

DRAFT Policy

Warwickshire County Council's

Supporting Children who are unable to attend their education setting (Section 19 of the Education Act 1996) Policy.

1. Introduction

- 1.1. Warwickshire County Council (the Council) is committed to ensuring that every child in Warwickshire has the opportunity to benefit from high quality, inclusive, accessible education, to enable them to thrive and fulfil their individual potential.
- 1.2. The Council is committed to working with schools, children and young people, health and social care partners, whilst at the same time maintaining a firm focus on achieving our four Education Strategy priorities which are defined as:
 - Priority 1 - Best Start. We will secure the very best start for all children in the county.
 - Priority 2- SEND & Inclusion. We will encourage ambition, create opportunity and support all learners to be the very best they can be.
 - Priority 3 - Sufficiency & Admissions. We will ensure Early Years and school places are provided in the right place at the right time.
 - Priority 4 - Strong System. We will operate as a systems leader to influence, facilitate and develop high quality education provision that is inclusive and accessible to all.
- 1.3. The Council recognises that there is a shared responsibility between the local authority (LA), schools and partner agencies to successfully implement this policy and promote high quality integrated service provision to support positive outcomes for this cohort of children and young people (CYP).
- 1.4. This policy outlines the Council's legal duties under [Section 19 \(S19\) of the Education Act 1996](#), to make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise may not for any period receive suitable education, unless such arrangements are made for them.
- 1.5. The term 'suitable education' is defined in law as efficient education suitable to the child's age, ability, and aptitude, and to any special educational needs he or she may have.
- 1.6. The policy applies only for children of statutory school age whether on a school roll or not. It does not apply in the case of a child (a) who will cease to

be of compulsory school age within the next six weeks, and (b) does not have any relevant public examinations to complete.

- 1.7. For a child with an Education, Health and Care Plan, the LA who is responsible for maintaining the EHC plan is responsible for ensuring that the necessary provision is in place; this includes Section 19 provision. Even if a school in another local authority is named, the LA responsible for maintaining the EHC plan is responsible for the Section 19 provision.
- 1.8. This policy and process sets out Warwickshire's approach to meeting the needs of children for whom it has a legal responsibility to provide education but who for reasons relating to illness, exclusion or otherwise experience barriers to accessing a full and suitable education offer within a school. The Council expects schools to have fulfilled their legal obligations and followed statutory guidance (e.g. the graduated response) and have made reasonable adjustments required under the Equality Act 2010.

2. Legislation and Guidance

- 2.1. This policy has been written with due regard to the following legislation and statutory guidance:
 - The Education Act 1996
 - The Equality Act 2010
 - 'Alternative Provision' Statutory Guidance (2013)
 - The Children and Families Act 2014
 - 'Supporting pupils at school with medical conditions' Statutory Guidance (2015)
 - SEND code of Practice (2015)
 - 'Arranging education for children who cannot attend school because of health needs' Statutory Guidance (2023)
 - Summary of responsibilities where a mental health issue is affecting attendance' Guidance (2023)
 - 'Suspension and Permanent Exclusion Guidance' (2024)
 - 'Working together to improve school attendance' Guidance (2024)
 - 'Providing remote education' Guidance (2024)

3. Aims of the policy

- 3.1 To provide clarity regarding roles and responsibilities of schools, the Council and other agencies.

- 3.2 To ensure that all CYP have access to a suitable¹, full-time education which meets their individual needs to enable them to thrive and fulfil their ambitions and aspirations.
- 3.3 To ensure, when a child of compulsory school age is unable to access their educational setting due to illness, exclusion or otherwise, the Council complies with its duty under section 19 of the Education Act 1996 to ensure suitable provision for them.

4. Defined Categories and Process

- 4.1 This section provides an overview of the Council's processes and offer for CYP who require a Section 19 response under the three identified categories:
 - **Permanent exclusion**
 - **Ill Health**
 - **Otherwise**
- 4.2 A decision will be communicated to the school and parents within 10 working days of receiving the notification.

Permanent Exclusion

- 4.3 If a child has been permanently excluded from school, the Council must arrange suitable education from the sixth day following the exclusion.
- 4.4 The headteacher/school is required to report permanent exclusions to the Council without delay, in-line with the Suspension and Permanent Exclusion Statutory Guidance and WCC Exclusion Guidance. Schools are requested to notify WCC via the Exclusions notification form. If schools have any queries these should be sent to exclusions@warwickshire.gov.uk.
- 4.5 If a child is unable to attend school due to a permanent exclusion, suitable education will be arranged by WCC within the statutory timescales. It is critical that the excluding school provides all relevant and appropriate information via the Learner Information Form (LIF) to support the best possible placement and desired outcomes.
- 4.6 Following a permanent exclusion, the Council, working together with relevant education settings, the child's family and wider agencies, are responsible for enabling the child or young person to reintegrate back into a sustainable education place.

¹ "suitable education", in relation to a child or young person, means efficient education suitable to his age, ability and aptitude and to any special educational needs he may have.

III Health (physical and mental health)

- 4.7 The Children and Families Act 2014 and the SEND Code of Practice 2015, highlights schools' legal duty to support pupils with medical conditions through the delivery of reasonable adjustments and otherwise.
- 4.8 Where a CYP is not accessing education due to ill health for a period in excess of 15 school days for the same or linked reason in the same academic year, a school can consider the need to request support from the Council by completing a Flexible Learning Referral form, as outlined in Appendix 1, unless the school is making their own arrangements for suitable full-time education. This process can also be accessed via the completion of the Sickness Absence return.
- 4.9 The Council will monitor information from schools on children that have been reported as being ill for fifteen days (consecutive or cumulative).
- 4.10 On receiving a Sickness Absence return from a school or a request for support from a parent (refer to 5.25), the Council will assess what support is required and reach a decision based on the DfE guidance, refer to 2.1.
- 4.11 The Council must consider the individual circumstances of each CYP and take into account any evidence or advice when deciding what arrangements to make.
- 4.12 Where the child is at school, the school knows the child/family and their individual circumstances well, so the information required from the school is critical for the right decision to be made. Where the child is not at school the Council will use evidence available but may require further assessment from a range of professionals (such as Health, Social Care, Early Help, Educational Psychologists) to make a decision.
- 4.13 It is important that the Council, school and family work together in the best interests of the child.
- 4.14 Outcomes may include, but are not limited to:
- 4.14.1 The Council advising and supporting schools to make reasonable adjustments if it considers that the CYP could be appropriately supported to attend school.
 - 4.14.2 Provision delivered via WCC's Flexible Learning Team which may include, live on-line learning or face to face provision, refer to [Warwickshire Flexible Learning Team](#) for further details.
 - 4.14.3 Securing other suitable education via the Council's education provision framework.

- 4.15 Please refer to Appendix 1, which outlines Warwickshire’s process for access to education for CYP with health needs.
- 4.16 Where a child is in hospital for an extended stay of more than five school days, or who have recurrent hospital admissions, the Council will ensure suitable education is in place to meet the education needs of the child. This service is provided by hospitals.

‘Otherwise’

- 4.17 Apart from illness and exclusion, there may be other reasons why a child cannot reasonably access their education provision. Consideration needs to be given to each case to determine if the Council’s duty under Section 19 of the Education Act 1996 to arrange suitable alternative education arises.
- 4.18 ‘Otherwise’ (as opposed to illness or exclusion) is intended to cover any other situation in which it is not reasonably possible or reasonably practical for a child to access and take advantage of any existing suitable schooling.
- 4.19 Outcomes may include, but are not limited to:
- 4.19.1 the Council advising and supporting schools to make reasonable adjustments if it considers that the CYP could be appropriately supported to attend school.
 - 4.19.2 access to on-line learning.
 - 4.19.3 securing other suitable education via the Council’s education provision framework.

5. Roles and Responsibilities

The Council’s Responsibilities

- 5.1 The Council is responsible for ensuring that there is a named senior officer with responsibility for the provision of education for children and young people who are unable to attend school because of health needs. In Warwickshire the officer is Head of SEND & Inclusion.
- 5.2 Where a CYP is receiving provision under Section 19, access to 25 hours of provision per week may not be necessary to ensure that the child has a full-time education, as the provision is often more concentrated. In such cases the provision will be considered on a case-by-case basis and will be tailored to the child’s age, aptitude, and ability and any other special educational need or disability).
- 5.3 Where a CYP receives provision under Section 19, this will be subject to regular meetings to review progress and need, with the intention for the CYP to reintegrate back into school.

- 5.4 The Council will facilitate effective liaison with all appropriate agencies and will ensure that there is minimum delay in starting appropriate support.
- 5.5 The Council will monitor information from schools on children that have been reported as being ill for fifteen days (consecutive or cumulative). Pupils will be appropriately triaged and followed up as required in relation to the Council's statutory responsibilities and duty of care for CYP.
- 5.6 A decision will be communicated to the school and parent/carer within 10 working days of receiving the notification.

The school's responsibilities

- 5.7 The school will retain safeguarding and school census responsibilities for all CYP for whom the Council arranges education provision as the sole or (main) dual registered provision. This includes exam entry responsibilities that fall under the remit of its Examinations Officer.
- 5.8 Where a CYP is eligible for free school meals the host school is responsible for ensuring that the entitlement is made available to that child, regardless of where learning is taking place. This is to be funded from the Free School Meal funding that schools draw down directly from the Department for Education.
- 5.9 If a school is not authorising an absence and/or believes that the attendance pathway might be needed, the school should approach their named WCC Attendance Officer for a discussion.

The school's responsibilities - Permanent Exclusion

- 5.11 The headteacher is required to report permanent exclusions to the Council without delay, in-line with the Suspension and Permanent Exclusion Statutory Guidance and WCC exclusion guidance. Schools are requested to notify WCC via the Exclusions notification form. It is critical that the excluding school provides all relevant and appropriate information via the Learner Information Form (LIF) to support the best possible placement and desired outcomes. If schools have any queries these should be sent to exclusions@warwickshire.gov.uk.

The school's responsibilities- Ill Health (physical and mental health)

- 5.12 Attendance is everyone's business, so in many circumstances schools will not be able to fully support a CYP without the assistance of a range of other agencies. Schools must ensure arrangements are in place to support pupils in-line with 'Supporting pupils at school with medical conditions' Statutory Guidance 2015, and the schools own Medical Needs policy.
- 5.13 Schools should:

- 5.13.1 Make use of school nursing services and Mental Health in School's Teams.
 - 5.13.2 Consider whether additional support from other external partners would be appropriate and make referrals eg: Early Help, RISE, Flexible Learning Team, health partners, EPs.
 - 5.13.3 Where external support is provided schools should work with these services to deliver any subsequent support.
- 5.14 For pupils with health needs, where possible, should be managed by the home school so that they can continue to be educated there with support, and without the need for the intervention of the local authority. Home schools would usually provide support to children who are absent from school because of illness for a shorter period, for example when experiencing chicken pox or influenza. The DfE 'Supporting pupils at school with medical conditions' guidance outlines the expectations for schools in this respect. However, as soon as it is clear the home school can no longer support the child's health needs and provide suitable education, the school should speak to the Council about putting alternative provision in place, for example, a referral to the Flexible Learning Team.
- 5.15 The school's publicly accessible policy for supporting children with medical conditions should set out how they will support children with health needs, including a named person who can be contacted by the Council and by parents/carers. Regular communication should be maintained between a named member of school, the child, and parents/carers to promote engagement and welfare, monitor progress and any safeguarding concerns. Schools should also ensure that children and young people and their parents/carers successfully remain in touch through school newsletters, emails, and invitations to school events.
- 5.16 If a pupil is absent from their home school (school they are on roll at) for 15 days or less then they will remain the responsibility of the home school to arrange suitable education provision if they are deemed well enough to participate in education activities.
- 5.17 Schools are required to make a Sickness Absence Return to the Council if a pupil is recorded in the attendance register as absent using code I (unable to attend because of sickness/ill health) and there are reasonable grounds to believe the pupil will have to miss 15 consecutive school days or more for illness, or the pupil's total number of school days missed during the current school year because of illness (whether consecutive or cumulative) will reach or exceed 15 school days. Only one Sickness Return is required for a continuous period of sickness in a school year.

- 5.18 All returns/referrals should clearly show what support mechanisms the school has put in place to enable the CYP to remain in school e.g. robust universal and targeted provision evidence, Early Help, individual education plans,
- 5.19 A child unable to attend school because of health needs must not be removed from the school roll.

The schools Responsibilities - Otherwise

- 5.20 It is acknowledged that the 'Otherwise' category could be for many different reasons. Given the complexity of each individual case, it is suggested that a conversation should take place in the first instance between the school and their named WCC Attendance Officer to discuss the appropriateness of a referral.

The role of the Parent/Carer

- 5.21 Where parents/carers decide to have their child registered at school, they have a legal duty to ensure their child attends that school regularly. This means their child must attend every day that the school is open, except in a small number of circumstances such as being too ill to attend or being given permission for an absence in advance from the school.
- 5.22 If a parent/carers has any concerns about their child's attendance at school eg: child's health is having an impact on their learning, in the first instance the parent/carers should contact their child's school to discuss how they could properly support their child to enable them to have full access to education.
- 5.23 If it becomes clear that the child can no longer attend their school because of their health needs, the school should inform the local authority and work collaboratively with parent/carers to understand the child's barriers to attendance.
- 5.24 Parents/carers hold key information and knowledge and have a crucial part to play in liaising with the school and other services. Parents/carers are expected to work with their child's school to help them understand their child's barriers to attendance and proactively engage with any support offered.
- 5.25 If a parent/carers feels their child is unable to attend school despite the parent/carers working hard with professionals to get the child into school, and they are still not reasonably able to attend, the parent/carers may submit a parental request form [Sickness request - Parents](#).

6. Identification and Referrals

- 6.1 When a CYP is already on roll at a school/setting, the school/setting is responsible for notifying the Council of not being able to meet need via the Sickness Absence Return or Flex Learning referral.

- 6.2 Where a child is not on a school roll, ie: moving into county but the child is too unwell to attend a school setting the parent/carer should be advised to contact WCC's Admissions Service in the first instance.
admissions@warwickshire.gov.uk

7. Reintegration and Review

- 7.1 All CYP covered by Section 19 provision arranged by the Council will be reviewed a minimum of every six weeks.
- 7.2 The Council will consider the appropriateness of the CYP returning to their host school. The Council will work with the relevant provider, parents/carers and host school to ensure the best outcomes for the CYP.

8. How to comment or complain

- 8.1 If parents/carers are concerned about the support being provided for their child by their school, they should discuss their concerns directly with the setting. If, for whatever reason this does not resolve the issue, they may make a formal complaint via the school's complaints procedure which should be outlined on their website. In the case of academies, parents/carers can raise concerns with academy or trust directly using the appropriate complaints procedure which should be outlined on their website. If parents do not feel that their concerns have been adequately addressed, they can raise their concerns with the Department for Education - <https://www.gov.uk/complain-about-school>
- 8.2 If a parent/carer or school is unhappy with the Council's arranged provision or other related matters, in the first instance they should contact the Council department supporting the CYP to discuss the issue. If for whatever reason this does not resolve the issue, they may make a formal complaint via the Council's complaints procedure see [Customer feedback and complaints – Warwickshire County Council](#).

9. Funding Arrangements

- 9.1 When the Council has determined that Section 19 applies, education provision for children with medical needs and children who have been permanently excluded is funded from local authorities' Dedicated Schools Grant budget.
- 9.2 When the Council has determined that Section 19 applies, and where a child is on roll at a school, a proportionate amount of pupil funding (Age Weighted Pupil Unit, AWPU) will be reclaimed from the host school for the period that Section 19 applies, to support with funding the provision, as agreed by Warwickshire's Schools Forum. This arrangement ceases when the child is reintegrated back to their home school or are no longer on the roll of the home school.

- 9.3 When a child permanently leaves the roll of their home school and is admitted to another school or alternative provision, a mandatory funding adjustment is made by the local authority. Details of these adjustments are set out in the 'Redetermination of budgets' sections of the 'Schools operational guide' on (www.gov.uk)

10. Review

- 10.1 This policy will be reviewed every three years or where major changes in legislation or policy requires it.

11. Appendices

- 11.1 **Appendix 1:** Supporting children who are unable to attend their education setting due to ill health.
- 11.2 **Appendix 2:** [WCC's Exclusions guidance](#)