

Statutory School Attendance Procedures

**PACE Factsheet
(Police and Criminal Evidence)**

September 2021

Directorate for Children & Families

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1 RATIONALE

DfE Guidance

1.1 The Statutory School Attendance Procedures Cautions Factsheet is produced by Manchester Local Authority from the DfE guidance and government legislation. It is important to refer to this when considering statutory school attendance procedures to ensure full compliance.

1.2 This guidance summarises the legal powers and duties in relation to cautions that govern school attendance and explains how they apply to local authorities, head teachers, school staff, governing bodies, pupils and parents.

1.3 These requirements are contained in:

- The Education Act 1996 - sections 434(1)(3)(4)&(6) and 458(4)&(5);
- The Education (Pupil Registration) (England) Regulations 2006;
- The Education (Pupil Registration) (England) (Amendment) Regulations 2010;
- The Education (Pupil Registration) (England) (Amendment) Regulations 2011;
- The Education (Pupil Registration) (England) (Amendment) Regulations 2013;
- The Education (Pupil Registration) (England) (Amendment) Regulations 2016.

The Manchester Inclusion Strategy

1.4 The Manchester Inclusion Strategy has been developed to help the Local Authority, early years' settings, schools, Post 16 providers and other services work in a more coherent way to support young people to attend well and/or to reduce the risk of exclusion. The strategy provides an outline of approaches, interventions and services, to support all Manchester settings, schools and Post 16 providers to ensure the needs of all young people are understood and addressed in order to support good attendance and prevent the use of exclusion wherever possible.

1.5 The offer is made of four identified strands of intervention:

Strand 1 – Universal Provision and a whole school/education setting vision and ethos

Strand 2 – Early Identification of children presenting challenging and school refusing behaviours

Strand 3 – Alternative Provision or Specialist Support fully embracing the individual needs of any young person who requires a different kind of support and / or setting

Strand 4 - Ensuring Best Practice in the Use of Exclusion with the aim of reducing the use of fixed term and permanent exclusion for incidents of persistent disruptive behaviour by ensuring that the root causes of such emerging behaviours are understood and appropriately addressed as early as possible through early intervention and innovative multi-agency planning.

The document itself can be found at:
https://secure.manchester.gov.uk/directory_record/376574/manchester_inclusion_strategy/category/1479/childrens_services.

Local Authority Intervention

1.6 Regular and punctual attendance at school or academy is a legal requirement under Section 444 of the Education Act 1996. It is essential that parent/carers maximise the educational opportunities available for their children and provide the best possible start in life.

1.7 Under previous legislation, parent/carers of a registered pupil whose child failed to attend school/academy regularly and whose absence was unauthorised, committed an offence for which prosecution was the only available sanction. Penalty notices were introduced as an early intervention strategy under the Antisocial Behaviour Act 2003. Penalty notices provide an alternative to prosecution by allowing parent/carers an opportunity to discharge their liability for the offence. A penalty notice requires payment of £120 to within 28 days, reduced to £60 if paid within the first 21 days. If the penalty notice remains unpaid by the end of 28 days, the Local Authority (LA) will consider the commencement of proceedings for the offence to which the notice relates. Any such prosecution is not for the non-payment of the notice but is for failure to ensure regular attendance at school/academy.

1.8 Penalty notices should be used to address unauthorised absence and are to be used to enforce regular and punctual attendance.

1.9 The Local Authority authorises and issues all penalty notices which should be used where a parent/carer is capable of securing an improvement in their child's school/academy attendance but is unwilling to do so.

A separate penalty notice may be issued to each parent/carer for each child who is not regularly attending school/academy. Schools and Academies should be able to demonstrate how parent/carers have been made aware of the possible consequences if they remove their child from education during term time without authorisation.

2 CONSIDERING STATUTORY ACTION REQUESTS

2.1 Upon receipt of the statutory action request the Local Authority will investigate each request and will use its discretion to decide whether to issue a penalty notice. Alternatively,

upon consideration of the application the Local Authority may deem it appropriate to take one of the following actions:

- Advise school/academy to monitor for a further period
- Issue a Local Authority warning letter to parent/carers
- Offer a formal Caution
- Advise school/academy to refer to supporting agencies
- Advise school/academy a direct prosecution is required

2.2 The local authority will consider all requests within ten school/academy days of receipt and, where appropriate will authorise the issue of a penalty notice to each parent/carer by first-class post.

2.3 The Local Authority will monitor all penalty notices issued and inform schools/academies of the payment/non-payment or further action authorised by the local authority.

Non-payment of penalty notices

2.4 If payment is not received within 28 days the Local Authority will consider prosecution for the unauthorised absence to which the penalty notice relates.

2.5 Non-payment of a penalty notice may result in action being taken by the Local Authority, which may include a further warning letter or a formal caution.

3 POLICE & CRIMINAL EVIDENCE (PACE)

3.1 It may be the case that if the child's attendance at school is unsatisfactory, school is advised to submit the case to the local authority's School Attendance & Exclusion Team to consider institution of legal proceedings against the parent/guardian in the magistrates court under the provisions of The Education Act 1996 Section 444 (1A).

3.2 Following receipt of the case the Local Authority will investigate further by carrying out a PACE interview. This takes the form of either a recorded interview or a written response to set questions. In either case, the responses are made under caution, in line with The Police and Criminal Evidence Act 1984 (PACE) and the Codes of practice issued under s 66 of PACE, in particular Code C and Code E. These responses can then be used in Court as evidence.

3.3 If the parent does not respond, or there is no new information, the process will continue.

3.4 If the parent attends for the PACE interview or completes the PACE form and there is new information that has not previously been raised or addressed by school (and evidenced in the referral information) the matter will be passed back to school for those issues to be dealt with and any evidence collated which may contradict the parents statements made under PACE before the case is re referred to the Local Authority for legal action. The benefit

of this is that any potential defences can be addressed within the schools evidence at the outset.

3.5 The maximum penalty under the above section of education act is a fine of £2,500 and/or up to 3 months imprisonment for each responsible person.

3.6 If found guilty of failing to ensure regular attendance of the child/ren under section 444 of the education act 1996, the parent/guardian will receive a criminal record.

3.7 If the case proceeds to court the Local Authority and school will provide witness statements and evidence for the prosecution and liaise with Legal Services.

3.8 If the parent pleads not guilty to the offence, the matter will be listed by the court for trial, and all witnesses will be required to attend court on that day.

4 CONTACTS

4.1 The School Attendance & Exclusion Team can be contacted via:

- 0161 234 5255
- school.attendance@manchester.gov.uk