveller absence (*where the family is known to be travelling or has informed of travelling for the purposes of work*)

**APPROVED EDUCATION ACTIVITY**

- B Educated off site (*NOT dual registration*)
- D Dual registration (*i.e. pupil attending other establishment*)
- J Interview (year 11 only)
- P Approved sporting activity (*arranged by school*)
- V Educational visit or trip (*arranged by school*)
- W Work experience
- 

**UNAUTHORISED ABSENCE**

- G Family holiday (*NOT agreed or days in excess of agreement*)
- N No reason yet provided for absence
- U Late (*after registers closed*)

## APPENDIX B

The Education (Pupil Registration) (Amendment) (England) Regulations 2016 places new duties on all schools in England, including **academies** and **independent schools**. See: <http://legislation.data.gov.uk/ukxi/2016/792/made/data.html>

These duties include providing the local authority (LA) with information about **pupils both leaving and joining the school** at non-standard transition points, i.e. in-year moves or when a pupil leaves before the end of that school's final year of education e.g. a pupil leaving at the end of Y8 so not going into Y9 at that school.

### **GROUND'S FOR DELETING REGISTERED PUPILS FROM SCHOOL ADMISSION REGISTERS (Regulation 8(1) of the Education (Pupil Registration) (England) Regulations 2006)**

**A** Where a pupil is subject to a school attendance order but another school is substituted by the LA or where the LA revokes it as the child will to receive efficient full-time education otherwise than at school.

**B** Where a pupil is registered at another school (except where it has been agreed the pupil should be registered at more than one school).

**C** Where a pupil is registered at more than one school and any other school at which the pupil is registered has agreed.

**D** Where a pupil has ceased to attend the school and it has received written notification from the parent/carer that the pupil is receiving education otherwise than at school.

**E** Where a pupil (other than a boarder) has ceased to attend and no longer ordinarily resides at a place which is a reasonable distance from the school.

#### **F Where a pupil granted leave of absence but:**

- (i) the pupil has failed to attend the school within the ten school days immediately following the end of the leave
- (ii) the school does not have reasonable grounds to believe that the pupil is unable to attend the school by reason of sickness or any unavoidable cause; and
- (iii) the school and the local authority have failed, after jointly making reasonable enquiries, to find the pupil.

**G** Where a pupil has 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 the child nor their parent/carer has indicated to the school the intention to continue to attend the school after ceasing to be of compulsory school age.

**H** Where a pupil - that he has been continuously absent from the school for a period of not less than twenty school days and —

- (i) at no time was his absence during that period authorised;
- (ii) the school does not have reasonable grounds to believe that the pupil is unable to attend the school by reason of sickness or any unavoidable cause; and
- (iii) the school and the LA have failed, after jointly making reasonable enquiries, to find the pupil.

**I** Where a pupil is legally detained for a period of not less than four months and the school does not have reasonable grounds to believe that the pupil will return to the school at the end of that period.

**J Where the pupil has died.**

**K Where the pupil will cease to be of compulsory school age before the school next meets and—**

- (i) the pupil will cease to attend the school; or
- (ii) the pupil does not meet the academic entry requirements for admission to the school's sixth form.

**L Where a pupil at a school other than a maintained school, an academy, a city technology college or a city college for the technology of the arts, has ceased to be a pupil of the school.**

**M Where a pupil has been permanently excluded from the school.**

**N Where the pupil has been admitted to the school to receive nursery but is not being educated beyond this at the school.**

**O Where the pupil is a boarder at a maintained school or an academy and where charges for board and lodging remain unpaid by the pupil's parent/carer at the end of the school term to which they relate.**

**Pupils not of compulsory school age (Regulation 8 (3))**

The following are prescribed as the grounds on which the name of a pupil not of compulsory school age is to be deleted from the admission register:

(a) That he has ceased to attend the school, or, in the case of a boarder, that he has ceased to be a pupil of the school;

b) That he has been continuously absent from the school for a period of not less than twenty school days and

- (i) at no time was his absence during that period agreed by the proprietor;
- (ii) the proprietor does not have reasonable grounds to believe that the pupil is unable to attend the school by reason of sickness of any unavoidable cause;
- (iii) the proprietor of the school has failed, after reasonable enquiry, to ascertain where the pupil is;

c) that the pupil had died;

d) where the pupil has been admitted to the school to receive nursery education, he has not on completing such education transferred to a reception, or higher class at the school; or

e) that he has been permanently excluded from the school.

## **APPENDIX C**

### **CHILDREN MISSING FROM EDUCATION OR WHO MAY OTHERWISE BE AT RISK**

The school will follow and comply with the statutory guidance on Children Missing from Education, which is detailed at:

<https://www.gov.uk/government/publications/children-missing-education>

Safeguarding aspects of Children Missing from Education are included in the statutory guidance 'Keeping Children Safe in Education September 2022', paragraph 175: <https://www.gov.uk/government/publications/keeping-children-safe-in-education->

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## **Wiltshire Council Penalty Notice - Code of Conduct**

### **Rationale**

1.1 Regular and punctual attendance of pupils at school is both a legal requirement and essential for pupils to maximise the educational opportunities available to them. Wiltshire Council's Education Welfare Service will investigate cases of irregular attendance from school and, where appropriate, instigate legal action. Penalty Notices offer a means of swift intervention to deal with unauthorised absence to avoid this becoming entrenched.

1.2 Under Section 7 of the Education Act 1996, parents are responsible for ensuring that their child of compulsory school age receives efficient, full time education that is suitable to the child's age, aptitude and ability and to any special educational needs the child may have. This may be by regular attendance at school or otherwise.

1.3 Parents are defined in Section 576 of the Education Act 1996: all natural parents, whether they are married or not; any person who has parental responsibility for a child; and 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.

1.4 If a child of compulsory school age who is registered at a school fails to attend regularly at the school then the parent is guilty of an offence under Section 444(1) of the Education Act 1996. It is the commission of this offence that can trigger the use of a penalty notice. If a penalty notice is used by the Local Authority it provides the parent with an opportunity to discharge liability for the offence and avoid court proceedings.

1.5 Wiltshire Council may prosecute for offences under Section 444 (1) of the Education Act 1996. Possible defences available include the following:

- The pupil's absence was authorised by the school
- The pupil was ill or prevented from attending by unavoidable cause
- The absence was on a day exclusively set aside for religious observance by the religious body to which the parent belongs
- The school is not within walking distance of the child's home and the LA has made no suitable arrangements
- The parent can show that their trade or business requires them to travel, and the child has attended school as regularly as the nature of the trade or business allows, and the child has attended school for at least 200 sessions during the preceding twelve months

1.6 Under Section 103 Education and Inspections Act 2006 a parent of an excluded pupil must ensure that the pupil is not present in a public place at any time during school hours on a day which is one of the first five school days to which the exclusion relates or, where that exclusion is for a fixed period of five days or less, any of the days to which the exclusion relates, and is stated in the notice under section



104 (Education and Inspections Act 2006) to be a day on which Section 103(2) applies. If the excluded pupil is present in a public place at any time during school hours on a school day falling within Section 103(2), the parent commits an offence (section 103(3)). A Penalty Notice may be issued by the Local Authority to offer the parent/s an opportunity to discharge liability for this offence. Wiltshire council may prosecute for offences under Section 103 Education and Inspections Act 2006. A possible defence is reasonable justification for a parent to fail to comply with their duty under Section 103(2) of the act.

## **Legislation**

2.1 The Education (Penalty Notice) (England) Regulations 2007 supports offences under section 444 of the Education Act 1996. Penalty Notices supplement existing sanctions available under Section 444 of the Education Act 1996 or Section 36 of the Children Act 1989 to enforce attendance at school or alternative provision. There is no legal requirement to consider a Penalty Notice before proceeding to a section 444 prosecution.

2.2 Section 105 The Education and Inspections Act 2006 allows a penalty notice to be issued in respect of excluded pupils in a public place (as mentioned above).

2.3 The Anti-Social Behaviour Act 2003 (section 23) adds two sections (444A and 444B) to the Education Act 1996. These sections introduced penalty notices as an alternative to prosecution and enable parents to discharge potential liability for conviction for that offence by paying a penalty.

2.4 If it appears that an offence under section 444(1) of the Education Act 1996 has been committed and none of the defences outlined above apply, then consideration can be given to issuing a penalty notice.

2.5 Penalty Notices will require the parent of a child of compulsory school age whose attendance has been unsatisfactory to pay a penalty currently £120 if paid within 28 days, reduced to £60 if paid within 21 days as stated in the Education (Penalty Notices) (England) (Amendment) Regulations 2013, statutory instrument No 757. (Figures correct at the time of writing, subject to amendment by further Statutory Instrument).

2.6 This Code of Conduct complies with the requirements as set out in Sections 14 – 16 of the Education (Penalty Notices) (England) Regulations 2007.

2.7 The issuing of Penalty Notices must conform to all requirements of the Human Rights Act 1998 and Equality Act 2010.

## **Procedure**

3.1 In Wiltshire Penalty Notices will be issued by the Education Welfare Service by first class post. In any case where the Penalty Notice is not paid within the prescribed period and where it is not appropriate to withdraw the Penalty Notice the Education Welfare Service will instigate action through the Magistrate's Court as required by legislation. Prosecution in such cases will be for the offence to which the Penalty Notice relates.

3.2 No parent shall receive more than three separate penalty notices resulting from the unauthorised absence of an individual child in any twelve-month period.

3.3 Penalty Notices will be issued individually to each parent for each child according to each parent's liability for the offence or offences. An authorised officer has discretion when deciding to issue a penalty notice to one or more parents of a child. The specific circumstances in each individual case will be the determining factor.

3.4 The Education Welfare Service will receive requests to issue penalty notices from schools / academies / colleges in Wiltshire, Wiltshire Police and neighbouring Local Authorities. The Education Welfare Service will take forward these requests providing that:

- The circumstances of the case meet the criteria for the issue of a penalty notice as specified in this code
- All necessary information is provided to the Education Welfare Service in order to establish that an offence, under section 444 (1) of the Education Act 1996 for failure to secure regular attendance or section 103(3) of the Education and Inspections Act 2006 for failure to comply with a duty towards an excluded pupil, has been committed.

3.5 The Education Welfare Service will ensure that the issuing of Penalty Notices is closely monitored to make certain that they are not duplicated, not issued where prosecution proceedings for the same offence are being considered and that recipients pay the relevant fine within the time frames specified.

### **Criteria for the Issuing of a Penalty Notice**

4.1 Penalty Notices can be issued where a pupil has accrued 10 unauthorised sessions within the six-month period prior to the request being made or evidence of an offence under s.103 (3) Education and Inspections Act 2006 is established.

4.2 The issue of a penalty notice will be preceded by having previously issued a formal warning letter to each parent / carer. The letter will:

- Raise concern regarding the level of the unauthorised absence and give advice regarding contact with the school and the Education Welfare Service
- Advise the parent of the powers of the Local Authority to issue penalty notices
- State the number of unauthorised absences accrued which give rise to the formal warning being issued
- Notify the parent that additional unauthorised absence may lead to a penalty notice if no improvement is effected within an agreed period – the standard period shall be fifteen school days except where exceptional circumstances apply e.g. deliberate parentally condoned absence or where a pupil has been located on a truancy sweep / located by the Police during school time and there are additional occurrences of unauthorised absence.

4.3 Penalty Notices will not be issued for pupils in the care of the Local Authority. Any attendance concerns will form part of the pupil's Personal Education Plan.

### **Circumstances in which a Penalty Notice will be issued:**

5.1 If in the view of an Education Welfare Officer the issuance is deemed appropriate in cases where a parent or parents continually fail to provide an explanation or fails to provide a justifiable explanation for a pupil's absence and this is recorded as an unauthorised absence by the proprietor of the school. This could include late arrival after the register has closed which is recorded as an unauthorised absence where these total 10 or more sessions.

5.2 For pupils stopped during a truancy sweep or located by Police during school hours where there are found to be additional unauthorised absences totalling 10 or more sessions

5.3 Following a request from a School / College / Academy for intervention where the circumstances appear to have been totally avoidable (e.g. too tired after a late night, a birthday treat, family / friends visiting, shopping) where this is unauthorised and these total 10 or more sessions.

5.4 Where a school/college/academy makes a notification for an instance of unauthorised leave of absence (holiday during term time) which totals 10 or more sessions continuous or aggregated within the previous six months and within the current academic year and where the proprietor has not given permission or where permission was not sought prior to the unauthorised leave of absence being taken.

5.5 Following notification from a neighbouring Local Authority.

5.6 For pupils who are stopped by Police in a public place during the first five school days of an Exclusion, whether for a fixed period or permanent exclusion or, where that exclusion is for a fixed period of five days or less, any of the school days to which the exclusion relates as specified in section 103(2) of the Education and Inspections Act 2006 and is stated in the notice under section 104 to be a day on which the parent is subject to this subsection.

### **Procedure for withdrawing Penalty Notices**

6.1 A Penalty Notice may be withdrawn by Wiltshire Local Authority if the Authority determines that:

- It ought not to have been issued
- It ought not to have been issued to the person named as the recipient
- It is materially defective

6.2 Where a penalty notice has been withdrawn in accordance with the above a notice of the withdrawal will be issued to the recipient and any amount paid by way of penalty in pursuance of that notice shall be repaid to the person who paid it. No proceedings shall be continued or instituted against the recipient for the offence in connection with which the withdrawn notice was issued or for an offence under section 444 (1A) of the Education Act 1996 arising out of the same circumstances.

6.3 A Penalty Notice cannot be withdrawn because of an inability to pay

6.4 If a Penalty Notice is not paid in full before the expiry of the period of paying it and Wiltshire Council has neither instigated proceedings for the offence to which the notice relates nor is contemplating such proceedings, then the notice will be withdrawn.

### **Appeals**

7.1 There is no statutory right of appeal against the decision to issue a penalty notice and the sole authority to authorise absence rests with the Head Teacher of the school / academy / college.

7.2 The Education (Pupil Registration) (England) Regulations does not permit Head Teachers to give authorisation for absence retrospectively.

## **Payment of Penalty Notices**

8.1 The arrangements for the paying of penalty notices will be detailed on the Penalty Notice.

8.2 Payment by way of instalment is not permitted. Payment should be made in full according to the dates as stipulated on the Penalty Notice.

## **Non-payment of Penalty Notices**

9.1 Non- payment of a Penalty Notice will normally result in prosecution under the provisions of section 444 of the Education Act 1996 or prosecution under section 103 of the Education and Inspections Act 2006.

## **Publicity**

10.1 All schools / academies / colleges / alternative education provisions intending to use penalty notices must:

- Set out the establishment's process for managing absence.
- Ensure that all parents / carers are aware of the process to request leave of absence during term time.
- Make notifications to the Local Authority without delay when the particular criteria is reached.
- Publish details regarding arrangements of managing absence within the establishment's Attendance Policy.

## 12. Policy adoption

Signed Steve Heal  
(Head Teacher):



Date: May 2023

Signed Laurence  
Mussett (Chair of  
Governors):



Date: May 2023