

ATTENDANCE ENFORCEMENT THRESHOLD GUIDANCE FOR SCHOOLS

Inclusion, Attendance and Welfare Service



Purpose of this Guidance

This guidance serves as a threshold document for schools who do not trade with the Inclusion Attendance and Welfare Service (IAWS). Underpinning this guidance is the Plymouth City Council Prosecution Policy for Non-school Attendance and the Local Code of Conduct for issuing penalty notices. The aim of this guidance is to ensure that we not only comply with the applicable legislative provisions set out in s444 of the Education Act 1996, but that we ensure a fair, equitable and objective process across the city. It is vital that parents are afforded equal opportunity in relation to addressing the issues affecting the poor attendance of their children. Therefore, if legal enforcement action is taken, the Inclusion, Attendance and Welfare Service will ensure that the preceding action and casework is compliant with service standards and expectations in relation to the evidential and public interest tests required under the Code for Crown Prosecutors.

Introduction

All children, regardless of their circumstances, are entitled to an efficient, full time education which is suitable to their age, ability, aptitude and any special educational needs they may have. Children Missing Education (CME) are at significant risk of underachieving, being victims of harm, exploitation or radicalisation, and becoming NEET (not in education, employment or training) later in life.

At present Plymouth City Council and schools are undertaking varying degrees of attendance support and enforcement work depending on whether a school has purchased the IAWS traded offer or has opted for statutory service intervention only. There will, therefore, need to be clarity regarding the statutory duty held by the IAWS, when Plymouth City Council would instigate a “criminal investigation” and of what such an investigation would consist. What is clear is that there is a legislative and government expectation that the local authority investigates all offences in relation to pupil absence in accordance with the Police and Criminal Evidence (PACE) Act 1984 regardless of whether or not it relates to pupils at academies or schools to which it does not currently deliver a traded service.

To achieve this, it is acknowledged that schools will need support understanding the expectations of the Local Authority and where their own responsibilities lie. This threshold guidance provides schools with a framework within which to work and provides schools with a level intervention model to address poor attendance. It is an inclusive approach that involves parents/carers, children and young people, relevant staff and support services. The IAWS levels of intervention provides a solution-focussed, graduated approach to meeting needs at the earliest opportunity, with the most appropriate and least intrusive level of intervention that enables services to plan how best to meet the needs of individual children, young people and families. It should assist in clearly setting out the support that is available and when it should be offered. It should also enable practitioners to provide early help by effectively identifying, understanding and supporting the needs of children, young people and families.

LEVEL INTERVENTION MODEL**Level 1:** Needs met by Universal Services available to all**Criteria:** Attendance Level is between 90% and 100% over a 12 week period**Service provider:** School

1. The expectation is that schools will have in place a first day calling system with parents of children who are absent from school to establish why the child is absent, and when they are expected to return.
2. A School Attendance Monitoring Process to identify when absence and/or punctuality becomes a concern.
3. Children with levels of attendance between 90% and 100% will usually receive support from the school's attendance officer in the first instance through a combination of telephone calls letters and home visits.
4. Have a praise/reward system in place for children who exceed the school's attendance target or who enter level 1 from level 2 or 3.
5. Send letters to the parents to inform them of any concerns that the school has in relation to their child's absence and lateness with details of school support available.
6. Teachers, Heads of Year, Attendance leads should meet with parents to offer support via Individual Attendance Plans and/or [Individual Health Care Plans](#)

Level 2: Child/Family may be vulnerable or have a low level need requiring single or multi agency support**Criteria:** Attendance Level is between 80% and 90% over a 12 week period**Service provider:** School

Children with attendance between 80% and 90% (persistent absentees) are likely to require additional support to return them to over 90%. The support will take the shape of school led welfare support as detailed below.

The table below outlines a range of actions that should be undertaken within this level where specific need has been identified:

Welfare Support
Attendance concern letter
School Meeting (Individual Attendance Plan)
Early Help Assessment
Team around Me
Individual Health Care Plan
Home visits
In school Pastoral/Mentoring/Counselling Support
Referrals to external support services
Referral for specialist assessment (e.g. SEND/CAMHS)
Initial Attendance Enforcement Action by School:
Non-attendance 1 st and 2 nd Warning letters
Parenting Contract
Home visits
Penalty Notice Warning under s.444(1) of the Education Act 1996 (school to complete SPWI*)
Penalty Notice (school to complete SN2*)
Level 3 IAWS intervention request (start of criminal investigation. School to complete LARI*)

*The process and supporting forms in relation to penalty notices and consideration by the local authority for prosecution can be found at: [Penalty Notice information](#)

The amount of welfare support/enforcement action undertaken by the school should be judged on a case by case basis. However, there is an expectation that welfare support underpins any enforcement action, and vice-versa. Therefore, prior to a child's attendance being progressed to Level 3 action, there should be evidence from the school, detailed using a contemporaneous case chronology, that:

1. A robust assess, plan, do and review approach has been implemented and welfare support has been put in place where additional need has been identified e.g. multi-agency outcomes based plan, Individual Health Care Plan etc.
2. That at least 2 non-attendance warning letters have been sent, a Parenting Contract offered.
3. Where appropriate, and in line with Plymouth's Illness Absence Guidance, medical evidence has been requested. N.B Schools should only consider requesting medical evidence on a case by case basis where there are grounds to doubt the veracity of the reasons provided for absence. This request must be in writing, stating why the school are concerned and what type of evidence would be expected and for how long. The letter must include advice regarding the potential enforcement action if their child's attendance fails to improve.
4. Consider the use of a Penalty Notice Warning under s.444(1) of the Education Act 1996, ensuring the criteria within the LA's [Penalty Notice Code of Conduct](#) is met.
5. There must also be clear recording of the rationale behind taking the decision to unauthorise absence
6. Detailed information regarding the level of parental engagement with a detailed chronology of all contacts with the parent and other agencies/services together with dates of any actions and interventions.

This chronology will be required as part of any subsequent referral to the IAWS for statutory legal enforcement action.

Level 3: Child/Family may have a complex level of need requiring higher level intervention, including referral to specialist assessments & services.

Criteria: Attendance Level is below 80%, with 20 sessions + of unauthorised absence in a 12 week period.

Service Provider: Inclusion Attendance and Welfare Service (via referral from school)

When all attempts to engage with the family at intervention levels 1 and 2 have failed, and the criteria has been met, the school can refer to the IAWS to undertake a Level 3 Intervention which initiates a criminal investigation in line with the Criminal Investigation Process.

In order to expedite any investigation by the Local Authority, the school should ensure their referral to the IAWS includes the detailed chronology mentioned above with all the required information.

It is of the utmost importance and a legal requirement under the [CRIMINAL PROCEDURE & INVESTIGATIONS ACT 1996](#), that all documents, including emails which could either undermine the prosecution case or that might assist the defence are disclosed by schools at the time of the referral.

A further request will be made for any disclosable material if Plymouth City Council decides a prosecution is appropriate and is in the public's interest.

No action will be taken without a signed declaration by the Head Teacher that all information/material has been disclosed to the LA that could either undermine the prosecution case or assist the defence

The aim of the criminal investigation process is to establish whether or not an offence has been committed under 444(1) or 444(1a) of the Education Act 1996 and to ensure that the evidential and public interest tests are met.

If, at any point during the criminal investigation process evidence comes to light which casts a reasonable doubt in relation to the public interest and evidential tests, the legal case will be held in abeyance or withdrawn and the case returned to the school for Level 2 intervention.

If the LAWS proceeds with legal action, the following will be requested from the school as a minimum:

1. A witness statement outlining what intervention has preceded level 3
2. A prepared registration certificate certified by the Head Teacher as a true and accurate record of attendance.
3. A chronology of intervention with supporting evidence and a clear record of the decision making regarding the use of absence codes, a statement authenticating the process around how absence codes are recorded, and in what circumstances any changes in attendance/absence codes were made.
4. Evidence Disclosure Declaration

Under section 447 of the Education Act 1996, the LA will consider whether it would be appropriate to apply for an Education Supervision Order (ESO) before prosecuting parents. The LA may apply for an ESO instead of or as well as prosecuting parents. The order is placed on the child and the local authority is appointed by the court to supervise that child's education, either at a school, or at home for a specified period of time. The LA's decision to apply for an ESO will depend on a number of factors including the preceding casework evidence and the public interest test. That is, before considering applying for an education supervision order, all reasonable efforts should have been made by all parties to resolve a problem of poor attendance without the use of legal sanctions. Many attendance difficulties can be overcome by sensitive action by schools. N.B. The LA may delegate supervisory responsibilities within the ESO to the School.

If a school requests that the LAWS consider an ESO they will be required to submit a comprehensive report detailing why they believe that this is appropriate. The report should include the following:

1. The child's record of attendance, distinguishing between authorised and unauthorised absence and a record of the decision making regarding the use of absence codes.
2. Contemporaneous case chronology which includes an assessment of the causes of the poor attendance and engagement by the child, parents, school and other agencies to address the poor attendance;
3. A description of the work that has already been undertaken and its impact on improving attendance. The reasons why an education supervision order is being requested including an assessment of any likely educational disadvantage to the child should an order not be made.
4. The name of the member of staff in school who is in a good position to deal with any educational issues which arise during the course of the ESO and who can advise, assist, befriend and give direction to the child and the parents.

This information should be emailed to educationwelfare@plymouth.gov.uk and include a referral form which can be found at:

<http://web.plymouth.gov.uk/homepage/staffroom/schoolroom/usefuldocuments/sreducationother.htm>,

and a LARI Form completed which can be found at:

<http://web.plymouth.gov.uk/homepage/staffroom/schoolroom/usefuldocuments/sreducationother/srpenaltynoticeinformation.htm>

Level 4: Child/Young person has acute needs that require statutory intervention to promote and protect the welfare of children/young people. (Applies to all levels of pupil attendance)

Service Provider: Everyone has a responsibility to promote and protect the welfare of children and young people.

This level relates to any instances where the child/young person is identified as being at serious risk of, or has experienced serious harm. Should a child be identified as being at level 4, a referral should be made to Plymouth's multi-agency hub immediately so they can instigate a statutory response to protect the child. Action at this level supersedes any ongoing intervention at any previous level – the priority is to protect the child. Advice can be sought from Plymouth's Early Help Gateway.

See link for referral to Plymouth's multi-agency hub:

<http://web.plymouth.gov.uk/homepage/socialcareandhealth/childrensocialcare/localsafeguardingchildrenboard/pscbchildabuse.htm>

The Early Help Gateway can be contacted by professionals on 01752 307160.

CHILDREN MISSING EDUCATION

2.1 The Education (Pupil Registration) (Amendment) (England) Regulations 2016 makes a number of amendments to the regulations to enable local authorities in England to implement their legal duty under section 436A of the Education Act 1996 and make arrangements to identify, as far as it is possible to do so, children missing education (CME).

2.2 All schools **must** notify the local authority within five days of adding a pupil's name to the admission register at a non-standard transition point. Schools **must** enter pupils on the admission register at the beginning of the first day on which the school has agreed, or been notified, that the pupil will attend the school. If a pupil fails to attend on the agreed or notified date, the school should undertake reasonable enquiries to establish the child's whereabouts and consider notifying the local authority at the earliest opportunity.

2.3 With effect from 1st September 2016, all schools **must** notify their local authority when they are about to remove a statutory school age pupil's name from the school admission register. When removing a pupil's name, the notification to the local authority **must** include: (a) the full name of the pupil, (b) the full name and address of any parent with whom the pupil normally resides, (c) at least one telephone number of the parent, (d) the pupil's future address and destination school, if applicable, and (e) the ground under which the pupil's name is to be removed from the admission register - applicable only to non-standard transition point.

2.4 Schools **must** make reasonable enquiries to establish the whereabouts of the child jointly with the local authority, before deleting the pupil's name from the register if the deletion is under regulation

8(1), sub-paragraphs (f)(iii) and (h)(iii) of the Education (Pupil Registration) (England) Regulations 2006.

2.5 Schools **must** monitor pupils' attendance through their daily register. Schools should agree with the Inclusion Attendance and Welfare Service the intervals at which they will inform Plymouth City Council of the details of pupils who fail to attend regularly, or have missed ten school days or more without permission. Schools should

monitor attendance closely and address poor or irregular attendance. It is important that pupils' poor attendance is referred to the Inclusion Attendance and Welfare Service.

2.6 Where a pupil has not returned to school for ten days after an authorised absence or is absent from school without authorisation for twenty consecutive school days, the pupil can be removed from the admission register following reasonable enquiries. This only applies if the school does not have reasonable grounds to believe that the pupil is unable to attend because of sickness or unavoidable cause.

2.7 Schools **must** arrange full-time education for excluded pupils from the sixth school day of a fixed period exclusion.

2.8 Schools have a safeguarding duty in respect of their pupils, and as part of this should investigate any unexplained absences

2.9 Further information regarding Plymouth's Local Safeguarding Procedures in relation to Children Missing Education and other safeguarding responsibilities can be found at:

<http://www.proceduresonline.com/swcpp/plymouth/contents.html>

Plymouth's Children Missing Education Policy can be found at: http://web.plymouth.gov.uk/cme_policy.pdf

FURTHER INFORMATION

This guidance should be read in the context of the statutory duties upon local authorities and parents as set out in the following:

- [**The Education Act 1996 section 436A;**](#)
- [**The Education Act 2002;**](#)
- [**The Children Act 1989;**](#)
- [**The Children Act 2004;**](#)
- [**Statutory guidance for local authorities: Children missing education \(September 2016\);**](#)
- [**Exclusion from maintained schools, Academies and pupil referral units in England 2012**](#)
- [**Working Together to Safeguard Children 2015**](#)
- [**Keeping Children Safe in Education 2016**](#)
- [**Elective Home Education Guidelines;**](#)
- [**School Admissions Code;**](#)
- [**School to school service: how to transfer information;**](#)
- [**The Education \(Pupil Registration\) \(England\) Regulations 2006,**](#) as amended
(Education law regarding pupil registration where a child is on a school roll);
- [**The Education \(Pupil Registration\) \(England\) \(Amendment\) Regulations 2013;**](#) as amended
- [**The Education \(Pupil Registration\) \(England\) \(Amendment\) Regulations 2016.**](#)

In particular the guidance provides for professionals seeking to exercise their duty under the following Acts to ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children.

[**Section 175 of the Education Act 2002;**](#) and [**Section 11 of the Children Act 2004**](#)