

Spires Federation

Policy

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MINDS

Children with Health Needs Who
Cannot Attend School

Date : February 2024

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Introduction

This policy sets out how we, as a local authority (LA) school, ensure all school-age children with medical needs receive suitable, full-time education. The policy applies to all statutory school-age children whether or not they are on the roll of a school.

Children and young people (CYP) must have an education suitable for their age, ability and aptitude. We deliver our statutory duties by working in partnership with:

- parents
- maintained schools, academies their governing bodies or board of trustees
- independent settings
- health professionals

The LA work with clinical commissioning groups (CCGs) and other partners in local health and wellbeing boards. The boards will assess the health needs of local people, including those with special educational needs (SEN) or who are disabled.

Principles

Lincolnshire's children's services believe that:

- Every child should have the best possible start in life through a high-quality education which allows them to achieve their full potential regardless of individual circumstance.
- Health needs should not prevent a pupil from accessing education. CYP with health needs who are unable to attend school are likely to be able to continue learning for at least some of the time. They will be supported to do so.
- The support provided should meet a pupil's individual needs. This includes social and emotional needs, to enable them to thrive within the education system.
- Wherever possible, all CYP, including those with health needs, should be supported to access their learning in their substantive school alongside their peers.
- A CYP who has health needs should have the same opportunities as their peer group, including access to a broad and balanced curriculum.
- Young people will be encouraged and enabled to inform decisions relating to their education. Their views, hopes and aspirations will be valued and acknowledged by professionals.
- Parents and carers play a crucial role as fully collaborative partners in the planning and review of their child's educational provision.

Legal framework

Section 19 of the Education Act 1996

Under Section 19 of the Education Act the LA is responsible for providing suitable education, either at school or through alternative means, for children of compulsory school age. This includes those who may not receive appropriate education without such arrangements due to:

- illness
- exclusion from school
- other reasons

Suitable education is defined as, "efficient education suitable to the age, ability, aptitude and to any special educational needs" the CYP may have.

The courts have considered the circumstances where the Section 19 duty applies. Case law has established that an LA will have a duty to provide alternative education under Section 19 if there is no suitable education available to the child which is "reasonably practicable" for the child to access.

Section 7 of the 1996 Education Act

Under the Section 7 of the Education Act parents or carers must ensure that their child receives an appropriate, full-time and effective education (suitable to their educational needs). In England, parents do this by putting their child on a school roll and ensuring that they attend regularly. However, a child may be on a school roll and fails to attend regularly. In these cases, the parents may have committed an offence contrary to Section 444.

Section 100 of the Children and Families Act 2014

Under the Children and Families Act arrangements for supporting pupils with medical conditions at school must be made by:

- The governing body

Special Educational Needs Code of Practice

The SEND Code of Practice gives guidance for schools and LAs on their duty to identify and support pupils with long-term barriers to their learning. This includes:

- pupils with disabilities and health needs
- pupils with and without an education health and care plan (EHCP)

Equality Act 2010

Under the Equality Act schools cannot discriminate against children and young people for a reason related to their disability. Many young people with significant long-term health needs may meet the definition of 'disability'. They must be given the legal protection to which they are entitled, particularly the duty to make reasonable adjustments.

Attendance

The LA work alongside us to promote attendance in school and to minimise incidents of low attendance. As a school, we monitor attendance closely and address poor or irregular attendance. Poor attendance has a negative impact on a pupil's academic learning, outcomes and their welfare. It could be an indication of safeguarding concerns. We will always seek to robustly investigate any unexplained absences.

Within our role, we must monitor pupils' attendance through their daily register and in accordance with local protocols. We must inform the LA of pupils who:

- fail to attend regularly
- have missed ten school days or more without permission

This information also enables the LA to identify pupils who are at risk of not accessing a suitable education unless arrangements are made for them due to:

- illness
- exclusion from school
- other reasons

This policy has also been developed with due regard to both statutory and advisory guidance published by the Department for Education:

- Ensuring a good education for children who cannot attend school because of health needs (January 2013)
- Supporting Pupils at School with Medical Condition (December 2015)
- Mental Health and Behaviour in Schools (January 2018)
- The Education (Pupil Registration) (Amendment) (England) Regulations (2016)

Definitions

Suitable education

The Education Act 1996 defines a suitable education as one that is appropriate to a child's:

- age
- ability
- aptitude
- any special educational needs they may have

Full-time

Full-time education is not defined in law, but it should equate to what the child would normally receive in school. This is unless the child's condition means that full-time provision would not be in their best interests. If a child receives 1:1 tuition, the hours of face-face teaching could be fewer as the provision is more concentrated.

School

For the purposes of this policy, school is used to refer to any:

- maintained school
- academy
- free school
- independent school
- alternative provision school
- any education provision where a child is registered as their main education base

Elective home education

A provision that a parent has chosen for their child outside school. This is not to be confused with home tuition which can be provided by the:

- school
- LA
- through alternative provision that has been provided by the school or LA

A medical condition

A physical or mental health need that, without reasonable adjustments, will impact on:

- attendance
- the ability to access the curriculum or other school activities

Disability

A physical or mental impairment that has a substantial and long-term adverse impact on the ability to carry out normal daily activities. Depression and anxiety may, for example, meet the definition of being disabled if:

- the child has had the condition for more than 12 months
- it is having a negative impact on their ability to carry out normal daily duties

Under the Equality Act, a child does not need a medical diagnosis to meet the definition.

Supporting pupils to remain in school

Wherever possible, we believe all young people, including those with health needs, should be supported to learn in their substantive school alongside their peers. This should include access to a broad and balanced curriculum, suitable for their age ability and aptitude.

Education professionals share the responsibility for providing support for CYP during periods of ill health, whether physical or mental. This includes those working in schools and academies, school support teams and the LA. Each has a part to play in supporting young people to access their statutory right to education.

By law, governing bodies or trustees must have a policy to show how they will support and provide for pupils with medical needs. This should include the arrangements schools will have in place to support pupils with medical conditions and include:

- the process for early identification
- nature and range of support available
- reasonable adjustments to the learning and physical environment
- how pupils can access this support
- the role of individual health care plans
- a named staff member with responsibility for pupils with ill health

The law also requires maintained schools and academies to make arrangements to support pupils with medical conditions. Schools should use all available resources, including the pupil premium where available. They should aim to keep a pupil in school through the development of a bespoke learning package. This may include virtual learning and blended learning opportunities.

Individual healthcare plans can help to ensure that schools effectively support pupils with medical conditions, in terms of both physical and mental health. They provide clarity about what needs to be done, when and by whom.

While not all children and young people will require a healthcare plan, they will often be essential. For example, in cases where:

- conditions fluctuate
- there is a high risk that emergency intervention will be needed

A plan is likely to be helpful in the majority of cases, especially where medical conditions are long-term and complex. The school, healthcare professional and parent should agree, based on evidence, when a healthcare plan is required. If consensus cannot be reached, the headteacher is best placed to take a final view.

Governing bodies should ensure that the school's policy covers:

- the role of individual healthcare plans
- who is responsible for their development in supporting pupils at school with medical conditions

The governing body must ensure healthcare plans are reviewed annually, or sooner if there is evidence changing needs. Plans should be developed:

- with the child or young person's best interests in mind
- to ensure that the school assesses and manages risks to the child's education, health and social wellbeing, and minimises disruption

Schools and academies can access the [Local Offer](#) for resources to help them support pupils with health needs.

The Education Act requires the LA to make arrangements to establish the identities of children who are not receiving a suitable education. Schools must register with the LA any pupils receiving less than 25 hours education. To identify areas of concern and highlight any vulnerable pupils the LA will regularly review (at least once per term):

- pupils receiving less than 25 hours education
- attendance data
- exclusion data

We will liaise with settings to offer advice, support and guidance in relation to individual cases. However, we will challenge robustly if we identify:

- poor practice
- inappropriate or over dependency on reduced timetable

The role of the local authority

The statutory guidance states that there can be a range of circumstances where a child has a health need. They will still receive a suitable education that meets their needs without our intervention, for example:

- where the child can still attend school with some support
- where the school has made arrangements to deliver suitable education outside of school for the child
- where arrangements have been made for the child to be educated in a hospital by an on-site hospital school

Our head of service for inclusion, Kate Capel, is our children's service designated officer. This role is responsible for providing education for children unable to attend school because of medical needs. Contact the head of service at PRT@lincolnshire.gov.uk.

Pupils with mental health needs

The DfE's guidance identifies that schools have a central role to play in:

- enabling pupils to be resilient
- to actively promote their mental health and wellbeing

Pupils with mental health needs may exhibit behaviours that present a barrier to their learning and engagement in school. Behaviours could appear as negative and challenging, including:

- refusal to engage with learning opportunities
- non-co-operation with school staff

Alternatively, a pupil may present as withdrawn, anxious and isolated. The school environment should be a significant protective, not a risk factor, for young people with mental health issues. Governors and school staff should consider this in their responses to such behaviours.

Some pupils experiencing a period of poor mental health may also self-harm. School staff should be aware of and robustly follow their safeguarding duties wherever this is the case. The Lincolnshire Children's Safeguarding Partnership model policy on banned items provides advice to schools on responding to incidents where a pupil is found in possession of banned items for the purpose of self-harm.

Emotionally based school avoidance (EBSA) pathway

Where schools are informed of a pupil's mental health needs, schools should not delay in putting support in place. We recognise that pupils exhibiting poor attendance driven by mental health needs or heightened anxiety present schools with many challenges. Many of the interventions and support schools can provide are dependent upon the pupil's attendance and engagement with school.

However, building on positive home-school and peer-to-peer relationships can have significant positive outcomes. For many pupils this will provide appropriate level of support. Schools must actively demonstrate flexibility and be innovative in how they scaffold the support for these pupils.

The EBSA pathway clarifies what schools can expect of the LA and what the LA must expect from schools in relation to their duties. This, in turn, guides all stakeholders, not least children and families, in understanding what support they should expect to receive, when, where and from whom.

The EBSA pathway is a graduated response meaning it follows an assess-plan-do-review cycle. It is focused on supporting schools in relation to:

- meaningful and robust early intervention through effective whole school systems
- clear understanding of individual needs and contexts
- collaborative, person-centred working with parent and carers and the child or young person

The pathway considers each stage of EBSA. From indicators of risk of EBSA, through early indicators of EBSA to EBSA occurring, and provides steps to be taken. The EBSA pathway is a wraparound approach of proactive support. Throughout this is the emphasis on the need for a return to school, alongside:

- support strategies and interventions
- adaptations within the school and home environment

This graduated process is underpinned by the support available to schools from our children's services and relevant health professionals. Direct support regarding the EBSA pathway can be accessed via the pupil reintegration team (PRT).

Pupils with physical health needs

Sometimes a pupil has significant physical health needs which, despite reasonable adjustments from school, prevent them from accessing their usual place of learning for 15 school days or more. Schools should then

complete a referral to the medical support panel (MSP). Though not an exhaustive list, this would include pupils who:

- have a significant physical illness
- have been an inpatient and require support upon discharge
- have had major invasive surgery
- are undergoing oncology treatment

The referral should be supported by clear detailed medical evidence from an appropriate medical professional leading on the treatment for the pupil. They should demonstrate that the pupil is unable to access suitable education at their school.

Pregnancy

It is the responsibility of schools to provide for pupils of statutory school age who become pregnant. Pregnancy is not an illness and a referral to MSP is not appropriate.

Schools should develop a care plan with the pupil to support her continuing attendance at school prior to her confinement. Pupils are entitled to 18 weeks authorised absence from school to include preparation for and after the birth.

Medical support panel

The LA medical support panel (MSP) is a multi-agency panel that considers the needs of pupils. The panel decides on how 'suitable education' that is 'reasonably accessible' might be provided. This is in accordance with the LA's Section 19 duty.

The MSP is evidence-based and will consider pupil's needs holistically. The panel meets every two weeks during term time and considers the referral paperwork and supporting evidence. The panel includes representatives from attendance, inclusion, mental health, autism outreach, early help and Pilgrim Hospital School.

Usually, they will seek to further support and reinforce the school's own arrangements. This will help the school's ability to maintain the pupil at their substantive school.

The panel's outcome will advise on what further steps, strategies and support school can and should be robustly implementing to ensure continued access to suitable education. One of the further steps may be access to a short-term period of dual registration with Pilgrim Hospital School. This would be a dual

placement and focussed on working with the pupil's school to support the pupil's timely transition back to their school.

Intervention placements are agreed on an 18-week cycle with regular reviews every six weeks. It is crucial for the pupil's own mainstream school to stay in weekly contact with the pupil and family. The school should actively contribute to the support provided by the Pilgrim Hospital School.

Where a placement at Pilgrim Hospital School is deemed appropriate, within two school weeks to commence admission processes the school will contact the:

- family
- home school
- referral agency

The admission timescales allow the setting to develop a learning package suitable for the pupil's age ability and aptitude. It will take into account their health needs and any medical advice.

Referral criteria

Referrals are submitted by:

- the school where the pupil is registered or,
- an authorised officer of the LA (attendance and inclusion team or pupil reintegration team) where a CYP is not on a school roll
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The basis for all referrals to MSP, including those with a EHCP, is that the pupil is unable to access their current setting. It is not because the current setting cannot provide for the pupil's needs.

In accordance with the DfE guidance the referral criteria for the MSP is:

- The pupil must have accrued 15 days absence from their usual place of learning and the school register will evidence that this is due to ill health or medical reasons.
- The referral will be supported by clear detailed medical evidence from an appropriate medical professional leading on the treatment for the pupil that demonstrates that the pupil is unable to access suitable education at their school.

or

- A review of the support and interventions implemented by the school via the EBSA pathway is required to establish if the pupil is not in receipt of a suitable education because of ill health and will not be unless the LA make such arrangements.
- The referral has been submitted by an appropriate agency:
 - The school where the pupil is registered
 - An authorised officer of the LA when a CYP is not on the role of a school (attendance and inclusion team or pupil reintegration team)
 - A health professional, for example when a pupil is completing a period of inpatient treatment as part of their discharge arrangements

Referral process

Referrals to MSP are completed via the submission of the Request for education support – MSP referral form (available from our Professionals website). The form is submitted by:

- a pupil's school
- an LA authorised officer (pupil reintegration team or the inclusion and attendance team) if a pupil is not on a school roll

Parent or carer consent must be sought by the referrer prior to submitting a referral to MSP. The referrer is responsible for keeping the parent or carer and the CYP updated throughout the process.

For referrals of pupils with physical health needs, clear and detailed supporting medical evidence must be included. This evidence should be from an appropriate medical professional leading on the pupil's treatment.

Where the referral is for pupils exhibiting EBSA, the referrer must submit supporting documents from the EBSA pathway application. Where possible, this should be supported by medical evidence.

The PRT panel clerk will screen the referral. They will notify the referrer if the referral form has omissions or if there is a lack of supporting documents. The referrer will have the opportunity to provide these documents prior to the referral being considered at MSP.

The referral will be considered at the next fortnightly MSP following the deadline for submissions.

Following consideration of a referral at MSP, the referrer will receive a call from the PRT panel clerk. The call will be within 48 hours of the MSP meeting and will inform them of the outcome. The referring school will then also receive an email detailing the agreed advice and next steps provided by the panel.

The referring school or referrer can contact the PRT for a consultation post outcome to fully discuss the advice and next steps. Details relating to this are included in the outcome email.

Pupils with disabilities

We recognise that some pupils have complex medical needs and, or disabilities which may present a range of challenges to the pupil. These challenges can be across all aspects of daily life, including school attendance and engagement with their learning.

For CYP with life-long conditions, schools must always have regard to their duties under the SEND code of practice and the Equality Act 2010. They must ensure that all necessary reasonable adjustments are in place. The pupil must not be placed at a disadvantage by reason of their disability or disabilities.

If the pupil experiences barriers to their engagement with or access to learning, it must be established whether these due to a disability or their current ill health. Referrals to MSP can only be for current ill health.

Pupils with education, health and care plans (EHCPs)

Where the pupil with health needs also has an EHCP, their access to education is enshrined within their EHCP plan. A pupil with an EHCP can also experience periods of ill health. Therefore, the processes for schools to follow, including the graduated pathway for EBSA, are not exclusive to mainstream pupils or settings. Schools should follow the EBSA pathway if a pupil with EHCP exhibits these challenges. Schools should also liaise with the SEND caseworker and family to ensure that the EHCP resource is utilised appropriately to meet needs.

Where there are concerns about a EHCP pupil's provision, schools should always liaise with the SEND team and arrange for an annual review meeting. Where the annual review identifies that the current setting is unable to meet needs consideration must be given as to what the long-term provision requirements are.

A referral to MSP with a view for a place within Pilgrim Hospital School is not appropriate simply because the pupil is not able to engage with their mainstream school placement. The basis for all referrals to MSP, including those with EHCP, is that the pupil is unable to access their current setting, not because the current setting cannot provide for the pupil's needs.