



## SCHOOL ABSENCE DUE TO ILLNESS (MENTAL or PHYSICAL)

"I'm getting sick and tired hearing that yet another family is being harassed because their child is off school sick!!

Illness is NOT a privilege that needs authorising! It is beyond our control and hence a statutory defence in the eyes of the law. The 1996 Education Act, section 444 3b

(see: <http://www.legislation.gov.uk/ukpga/1996/56/section/444>) clearly states:

"The child shall not be taken to have failed to attend regularly at the school by reason of his absence from the school: .....(b) at any time when he was prevented from attending by reason of sickness or any unavoidable cause..."

Schools have a legal obligation / duty of care to ensure the physical and mental well being of the children in their care and that includes support when ill (not threats and bullying!) and allowing illness to be treated in the manner it requires. Whilst the DfE's current stance on absences might be considered 'draconian' it is with total disbelief and disappointment that many head teachers have willingly become bullies and dictators over ANY and ALL absences, including illness and ignoring professional advice in the process (NHS guidelines as well as GP / consultant letters, YES REALLY!!).

Attendance registers at school are legal documents and must be ACCURATE, since only 'unauthorised absences' are of any consequence, it's best to check that they mark illness correctly (mark 'I' or 'M' for important medical appointments) and NOT as "unauthorised" (if you have 'classcharts' you should be able to see it, otherwise ask for an up to date copy of his/her attendance record for this academic year). Query it immediately (in WRITING - email's fine) if they mark it 'unauthorised'!! (<http://www.legislation.gov.uk/u.../2006/1751/regulation/6/made>)

If your child is absent for a longish time (usually 5 plus days) it's not unreasonable to request some sort of evidence (explained below), BUT, not for the usual short term ailments- you know it's ridiculous to go and see a Dr. for D&V / cold / a bit of temp etc!! Unfortunately, given the circumstances I recommend you ALWAYS inform the school in writing (again, email is fine and if you keep a diary, write a quick note on/in it "Josh ill, temperature...") if your child is off sick, that way you have immediate proof should it come to it.

The government / DfE gives clear advice on illness, that schools cannot simply choose to ignore:

### **Code I: Illness** (not medical or dental appointments)

Schools should advise parents to notify them on the first day the child is unable to attend due to illness. Schools should authorise absences due to illness unless they have GENUINE CAUSE FOR CONCERN about the veracity of an illness. If the authenticity of illness is in doubt, schools can request parents to provide medical evidence to support illness. Schools can record the absence as unauthorised if not satisfied of the authenticity of the illness but should ADVISE PARENTS OF THEIR INTENTION. Schools are advised NOT to request medical evidence

unnecessarily. Medical evidence can take the form of prescriptions, appointment cards, etc. rather than doctors' notes."

(source: Government guidelines, p.11:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/564599/school\\_attendance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/564599/school_attendance.pdf)

and, as a specific question in this FOI request:

[https://www.whatdotheyknow.com/request/schools\\_demanding\\_gp\\_fit\\_notes](https://www.whatdotheyknow.com/request/schools_demanding_gp_fit_notes) )

And here again, British Medical Association, quote: "It should be noted that GPs do not provide sick notes for schoolchildren. When children are absent from school owing to illness, schools may request a letter from a parent or guardian, and this is no different during an exam period. However, children who have missed exams due to illness are frequently told by schools that a note from a doctor is required; but this cannot be provided by a GP. Aside from the fact that parents/guardians are responsible for excusing their children from school, GPs cannot provide retrospective sickness certification. When a child suffers from a long-term condition, any certification will be provided by the responsible specialist."

(source: <https://www.bma.org.uk/.../servic.../supporting-pupils-at-school>)

...also see letter from the BMA attached below.

Any further issues and / or you're not sure what's going on at school, I strongly recommend you ask for a copy of ALL information the school holds on your child AND YOURSELF (yes, they might have a file on you, the parent!!). You have the right to do so and you never know what you are going to find out. To do so you need to make a separate 'Subject Access Request' to every authority / department involved (ie school, EWO... whoever the school told you advised them!), (see: <https://ico.org.uk/for-the-public/schools/pupils-info/>)

If someone receives a Penalty Notice (or worse a summons) as a direct result of their child being home sick it borders on gross incompetence / injustice of both:

-your head teacher (yes, without them referring someone to the council there is no PN!):

Attendance registers are legal documents, hence to mark the register wrong (ie illness as 'unauthorised') without informing you / disregarding your explanation for the absence, is clearly a conscious act to accuse you of something you haven't done (could be considered vindictive and is illegal)!

-and the LA for not doing their job properly and checking the facts!"

[V.5]

Reproduced with the kind permission of Karin Siemund

Ms Karen Wilkinson  
The Parents Union

30 November 2017

## Sick notes for schoolchildren

Dear Karen,

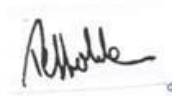
Thank you for contacting us regarding The Parents Union's "Perfect Storm" campaign. As your evidence has correctly cited, it is BMA policy that GPs should not produce sick notes for school children. This work falls outside of a GP's contract and is an unnecessary burden on general practice. Further to this, it is Government policy that parents can certify the sickness of their child to a school, and that schools should not request medical evidence unnecessarily.

The professional fees committee is happy to provide you with this letter of support on behalf of the BMA. While we are not able to ask members of the BMA to sign your petition on the matter, we firmly support the belief that, at a time of severe pressure on the health service, it should not be overburdened by unnecessary work needlessly requested by other organisations.

We would also like to thank you for drawing our attention to the East Sussex Council 'Get a Grip' campaign, that incorrectly states that evidence from a GP or hospital is a requirement for a child missing school. This is incorrect and we shall be writing to East Sussex Council separately.

Please let my colleague Jonathan Longley know if there is anything else that you need to know from us.

Yours sincerely



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**TEMPLATE LETTER: When schools will not authorise a child's absence / decide to issue penalties or refer you to the local authority for prosecution**

RED text = choose the most appropriate option and delete the other/s  
BLUE text = Add your own details

Dear.....

I am/We are writing to request your support in relation to the current difficulties I am/we are experiencing. Since...(date) [child's name] has been suffering from severe anxiety. While anxiety is a normal, common emotion that subsides once the "stressor" is removed, if someone is experiencing severe anxiety it means that anxiety levels are intense and unrelenting. Severe anxiety is a mental health concern and can have an adverse effect in all areas of a child's/ teenager's life. Severe anxiety relating to the prospect of attending school and poor school attendance is often called school refusal.

School Refusal is also referred to as School Phobia, School Anxiety or Anxiety Based School Avoidance. School Refusal is very different to truancy. School refusal is a persistent problem and is often characterised by symptoms of physical and mental ill health such as headaches, tummy problems, panic attacks, depression and self-harm.

I/We have been informed that It is important to recognise the need for early and informed assessment and intervention. If the issues surrounding school refusal are not addressed carefully it can affect a child's academic progress and overall engagement with school. If mental health continues to decline it can also have a detrimental long-term effect on all aspects of a child or teenager's life and wellbeing.

I am/We are concerned that in deciding [not to authorise my/our child's absence / to issue penalties or refer me/us to the local authority for prosecution] the school are demonstrating that they are not willing to accept mental health difficulties as either valid reasons for absence, or as special educational needs that require appropriate support and provision. In response to this I/we would like to draw your attention to the following points from government statutory guidance:

**Special Educational Needs The Children & Families Act (2014)** states that a child or young person has SEN if they have a learning difficulty" or "disability" which requires "special educational provision". A child or young person has a "learning difficulty" if they:

- Have a significantly greater difficulty in learning than the majority of others of the same age.
- Have a disability which prevents or hinders them from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.

**Disability** Disability is defined by **The Equality Act (2010)**. A person is disabled if they:

- Have a physical or mental impairment (The court has ruled that this simply means something physically or mentally 'wrong').
- The impairment is long-term. This means that it will last more than 12 months or has a repeated short-term impact which will, in total, last more than 12 months.
- The impact on day-to-day activity is substantial (including that it impairs memory, or ability to concentrate, learn or understand, or perception of the risk of physical danger).

Unfortunately, [Child's name] difficulties with anxiety [and .....] are likely to continue and possibly increase, at least until he/she receives appropriate assessment and support. These difficulties are significant because they have had an adverse effect on [child's name] ability to carry out normal day-to-day activities, including attending school. The anxiety is hindering [child's name] opportunities to make use of the school's facilities and affecting his/her ability to learn, concentrate or understand. Therefore, it seems reasonable to consider [child's name] difficulties to be a disability and a special educational need.

Furthermore, we are/ I am concerned that the school is not accepting their responsibility under the Equality Act (2010) to reasonably adjust their expectations, or to make reasonable adjustments to the support offered for [child's name] as a student suffering with a disability such as severe anxiety. Disability discrimination can occur directly or indirectly and includes schools not making reasonable adjustments to support the child with the disability. Additionally, the act highlights discrimination via harassment towards a person with a disability where this leads to a violation of that person's dignity or creates an intimidating, degrading, humiliating or offensive environment for that person. This last point could describe the pressure they are being subjected to, to attend whilst unwell [and also to the treatment they receive in school while ill/distressed] which is causing anxiety related to

.....

In order to address this anxiety effectively I/ we understand the importance of taking advice from professionals with specific training in treating mental health difficulties in order to prevent an escalation of the difficulties, and further harm to my/our child's wellbeing. To try to arrange this I/we have taken the following steps: [list details of appointments with GP/ CAMHS / Paediatrician / other medical evidence/involvement]

(please see the attached copies of letters from.....as evidence:)

Unfortunately, we are being hindered by the current long waiting times to access this support and I/we ask that you show some understanding of the difficult situation we are currently facing due to the underfunding and high demand for CAMHS and NHS services at this current time.

I/We also ask you to consider whether proceeding with penalties or prosecution is likely to make any difference in these circumstances, especially when research indicates the use of fines and prosecution of parents has very little effect, especially in cases of extended absence due to mental health difficulties (which are significantly different to 'truancy').

Furthermore, I/we have been advised that a school will be failing in their duty if they mark legal documents such as attendance registers incorrectly. Absence due to illness, medical issues, and essential medical appointments are all statutory defences under law and must be marked on the register as authorised absences.

Considering all that I/we have said about my/our child's medical reasons for absence I/we hope you will agree that his/her attendance should be authorised. As the head teacher has the discretion to make each decision about authorisation, and whether to refer individual cases to the local authority, I/we hope you will reconsider the matter in [child's name] case.

I/We trust that the detail of this letter [along with copies of letters from.....] offers sufficient evidence that my/our child has a genuine reason for absence and I am/we are doing everything possible to resolve [child's name] difficulties. I/We therefore hope you will support me/us by authorising [child's name] absence on medical grounds

[choose from either of the following two options]

and meet with me/us to discuss the best ways to support their wellbeing and learning opportunities,

OR if you are responding to a Prosecution threat letter include the following:

and withdraw the penalty/prosecution notice. If this matter does lead to a court hearing, and given that illness is a statutory defence in attendance cases, please be aware that this letter, and the documentation referred to in it, will form part of the evidence I/we provide to demonstrate that I/we have not, in fact, committed any offence,

Yours sincerely,