



Attendance Policy

September 2022

Date for Review: September 2023



Statement of intent

The James Montgomery Academy Trust (thereafter referred to as JMAT) believes that in order to facilitate teaching and learning, good attendance is essential. Pupils cannot achieve their full potential if they do not regularly attend school. JMAT schools are child-centred, inclusive and distinctive, delivering excellence in education, sharing best practice and building aspiration.

JMAT is committed to following the framework set in Section 7 of the Education Act 1996, which states that:

“The parent of every child of compulsory school age shall cause him/her to receive efficient full-time education suitable:-

(a) To age, ability and

(b) To any special educational needs he/she may have

St . Ann’s Primary School and the JMAT are committed to providing an education of the highest quality for all pupils and endeavour to provide an environment where all pupils feel valued and welcome.

Parents and pupils play a part in making our school so successful. Every child has a right to access the education to which he/she is entitled by law. We actively promote 100% attendance and will use a variety of weekly, termly and annual awards to promote good attendance and punctuality.

The whole school community – pupils, parents and carers, teaching and support staff and school governors – have a responsibility for ensuring good school attendance and have important roles to play. The purpose of the policy is to clarify everyone’s part in this.

For children to take full advantage of the educational opportunities offered it is vital that they are on time every day unless the absence is unavoidable. High attainment, confidence with peers and staff, future aspirations and future careers depend on good attendance. The routines that children develop around attendance and punctuality are the same as the expectations of any future employer, therefore setting good patterns of attendance/punctuality in education prepares children for the world of work.

Good Attendance is important because:

- Statistics show a direct link between under-achievement and absence below 95%
- Good attendance and punctuality are vital for success at school and to establish positive life habits necessary for future success.
- Good attendance and punctuality minimise the risks of pupils conducting anti-social behaviour or becoming victims or perpetrators of crime or abuse.
- Regular attendance encourages children to build friendships and develop social groups, working together as a whole team, sharing ideas and developing life skills.
- Children's social skills are similarly enhanced by regular attendance (linking into the personal development of pupils).
- Non-attenders will not only miss out on essential learning but also other social events taking place (linking into the personal development of pupils).
- Regular attenders make better progress, both socially and academically
- Regular attenders are more successful in transferring between primary school, secondary school, higher education, employment and training.

School Attendance Lead:

Mr L. Rowan

Named Safeguarding Governor:

Mrs S. Littlewood

Legal Framework

This policy has due regard to legislation, including, but not limited to, the following:

- Education Act 1996
- Children Act 1989
- Equality Act 2010
- Education (Pupil Registration) (England) Regulations 2006 (as amended)
- Children (Performances and Activities) (England) Regulations 2014
- Children and Young Persons Act 1963
- Keeping Children Safe in Education 2022
- Children Missing Education 2016
- Education and Inspections Act 2006

This policy also has regard to non-statutory DfE guidance, including, but not limited to, the following:

- DfE (2019, updated 2021) 'School Attendance'
- DfE (2022) 'Working together to improve school attendance'
- DfE (2015) 'Child performance and activities licensing legislation in England'
- DfE (2015) 'Supporting Pupils with Medical Conditions'
- DfE (2019) 'A guide to Absence Statistics'

Roles and Responsibilities

The Local Governing Body (LGB)

The Local Governing Body (LGB) has overall responsibility for the implementation of the Attendance Policy and procedures of JMAT in its schools. They have the overall responsibility for ensuring that the attendance policy, as written, does not discriminate on any grounds, including, but not limited to, ethnicity/national origin, culture, religion and gender,

The Headteacher

The Headteacher is responsible for the day-to-day implementation and management of the Attendance (pupils) Policy and procedures of the school and only the Headteacher can authorise absence using a consistent approach. **The Headteacher is not obliged to accept a parent's explanation and a letter or telephone message from a parent does not in itself authorise an absence.**

Responsibilities of the School Attendance Lead

The attendance lead will oversee, direct and co-ordinate the school's work in promoting regular and improved attendance and will ensure the attendance policy is consistently applied throughout the school. The attendance team will also ensure that attendance is both recorded accurately and analysed. They will ensure that attendance issues are identified at an early stage and that support is put in place to deal with any difficulties. If a child is absent and no reason has been provided, parents should be contacted on the first day of absence by phone call. If a parent cannot be contacted, First Day Calling procedures are initiated and it is expected that school is aware of the reason for absence before start of the afternoon session. If absence is frequent or continuous, except where a child is clearly unwell, the attendance lead will make sure that contact is made with parent(s) to discuss reasons for their child's absence.

Responsibilities of Staff, including teachers, support staff and volunteers

All staff (teaching and support) in school have a key role to play in supporting and promoting excellent school attendance and will work to provide an environment in which all our pupils are eager to learn, feel valued members of the school community and look forward to coming to school every day. **Staff also have**

a responsibility to set a good example in matters relating to their own attendance and punctuality. This is now part of the National Standards for Teachers.

School staff will:

- Ensure all pupils are registered accurately.
- Promote and reward good attendance with pupils at all appropriate opportunities.
- Liaise with the attendance leader on matters of attendance and punctuality.
- Communicate any concerns or underlying problems that may account for a child's absence.
- Support pupils with absence to engage with their learning once they are back in school.

Parental Responsibility

Parents have a legal duty to ensure their children attend school regularly (Section 444 of the 1996 Education Act). Permitting absence from school that is not authorised by the school creates an offence of law. Parents who are concerned about sending their child to school during the coronavirus pandemic must discuss their concerns with the Headteacher, so their worries can be addressed and mitigated where possible, using the risk assessments in place.

Regular attendance is essential for the all-round development of the child and they should be allowed to take full advantage of educational opportunities available to them to make good progress in their learning. Poor attendance undermines their educational progress and can sometimes affect their emotional health, well-being and social development.

Section 444 of the Education Act 1996 states that parents are guilty of an offence of failing to secure regular attendance at school unless they can prove that the child was absent due to:

- Leave being granted by school (authorised holiday)
- Sickness or any other unavoidable cause (the sickness or unavoidable cause must relate to the child, not the parent).
- Religious observance (authorised by the school)
- Failure by the local authority to provide transport.

Parents will:

- Inform the school on the morning of the first day if their child is absent
- Provide accurate and up-to-date contact details and update the school if their details change
- Discuss with class teacher/school staff any planned absences well in advance
- Support school with their child in aiming for 100% attendance each year.
- Ensure that wherever possible, medical appointments are made outside of the school day.
- Only request leave of absence if it is for an exceptional circumstance.
- Avoid taking holidays in school time
- Know routines of the school day to avoid issues, e.g. ensuring children have their P.E. kits on the right days.

Authorised and unauthorised absence

Term-Time Leave

JMAT's aim is to prepare pupils for their future lives and careers. With this in mind, we require parents to observe the school holidays as prescribed.

The Headteacher is unable to authorise holidays during term-time.

The Headteacher is only allowed to grant a leave of absence in exceptional circumstances. Applications will be made in advance and the Headteacher will be satisfied by the evidence which is presented, before authorising term-time leave.

The Headteacher will determine the amount of time a pupil can be away from school during term time. Any leave of absence is at the discretion of the Headteacher.

Any requests for leave during term-time will be considered on an individual basis and the pupil's previous attendance record will be taken into account.

Request for leave will not be granted in the following circumstances:

- Immediately before and during assessment periods
- When a pupil's attendance record shows any unauthorised absence
- Where a pupil's authorised absence record is already above 10 percent for any reason

If parents take their child out of school during term-time without authorisation from the Headteacher, they may be subject to sanctions such as a fixed penalty fine.

The following reasons are also examples of when absence will not be authorised:

- Persistent non-specific illness e.g. poorly/unwell
- Absence of siblings if one child is ill
- Oversleeping
- Inadequate clothing/uniform
- Confusion over school dates
- Medical/dental appointments of more than half a day without good reasons
- Child's/family birthday
- Shopping trip
- Family holidays

Lateness

JMAT understands that punctuality is of the utmost importance and lateness will not be tolerated and at St Ann's Primary School register is taken at 8:45 am. Pupils arriving after this time must enter school by the main entrance and report to Reception where their name and the reason for lateness will be recorded. **The register will close 30 minutes after the register has been taken (DfE May 2022).** Pupils arriving after the register has closed will be marked as late after registration (Code 'U') and this will count as an unauthorised absence. Frequent lateness after the register has closed (Code 'U') will be discussed with parents and could provide grounds for prosecution or a Fixed Penalty Notice.

Dealing with lateness

School staff will monitor a child's lateness and may use a range of actions as follows:

- Class staff to monitor lateness and minutes lost
- Minutes lost letter sent to parents via class teacher
- Meeting with parents to discuss reasons for lateness and how school can support improved timekeeping

Scenarios where remote education should be provided

Attendance is mandatory for all pupils of compulsory school age. School should consider providing remote education to pupils in circumstances when in-person attendance is either not possible or contrary to government guidance. For example:

- If it's not possible for school to open safely, or if opening would contradict government or local guidance
- Occasions when individual pupils, for a limited duration, are unable to physically attend school but are able to continue learning, for example pupils with an infectious illness
- If a pupil with special educational needs or disabilities (SEND) is not able to be in school and requires remote education, school should work collaboratively with the family and put in place reasonable adjustments so that the pupil with SEND can successfully access remote education. In

this situation, decisions on how provision can be delivered should be informed by relevant considerations including the support families will require and types of services that the pupil can access remotely.

In these circumstances pupils should have access to remote education as soon as reasonably practicable, though in proportion to the length of absence and disruption to their learning.

Where needed, you should consider providing remote education equivalent in length to the core teaching pupils would receive in school and including recorded or live direct teaching time, as well as time for pupils to complete tasks and assignments independently.

Children Missing Education

Knowing where children are during school hours is an extremely important aspect of safeguarding. Missing school can be an indicator of abuse and neglect and may also raise concerns about others safeguarding issues, including the criminal exploitation of children.

We monitor attendance carefully and address poor or irregular attendance without delay. We will always follow up with parents/carers when pupils are not at school. If a child does not present at school by the close of the morning register, staff will initiate first day calling procedures and make every effort to contact parents/carers on the contact list. If they have not ascertained a reason for the child's absence by the start of the afternoon session, then a home visit will be carried out by two members of school staff. If this visit proves to be unsuccessful and the child still hasn't been seen by school staff, the DSL will contact police to request a safe and well check.

Children Missing Education (CME) are defined as children of compulsory school age who are not on a school roll and who are not receiving a suitable education elsewhere: for example, at home, privately, or in alternative provision. (Education and Inspections Act 2006)

Children referred as Missing from Education should only be removed from the school roll on the advice of and following consultation with the Children Missing Education Officer and authorisation from the service.

Where a child is missing from education, Local Authority guidance will be followed, by completing a Child Missing Education referral form for the following circumstances:-

- The child fails to attend without explanation
- The child is expected to start at school but does not arrive
- The child does not return from a planned holiday (authorised or unauthorised)
- The child leaves the authority without a destination. (Rotherham MBC CME policy February 2018) – (Appendix 3)

Young Carers

JMAT understands the difficulties that face young carers. The school will endeavour to identify young carers at the earliest opportunity from enrolment at the school and throughout their time at the school. The school takes a caring and flexible approach to the needs of young carers and each pupil will be examined on a case-by-case basis, involving other agencies if appropriate.

Children with Special Education Needs and Disabilities

Pupils should not be penalised if their absence from school is related to their medical condition, such as attending hospital appointments. In order to avoid being fined for non-attendance, parents must obtain permission from the school in advance of the appointment, so that the absence can be treated as authorised. An absence can also be authorised if the child is too ill to attend school and the school is notified of that as soon as possible.

Although school staff should use their discretion and judge each case on its merits with reference to the child's individual healthcare plan, it is not generally acceptable to:

- penalise children for their attendance record if their absences are related to their medical condition, e.g. hospital appointments'. (Supporting Children with medical conditions 2015, Statutory Guidance, Department for Education)

JMAT suggest that a child who has time away from school for unavoidable medical appointments during school time (for example child development assessments) should still be appropriately rewarded for attendance in order to encourage and promote good attendance.

Attendance Monitoring Procedures

JMAT has adopted the following attendance monitoring procedures, to ensure that pupils' attendance meets the expected standard, and effective intervention is provided where pupils' attendance falls below the standard: [\(see Appendix 8 -Waves of Intervention\)](#)

- Attendance is discussed by classroom staff and pupils on a regular basis. Any attendance/punctuality trends noticed by classroom teachers are passed on immediately to SLT.
- Contact is made with parents on the first day of absence for any pupil absence not reported. (School should ensure that they have at least 4 contact numbers for pupils).
- If contact cannot be made to ascertain why the pupil is not in school then a Safe and Well home visit should be considered especially if there are already safeguarding concerns.
- School should arrange meetings with parents to discuss attendance issues once their child's attendance falls below 90%.
- School should monitor attendance and where necessary refer to and work with parents/carers to tackle persistent absence.
- School will send out letters to parents praising their child's attendance or raising concerns if a pupil's attendance has fallen.
If attendance:
 - Is above 96% - Green letter sent congratulating the parents
 - falls between 95.9 and 90% - Yellow letter sent giving them a 96% target but explaining what happens if they drop below 90%
 - falls below 90% Pink letter sent - Meeting with parents to see if we can support them to improve this

Attendance reviews will take place every half term and actions taken recorded on the child's chronology. At St. Ann's we use a standard attendance review format [\(see Appendix 7\)](#) and retain records and analysis in a central attendance file.

Early Help FPN Pathway

School should consider using the JMAT/Rotherham Early Help Authority Pathway for Schools [\(See Appendix 1\)](#) for attendance if a child's attendance falls below 92% in line with the Local Authority Code of Conduct [\(See Appendix 2\)](#) which states that A Fixed Penalty Notice can only be issued in cases of unauthorised absence. Schools should use the letters provided by the local authority when using the Rotherham Early Help Authority Pathway for Schools [\(See Appendices 3, 4 and 5\)](#)

Intervening with attendance concerns:

Where there are concerns around a pupil's attendance school may intervene in one or more of the following ways:

- Attendance will be reviewed at the end of every half term by the attendance team, any pupils identified as a cause for concern or less than 90% attendance may be reviewed on a more frequent basis.
- An attendance letter (colour coded depending on % attendance) will be sent to the parents of any pupil identified as having attendance problems, informing them of the school's concerns and offering support to resolve any problems that may be impeding a child from attending.

- Where patterns are identified a phone call or meeting between the parent and the attendance team may take place to discuss the pattern and resolve any issues preventing attendance.
- An attendance meeting will be arranged with parents to discuss the concerns and issues around their child's poor attendance. This may involve the use of a Parenting Contract/Agreement to support parents to work with school to improve their child's attendance.

Celebrating Good and Improving Attendance

The half-termly attendance review will also identify children who:

- Have achieved 96% and above attendance
- Have an improving picture of attendance since the last review

These achievements will also be celebrated by school and could be in the form of a letter or phone call home, Dojo reward, class postcard home, etc.

Religious Observances

The school will take advice from local religious leaders of all faiths to establish the appropriate number of days of absence required for religious festivals. Parents are required to inform the school in advance if absences are required for days of religious observance.

Modelling, sport and acting performances/activities

Under Section 37 of the Children and Young Persons Act 1963, all pupils engaging in performances/activities (whether they, or another person, receives payment or not), which require them to be absent from school, are required to obtain a license from the LA which authorises their absence(s).

Where a pupil requests to be absent for a performance or activity, the individual or organisation responsible for organising, producing or running the activity/performance is required to request a license from the pupil's home LA.

Legal Sanctions

JMAT supports the local authority's Code of Conduct for the issuing of Fixed Penalty Notices (FPN).

In law, an offence occurs if a parent fails to secure a child's attendance at a school at which they are a registered pupil and that absence is not authorised by the school. Fixed Penalty Notices supplement the existing sanctions currently available under Section 444 of The Education Act 1996, Section 103 of the Education and Inspections Act 2006 or Section 36 of The Children Act 1989 to enforce attendance at school where appropriate, subject to statutory defences. The Early Help and Family Engagement Service, within the Local Authorities' Children's Services deliver this responsibility.

Monitoring and review

This policy is reviewed annually by the **Trust Strategic Safeguarding and Attendance Lead**

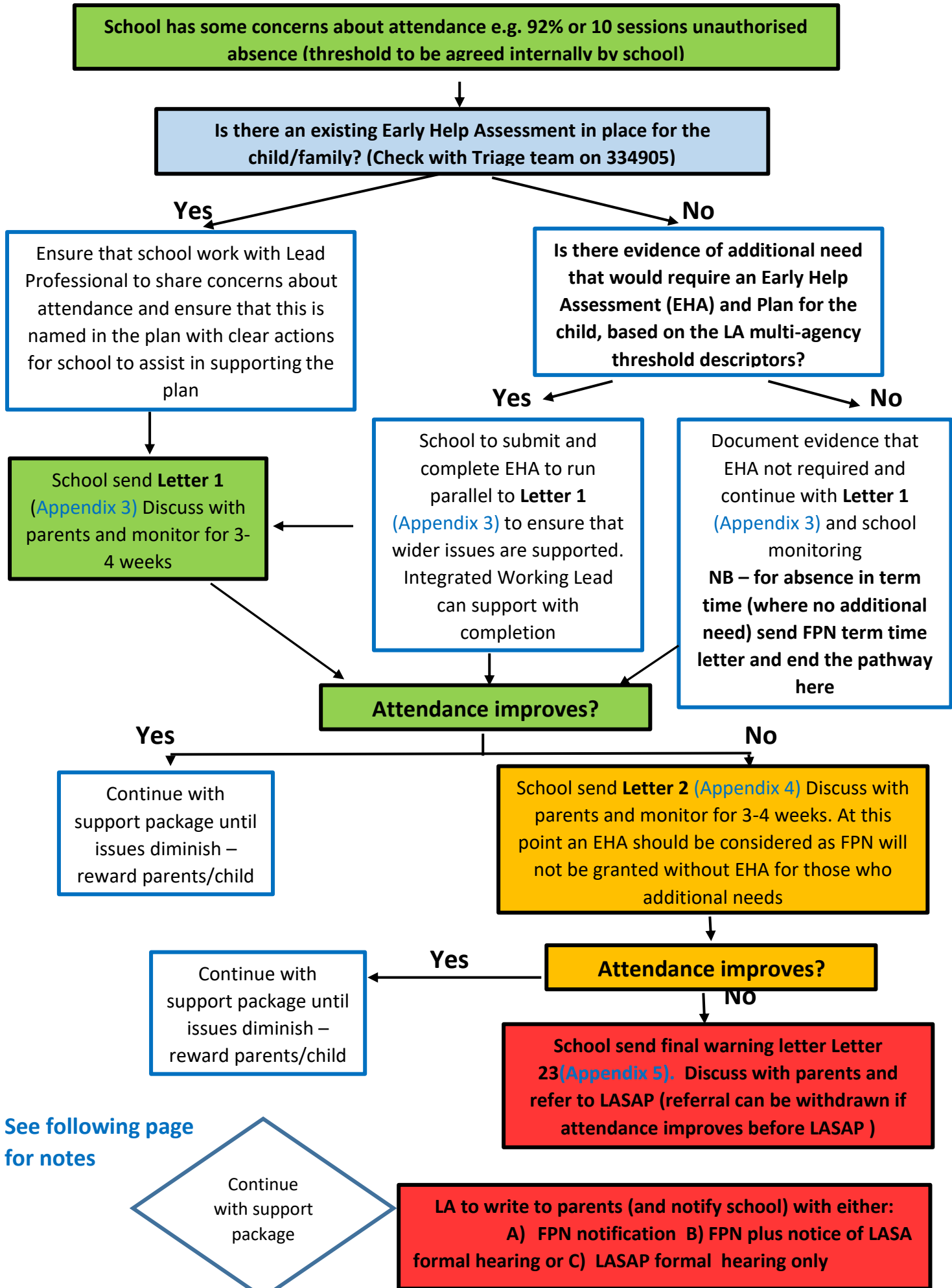
Any changes made to this policy by the above will be communicated to all members of staff. The policy is available for public view on the JMAT website.

All members of staff are required to familiarise themselves with all processes and procedures outlined in this policy as part of their induction programme.

The next scheduled review date for this policy is **September 2023**.

Appendix 1 JMAT ATTENDANCE PATHWAY FOR TRUST SCHOOLS

(in line with Rotherham Early Help 'Attendance Matters')



See following page for notes

IMPORTANT

Schools in the James Montgomery Academy Trust will follow the FPN pathway as laid down by Fixed Penalty Notice Code of Conduct ([see Appendix 2](#)). This attendance pathway **must** be followed when the intention is to issue an FPN for poor attendance.

Issuing an FPN for unauthorised holidays taken in term time is a separate process and not linked into the early help pathway.

NB for children and families with additional need, the Early Help Assessment must be the underpinning tool used throughout this process to ensure that adequate support and challenge is in place to enhance outcomes and support attendance.

Some schools have replaced their pupil support plans with the EHA to ease this process. Integrated Working Leads are available to support the EHA process. The EHA is a shared responsibility across the wider children's workforce to ensure that issues are addressed early in the development of a problem. The definition of additional need can be seen in the threshold descriptor Levels of Need document.

Children known to have additional need, that don't have an EHA in place will not progress to FPN.

Appendix 2



Proud to work with Rotherham's
children • young people • families



Early Help and Family Engagement

Fixed Penalty Notice (FPN)

Code of Conduct

Reviewed: December 2017
Issued: September 2018

Early Help and Family Engagement
**Code of Conduct on the Issue of Fixed Penalty Notices in respect of
Poor School Attendance and Unauthorised Holidays taken in Term-Time**

1. Rationale

- 1.1 The Education Act 1996 is the primary legislation which governs the attendance of a child at school. Section 7 of The Education Act 1996 states that:
- ‘The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable...to his age, ability and aptitude, and...to any special educational needs he may have, either by regular attendance at school or otherwise.’
- 1.2 Regular and punctual attendance of pupils at school is both a legal requirement and a priority for Rotherham Metropolitan Borough Council in order to maximise the educational opportunities available to them and ensure ‘the best start in life.’ The Local Authority will continue to investigate cases of regular absence from school and, following appropriate casework intervention, will instigate legal action where applicable.
- 1.3 In law, an offence occurs if a parent fails to secure a child’s attendance at a school at which they are a registered pupil and that absence is not authorised by the school. Fixed Penalty Notices supplement the existing sanctions currently available under Section 444 of The Education Act 1996, Section 103 of the Education and Inspections Act 2006 or Section 36 of The Children’s Act 1989 to enforce attendance at school where appropriate, subject to statutory defences.
- 1.4 The Early Help and Family Engagement Service, within the Local Authorities’ Children’s Services deliver this responsibility.
- 1.5 Parents and pupils are supported at school and Local Authority level to overcome barriers to regular attendance through a wide continuum of assessment and intervention strategies. Sanctions of any nature are for use only where parental co-operation in this process is either absent or deemed insufficient to resolve the presenting problem.
- 1.6 Sanctions are used primarily as a means of enforcing attendance where there is a reasonable expectation that their use will secure an improvement.
- 1.7 The Education (Penalty Notices) (England) Regulations 2007 set out the procedures for issuing Fixed Penalty Notices to each parent who fails to secure the regular attendance of their child at school.
- 1.8 Amendments were made to the 2007 Regulations in the Education (Penalty Notices) (England) (Amendment) Regulations 2013. These amendments came into force on 1st September 2013.
- 1.9 Amendments to 2007 regulations reduced the timescales for paying a Fixed Penalty Notice. Parents must, from 1st September 2013, pay £60 within 21 days or £120 within 28 days. This brought attendance Fixed Penalty Notices into line with other types of Fixed Penalty Notices and allows local authorities to act faster on prosecutions.
- 1.10 In order to comply with Human Rights legislation it is essential that Fixed Penalty Notices are issued in a consistent manner. This Code of Conduct will govern the issuing of Fixed Penalty Notices in respect of unauthorised absence from school for holidays taken in term time, and other unauthorised absence, for Rotherham Metropolitan Borough Council.

2. Section 576 Education Act 1996: Definition of a Parent

- 2.1 Under section 576 of The Education Act 1996, a parent is defined as follows:
- All natural parents whether they are married or not
 - Any person who although they are not a natural 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.

- 2.2 Throughout this document, references to 'parent' mean each and every parent coming within the definition, whether acting jointly or separately, and should not be taken to mean that provisions only apply to 'parent' in the singular.

3. Circumstances where a Fixed Penalty Notice may be issued

- 3.1 The issuing of a Fixed Penalty Notice is considered appropriate in the following circumstances:

- a) In cases of absence from school when the pupil has been taken on holiday during term time, the absence has not been authorised by the school, and the child has attendance below the combined National average for both primary and secondary schools for the previous 12 months, including the holiday absence period.

There must be at least 10 consecutive sessions (5 school days) lost due to unauthorised.

- b) The deliberate taking of a holiday/leave of absence in term time without the school's permission (where the school have made the parent aware of their policies in relation to leave of absence through publicity materials, general correspondence, policies etc) and where this has created a period of unauthorised absence of at least 10 sessions (5 school days).
- c) For those parents of pupils where notification of unsatisfactory attendance has been issued and unsatisfactory attendance remains a concern.
- d) Where the Local Authority School Attendance Panel or Fixed Penalty Notice Panel believe that a Fixed Penalty Notice is the most appropriate way to deal with non-school attendance.
- e) Where a child has not returned to school on an expected date and no satisfactory explanation has been given for the absence. There must be at least 10 consecutive sessions (5 school days) lost due to unauthorised leave of absence during term time.
- f) Where an excluded pupil is present in a public place during the school hours of the school where the pupil is on roll.

- 3.2 In each of the above cases, each parent will receive a separate Fixed Penalty Notice for each child taken out of school.

- 3.3 No one parent will receive more than three separate Fixed Penalty Notices resulting from the unauthorised absence of an individual child in any 12 month period, however, there will be no restriction on the number of times a parent/carer may receive a formal warning of a possible issue of a Fixed Penalty Notice.

4. Procedures for issuing Fixed Penalty Notices

- 4.1 In Rotherham Fixed Penalty Notices will be issued by the Local Authority in order to avoid the issue of duplicate notices. This will ensure consistent and equitable delivery, retain school-home relationships and allow cohesion with other enforcement sanctions. Fixed Penalty Notices will only be issued for offences where the Local Authority is willing and able to prosecute.
- 4.2 The Local Authority will ensure that the issuing of Fixed Penalty Notices will be closely monitored to ensure that recipients pay the relevant fine. In cases where the penalty in respect of unauthorised leave of absence or persistent non-attendance is not paid within the appropriate period the Local Authority will instigate action through the Courts as required by legislation.
- 4.3 A Fixed Penalty Notice can only be issued in cases of unauthorised absence.
- 4.4 The Local Authority will receive requests to issue Fixed Penalty Notices from schools.

- 4.5 The Local Authority will consider requests to issue Fixed Penalty Notices in respect of any of the circumstances arising under Section 3 of this Code, at the Local Authority School Attendance Panel or the Local Authority Fixed Penalty Notice Panel.
- 4.6 Schools must consider every aspect of a pupil's case before considering whether a Fixed Penalty Notice would be appropriate. This may include strategic discussions with the allocated Early Help worker and Early Help Manager and any other attendance support staff who have involvement with or knowledge of the pupil and/or family.
- 4.7 Where a pupil has special educational needs and/or disabilities, the school should consider whether a Fixed Penalty Notice would be appropriate having considered all the circumstances relevant to that pupil. In particular, the school will need to have specific regard to the needs of the pupil and the overall attendance of the pupil, which may or may not be in line with the combined National primary and secondary average.
- 4.8 The Local Authority will require supporting documentation and relevant information including all correspondence with the parent in order to establish whether a Fixed Penalty Notice is appropriate.
- 4.9 Referrals to the Fixed Penalty Notice Panel for unauthorised leave of absence during term time will only be considered provided that:-
- The circumstances of the pupil's absence meet all the requirements of this Code.
 - The Local Authority must receive the referral within 4 weeks of the last date of the holiday.
 - The issue of a Fixed Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed.
- 4.10 The Local Authority will respond to all requests within 10 school days of the case being heard at the Fixed Penalty Notice Panel.
- 4.11 Provided the referral has met all the criteria the Local Authority will issue a Fixed Penalty Notice by post.

5. Procedures for Withdrawing Fixed Penalty Notices

- 5.1 A Fixed Penalty Notice may be withdrawn by Rotherham Metropolitan Borough Council in any case in which it determines that:-
- a) It ought not to have been issued or
 - b) It ought not to have been issued to the person named as the recipient.
- 5.2 Where a Fixed Penalty Notice has been withdrawn in accordance with the above, a notice of withdrawal shall be given to the recipient and any amount paid by way of penalty pursuant of that notice shall be repaid to the person who paid it.
- 5.3 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 Act arising out of the same circumstances.

6. Right of Appeal

- 6.1 There is no statutory right of appeal once a Fixed Penalty Notice has been issued. A parent must pay the Fixed Penalty Notice or face proceedings in the Magistrates Court under Section 444 of the Education Act 1996 in relation to absences, where all of the issues relating to their Fixed Penalty Notice can be fully debated.

7. Payment of Penalty Notices

- 7.1 The arrangements for the paying of penalties will be detailed on the Penalty Notices.

- 7.2 From 1st September 2013 Fixed Penalty Notices were set nationally by the DfE at £60 per parent per child if paid within 21 days of receipt of the notice increasing to £120 per parent per child if paid within 28 days of receipt of the notice.
- 7.3 Payment of a Fixed Penalty Notice discharges the parent/carer liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the Penalty Notice.
- 7.4 The Local Authority retains revenue from the Fixed Penalty Notice payments to cover the costs for issue and enforcement and for costs related to the prosecution of unpaid Fixed Penalty Notices.

8. Non-Payment of Fixed Penalty Notices

- 8.1 Non-payment of a Fixed Penalty Notice will result in the matter being referred to Legal Services to consider instigating a prosecution under the provisions of Section 444 of the Education Act 1996. The fact that a notice was issued and unpaid can be used as evidence in a subsequent prosecution. The prosecution can only be for the original offence and not for non-payment of the Fixed Penalty Notice.
- 8.2 The Local Authority will also consider whether it would be appropriate (instead of or as well as instituting proceedings) to apply for an Education Supervision Order in respect of the child under Section 447(1) of the Education Act 1996.

9. Reporting and Review

- 9.1 The Local Authority will review the Code of Conduct on the Issue of Fixed Penalty Notices in regard to unauthorised holidays taken in term time and poor school attendance annually and/or following any changes in legislation/statutory guidance or following recommendations from the Rotherham Safeguarding Children's Board.

Appendix 3 – Letter 1

School details

Contact details

Date

IRREGULAR ATTENDANCE AT SCHOOL: WARNING TO PARENTS/CARERS

NAME OF CHILD:

DATE OF BIRTH:

REGISTERED PUPIL AT: (insert)

Dear (insert parent/carer name)

I am writing to you to share my concern regarding the attendance of your child, (insert child's name.)

(Insert child's name) attendance is currently (insert attendance %) and the school are concerned as this is unsatisfactory. The Local Authority and School together take attendance very seriously and have strong evidence that children who attend regularly are much more likely to achieve positive outcomes and perform well in school and achieve in later life.

During the period (enter dates) (insert child's name) has been absent from school for (enter figure) out of a possible (enter figure) half day sessions.

Whilst occasionally, absence may have been due to illness, school are concerned that on occasion, there has been a lack of satisfactory evidence provided to explain the absence.

School and the Local Authority are keen that families who experience difficulties are supported in order to help make improvements with issues that are affecting family life and that can result in poor attendance. Support is available for families through the Early Help Assessment and Plan. This is a process that helps professionals understand the issues that may be affecting the child and family and plan appropriate support to help. We recognise that family life can at times be difficult and sometimes families' need a helping hand to assist.

It is, however, important to note that **enforcement action may be taken if an improvement in attendance is not made**. In light of this, we are keen to offer support and we hope that you take up this offer. If there is not a marked improvement in (insert child's name) attendance at school, the matter will be reported to the Local Authority School Attendance Panel (LASAP) with a view to seeking enforcement as per the provisions of the Education Act (1996.) If LASAP make the decision to issue a fixed penalty notice (fine) you will be informed by letter and will be given 21 days to pay. If LASAP make the decision that there will be an FPN (fine) and there are sufficient concerns that warrant further action, your child's case will be brought formally to LASAP and you (and your child where appropriate) will be invited to attend.

It is important that you take this information seriously and act in the best interests of your child to ensure future good attendance.

If you need to discuss this further please do not hesitate to contact me.

Yours sincerely,

(Insert head teachers name)

NB contact name above may be different but the letter must be signed by the head teach

Appendix 4 Letter 2

School Address

Contact details

Date

IRREGULAR ATTENDANCE AT SCHOOL: FORMAL WARNING TO PARENTS/CARERS

NAME OF CHILD:

DATE OF BIRTH:

REGISTERED PUPIL AT: (insert)

Dear (insert parent/carer name)

Despite writing to you on (insert date of letter 1) I am writing to you again to outline my concerns due to the ongoing unsatisfactory attendance of your child (insert child's name.)

I must emphasise the duty that is imposed by the Education Act (1996) upon parents/carers, to ensure that children of school age attend school every time it is open, unless the children are prevented from doing so as a result of their own illness. In the case of illness, medical evidence should always be submitted.

(Insert child's name) attendance is currently (insert attendance %) and the school are concerned as this is unsatisfactory. The Local Authority and School together take attendance very seriously and have strong evidence that children who attend regularly are much more likely to achieve positive outcomes and perform well in school and achieve in later life.

During the period (enter dates) (insert child's name) has been absent from school for (enter figure) out of a possible (enter figure) half day sessions.

The explanations given by you, for your child's absences, are not considered to be reasonable within the provision of the Education Act. I must, therefore, advise you that unless there is an **immediate and sustained improvement** in your child's attendance at school, I shall be compelled to take further steps in the matter by referring this to the Local Authority School Attendance Panel (LASAP) It is my duty to bring to your attention the penalties which may be imposed via this route by the Magistrates Court in line with the Education Act (1996), namely:

"Any person guilty of an offence against Section 444 of this Act" (these are the sections of the Act relating to compulsory school attendance) "shall be liable on summary conviction, in the case of a first or subsequent offence against that section, to a fine not exceeding £2,500 and/or a period of imprisonment for up to three months."

I must also point out that one of the actions from LASAP could be an Education Supervision Order imposed by the Family Court; which gives the Local Authority discretion to intervene with a family when attendance is very concerning. This means that you and your child will be required to follow directions that are outlined in the order imposed by Court and will be expected to work closely with a professional from the Local Authority.

School and the Local Authority are keen that families who experience difficulties are supported in order to help make improvements with issues that are affecting family life and that can result in poor attendance. Support is available for families through the Early Help Assessment and Plan. This is a process that helps professionals understand the issues that may be affecting the child and family and plan appropriate support to help. We recognise that family life can at times be difficult and sometimes families' need support to assist.

It is, however, important to note that **enforcement action will be taken if an immediate improvement in attendance is not made**. In light of this, we are keen that you take up the offer of support if you have not

already done so. This warning is issued in the hope that there will be no necessity to take further steps to enforce the law. However, you are warned that if you do not immediately address your child's attendance and ensure that they attend school regularly, the actions above will be implemented.

If LASAP make the decision to issue a fixed penalty notice (fine) you will be informed by letter and will be given 21 days to pay. If LASAP make the decision that there will be an FPN (fine) and there are sufficient concerns that warrant further action, your child's case will be brought formally to LASAP and you (and your child where appropriate) will be invited to attend.

I should be pleased if you would give your immediate attention to this matter, and if you have any queries regarding this letter please contact me.

Yours sincerely,

(Insert head teachers name)

NB contact name above may be different but the letter must be signed by the head teacher

Appendix 5 Letter 3

School details

Contact details

Date

IRREGULAR ATTENDANCE AT SCHOOL: FINAL WARNING TO PARENTS/CARERS

NAME OF CHILD:

DATE OF BIRTH:

REGISTERED PUPIL AT: (insert)

Dear (insert parent/carer name)

Despite writing to you twice previously on (insert date of letter 1 and letter 2) I find it necessary to write to you a final letter to re-emphasise my concerns due to the ongoing, serious nature of your child's (insert child's name) poor attendance.

As previously stated, I must reaffirm the duty that is imposed by the Education Act (1996) upon parents/carers, to ensure that children of school age attend school every time it is open, unless the children are prevented from doing so as a result of their own illness. In the case of illness, medical evidence should always be submitted.

(Insert child's name) attendance is currently (insert attendance %) and the school are concerned as this is unsatisfactory. The Local Authority and School together take attendance very seriously and have strong evidence that children who attend regularly are much more likely to achieve positive outcomes and perform well in school and achieve in later life.

During the period (enter dates) (insert child's name) has been absent from school for (enter figure) out of a possible (enter figure) half day sessions.

Despite contacting you twice previously your child's attendance has remained concerning.

The explanations given by you, for your child's absences, are not considered to be reasonable within the provision of the Education Act. I must, therefore, advise you that I am now compelled to take further steps in this matter by referring this to the Local Authority School Attendance Panel (LASAP) it is my duty to bring to your attention the penalties which may be imposed via this route by the Magistrates Court in line with the Education Act (1996), namely:

"Any person guilty of an offence against Section 444 of this Act" (these are the sections of the Act relating to compulsory school attendance) "shall be liable on summary conviction, in the case of a first or subsequent offence against that section, to a fine not exceeding £2,500 and/or a period of imprisonment for up to three months."

I must also point out that one of the actions from LASAP could be an Education Supervision Order imposed by the Family Court; which gives the Local Authority discretion to intervene with a family when attendance is very concerning. This means that you and your child will be required to follow directions that are outlined in the order imposed by Court and will be expected to work closely with a professional from the Local Authority.

It is extremely important to note that **enforcement action will now be taken.**

In the event of a fixed penalty notice (fine) being issued, the Local Authority will write to you with details of when and how to pay. This will be followed up with further contact to discuss how future attendance will be addressed swiftly.

If, in addition to the above, it is agreed that the case needs to be heard by LASAP the Local Authority will contact you with the date and time to attend LASAP.

I should be pleased if you would give your immediate attention to this matter, and if you have any queries regarding this letter please contact me.

Yours sincerely,

(Insert head teachers name)

NB contact name above may be different but the letter must be signed by the head teacher

Appendix 7 – Attendance review Form
Appendix 8 -Wave of Intervention