

## **School Attendance – Court Procedures, a guide for parents**

### School Attendance and the Law

The Education Act 1996 states that parents must ensure their children receive full-time education according to their age, ability and aptitude. This usually means ensuring a child is registered at school and attends regularly and punctually. Any person who has the care of a child or who has parental responsibility is responsible for ensuring good attendance. Failure to do so can result in a Penalty Notice being issued or prosecution.

“If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, his parent is guilty of an offence” under s.444(1) Education Act 1996.

Parents who refuse to register a child at a suitable school without good reason will receive a School Attendance Order from the Local Authority. Failure to comply with the order can result in prosecution.

Under s23(1) Crime and Disorder Act 2003 Penalty Notices may be issued for a first offence or for unauthorised holiday. Failure to pay the penalty in full within the required time will result in a prosecution being taken. Information is contained in **Penalty Notices – A Guide for Parents**

### **Prosecution of Parents**

Prosecution is a serious step. Evidence for prosecution is supplied by the school in the form of an attendance certificate signed by the head teacher. This must be accepted by the Magistrates as a true record of attendance.

The Education Welfare Officer (EWO) will prepare the case for prosecution. This will include evidence of contact with parents/carers who will have been offered support by the EWO and the opportunity to work with them and the school to improve their child's attendance. An Education Supervision Order (see ESOs) will always be considered in the first instance.

### **The Proceedings**

If you are requested to attend at court you will be sent a summons stating the time, date and place of the hearing. You will also be asked at court if you intend to plead guilty or not guilty. You are encouraged to seek legal advice prior to the Hearing.

On the day of the Hearing you should arrive on time and report to the Court's reception. If you have any difficulties attending or any other questions regarding the proceedings contact the EWO. An interpreter will be provided by the court if requested in advance.

## **Sentencing**

If you have pleaded or been found guilty, the Magistrates have the power to impose a fine of up to £1,000 for an offence under s.444(1) Education Act 1996. Costs may be awarded against you.

If it is proved that you knew your child was not attending school regularly and that you failed without reasonable justification to ensure regular attendance, you may be found guilty of an offence under s.444(1A). In this case a fine of up to £2,500 may be imposed and/or a term of imprisonment not exceeding 3 months.

Magistrates sometimes issue a Conditional Discharge which means that your child's attendance will be monitored by the Court for a period of up to 2 years. If you fail to ensure your child's attendance during the period of a Conditional Discharge, a further case can be taken against you and you could be fined for the original and current offence.

Magistrates may also impose a Parenting Order.

## **Parenting Orders**

The Crime and disorder Act 1998, s.8, has provided courts with a further option when considering non-school attendance cases. Magistrates are able to impose a Parenting Order as well as other disposals. A parenting order would require a parent to attend counselling/guidance sessions for up to 3 months and may also require a parent to comply with a specific requirement for up to 12 months, such as escorting a child to school each day. Breach of the order can result in further prosecution.

## **Education Supervision Order (ESO)**

The Magistrates can request the Education Welfare Service to consider applying for an ESO. This type of order allows the EWO to give directions to parents and children in order to secure an appropriate education. If the Education Welfare Service wishes to apply for an ESO this would be separate from a prosecution and the Hearing would be in the Family Proceedings Court.

Parents and children must be consulted before an Order is applied for and the Court must agree that an ESO is in the best interests of the child.

If granted in court, an ESO will be made for one year. Extensions can be requested which may be for up to 3 years at a time and these extensions are possible until the child leaves school.

ESOs encourage parents and children to work in partnership with the Education Welfare Officer but if parents do not comply with directions, they can be taken back to court and be fined. Where a child is not complying with the order Children's Social Care may consider further proceedings.

## Penalty Notices – A Guide for Parents

S.23(1) Anti Social Behaviour Act 2003 introduced Penalty Notices as an alternative to parents being prosecuted in the Magistrates' Court under the Education Act 1996 in order to address **unauthorised absence** from school. They are used to raise pupil attendance before it becomes a more serious problem, to prevent a pupil becoming a persistent absentee and to support pupils in achieving their full potential and raise educational standards.

### What is a Penalty Notice?

It is a Notice issued by the EWS on behalf of Children's Services where there is unauthorised absence from school.

It does not require a parent to attend Court and, if paid within the prescribed time, allows parents to discharge their liability for being convicted for failing to ensure regular attendance during the period in question. The Penalty Notice will be issued under the terms of the Code of Conduct.

**A parent cannot be prosecuted for failing to ensure their child's regular school attendance during the period of the Penalty Notice provided the penalty is paid on time and in full.**

### When will a Penalty Notice be issued?

North Lincolnshire Local Authority considers regular attendance so important that Penalty Notices may, and usually will, be issued:-

- to a parent whose child is of compulsory school age where the school has made a referral to the EWS. It may be considered by the EWO that a Penalty Notice may prevent further deterioration of a pupil's attendance before the absences become entrenched, that is, as a preventative measure
- where a parent takes a child on **holiday during term time** and has
  - **not informed the school**  
**OR**
  - **permission is refused by the school**  
**OR**
  - **the child does not return on the agreed date**

### What is the Penalty?

**£50 if paid in full within 28 days**

**£100 if paid in full after 28 days but within 42 days**

**Note:** If not fully paid within 42 days and there is no reason to withdraw the Notice the LA has no option but to prosecute a parent in the Magistrate's Court for failing to ensure regular school attendance.

A fine of up to £2,500 or a community penalty could be imposed together with a Parenting Order.

### **Is a warning given?**

A (formal) written notification will have been sent to the parent from the LA explaining the penalties for failing to ensure regular school attendance including the criteria for a Penalty Notice being issued.

### **Methods of payment**

Details are contained in the Penalty Notice itself. Payment can be made by cheque, cash, money order, postal order or debit/credit card. The whole amount **must** be paid by the due date.

### **Can a parent appeal?**

On receipt of a warning (written notification) representation can be made to the EWS. However, the reasons provided must meet the criteria for withdrawal.

Please note there is no statutory right of appeal once a Notice has been issued.

Advice and help is available for parents from school staff and the Education Welfare Service in supporting their child's regular school attendance and in exercising their legal responsibility.

**Education Welfare Service,  
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Scunthorpe,  
N. Lincs.  
DN15 6NL**

**01724 297502**