



Flexi-schooling Best Practice Staffordshire Guidance for Schools

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Intranet:

Local Offer: <http://www.staffordshirecares.info/pages/my-disability/children-additional-needs/send-reforms/Local-offer/Governance/Strategy-and-Policies.aspx>

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1. Flexi-schooling: Why do we need Guidance for Staffordshire schools

The County Council is aware that recent developments in both the guidance provided by the Department for Education and in the provision being offered by some Staffordshire schools, has made it necessary to publish our own guidance for Staffordshire schools on the use of the 'flexi-schooling'. Whilst this guidance does not amount to an instruction for schools, it does reflect the views of Staffordshire County Council and has been written in conjunction with safeguarding officers and legal advisors.

Staffordshire County Council will consider appropriate action to take should any flexi-schooling arrangements be found to fall short of the requirements set out by the law. Flexi-schooling should not be confused with part-time timetables. Part-time timetables are put in place on an exceptional basis for a time limited period for circumstances such as medical intervention or to meet a pupil's individual needs. For more details on this please see the Government's School Attendance guidance (see hyperlink below).

2. Government Guidance

The current School Attendance guidance does not include references to flexi-schooling, but it should be noted that when references to flexi-schooling were removed in February 2013 the following statement was published on the Department for education's website:

"On 22 February 2013, the Government published revised [advice on school attendance](#). The advice clarified the Government's expectations on how various school attendance codes should be used to record pupil school attendance. Schools should not mark a pupil as attending school, using the attendance code B for off-site education activity, unless the school is responsible for supervising the off-site education, and can ensure the safety and the welfare of the pupil off-site. Schools are ultimately responsible for the attainment of every child registered on their roll. Whilst being home educated, parents and carers are responsible for pupils, not schools.

"Where parents have entered in to flexi-schooling arrangements, schools may continue to offer those arrangements. Pupils should be marked absent from school during periods when they are receiving home education. The reference in the Government's revised advice on school attendance, that was categorical that a school could not agree to a flexi-schooling arrangement, has been removed."

Current guidance on School Attendance is available here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/361008/Advice_on_school_attendance_sept_2014.pdf

There is no legislation or case law which either forbids or authorises flexi-schooling. Parents are under a legal duty to ensure that any child of theirs who is of compulsory school age receives full-time education which is suitable to their age, ability, aptitude and any special educational needs that they may have, either by regular attendance at school or otherwise. In addition, local authorities must have regard to the general principle that a child is to be educated in accordance with their parents' wishes.

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Parents do not have legal right to have a flexi-schooling arrangement. Flexi-schooling is an arrangement between the School and the parent of a registered pupil and is entered into at the complete discretion of the head teacher. It should also be noted that flexi-schooling cannot be imposed by a school on a child or family by a school. There are a few maintained schools that have chosen to operate on a more structured flexi-schooling basis in Staffordshire, but most schools will deal with very few such requests and will consider them only on a case-by-case basis, having assured themselves of the provision being legal, safe, practicable and effective.

3. Ofsted Guidance

Under current Ofsted frameworks for local authorities, an expectation exists that children and young people who do not attend school will have access to 25 hours per week of good-quality registered alternative provision. In the context of flexi-schooling, Staffordshire County Council defines 'access' as meaning that the child has the right to attend school on a full-time basis, and that the school must therefore provide this for the child whenever required by the child's family.

4. Staffordshire County Council's Guidance for Schools

The following guidance from Staffordshire County Council seeks to cover some of the possible areas of concern which arise when schools opt for flexi-schooling arrangements in response to parental requests. These guidelines aim to clarify the balance between the right of the parent to educate their child at home and the responsibilities of the school and of the local authority.

Children who are flexi-schooled are treated by the law as being full-time pupils of the school, but a separate agreement is reached by parents with the school to allow the child to take part in 'approved educational activities' during school hours and away from the school. Legally the overall responsibility for the supervision of "approved educational activities' sits with the school, and they need to ensure that any child accessing flexi-schooling is receiving a suitable education and remains safe.

5. Safeguarding

Staffordshire County Council and its partners recognise that safeguarding is everybody's responsibility. We all contribute toward all young people 'staying safe'. This will be achieved by maintaining an ethos of commitment to safeguarding and promoting the welfare of children and young people, including through effective processes and robust safeguarding practices.

Staffordshire Safeguarding Children Broad (SSCB) provides safeguarding information for professionals, volunteers, parents and carers, children and young people and members of the public about the key issues that can affect the wellbeing and safety of children. For more details, please use the web address below.

<http://www.staffsscb.org.uk/Home.aspx>

The responsibility for setting up and monitoring the suitability of the flexi-schooling arrangement lies with the School and not with the Local Authority. Any school willing to agree to flexi-schooling should be aware that when marking a child as attending an 'approved educational activity' it will remain fully responsible for the supervision of

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the children concerned and for the outcomes of the education completed away from the school. The school will need to implement appropriate processes, including risk assessments, to ensure that the child receives a suitable full-time education and remains safe during school hours, including time away from the school base before considering making use of Code B in the school register.

Our position is that any child receiving education under a flexi-schooling arrangement should in all but the most exceptional circumstances attend for at least four whole sessions each week and must the school for at least two whole sessions every 5 schools days.

Between the whole sessions at school an individual learning plan, which is written and agreed with the parents, and resourced for delivery must be in place for each child utilising flexi-school arrangements. This learning plan must indicate the nature of the work for each session not at school and should clearly demonstrate how this contributes to the learning, attainment and progress of the child.

Where access to the internet or other forms of electronic communication is required at home or away from the school site, the school will provide clear advice and guidance to the child and family regarding staying safe.

A clear review of the flexi-schooling arrangement involving all appropriate professionals must be undertaken by the school for children subject to section 17 or section 47 of the Children Act 1989.

6. Flexi-school Agreement

The County Council require that a written and signed flexi-school agreement must be formulated between the school and parent in order to make expectations clear for all concerned. The agreement needs to be legally binding, and therefore such an agreement should be verified by the school's legal advisor.

The agreement will include, but not be limited to, sections on:

- *The reasons for a flexi-school arrangement, and the initial term of the agreement;*
- *Details of what areas or subjects will be studied at home, or away from the school site and what areas or subjects will be taught in school;*
- *Details of what days/sessions the child will or will not normally attend school (bearing in mind the guidance given above), and what arrangements will apply if the child is unable to attend or to take part in an approved educational activity;*
- *Details of how the structure of the in-school days/sessions will be organised, such as whether attendance will be for a full day or a session, whether the child's parents will be expected to be in attendance, and what the child will do whilst in school;*
- *Details of how the school will make contact with the parent each day that the child is not attending school to review the content of the education being received on that day;*
- *Details of regular reviews between pupil, parent and school to discuss on-going home-study curriculum and progress and to promote good home-school relationships;*

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- *Details of what information (such as timetables or schedules or work) that the parents will need to provide to the school in advance of education taking place, and how regularly this will need to be received;*
- *Details of how the register will be marked, and in particular details of what will be required in order to ensure that the child is recorded as having attended an 'approved educational activity' (for more details see below);*
- *Details of what evidence the school will need to see before the child can be marked as having attended an 'approved educational activity';*
- *Details of how the pupil will be assessed, and arrangements for public assessments and examinations;*
- *Details of what access the pupil will have to school events and activities;*
- *Details of where the parties agree that liability for health, safety, wellbeing and education will sit whilst the pupil is being educated at home;*
- *Procedures that the school will follow for any unexpected or unexplained absence in the same way as it does for other pupils.*
- *If a parent chooses to employ other people to form part of the education of their child at home, clarity on the parental responsibility for making sure that those whom they engage are suitable to have access to children, and assurance procedures that the school will undertake in regard to this.*
- *Details of any special educational needs and associated provision, as well as details of how this will be provided for the child in the light of the flexi-schooling arrangements.*
- *Confirmation that the school will notify the local authority of the agreement, and of any concerns it may have about the suitability of the education being provided. The local authority will also be informed, in advance, if the flexi-schooling arrangement is to be withdrawn and/or a termination of the agreement*
- *How often and under what circumstances full reviews of the flexi-schooling arrangements will be carried out;*
- *Termination provisions, which must allow either party to terminate the agreement without notice; and*
- *Dispute resolution provisions must be explicit and agreed.*

If a parent refuses to sign the flexi-school agreement then it must be made clear to the parent that the school will not enter into flexi-schooling arrangements, and similarly if the parent fails to follow the terms of the agreement, the school must inform the parent that the flexi-school arrangement will be discontinued. The child is then required to attend at school on a full time basis, unless the school receives written notification from the child's parent that they have chosen to withdraw the child from school in order to home educate their child. The school will inform the local authority of this decision and include other services (e.g. Education Welfare Worker, Elected Home Education Officer) to ensure the child is receiving an appropriate alternative education.

7. Marking the attendance register

Schools are advised that they could use the following methods if they agree to a flexi-schooling arrangement:

- a) As 'authorised absences' under Code 'C', subject to legislation and guidance which makes clear that this should only be used in exceptional circumstances relating to "the nature of the event for which leave is sought; the frequency of

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the request; whether the parent gave advance notice; and the pupil's attainment, attendance and ability to catch up on missed schooling" (Advice of School Attendance, Department for Education);

- b) As 'unauthorised absences' under Code 'O' where exceptional circumstances do not exist;
- c) As 'illness' under Code 'I' for those who are medically unfit to attend school (for which medical evidence should be provided); or
- d) In certain circumstances, instead of being recorded as authorised absence, the pupil can be recorded as attending 'an approved educational activity' (Code B). This code may only be used if:
 - the activity had been approved by a person authorised to do so by the governing body or the headteacher of the school;
 - the activity takes place during the school session in question;
 - the activity was educational in nature; **and**
 - the person supervising the activity at the time had been authorised to do so by the governing body or the headteacher of the school.

If any of these four conditions are not met, the school **must** mark the pupil as absent.

A school must not assume that any of the above conditions have or are being met, and must have processes in place in order to ensure that all of the conditions are being met for the child for each school session before Code B is utilised. The school needs to be able to demonstrate that these processes are robust as well as being able to ensure the safety of any child educated under a flexi-school arrangement.

For the school to mark the child as being engaged in an 'approved educational activity' for the purposes of keeping the school registers accurate the school needs to ensure that there is an approved educational activity going on. They therefore must be able to demonstrate what a child is doing in all school sessions and ensure not only that this is taking place but also that it is providing the child with a suitable education. It is expected that the head teacher or governing body will nominate one person as being able to supervise activities, and also nominate a person who will approve activities.

The Education Welfare Worker assigned to support the school's attendance from the Locality Support Team will upon inspection of the registers require access to the pupil level agreement and individual learning plan, so as to ensure that the requirements of the agreement pertaining to attendance are in line with this guidance. Any concerns regarding the child's attendance will be dealt with in line with Staffordshire County Council's attendance policies and current education legislation.

8. Children and Young People with Education, Health and Care Plans or Statements of SEN

The responsibility to ensure that all parts of the affected provision set out in Statement of Special Educational Needs or EHCP is not defeated by the activation of a flexi-schooling arrangement. There needs to be clear agreement of how the SEN provision will be provided for a child who is not attending on site for all school sessions. It is strongly recommended that those children who are part of flexi-

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schooling arrangement have their Statements or EHCPs reviewed on a more regular basis than for those attending school full-time to ensure they are making full and effective progress towards their objectives or outcomes.

9. Funding

Pupils who are subject to flexi-schooling arrangements are funded in the same way as pupils attending the school site for education. Requirements on use of funds, financial monitoring, governance and value for money apply to expenditure for these pupils in exactly the same way as to the rest of the school budget. Schools are responsible for meeting additional support costs for pupils with SEN who are flexi-schooled in the same way as if they were attending the school site full time.

10. Managing Risk

All provision of education off-school site is likely to require the active assessment and management of additional risks. The County Council promotes best practice in regard to risk, and recommends that where flexi-schooling arrangements are operating that schools leaders and governors have detailed, robust and monitored risk assessments and processes in place.