



Not Fine in School

IS MEDICAL EVIDENCE REQUIRED TO AUTHORISE ABSENCES FROM SCHOOL?

August 2024

AUTHORISING ABSENCE

The Education (Pupil Registration) (England) Regulations 2006, regulation 6(2) - Contents of Attendance Register

<https://www.legislation.gov.uk/uksi/2006/1751/regulation/6/made>

- (2) In the case of a pupil who is not a boarder, his absence shall be treated as authorised for the purposes of this regulation if—
- (a) he has been granted leave of absence in accordance with regulation 7; or
 - (b) he is unable to attend—
 - (i) **by reason of sickness or unavoidable cause;**
 - (ii) on a day exclusively set apart for religious observance by the religious body to which his parent belongs; or
 - (iii) because the school is not within walking distance of the pupil's home, and no suitable arrangements have been made by the local education authority either for his transport to and from the school, or for boarding accommodation for him at or near the school or for enabling him to become a registered pupil at a school nearer his home.

NEW DEPARTMENT for EDUCATION SCHOOL ATTENDANCE GUIDANCE (applicable from 19th August 2024)

Working together to improve school attendance: Guidance for maintained schools, academies, independent schools, and local authorities - Department for Education (page 86)

https://assets.publishing.service.gov.uk/media/66bf300da44f1c4c23e5bd1b/Working_together_to_improve_school_attendance_-_August_2024.pdf

Code I: Illness (not medical or dental appointment)

should be used when:

362. The pupil is unable to attend due to illness (both physical and mental health related).

363. Schools are not expected to routinely request that parents provide medical evidence to support illness absences. Schools should only request reasonable medical evidence in cases where they need clarification to accurately record absence in the attendance register – i.e. making a decision that code I is the absence code that accurately describes the reason the pupil is not in school for the session in question. In the majority of cases a parent's notification that their child is too ill to attend school will be that evidence and can be accepted without question or concern. Only where the school has genuine and reasonable doubt about the authenticity of the illness should medical evidence be requested to support the absence.

364. Where medical evidence is deemed necessary, school should not be rigid about the form of evidence requested and should speak to the family about what evidence is available. Schools should be mindful that requesting additional medical evidence unnecessarily places pressure on health professionals, their staff and their appointment system, particularly if the illness is one that does not require treatment by a health professional. Where a parent cannot provide evidence in the form requested but can provide other evidence, schools should take this into account. Where a parent cannot provide any written evidence the school should have a conversation with the parent and pupil, if appropriate, which may in itself serve as the necessary evidence to record the absence.

Also note (Page 24)

61. Medical evidence for recording absences should only be needed in a minority of cases (see code I). Where a pupil's health need means they need reasonable adjustments or support because it is complex or long term, schools can seek medical evidence to better understand the needs of the pupil and identify the most suitable provision in line with the statutory guidance in supporting pupils at school with medical conditions or arranging education for children who cannot attend school because of health needs

FURTHER GUIDANCE FROM THE DEPARTMENT FOR EDUCATION

GUIDE FOR PARENTS ON SCHOOL ATTENDANCE – CHILDREN'S COMMISSIONER (ENGLAND)

(page 2) <https://assets.childrenscommissioner.gov.uk/wpuploads/2022/12/aaa-guide-for-parents-on-school-attendance.pdf>

If you are asked to provide evidence this does not need to be a letter from your doctor or consultant, and doctors will not usually provide such letters. It can, instead, be appointment cards, prescriptions, or notes of previous consultations (including from the NHS App).

WHAT IS SUFFICIENT IN TERMS OF MEDICAL EVIDENCE?

EAST SUSSEX CC v. SUSSEX CENTRAL AREA JUSTICES 2019 WL 00237607 (2019)

[https://img1.wsimg.com/blobby/go/a41082e1-5561-438b-a6a2-](https://img1.wsimg.com/blobby/go/a41082e1-5561-438b-a6a2-16176f7570e9/downloads/East%20Sussex%20CC%20v%20Sussex%20Central%20Area%20Justices.pdf?ver=1570725130898)

[16176f7570e9/downloads/East%20Sussex%20CC%20v%20Sussex%20Central%20Area%20Justices.pdf?ver=1570725130898](https://img1.wsimg.com/blobby/go/a41082e1-5561-438b-a6a2-16176f7570e9/downloads/East%20Sussex%20CC%20v%20Sussex%20Central%20Area%20Justices.pdf?ver=1570725130898)

- This is an appeal brought by a local authority against a decision of a magistrates court that parents had a defence to the claim they had failed to ensure their son's regular attendance at school – that defence being his ill-health.
- The local authority appealed the magistrates decision on the basis that the parents did not have written medical evidence of ill-health for ALL their son's absences.
- The administrative court dismissed the local authority's appeal on the basis that **written medical evidence wasn't necessary and the oral evidence of parents and other documentary evidence was sufficient to demonstrate ill-health on the balance of probabilities.**

IS YOUR CHILD'S ATTENDANCE RECORD ACCURATE?

The trigger for the local authority using legal interventions (fines and prosecutions) is often a school not authorising a child's absence. It is therefore important that you challenge decisions of schools not to authorise absences.

Your school should provide you with a copy of your child's attendance record on request:

- Check if any absences have been unauthorised
- Check each unauthorised absence against your own records (see 'Being Proactive' below) of the reason you gave for the absence on that date, and whether you have any evidence (medical or otherwise) to back it up
- If school do not authorise any absences, they should explain why they do not accept the reason/s you have given.
- If there are inaccuracies make a written request to the **headteacher** for amendments to be made. The headteacher is responsible for ensuring the accuracy of their records. The register is a legal document and it must be marked correctly as s.434(6) of the Education Act 1996 states:
(6) A person who contravenes or fails to comply with any requirement imposed on him by regulations under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.
<https://www.legislation.gov.uk/ukpga/1996/56/section/434>
- You can also contact your local authority's **school attendance support team** for advice
- If your school continues to incorrectly mark your child's absence as unauthorised you should follow the school's complaints policy and make a formal complaint to the headteacher, followed by a formal complaint to the school's governing body if necessary
<https://www.gov.uk/complain-about-school>
- You may also need to make a formal complaint to your **local authority** following their complaints policy
- If you do not believe your local authority has handled your complaint correctly you can submit a complaint to the **Local Government and Social Care Ombudsman (LGSCO)** at www.lgo.org.uk
- Where this is not resolved within a reasonable timeframe you should:
 - Escalate your complaint to the **Department for Education** explaining the school has failed to follow the DfE guidance described above and requested that it use its powers pursuant to section 496 of the Education Act 1996 to make a direction.

DfE helpline

Telephone: 0370 000 2288

Monday to Friday, 9:30am to 5pm

Contact DfE online

https://form.education.gov.uk/service/Contact_the_Department_for_Education

- Consider taking legal advice from a criminal law solicitor

BEING PROACTIVE

- **Keep a diary of what happens day-to-day to build a picture of the situation, and to evidence the steps that have been taken by you, the school, the local authority, and any other services who become involved**
- Collate and file all paperwork that relates to your child's barriers to attendance. This paperwork includes all emails, letters, texts, between you and the school, the local authority, and anyone else involved
- Try to keep communication in written form, however if you must make phone calls or have conversations, note the details in your diary and try to follow them up with a summary of each conversation by email to those involved - ask for confirmation that you have understood the conversation correctly
- Take notes during meetings (It is often useful to take someone with you so that they can take notes while you listen, and you have someone to discuss the meeting with afterwards)
- Following meetings check that any minutes are accurate and ask that any inaccuracies are amended
- Try to engage with any support that is offered by the school or local authority
- Maintain ongoing communication with your child's school
- Seek the advice and support of your GP and any other health professionals caring for your child
- Read the school's policies for attendance, bullying, behaviour, SEND, & Supporting pupils with medical needs – are they being followed?
- Refer to relevant DfE Guidance & legislation
- Explore the info and resources in our Padlet – **NFIS: What I Wish I Knew** https://padlet.com/NFIS/WIWIK_A2L