

Parental Prosecutions

To address poor
attendance at school

Advice to Parents and Carers

The Education Act, 1996

Parental Prosecutions

By law all children of compulsory school age must receive an education. If your child does not attend school without a satisfactory reason, then legal action may be taken under Section 444 of the Education Act 1996.

Education Planning Meeting

If your child fails to attend school regularly we will hold a meeting at the school. At this meeting, you and your child will be able to explain why your child's attendance had been poor and how you plan to improve it. The meeting will be chaired by an Education Welfare Officer, with input from the LA's Legal Service. If your child begins to attend school regularly after this meeting we will not take court action.

What happens next?

Should the Local Authority decide to take legal action you will be served with a summons to appear before the Magistrates Court at a specified time and date. You will also receive a copy of the Education Welfare Officer's evidence, together with the Head Teacher's signed certificate showing your child's attendance during the prosecution period. You may wish to seek legal advice before the court date.

Defence against prosecution

You have a right to challenge the grounds for the prosecution if you can demonstrate one or more of the following:

The Head Teacher authorised your child's absence

Your child was absent due to sickness or unavoidable cause (sickness may be authorised by a medical certificate)

Your child was absent because of religious observance

The school is beyond the statutory limits for walking and no transport is available

Attendance at court

You **must** attend Court on time on the date of the summons. If you cannot attend you must contact the Court to explain. Only the Court can decide to accept your reasons and offer a new date.

Should you fail to attend, then the case may be heard in your absence or the court may consider issuing a warrant for your arrest.

The Local Authority's prosecutor, and your legal representative (should you have one) will also attend the court.

The case will normally be heard by three Magistrates. A court usher will be available to help you. This will be an 'open' court so members of the public and press can attend.

Court Proceedings

You will be asked to confirm your name, address and date of birth. The Court Clerk will read the charge as written on the summons. You will be asked to plead 'Guilty' or 'Not Guilty'.

If you plead 'guilty' the Magistrates will hear the evidence for the Prosecution and be given a copy of your child's school attendance. You will then be given the opportunity to explain to them why your child's attendance is poor. We will ask the Court to consider costs in addition to any decision made regarding sentencing.

If you plead 'not guilty' the case will be adjourned to a future date and will be heard as a Trial.

At the Trial, you or your legal counsel will be able to make a case for your defence and witnesses can be called. At the end of the Trial the Magistrates will then decide how they will deal with the case.

Possible Outcomes

If you have pleaded 'Guilty' or the court has found you 'Guilty', any previous convictions will be reported to the Magistrates. Magistrates can make the following decisions:

A fine up to £1000 (if under a Section 444 (1) prosecution)

A fine up to £2500 (if under a Section 444 (1a) prosecution)

A Conditional Discharge – there is no sentence if your child's attendance record is acceptable for a specified period; but if you are convicted again during the period of the order, you will be punished for the first offence as well as any further offences

An Absolute Discharge – you will have been found guilty of the offence but you will not be subject to any penalty. However, this is a criminal conviction

A Deferred Sentence – a new Court date will be arranged, during which time you must take steps to improve your child's school attendance. Sentence will be passed at this new hearing

Community Service – you will be required to undertake work for the community under the direction of the probation service

Imprisonment (up to 3 months) – this can only be made under a section 444 (1a) prosecution offence

Education Supervision Order – the Court may direct the EWS to consider making an application for such an order

What happens after a prosecution?

The School and Education Welfare Service will continue to support you, if required, following court action. If there is still no improvement in your child's attendance a further prosecution may be brought.

Contact

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