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for Education

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BY EMAIL ONLY

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Dear Ms Morgan and Ms Bodycote,

Thank you for your letter of 27 August addressed to Nick Gibb, Minister of State for School Standards, about school attendance and absence codes. Your letter has been passed to the team responsible for the Government's policy on school attendance to respond. We should be clear that this response relates to schools and local authorities in England only.

Good mental health is a priority for the Government. The department has committed to support schools and colleges to promote good mental wellbeing in children, provide a supportive environment for those experiencing problems, and secure access to more specialist help for those who need it. To enable this, we confirmed our commitment to take forward our ambitious, transformational proposals to provide earlier support for children and young people's mental health in the Government response to the department's consultation ['transforming children and young people's mental health provision'](#).

The NHS Long Term Plan, published on 7 January 2019, announced that by 2023/24 an extra 345,000 children and young people aged 0-25 will receive mental health support via NHS-funded mental health services and school or college-based Mental Health Support Teams. Under the Long Term Plan, mental health services will continue to receive a growing share of the NHS budget, with funding to grow by at least £2.3bn a year by 2023/24. For the first time, funding for children and young people's mental health services will grow faster than both overall NHS funding and total mental health spending.

It may also be helpful if I explain that every school has to have arrangements to protect its pupils from harm and provide support for pupils with health issues – mental as well as physical. When a school identifies an emerging issue, including mental health issues which require additional support, they should not delay putting it in place. They should follow the graduated approach process set out in the [department's statutory guidance on special educational needs and disability code of practice](#). The guidance is clear that support should be provided from an early stage, whether or not the child has a specific diagnosis.

The graduated approach, is a four-part cycle through which earlier decisions and actions are revisited, refined and revised with a growing understanding of the pupil's needs, what supports the pupil in making good progress and what they need to secure good outcomes. The four part-cycle is as follows:

- Assess: teachers, with the SENCO, assess the child's progress and identify needs regularly;
- Plan: put in place adjustments, interventions and support in consultation with the parent and pupil, regularly reviewing progress;
- Do: coordinated and continuous response from the teacher working with the SENCO, teaching assistants and other staff to problem solve and identifying what is effective; and,
- Review: on agreed dates assess the impact of the support against progress, agree changes and inform the parents.

A child in school who has this support would be regarded as receiving special educational needs (SEN) support. Where a pupil is receiving SEN support, schools must talk to parents regularly to agree clear outcomes and review progress towards them, discuss the activities and support that will help achieve them, and identify the responsibilities of the parent, the pupil and the school. Schools should meet parents at least three times each year.

A school should always involve a specialist where a pupil continues to make little or no progress or where they continue to work at levels substantially below those expected of pupils of a similar age despite evidence-based SEN support delivered by appropriately trained staff. Specialists might include, but are not limited to, Educational Psychologists, Child and Adolescent Mental Health Services (CAMHS), specialist teachers or support services and therapists (including speech and language therapists, occupational therapists and physiotherapists).

For some children it will be appropriate for a request to be made to the local authority for an Education, Health and Care needs assessment. This request can be made by the school or the parent. If the local authority agrees that an assessment is necessary this can lead to the creation of an Education, Health and Care Plan which sets out the support needed to enable the child to achieve their best possible outcomes.

The special educational needs and disabilities code of practice intentionally does not require a diagnosis for a child to access the support they need. The process is based on a child's need.

We are sorry to hear that you feel the current policy on school attendance and the national codes for recording absence in school attendance registers are causing problems for children with difficulties that you believe affect their attendance at school.

I am afraid that we do not accept the argument that introducing an additional absence code is necessary. It may be helpful to explain that keeping and

maintaining the school attendance register is governed by the Education (Pupil Registration) (England) Regulations 2006 as amended. The regulations are clear that where a pupil is unable to attend school by reason of sickness, their absence must be treated as authorised. The regulations also set out that where the reason for a pupil's absence cannot be established at the time when the register is taken, the absence must be recorded as unauthorised and that if the absence is subsequently established to be authorised, the register must be updated as soon as possible.

The use of the absence and attendance codes are not mandatory but they enable schools to record and monitor absence in a consistent way. They are also used for collecting statistics through the school census system. The absence and attendance codes are detailed in the [department's guidance on school attendance](#).

Schools are advised to use code I to record illness and guidance is clear that schools should authorise absence due to illness (both physical and mental health related) unless they have genuine cause for concern about the veracity of an illness. If the authenticity of illness is in doubt, school can request parents to provide medical evidence to support the absence. Schools are advised not to request medical evidence unnecessarily; we would not expect schools to request medical evidence unless there is a clear case to do so. This means that schools must authorise the absence unless they have reason to doubt that a pupil cannot attend school by reason of sickness.

Schools are advised to use code N to record absence where the reason for absence has not yet been provided. Schools should make every effort to establish the reason for a pupil's absence and when the reason has been established the register should be amended. This means that if schools cannot establish the reason for absence at the time the register is taken, they must record it as unauthorised. Code N is in effect a holding code while the reason for absence is being established. Guidance is clear that code N should not be left on a pupil's attendance record indefinitely. Schools are advised that if no reason for absence is provided after a reasonable amount of time code N should be replaced with code O which means the pupil is absent from school without authorisation. We expect schools to consider the individual case when determining what a reasonable amount of time is.

With regard to monitoring attendance, the regulations require schools to notify their local authority, at agreed regular intervals, the details of any pupil of compulsory school age who has failed to attend the school regularly, or has been absent without the school's permission for a continuous period of ten school days or more. Schools and local authorities should consider the individual circumstances of each case and take the appropriate course of action to ensure the child receives consistent education.

With regard to parents being penalised for their child's absence, as you are aware, if parents register their child at school and the child fails to attend regularly, parents may be guilty of an offence under section 444 of the Education Act 1996 and may be issued a penalty notice or prosecuted. A

parent cannot be penalised if a statutory exception applies. These exceptions are: where the school has given permission; where the pupil is prevented from attending by sickness or other unavoidable problems; where their family is marking a day reserved exclusively for religious observance; or where the local authority has failed to fulfil any duty it has to help them get to school.

It is for schools or the local authorities to decide if they wish to use a penalty notice as a sanction. Penalty notices are governed by the Education (Penalty Notices) (England) Regulations 2007 as amended. The regulations require every local authority, in consultation with their schools and the police, to draw up a code of conduct for issuing penalty notices. The code will set out the occasions when it will be appropriate to issue a penalty notice. A penalty notice must be issued in accordance with that code.

It is for local authorities to decide whether to prosecute a parent having taken account of all the circumstances of the case and the information submitted by the school. Local authority officers are best placed to assess the family's circumstances and decide upon the most appropriate course of action.

We would encourage parents to work with their child's school and their local authority, to discuss the reasons behind their child's absence and agree an action plan so that the right support can be put in place to help their child to return to regular and consistent education, whether at school or otherwise.

Local authorities are responsible for arranging suitable education for children of compulsory school age who, because of health reasons, would otherwise not receive suitable education. This applies whether or not the child is registered at a school and whatever type of school they attend. The education must be full-time or as close to full-time as the child's health allows. The [department's statutory guidance on ensuring a good education for children who cannot attend school because of health needs](#) sets out that local authorities should provide education as soon as it is clear that the child will be away from school for fifteen days or more, whether consecutive or cumulative. Local authorities should have a named officer responsible for the education of children with additional health needs.

We hope you find this information helpful and that it has gone some way to reassure you that the department currently provides guidance for schools and local authorities to ensure that pupils who cannot attend school because of health needs continue to receive education and that SEN and health issues, including mental health, are supported.

Yours sincerely,

School Attendance Policy Team
Behaviour, Attendance, Exclusion and Alternative Provision Division