

SERVICES FOR SCHOOLS

Requests for extended leave of absence or leave of absence to temporarily reside abroad for reasons other than holiday

Guidance for schools

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Guidance on approving leave of absence

Amendments to school attendance regulations came into force in September 2013: **Education (Pupil Registration) (England) (Amendment) Regulations 2013 state that absence should only be granted due to the exceptional circumstances relating to that application.** It is important to note that headteachers can determine the length of the authorised absence, as well as whether absence is authorised at all.

There is no legal definition of what constitutes an *exceptional circumstance*; it is up to the headteacher to decide. **There are no rules on this** as circumstances vary from school to school and family to family.

There cannot be a government or county council definition of *exceptional circumstances*, but Hampshire County Council can offer guidance for headteachers when considering what is *exceptional*. Our view is that exceptional implies events that are rare, significant and unavoidable; an event that could not reasonably be scheduled at another time.

There is no legal entitlement for time off school to go on holiday and in the majority of cases absence for the purposes of a holiday should not be authorised. As the school attendance regulation allows for headteacher discretion, schools cannot operate blanket policies that state they will not approve any family holiday. They are, however, able to state that holidays in term time will not be approved unless there are exceptional circumstances.

Schools also have a duty to make reasonable adjustments for students with disabilities; and should take wider family circumstances into account when making decisions.

An example of this would be:

Two siblings taught at separate schools. One sibling has severe special needs. The second child has no additional needs. The family's request for leave of absence during term time is based on factors related to the child with special educational needs and respite care. It would, therefore, be advisable for both schools to consider the family dynamic and liaise with each other before both agreeing whether to authorise both pupils. Ideally both schools will agree on whether the leave should be *authorised* or *unauthorised*.

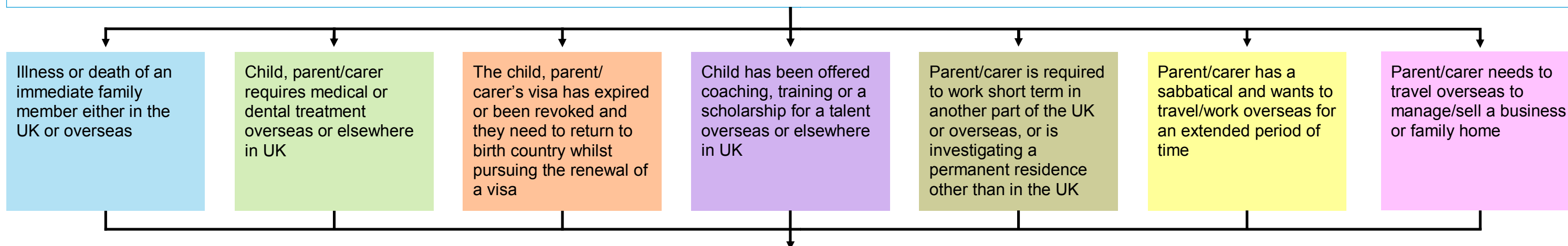
Where it is entirely reasonable for a headteacher not to agree the same response for siblings would be where one of the siblings has ongoing high levels of unauthorised absence and the other does not.

Any approved leave of absence that is as a result of a family holiday should continue to be coded as *H* and unauthorised leave of absence through holiday coded as *G*. If absence is unauthorised this means the child should have been present in school and the parents/carers have not met their legal duty to ensure this. If parents/carers take unauthorised leave of absence then in accordance with the attendance regulations and Hampshire County Council's *Code of conduct*, a penalty notice will be issued if it meets the threshold. All Hampshire schools and academies must consistently enforce the County Council's *Code of conduct*. Schools should, therefore, use their discretionary powers and authorise leave of absence where appropriate.

The National Association of Headteachers has published further advice for schools on this, which can be downloaded at: www.naht.org.uk/welcome/news-and-media/key-topics/parents-and-pupils/naht-issues-new-guidance-on-authorised-absence/.

Request for extended leave of absence or leave of absence to temporarily reside abroad for reasons other than holiday

Parent/carer must contact the school in line with the school's attendance policy and ideally complete a leave of absence form (although the emergency of this scenario may result in the school receiving a telephone call). The headteacher or another authorised member of staff must meet/telephone parents/carers to discuss the following and decide whether to grant an extended leave of absence if they view the request to be an exceptional circumstance (unavoidable in term time). The school has the right to decide how many days' absence they are willing to authorise.



Parents/carers must be made aware that they are required by law to ensure that children of statutory school age are required to attend school full time unless they are ill; attending a religious observance or the headteacher has approved a leave of absence that is due to exceptional circumstances as defined by the headteacher.

The school must ascertain the following information:

- 1 What evidence can the parents/carers provide that this leave is required (e-mails, letters, appointment cards, work contracts, embassy forms, etc)?
- 2 Contact details for the parents/carers during this time – to include e-mail, address and telephone number. Where address and phone details are not yet known, the parents/carers must forward these to the school within a week of any leave commencing if this is physically possible (ICT infrastructures).
- 3 Where will the child be living during this absence and confirm the parents/carers are maintaining their current home of residence in the school's catchment area?
- 4 What is the expected return date? Explain that the parents/carers must give one; the school will agree or negotiate a date they are happy to accept.
- 5 Discuss, where possible, whether the child could remain behind with another relative.
- 6 Discuss with parents/carers the possible enrolment at another school in the UK or abroad to continue some education.
- 7 Discuss possible ways for the child to keep in contact with their teachers and peers during any absence.

If the parents/carers confirm they will enrol the child at another school, ensure you have contact details for the parents/carers and explain the child can be dual registered if the school is in the UK. You will communicate with the new (subsidiary) school in the UK, following Hampshire County Council guidance on alternative provision to maintain school responsibility for the child available at: <http://documents.hants.gov.uk/childrens-services/HIAS/Promotingpupilattendanceandrecordingabsence-Section9.pdf>. If the child is receiving education outside of the UK this is still recorded as absence.

If the answer is no the number of days' absence (if approved) must be agreed in advance and a return date confirmed by the school in discussion with the parents/carers. The school must make clear to parents/carers that if the child does not return to school on the agreed return date the following will occur:

- 1 The school will contact parents/carers (if contact details are provided) to ask them to confirm whether they still require a school place. If parents/carers give a valid exceptional reason to request a further leave of absence by a week the school has the discretion to approve further leave and set a second return-to-school date. If this is longer than a half term the parents/carers should be reminded of their duty to ensure their child is in full-time education and seek to enrol the child in a local school in the interim.
- 2 If parent/carer contact is not established and the school does not accept the reasons given for the child not returning to school, the absence will become unauthorised and a Penalty Notice or other legal action will result after five days (10 sessions) of unauthorised absence. Schools should follow the *Guidance for schools on support and procedures for pursuing legal action for non-attendance* available at www.hants.gov.uk/education/hias/learning-behaviour-attendance/lba-resources-for-schools/atten-guidance/attendance-guidance-for-schools.htm. Schools should use the parent/carer's e-mail address or phone details to inform them of notification of any Penalty Notice being issued to the UK residence. If the Penalty Notice is not paid then the Legal Intervention Court Officer (LICO) will confirm and the outcome will either be court proceedings and/or removal from the school roll. If the Penalty Notice is paid but the child is still absent, a second Penalty Notice may be issued or court proceedings and/or removal from the school roll will be agreed by the Legal Intervention Team (LIT).
- 3 If parents/carers are not contactable the school will start child at risk of missing in education procedures – see guidance at: <http://documents.hants.gov.uk/education/Guidanceforchildrenatriskofmissingineducation-revisedSept2014.pdf>.
- 4 If the parents/carers confirm they no longer want a school place the school will follow normal off roll procedures.

Parents/carers must be made aware that if leave is not approved all absence is unauthorised and will be subject to Penalty Notice or other legal measures and the case will be presented to the Attendance Legal Panel.

Advice when a child is on roll and parents/carers request a leave of absence for an extended length of time to travel abroad for a religious festival, ceremony or ritual

Should the leave be approved?

The regulations around religious observance (coded *R*) are as follows.

The school must authorise any absence where the child or parent/carer's religious organisation sets the day as a religious festival. The school should check the calendar of religious festivals to identify the set days for agreed religious observance, for example the SHAP calendar:

www.shapworkingparty.org.uk/. However, absence linked to the religious festival (such as visiting families or travelling) or an absence that is of a religious nature (ceremony or ritual), but is not a calendared festival, such as circumcision or a threading ceremony, is not covered by the *R* code and is subject to the headteacher's discretion like any other approval for exceptional leave of absence.

For example, if a family want to travel to visit other family members to celebrate Eid then the two days for the Eid festival would be approved and coded *R*, but the headteacher does not need to approve any travel or holiday time with family, nor do they have to approve absence as a result of fasting. They would instead consider the child and the request and use their discretionary powers to consider whether to approve any further days, other than the two days for religious observance.

(See also EMTAS school guidance on Islam and Ramadan:
www.hants.gov.uk/education/emtas/emtas-resource.htm.)

Another example could be a request from a Jewish Orthodox family to remove their child from school to attend a Jewish conference in America and to request to keep their child at home during the last week of school so they can avoid participating in any Christian Christmas celebration. The school should consider the request to attend the Jewish conference as they would any other leave of absence request, as although the event itself is religious the conference is not a day of religious observance set aside within the Jewish Orthodox calendar. In terms of the child being removed from school to avoid participating in any Christmas festival, **parents/carers do have a right to withdraw the child from a celebration or an act of worship not of their religion**, so it would be important for the school to discuss with the parents/carers where there are activities that their child is withdrawn from and the school should provide an alternative activity. Where there are usual learning activities and classes going on up to the end of term, then parents/carers do not have the right to withdraw them and any absence would be unauthorised and a Penalty Notice would be considered (see Hampshire County Council's *Code of conduct* available at:
www.hants.gov.uk/code_of_conduct_-_issuing_penalty_notices_for_unauthorised_absence_from_schools_-_final.pdf.)