



# School attendance

A practical guide to parents' legal rights



# What does it mean?

In this guide we use:

- **must** when the law says something must happen
- **should** when the government expects something to happen e.g. in guidance.

## Other things you need to know

**The Local Education Authority (LEA)** is the education department of a local council. They must make sure there are enough school places. They can prosecute parents whose children do not attend school regularly.

**Parents** are responsible in law for their child being educated.

**Compulsory school age:** a child must receive education from the term following their 5<sup>th</sup> birthday until the last Friday in June in the school year in which they are 16.

**Home education:** education does not have to be in school. You can choose to educate your children at home but you must make sure your child receives a 'suitable education'. The LEA checks this. See page 12.

**Suitable education:** the law says a child must receive "efficient full-time education, suitable to his age, ability and aptitude and to any special educational needs he may have".

**Authorised absence:** only the school can authorise (allow) an absence. The reasons for an absence are marked in the school register at the start of the morning session and during the afternoon session of school. You should only be prosecuted or fined for your child's poor attendance if the absence is not authorised by the school. You have a right to a copy of your child's school record which says if absences are authorised or not.

**Lateness:** you can be taken to court if your child is often late for school.

**Family holidays:** parents must ask permission to take their child out of school for a holiday. Schools generally allow up to two weeks holiday in term time each academic year but they do not have to agree to it.

**Truancy sweep:** the police have powers to pick up (but not arrest) children playing truant and take them back to school or some other place such as an LEA office.

**Exclusion:** the Government says schools should not exclude for truancy.

# My child won't go to school

## What can I do?

### Step 1: Start with your child

All parents want the best for their children. They want them to be happy at school and to be able to do their best. If your child often misses school, you need to find out why and follow it up. If any of the following reasons apply to your child, check out here on where to get help:

- **bullying** – a common reason for children refusing to go to school. See ACE's booklet *Tackling Bullying* on how to get the school to take action. Get help for your child from Kidscape, a children's charity (*see page 12*).
- **problems with learning** – some children are good at hiding their difficulties so it may not be obvious that this is why they are truanting. Learning difficulties can include emotional and behavioural difficulties as well as problems with reading, for example. Speak to the school special educational needs co-ordinator (SENCO) and get a copy of ACE's booklet *Getting Extra Help*.
- **mental health problems** – such as anxiety, school phobia, panic attacks or depression can stop children going to school. Speak to the school special educational needs co-ordinator about extra help (*see ACE's booklet Getting Extra Help*). The education welfare officer (*see page 6*), a school counsellor or school nurse may also be able to help. If you are very worried ask your GP to refer your child to a specialist and/or ring Young Minds (*see page 12*).
- **problems at school**
  - with a particular teacher?
  - with a particular subject?
  - with transferring to secondary school?Speak to the class teacher or Head or, in a secondary school, the Head of Year.
- **problems at home** – is your family under stress? Death, illness, divorce, domestic violence, debt and housing problems all put a strain on family life and will affect your child. Is your child a young carer? You can get help from different professionals and organisations (*see page 6*), but you may need to talk to the school about pastoral support for your child too (*see page 5*).

- **moving about** – do you move about more than the average family? Some people move about because of their work – you may be a travelling family or a service family, for example. Perhaps you are a carer and your foster child is unsettled by many moves. If you feel your child may have difficulty settling in and making friends talk to the school to make sure they give them lots of support when they start. See Pastoral support on page 5.

## Step 2: Write to the school

Decide if any of the above apply to your child. Now write to the school to ask for a meeting. Step 1 gives you some ideas of who to approach. If you are unsure, write to the headteacher. Putting your request in writing may be useful later on if you need to prove you have tried to solve your child's attendance problem.

Dear Teacher *(give name or job title)*

I am concerned that my son/daughter is not attending school properly. I would like to meet you to discuss my child and what the school can do to help.

The points I would like you to know about are:

*(list any reasons for the problem from Step 1 e.g.*  
*Jamie cannot read very well. This is putting him off school...*  
*I think Rita is upset because her grandpa has recently died...*  
*I think Valda is being bullied. Most mornings she says she is*  
*unwell but I have noticed she is often alone at playtime...)*

I am available for a meeting...*(give dates)*.

*(Now list any of the following if they apply to you)*

I would like to bring a friend with me...*(give their name)*.

It would help if you could arrange for an interpreter who speaks... *(give your mother tongue)*.

I look forward to hearing from you,

Yours sincerely,

Parent *(give your name)*

*Important: keep copies of all letters*

You have a right to a copy of your child's school record which includes reports which record your child's absence. This is important because it will tell you which absences have been allowed by the school. Write to the Head for this.

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## Step 3: At the meeting

### What points should you make?

- Say what you think is bothering your child.
- Say when you first noticed the problem.
- Is it getting worse and how long has it been getting worse?
- Say if your child's behaviour has changed at home. If it is different from their behaviour at school, give some examples.
- Say what you think would help. Perhaps your child could change seats in class or get extra help (*see* Step 1 and Pastoral Support *below*). Perhaps the school could agree to ring you straight away if your child is late or doesn't turn up.
- Ask how you can help. Would it help to take your child to school for a time or let them come home for lunch, for example?
- Who will check that the help is working? When will this happen and how often? Who should you contact if necessary in future?

*Make a note of anything you agree with the school. Send a copy to the school with any extra information or questions.*

### Pastoral support

Schools describe certain kinds of help for pupils as pastoral support. Would pastoral support help your child attend school better? List anything that you feel might help and ask about it when you meet the teacher.

**Buddy scheme** – this is where your child is paired with another pupil. A friendly face in the classroom may make the difference for your child.

**Mentoring** – where an older person, often a teacher or volunteer from outside the school, advises your child. This is most common for secondary age children.

**Counselling** – some schools have professional counsellors working in the school to help pupils.

**Learning support unit** – many schools have a special room in the school for children with learning difficulties: these generally provide short-term help with study skills and particular learning difficulties including behaviour problems and can provide a “safe-haven” for children who are bullied, under stress or have mental health problems, for example.

**Part-time schooling** – many schools will be flexible if your child is under stress. They may allow the child to start a little later in the day or leave a little earlier to avoid problems such as conflict with other pupils or the home time crush. They may suggest your child comes in only for particular lessons for a time until they feel more confident about school.

**Pastoral support programme (PSP)** – the government says a short period of support in school should be given when a young person is turned off school and may be at risk of dropping out or exclusion. A PSP could include help as described above and other strategies suggested by the school, local authority and yourself. Some young people may be asked to attend a pupil referral unit outside school for a period.

**Voluntary parenting classes** – some schools may offer you support with managing your child's behaviour and attendance.

### Other types of help

Schools should provide extra help for children with learning difficulties. See ACE booklets: *Getting Extra Help* and *Asking for a Statutory Assessment*.

If your child is aged 14 – 16 and not enjoying normal school subjects, schools sometimes offer a different curriculum. This could include:

- studying different subjects than most other pupils e.g. dropping some subjects or studying vocational subjects
- longer work experience than other pupils usually have
- going to further education college for part or all of their week
- taking part in a local scheme e.g. doing voluntary work or outdoor activities

## Step 4: Think who might help outside the school

Might any of the following people or organisations help? Make a note of anyone you contact and if they are able to offer help.

**Education welfare officer (EWO)** (sometimes called attendance officer or education social worker) – the person in the LEA who deals with families whose children have attendance problems. Some are linked to local schools. They should be able to talk to the school about any problems your child is having such as bullying, problems at home or difficulties with a particular subject or teacher. They also take court action on behalf of the LEA against parents whose children do not attend school regularly.

**Your family doctor** who may refer you to a specialist or other help.

**Connexions** – a service which provides a personal adviser for young people aged 13 to 19, especially those having difficulties.

**Child and Adolescent Mental Health Service** – schools or your GP can refer children to help from professionals working in the CAHMHS service.

**Educational psychologist** – schools can ask for an educational psychologist working in their LEA to provide advice on how to help children with special educational needs including emotional difficulties. See also ACE booklets: *Getting Extra Help* and *Asking for a Statutory Assessment*.

**Parent partnership officer** provides help for parents of children with special educational needs. All LEAs provide a parent partnership service.

**Social worker** provides help for families where serious problems may be harming children. Should provide support for young carers.

**Voluntary organisations** – some organisations are listed on page 12 but your local library or Citizens Advice may suggest other local organisations.

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## Step 5: Check if your child's absence should be allowed

Only a school can authorise absence. You should write to ask permission or to explain an absence. The school may allow your child's absence for the following:

- illness, medical and dental appointments
- days for religious observance
- interviews
- study leave
- approved educational activity e.g. school trip, off-site tuition
- dual registration with a pupil referral unit or special school
- absence with leave e.g. a family holiday or special occasion such as a wedding
- family bereavement or compassionate leave. This could include absence of your child during a family crisis or where they help care for a sick or disabled relative. It could also include visits to a parent in prison
- you are a Traveller family in the process of travelling (Traveller children must attend school for at least 200 sessions a year i.e. 100 days)
- any other unavoidable cause.

Problems can arise if a school is not sure that your child is ill, for example if your child has a mental health problem such as depression or school phobia or a long-term condition such as chronic fatigue syndrome (sometimes called ME). In these cases you should send a letter from your doctor to show your child was too ill or distressed to attend school. Your child may need to see a specialist to show the absence is genuine. Keep a note of any appointments you have made and what the specialist said. If your child is too ill to attend school for more than 15 working days, the LEA must provide education for them e.g. home tuition.

## Step 6: I have been asked to sign a parenting contract

If your child does not attend school regularly over a four week period or longer, the school or LEA may ask you to sign a parenting contract. This is a written agreement which will ask you to take certain steps such as bringing your child to school. It should also include the support which the LEA or school will provide to help you do this. Support can range from parenting classes to help with transport to and from school. The contract has no legal force but if you don't keep to your side, it could be used against you in any court action.

### Do I have to sign?

No, there is no need to sign but there is a risk that the LEA could issue you with a penalty notice (*see Step 7*) or may prosecute you (*see Step 8*). Not signing the contract or not following it could be used to show a court you did not do enough to get your child to attend school.

## ACE advises:

Make sure if you sign a parenting contract that it includes support as well as targets for you and your child. It should say who will provide the help. Take time to get advice before you sign if you are not sure about the things you are asked to do or whether the support is right.

### Step 7: I have to pay a fine for my child's absence

You may be given a penalty notice which asks you to pay a fine to your LEA by a certain date if your child does not attend school. Your child's headteacher (or an assistant or deputy head) or the LEA or the police may issue this. You should normally be warned first. (Fixed penalty notices are not issued in Wales.)

If you receive a warning letter, write immediately to the education welfare officer (*see letter on page 9*) giving reasons for your child's absence. Ask for help if needed. Check your child's school record (*see page 2*) to see whether the absence has been allowed. If not, should it have been? (*see Step 5*). Give your reasons.

There may be some exceptional cases where a fine could be given without warning. The Government says this might be where you take your child on holiday even though the school has said they will not agree to the absence or where the police are carrying out a truancy sweep and you are caught with your child out of school without a lawful reason. If you pay the fine, you cannot be prosecuted for the same offence.

The fine can be either £50 or £100; you pay the lower amount if you pay up quickly. There is no formal appeal against the penalty notice but if you disagree and think the absence should have been allowed (*see Step 5*), you should write to the LEA giving reasons (*see letter on page 9*). If they think they have made a mistake, the LEA can withdraw the penalty notice. If you do not pay they may decide to prosecute you.

### Step 8: I have been warned I may be prosecuted

Some LEAs are quicker to prosecute than others. Some use a fast-track process, for example. Usually the LEA will write to warn you that you may be prosecuted. In some cases you will be given a time limit to work with the school and education welfare officer (EWO) to improve your child's attendance. If this does not work, you will generally receive a final warning giving you 15 days to improve your child's attendance before they prosecute. You need to act quickly.

Write to the education welfare officer at your LEA. Keep a copy of the letter.  
*Pick out the sentences which fit your child's case*

**Date**

**Dear Education Welfare Officer**

**I am writing about the absence from school of my child** (*give their name, date of birth and school*).

**You have written to say I may be fined/taken to court because they are not attending properly. The reason for their absence is...** (*say if you think the reason is lawful (see Step 5)*).

**The school has authorised my child's absences...** (*say if the school record shows any absences have been allowed.*)

**I have tried the following to improve their attendance...** (*say what you have tried e.g. taking your child to school; asking for help from the school; seeing your doctor. Send any notes of meetings or phone calls you have had or help you have asked for.*)

**The school has tried...** (*say what the school has done e.g. given extra help in class, talked to the bullies. Say if this has not worked or if you think the help has not been enough. Say if your child needs any of the help listed on pages 5 or 6.*)

**I would be grateful for any (further) help you could offer...** (*you could suggest the EWO speaks to the school to arrange the help or helps set up a pastoral support programme for your child.*)

**I would like a meeting to discuss this** (*give dates and times when you are available*).

**Yours sincerely**

*Parent*

## **Court action**

### **Attendance offences include:**

- (1) Failure to secure regular attendance of a child (Section 444 of the Education Act 1996). Parents found guilty of this offence can be fined up to £1,000.
- (2) Failure to secure regular attendance without reasonable justification (Section 444[1A]). This is a more serious offence: parents can be fined up to £2,500 and sent to prison for up to three months.
- (3) Failure to comply with a School Attendance Order (see page 10). Parents can be fined up to £1,000 if found guilty. (Section 443)

The fines are the maximum the courts can impose. The court will take into account your means (your income and savings etc). Average fines are generally between £50 and £100. If you are found guilty you would have a criminal record which could affect future employment. The courts can also give an absolute discharge or a conditional discharge.

## ACE advises:

It is important to show that you are trying to get your child to attend school. Don't ignore letters or invitations to meetings. If the LEA thinks you are going along with your child's truancy you could be prosecuted for the more serious offence (see Court action (2) page 9).

### Orders the courts may make:

#### Education Supervision Order (ESO)

This Order may be made by the family proceedings court when a child is not attending school properly. The LEA must consider applying for an ESO before prosecuting you. If you are being prosecuted, the court may tell the LEA to apply for an ESO. An ESO means the LEA can tell you what to do to make sure your child is properly educated. You lose the right to say which school you would prefer your child to attend and to appeal for a school place during the period of the Order. An ESO usually lasts for a year but can last up to three years. You can apply to the court for the ESO to end early. Breach of an Order without reasonable excuse is a criminal offence. You could be taken back to court and fined.

#### Parenting Order

The courts may make a Parenting Order if you are convicted of an offence relating to your child's school attendance. It means you have to attend counselling or guidance for at least three months; it could also make you control your child's behaviour, for example by taking them to school each day. The Order could also apply to your child. They may be told to avoid contact with specific children or be back home by a certain time. Breach of an Order without reasonable excuse is a criminal offence. You could be taken back to court and fined.

#### School Attendance Order (SAO)

If a child is not on a school roll and is not receiving a suitable education, the LEA may issue a SAO. This will name the school a child should attend. If you don't obey the Order and you can't show that your child is receiving a suitable education, this is a criminal offence. If you feel you are providing a suitable education e.g. home education, you can explain this to the LEA. If they disagree you can appeal to the Secretary of State for Education against an Order.

#### Care Order

Non-school attendance in itself is unlikely to lead to care proceedings. A care order may only be made where a child is suffering or is likely to suffer significant harm because of a lack of reasonable parental care, or because the child is beyond parental control.

## Step 9: I have been summonsed to court

A summons will tell you which offence you are accused of, when the case will be heard and at which court. You should seek legal advice from a solicitor, especially if you are accused of the more serious offence (Section 444[1A]) which

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could result in a prison sentence. You can ask the court for free representation. It is important that you speak to a solicitor before you plead guilty or not guilty.

## Step 10: Attending court

A District Judge (a trained barrister or solicitor) may hear the case, or two or three magistrates who are advised by the court clerk. You will be asked if you plead guilty or not guilty. If you plead not guilty, there will be a trial. The LEA will tell the court about your child's attendance record and say what action they have taken to get your child to school. They may bring copies of letters they have sent you, records of meetings, doctors' notes and a report from the school. Only information you have seen in advance can be brought up in court.

### Pleading not guilty

**You should plead not guilty if you can show:**

- your child lives more than 3 miles from the school (2 miles if your child is under 8) but the LEA has not provided transport to and from school or made boarding arrangements or offered you a school place nearer to home
- your child has been off school for a legal cause (see Step 5)
- you are home educating your child (you must have taken their name off the school roll before the absences to use this defence)
- any of your child's absences which form part of the prosecution evidence was authorised by the school
- any other unavoidable cause.

If you are accused of the more serious offence and you believe you have done your best to get your child to attend school, you should plead not guilty. Your notes of meetings, copies of letters and details of any phone calls you have made will help you show you have tried. Keep notes of any other action you have taken. Even if the court believes you have tried to get your child to attend school, you can be found guilty of the lesser offence (see (1) in Step 8 box).

### Pleading guilty

**You should tell the court about any 'mitigating circumstances' such as:**

- any problems such as bullying or other risks to the health and safety of your child
- your child's physical or mental health (remember: ill health can be a lawful excuse for absence)
- difficult family circumstances, e.g. homelessness, divorce, bereavement, etc
- you didn't know about the problem, for example if your child lives elsewhere
- if you have other children who attend school regularly, make sure the court is told
- your age, health, whether you have co-operated with the LEA and whether you are sorry.

## Further help

### From ACE:

**Advice lines: exclusion – 0808 8000327; all other matters – 0808 8005793**

ACE publications list includes guides on **school choice, bullying, disability discrimination, home education, special education needs, exclusion and complaints** available from address at foot of page and on our website:  
[www.ace-ed.org.uk](http://www.ace-ed.org.uk)

### Government guidance

Ensuring Regular School Attendance; Guidance on Education-Related Parenting Contracts, Parenting Orders and Penalty Notices;

Circular 10/99 Guidance on Pupil Behaviour and Attendance

Free from 0845 602 2260 or [www.dfes.gov.uk/schoolattendance](http://www.dfes.gov.uk/schoolattendance)

Guidance in Wales is being revised: [www.learning.wales.gov.uk](http://www.learning.wales.gov.uk)

Note: Parenting Contracts and Orders are not yet in place in Wales.

### Useful organisations

Parentline Plus: parenting advice 0800 800 2222

Education Otherwise: advice on home education: 0870 730 0074

Young Minds: advice on mental health issues: 0800 018 2138

ME Association: 0870 4441836

Kidscape: 020 7730 3300

Community Legal Service Direct: 0845 345 4345

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Registered Charity: 313142. Registered Company: 663126

Designed by Sally Doust. Illustration by Linda Scott. Printed by Wyndeham Gait, Grimsby.