



North Yorkshire
County Council

Information for Parents/Carers - Rights and responsibilities relating to school attendance and behaviour

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1. RESPONSIBILITIES – PARENTS AND CARERS

All parents who have children of compulsory school age are responsible in law for ensuring that their children receive a suitable education. Most parents fulfil this responsibility by registering their children at a school.

Parents whose children are registered at a school or other educational establishment are then responsible for ensuring that they attend punctually, regularly and stay there as required.

2. PARENTING CONTRACTS

The Local Authority (LA) and schools have powers to make formal agreements (Parenting Contracts) with parents to address their child's behaviour and/or attendance at school.

What is a Parenting Contract?

It is

- a formal agreement between a parent and either the LA or the governing body of a school
- a voluntary arrangement. Parents cannot be forced to make the agreement with the LA or school. However, if the LA later prosecutes a parent for the unauthorised absence of their child, or applies for a Parenting Order following a permanent exclusion, a parent's refusal to make this sort of agreement or failure to keep to its' terms can be used as evidence in those proceedings
- intended to provide parents with the support they need and to encourage a positive working relationship between school, the LA and parents to tackle their child's persistent absence or poor behaviour in school and address any underlying causes
- Under the contract, the parent agrees to comply with specified requirements e.g. to ensure that the child attends school regularly and punctually over a specified period of time
- The LA/School will agree to provide specified support (tailored to the parents/child's needs) to enable the parent to comply i.e. support through a referral to the Prevention Service

When can a Contract be offered?

- In cases of persistent absence (under 85% attendance)
- When a pupil is excluded from school (whether for a fixed term or permanently)

Why was it introduced?

- Recognition that parents need support and that some parents may need individualised support from the school or LA
- Helps parents build a productive relationship with the school/LA and access the support they need.

3. PROSECUTIONS – s444 EDUCATION ACT 1996

A parents' failure to ensure the regular attendance of their child at school is a criminal offence. The LA has the power to prosecute for this offence in the Magistrates' Courts under s444) of the Education Act 1996.

On conviction, parents can be fined up to £1000 or in the case of a "Aggravated" offence they can be fined up to £2500 and may also be liable to a custodial sentence of up to 3 months.

If a parent fails to ensure their child's regular attendance at an alternative provision the LA also has the power to prosecute them in the Magistrates' Courts. In this case the parent must first have been given notice in writing of the requirement of their child to attend the alternative provision.

4. PARENTING ORDERS

Parenting Orders are available following a prosecution of a parent for the non-attendance of their child under Section 444 of the Education Act 1996. The LA and schools also have powers to apply for a Parenting Order to address a child's behaviour in school.

What is a parenting order?

- It is a court order which compels a parent to attend parenting classes and other requirements as determined necessary by the court for improving their child's behaviour or attendance
- In non-attendance cases it follows prosecution in the magistrate's court and is in addition to any other penalty imposed
- In behavioural cases the application is a civil case and therefore does not involve a criminal conviction

When can it be used?

- When a court is satisfied that it would be desirable in the interests of preventing further non-attendance of a pupil at school
- Where a pupil has been excluded for serious misbehaviour either permanently or for the second time in 12 months
- Where parenting is considered a factor in the child's behaviour and parents are unwilling to engage with the LA or school

Why was it introduced?

- Recognition that parents need support and that some parents may need targeted and individualised support from schools and LAs
- Some parents are unwilling or feel unable to engage voluntarily when school/LAs raise issues over their child's behaviour
- Parenting Programmes or 1:1 Parenting Sessions can help parents gain the skills and confidence they need to improve the attendance and

behaviour of their child. Over 90% of participating parents say that they would recommend them to other parents in their situation.

5. ALTERNATIVES TO PROSECUTION

Education Supervision Orders – Children Act 1989

The LA has a duty to consider an Education Supervision Order (ESO) prior to taking a prosecution against a parent. The LA may apply for the Order instead of, or as well as a prosecution, as a means of ensuring regular school attendance whether a child is enrolled at a school or not.

An ESO is made in respect of a child in the Family Proceedings Court under the Children Act 1989 and makes the LA responsible (through an appointed Supervising Officer) for advising, supporting and giving direction to the child and his or her parents in order to make sure that the child is properly educated. Directions may include for example, a requirement for the parent and child to attend meetings with the Supervisor, or with teachers at the school, to discuss the child's progress.

Where parents persistently fail to comply with directions, and those directions are reasonable, they may be guilty of an offence. In such circumstances the Supervising Officer must ensure that the matter is drawn to the attention of the court and upon conviction the parent will be liable to a fine. The Supervising Officer must also inform Children's Social Care (CSC) and, in such cases, CSC must investigate the circumstances around the child and consider whether it is appropriate for them to take any action to secure the welfare of the child.

Penalty Notices for Irregular attendance and exclusion

LA Officers, Headteachers (Deputy Headteachers or Assistant Headteachers if authorised by the Headteacher) or the Police, have the power to issue penalty notices but the main responsibility is with the LA.

What is a Penalty Notice

Irregular attendance

- Parents of a registered pupil whose child fails to attend school regularly are committing an offence (this includes the taking of an unauthorised leave of absence in term time (holiday) when the request is not deemed by the Head teacher to be an exceptional circumstance)
- Penalty notices provide an alternative to prosecution for the offence in the form of a fine. There are 2 levels of penalty - £60 (if paid within 21 days of receipt of the notice) and £120 (if paid no later than 28 days)
- Parents who pay the penalty within the time limits cannot later be prosecuted for the offence of their child's irregular attendance within the same time period to which the penalty notice relates

What if I don't pay?

- If a parent does not pay a properly issued notice within 28 days, the LA will prosecute for the offence of irregular attendance under s444 of the Education Act 1996.

Can I appeal against a penalty notice?

- There is no right of appeal against the penalty notice, but if you believe it to have been wrongly issued to you, you should contact the LA immediately. The penalty notice may be withdrawn if it has not been issued in accordance with the LA's Code of Conduct or has been issued to the wrong person
- If the penalty notice is not withdrawn and you do not pay, you will be prosecuted under s444 of the Education Act 1996. The court will consider the evidence and decide whether the offence has been committed. If found proven, the appropriate penalty will be determined.

Exclusions

- Penalty Notices can also be issued under the Education and Inspections Act 2006 if a child is seen in a public place in the first five days following a fixed term or permanent exclusion without a justifiable reason. Parents must have been informed of their duty and the time scale in writing by the school at the time of the exclusion

6. SCHOOL ATTENDANCE ORDERS

If it appears to the LA that a child of compulsory school age is not receiving a suitable education either by regular attendance at school or otherwise, then procedures for issuing a School Attendance Order against the parent under s437 of the Education Act 1996 will begin. The order will require the child's parent to register their child at a named school. If they fail to comply with the order the parent can be prosecuted in a Magistrates Court.

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