Cumberland Council

School Attendance Handbook

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Cumberland Council

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Introduction

Why is consistent attendance at school crucial? Research indicates that maintaining excellent attendance at school plays a pivotal role in securing positive outcomes for children and young people. Missing classes leaves pupils susceptible to falling behind, resulting in gaps in their learning and a decline in self-confidence.

Establishing good attendance habits is essential from the early stages of education. It is observed that children regularly absent in the reception class are more likely to exhibit poor attendance in secondary school.

According to findings by Universities UK, children with poor attendance are five times less likely to achieve five strong passes at GCSE, hindering their prospects for higher education or employment.

Additionally, poor attendance at school is linked to adverse emotional health and well-being. Regularly absent children and young people may experience social isolation, lack confidence, and suffer from low self-esteem. Feelings of not fitting in with peers can lead to loneliness, and those who consistently miss school face an increased risk of engaging in anti-social behaviour or becoming victims of crime.

These are not the outcomes and experiences awe want for our children.
School is not solely about academic success and attainment; it encompasses learning about the world, building relationships, and discovering oneself. It involves trying new things, making friends, and finding one's place in the world.

To miss school is to miss the experiences that shape our choices, opportunities, and overall quality of life.

Evidence strongly suggests that children with regular school attendance achieve better outcomes, leading to healthier, wealthier, and more enriched lives.

We acknowledge that many children, families, and schools in Cumberland have excellent attendance. Cumberland Council are committed to learning from the existing good practice throughout our schools, actively learning from them and strengthening our existing partnerships for an even greater impact.

This handbook applies to supporting children/young people of statutory school age only, of which, is the term after the child turns 5 until the last Friday in June of the school year they turn 16.

Roles & Responsibilities

Roles and responsibilities for school attendance are outlined in the supporting documentation for Working Together to improve school attendance.

A summary table of responsibilities can be found below. These responsibilities apply to parents, schools, trustees/governors, and the Local Authority.

Summary table of responsibilities for school attendance (applies from 19 August 2024) (publishing.service.gov.uk)

Cumberland Council

Graduated Approach to improving Attendance

Successfully treating the root causes of absence and removing barriers to attendance, at home, in school or more broadly requires schools and local partners to work collaboratively in partnership with, not against families. All partners should work together to:

Expect

Aspire to high standards of attendance from all pupils and parents and build a culture where all can, and want to, be in school and ready to learn by prioritising attendance improvement across the school.

Monitor

Rigorously use attendance data to identify patterns of poor attendance (at individual and cohort level) as soon as possible so all parties can work together to resolve them before they become entrenched.

Listen and understand

When a pattern is spotted, discuss with pupils and parents to listen to and understand barriers to attendance and agree how all partners can work together to resolve them.

Facilitate support

Remove barriers in school and help pupils and parents to access the support they need to overcome the barriers outside of school. This might include an early help or whole family plan where absence is a symptom of wider issues.

Formalise support

Where absence persists and voluntary support is not working or not being engaged with, partners should work together to explain the consequences clearly and ensure support is also in place to enable families to respond. Depending on the circumstances this may include formalising support through an attendance contract.

Enforce

Where all other avenues have been exhausted and support is not working or not being engaged with, enforce attendance through statutory intervention: a penalty notice in line with the National Framework or prosecution to protect the pupil's right to an education.

Expect

The Cumberland Attendance Pledge sets the expectation of all partners to support good school attendance.

1. Making sure children/young people regularly attend school is the responsibility of everyone.
2. We are committed to working together to improve school attendance for children/young people across Cumberland.
3. We understand that attending school is crucial for everyone, and when pupils are absent, it could signal important safety concerns we need to address, particularly if they are a child missing education.
4. Barriers to school attendance can be complicated and come from several reasons within families, communities, and environments. We are committed to breaking down these barriers.
5. We will collaborate with each other to remove barriers to attendance. Parents and caregivers play a crucial role in this partnership.
6. We strongly support and promote excellent attendance and role-model this.
7. If we notice that children/young people are not in school during school hours, we will be professionally curious and query the reasons behind their absence.

Each partner has an important and distinct role in supporting the child or family, no one partner can do it on their own.

It is the expectation that all partners, from local authority to private enterprise, support the Cumberland approach to school attendance and challenge school absence where appropriate. Service providers and businesses should ensure that all efforts are made to book appointments for school aged children outside of school hours.

The school attendance pledge will be available as posters via digital download at:

Families Information | Templates and Resources (cumberland.gov.uk)

Schools also have several tools to help set the expectations of good school attendance.

- Build close and productive relationships with parents and pupils, highlighting the benefits of good school attendance
- Modelling respectful relationships to build a positive relationship for pupils entering the school and building a culture that makes school a place that pupils want to go to
- Challenge parent's views when they have misconceptions about what "good" attendance looks like

- Set high expectations for the attendance and punctuality of all pupils and communicate these regularly to pupils and parents through all available channels.
- Maintain the attendance ambition for SEND pupils providing additional support where required
- Set high expectations for the attendance and punctuality of all pupils and communicate these regularly to pupils and parents through all available channels.
- Visibly demonstrate the benefits of good attendance throughout school life. This may include in displays, assemblies or in registration periods. Where used sensitively and without discrimination, this may also include praising and rewarding improvements in attendance at year group, class/form, and individual level.
- Recognise that attendance is never ‘solved’ and is a continuous process by regularly reviewing and updating messages, processes, and strategies.
- Have a clear school attendance policy which all leaders, staff, pupils, and parents understand. (see page 15 of Working Together to improve school attendance for further detail on what should be included in this policy)

Monitor

It is the expectation of the Department for Education that attendance will be monitored on both an individual and strategic basis.
Schools are expected to:

- Ensure registration codes are accurate, making full use of the new codes to signify different reasons for attendance and absence
- Monitor and analyse weekly attendance patterns and trends, digging deeper on pupils of concern or to ensure pupils attend all timetabled lessons
- Provide the individual level analysis to class teachers or tutors so that they can facilitate discussions with pupils
- Know and understand all pupils who are persistently (PA) or severely absent (SA)
- Identify pupils who need support and focused effort before absence becomes entrenched, looking at worsening trends before PA or SA
- Conduct analysis of half-termly, termly, and yearly data identifying patterns in uses of certain codes, days of poor attendance and where appropriate, subjects which have low lesson attendance.

Schools should ensure data is regularly monitored for pupils with long term illnesses and or special educational needs or disabilities including at board and governing body meetings and in Targeting support meetings with the local authority so that additional support from other partners is accessed where necessary.

To support with the delivery of Cumberland Council's duties, all schools are expected to sign up to data connections with the Department for Education and StudyBugs. The DfE data connection is a mandatory requirement under the Working Together to improve school attendance guidance, whilst the StudyBugs link gives the council more advanced data functionality and reporting features. The link with StudyBugs will enable the council to look at cohort trends, utilise visualisations and connect with additional settings for example Alternative Provision and Independent schools.
Cumberland Council will use this data to:

- Discuss overall trends in the school's data and any emerging patterns or issues to identify patterns early and focus joint efforts
- Monitor priority cohorts: Persistently Absent, Severely Absent, Free School Meals, SEND, Minority Ethnic Groups
- Attend Targeting support meetings fully informed about priority pupils and school landscape
- Share experiences from other schools that have tackled similar issues or put those schools in touch to share practice
- Identify schools demonstrating effective practice and priority schools for additional support

Listen and understand

It is essential that children and young people are listened to, and that discussions are held to explore barriers.

Parental values and judgements have changed post-pandemic and clear messaging is key to re-engaging families into the importance of education. *Thinks Insight and Strategy* suggest that there are three main changes to parental decision making:

Perceived ability to catch up on missed education
Parents report that they think their children are able to catch up on missed education effectively. This means they may consider small periods of absence from school manageable, without realising the possible wider negative impact.

Increased illness
Parents report that they worry that illness levels are higher. Parents also say that the pandemic has made them more wary about spreading illnesses. They are less likely to send their child to school when they are ill. It now feels less socially acceptable to do so. Some parents feel confident that they know when their child is well enough to be in school. Others feel less confident since the pandemic. Parents feel that schools have become more cautious about keeping a child in school. They perceive that a school is more likely to send a child home if they fall ill. Some parents were not aware of NHS guidance such as Is my child too ill for school? Consistency of schools' behaviour in following this guidance is important to parents.

A more holistic view of children's wellbeing
Since the pandemic, parents are placing greater emphasis on their child's mental wellbeing. They have a greater awareness about the need to support children with these issues. Some parents felt their children are still catching up on important life experiences they missed during the pandemic. For some parents, the pandemic helped to demonstrate the importance of achieving a balance between school and home life. It encouraged them to think about the importance of enriching activities such as time with family more than they might have done previously.

The Department for Education have developed Toolkit for schools: communicating with families to support attendance - GOV.UK (www.gov.uk)

Included in the appendices are template letters to assist settings with their parental communications and their ongoing development of positive attendance cultures.

Facilitate Support

Attendance Case File

At this stage the school may want to open an Attendance Case File and begin completion. The aim is that this should be a working document building a chronology of intervention and support. Not all sections should be completed at the outset and the document is laid out in the graduated approach to assist with understanding of when next stage may be appropriate.

It also outlines the evidence necessary for progression into enforcement action, if required.

Communication and Advice

Each school will have a named local authority Access and Inclusion Officer that is available via phone, email, and Teams to provide ad-hoc advice and guidance.

The council will organise termly Attendance Network meetings to provide schools an opportunity to build and maintain relationships with school leaders and offer opportunities for all schools (regardless of type) to regularly come together to share effective attendance practice. The networks enable the development of whole school practice and a regular touch point with local authority support and development opportunities.

Special Educational Needs and Disabilities

Some pupils face more complex barriers to attendance. This can include pupils who have long term physical or mental health conditions or who have special educational. needs and disabilities (SEND). Their right to an education is the same as any other pupil and therefore the attendance ambition for these pupils should be the same as it is for any other pupil, but additional support may need to be provided.

In developing this support, the usual processes relevant to any attendance case apply:

- Understanding the individual needs of the pupil and family
- Working in partnership with the pupil and family to put in-school support in place and working with other local authority and other agencies where external support is needed (and available)
- Regularly reviewing and updating the support approach to make sure it continues to meet individual needs

For pupils with special educational needs and disabilities, schools are expected to:

- Work in partnership with parents to develop specific support approaches for attendance for pupils with special educational needs and disabilities, including, where applicable, ensuring the provision outlined in the pupil's education, health and care plan is accessed.
- Work in partnership with families to help support routines where school transport is regularly being missed and work with other partners to encourage the scheduling of additional support interventions or medical appointments outside of the main school day.
- Establish strategies for removing the in-school barriers these pupils face, including considering support or reasonable adjustments for uniform, transport, routines, access to support in school and lunchtime arrangements.
- Consider adjustments to practice and policies to help meet the needs of pupils who are struggling to attend school, as well as making formal reasonable adjustments under section 20 of the Equality Act 2010 where a pupil has a disability. Any adjustments should be agreed by, and regularly reviewed with the pupil and their parents.
- Ensure joined up pastoral care is in place where needed and consider whether a time-limited phased return to school would be appropriate.
- Make use of school nursing services and mental health support teams where they are available.
- Consider whether additional support from other external partners (including the local authority, children and young people's mental health services, GPs, or other health services) would be appropriate and make referrals.
- Where external support is provided work together with those services to deliver any subsequent support.

Part-time Timetables

All pupils of compulsory school age are entitled to a full-time education. In very exceptional circumstances there may be a need for a temporary part-time timetable to meet a pupil's individual needs. For example, where a medical condition prevents a pupil from attending full-time education and a part-time timetable is considered as part of a re-integration package.

A part-time timetable must not be treated as a long-term solution. Any pastoral support programme or other agreement must have a time limit by which point the pupil is expected to attend full-time or be provided with alternative provision.

Part-time timetables should not be implemented to manage pupils with behavioural issues or used as a sanction, in these instances suitable support should be provided by the school. If pupils are placed on a part-time/reduced timetable on the basis of a

behavioural issue, then this may be regarded as an unlawful exclusion and could result in a warning notice or a notification to the Regional Schools Commissioner.

In order that the Local Authority can meet its duty to ensure that full-time provision is being made available please complete the Notification of a Part time timetable form for each and every pupil that is either on a part-time/reduced timetable or who is in alternative provision for all/part of the week.

Further information can be found in Cumberland Council's Part-time Timetable Guidance.

Flexi-schooling

Flexi-schooling is an arrangement where a parent chooses to electively home educate their child for part of their provision alongside attendance at school. When a child is flexi-schooled, the parents must still ensure that the child receives a suitable full-time education, but the element received at school is taken into account in considering whether that duty is met.

Any pupil undertaking flexi-schooling must remain on a school roll. Schools are under no obligation to agree to flexi-schooling if requested by parents. If they do, the sessions where the child is educated at home would need to be authorised by school and marked in the register with a code C-'other authorised circumstances. It would not be appropriate to mark this time as 'approved off-site activity, as the school has no supervisory role in the child's education while they are being electively home educated and has no responsibility for the welfare of the child while he or she is at home.

Although flexi-schooling has similar features to a part-time timetable in that both school and parents must agree it, there are some differences:

Type	Hours	Usually initiated by	Provider of work when pupil absent	Timeframe	Register Coding
Part-time Timetable	Part-time	School	School	Short-term	Code C2
Flexi-schooling	Full-time	Parent	Parent	Short or long term	Code C

Alternative Provision

There is an expectation that schools and Alternative Provisions will maintain close working relationships and ensure that pupils are attending commissioned APs. Schools maintain the responsibility for accurate register codes. Any discrepancies between AP reported attendances and school register codes may be followed up the named school Access and Inclusion Officer to ensure accurate recording.

Further guidance and quality assurance templates are available:
Families Information | Policy and Guidance (cumberland.gov.uk)
Families Information | Templates and Resources (cumberland.gov.uk)

Early Help

Working Together 2023 defines Early Help as support for children of all ages that improves a family's resilience and outcomes or reduces the chance of a problem getting worse. It is not an individual service, but a system of support delivered by local authorities and their partners working together and taking collective responsibility to provide the right provision in their area.

At this level of need an Early Help Assessment - Signs of Well-being (EHA) should be completed with the child and family to identify, what is working well, what the worries are and what wellbeing would look like? A clear plan will be developed by the agencies with the family that is SMART and is focused on what success will look like for the child/ren.

Any professional from a service that supports families can initiate an Early Help Assessment - Signs of Well-being (EHA) and can be carried out with any child or young person from pre-birth up to age 19 (up to the age of 25 if the young person has a learning difficulty or disability).

The completion of an EHA would trigger a response from different agencies. A date should be set for a Team Around the Family (TAF) meeting, in order to identify a coordinator, agree the plan and which agency would work to achieve each of the wellbeing goals.

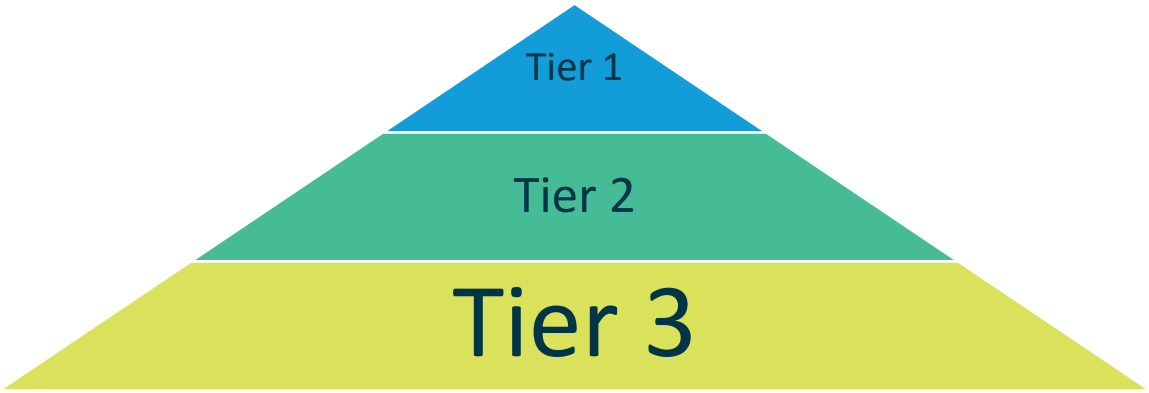
Early Help : Cumbria County Council (cumbriasafeguardingchildren.co.uk)

Formalise Support

Targeting support meetings

Targeting support meetings offer an avenue for schools and local authorities to come together and discuss attendance in a strategic manner. Cumberland Council takes a 3-tier approach to prioritising these meetings.

Targeting support meetings are prioritised based on the previous full year attendance data. Data will continue to be monitored throughout the academic year to identify exceptional cases and offer proactive support where appropriate.



Tier 1 Targeting Support Meeting –

- For high priority schools where attendance is a significant concern.
- Targeting support meetings will be held termly
- Initial TSMs to be held with Senior Leadership from both the School and Council

Tier 2 Targeting Support Meeting –

- For schools where attendance data sits below national averages
- Targeting support meetings will be held termly
- Targeting support meetings held by School Attendance Lead and Access and Inclusion Officers

Tier 3 Targeting Support Meeting –

- Schools where attendance data is at or above national averages
- Targeting support meetings will be held annually
- Targeting support meetings held by School Attendance Lead and Access and Inclusion Officers

In general, all meetings will include:

Current position and horizon scanning, for example:

- Discussion of overall trends in the school's data and any emerging patterns or issues. This is not an opportunity to hold schools to account but to identify patterns early and focus joint efforts and share experiences from other schools that have tackled similar issues or put those schools in touch to share practice.

Agreeing joint approaches for all severely absent pupils, for example:

- Looking at the overall position for severely absent pupils and the trends and reasons for absence within the group.
- Agreeing new joint action plans for severely absent pupils since the last meeting.
- Reviewing progress and/or agreeing additional actions since the last meeting on existing plans.

Agreeing joint actions for persistently absent pupils where they have barriers to attendance that require a multi-agency response to overcome them, for example:

- Looking at the overall position for persistently absent pupils and trends and reasons for absence within the group.
- Breaking down the persistently absent cohort into cases where help may be needed from the local authority or other partners to help remove out of school barriers or deal with safeguarding concerns, and those cases which can be supported in school.
- Agreeing any actions (where needed) for any new cases and review progress or agree additional actions since the last meeting on existing cases.

As an outcome of the Targeting support meetings a report will be shared with the school that records the discussions of the meeting.

Special Educational Needs and Disabilities

School attendance may be impacted by unidentified SEND needs, and we have seen a national growth in Emotionally Based School Avoidance (EBSA). If additional SEN Support has been implemented and the SEND Graduated Approach followed with little to no impact, it may become necessary to refer to an Educational Psychologist or for an Education, Health, and Care Needs Assessment.

More information on SEND statutory services is available via the Local Offer.
Families Information | SEND Information Hub (Local Offer) (cumberland.gov.uk)

The relevant referral documents can be found at:
Families Information | Templates and Resources (cumberland.gov.uk)

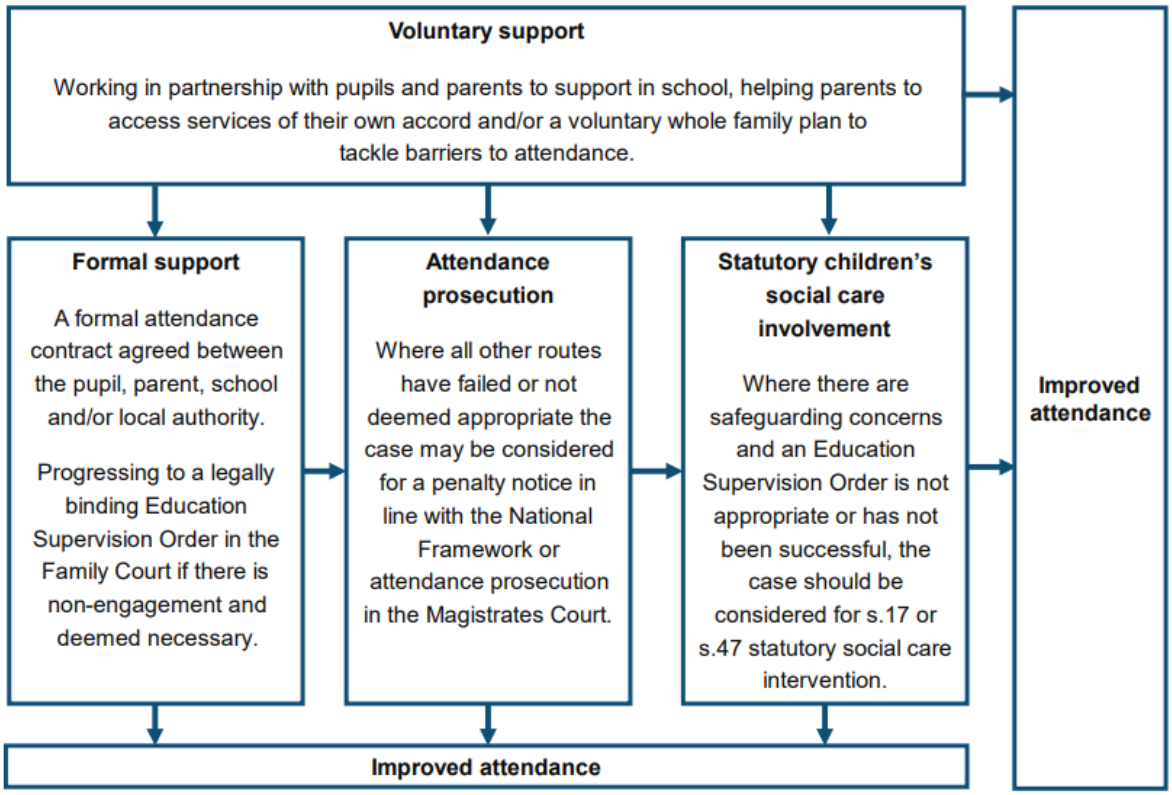
Attendance Contracts

An attendance contract is a formal written agreement between a parent and either the school or local authority to address irregular attendance at school or alternative provision. An attendance contract is not legally binding but allows a more formal route to secure engagement with support. Parents cannot be compelled to enter an attendance contract, and they cannot be agreed in a parent's absence.

There is no obligation on the school or local authority to offer an attendance contract, and it may not be appropriate in every instance, but it may be a useful tool for schools and parents to consider.

Enforce

Providing support first before attendance legal intervention



Attendance Case File

For enforcement action for unauthorised absence due to term-time holidays complete the Child/Young Person Details and Enforce sections of the Attendance Case File only to refer to the local authority.

For enforcement action for other unauthorised absences, it is expected that all sections will have been completed, demonstrating effective use of the graduated approach.

By using the Attendance Case File as a tool, the local authority will have sufficient evidence to progress to legal enforcement if determined necessary. This will reduce the need for “evidence ping-pong” and enable faster resolutions.

Notice to Improve

Previously known as Attendance Review Conference (ARCs), a Notice to Improve meeting will be held prior to Attendance Prosecution or a Fixed Penalty Notice to provide a final opportunity for a parent/carer to engage with support and interventions.

The Notice to Improve is expected to include:

- Details of the pupil’s attendance record and details of the offences
- The benefits of regular attendance and parents’ duty under section 7 of the Education Act 1996
- Details of the support provided so far
- Opportunities for further support and the option to access previously provided support that was not engaged with
- A clear warning that a penalty notice may be issued, or prosecution considered if attendance improvement is not secured within the improvement period
- A clear timeframe for the improvement period of between 3 and 6 weeks
- Details of what sufficient improvement within that timeframe will look like
- The grounds on which a penalty notice may be issued before the end of the improvement period

Where it is clear that improvement is not being made, it may be appropriate to issue a penalty notice before the improvement period has ended. If the parent/carer does not engage with the Notice to Improve, then a prosecution or FPN will be progressed.

Education Supervision Orders

Where a voluntary early help plan, school attendance action plan, or formal attendance contract has not been successful, an Education Supervision Order (ESO) can be a useful alternative to provide formal legal intervention without criminal prosecution.

In deciding whether to progress to an ESO, the school and local authority should have exhausted voluntary support and be clear that making the order would be beneficial for the pupil and parent. Where safeguarding concerns exist, the lead practitioner should also discuss with the school's designated safeguarding lead and children's social care services and agree an ESO would be a more suitable option than a Children in Need or Child Protection plan. In all cases, the local authority must fully consider using an ESO before moving forward to prosecution.

Further guidance is available on page 51 of Working together to improve school attendance

Fixed Penalty Notices

Penalty notices are intended to prevent the need for court action and should only be used where it is deemed likely to change parental behaviour and support to secure regular attendance has been provided and has not worked or been engaged with, or would not have been appropriate in the circumstances of the offence.

Schools should not have a blanket approach of making a request to the local authority for the consideration of the issuing of penalty notices (including for holidays in term-time). They should investigate the underlying reasoning behind the absences and offer support where appropriate. Schools should make judgements on each individual case to ensure fairness and consistency across the county.

Current Department of Education statutory guidance defines the absolute minimum threshold of unauthorised absences which must be reached before a Penalty Notice can be considered. That threshold is 10 sessions of unauthorised absence in a rolling period of 10 weeks.

Penalty Notices are a direct alternative to prosecution.

Penalty Notices cover both general unauthorised absence and instances when attendance is otherwise reasonable, but the family have taken a holiday in term time. Penalty Notices can also cover both those scenarios at the same time for particular pupils and families i.e., generalised poor attendance and a holiday in term time.

Whilst there is no difference in law between generalised poor attendance and holidays in term time the Local Authority has adopted slightly different approaches to them.

Penalty Notices for generalised unauthorised absence

Before the Local Authority will consider issuing a Penalty Notice schools must provide evidence (by way of a Section 9 Statement from the School Attendance Officer and a Head Teacher's Attendance certificate) of:

- A minimum of 4 weeks voluntary support/engagement with pupils and parents once unauthorised absence first became an issue
- A minimum of 6 weeks subsequent more formal intervention (e.g., attendance contract) addressing poor attendance
- Parents being warned of the risk of a Fixed Penalty Notice/or prosecution if attendance does not improve (e.g., warning letter)
- Both voluntary and formal support/engagement has not resulted in any meaningful improvement in attendance
- The effects on that pupil's learning and life chances of poor attendance and the impact on other children in the same class
- The registration certificate/record for the current academic year
- The registration certificate/record for the previous academic year
- A Head Teacher's Attendance Certificate showing an absolute minimum of 10 sessions of unauthorised absence over a recent 10 week period (Whilst an absolute minimum is required **schools are asked to provide at least the last 6 months attendance figures in the Head Teacher's Certificate** to provide a broader context)
  (Note – this evidence should be provided both for generalised poor attendance and for cases with both generalised poor attendance coupled with holiday(s) in term time and for the latter should also include the evidence requested specifically for holidays outlined below)

Penalty Notices for holidays in term time

Before the Local Authority will consider issuing a Penalty Notice schools must provide evidence (by way of a Section 9 Statement from the School Attendance Officer and a Head Teacher's Attendance certificate) of:

- A copy of any parental request for the holiday and the school response
- If no parental request was made in advance, how the school know the pupil was on holiday (e.g. text/phone call/e-mail from parent(s) whilst on holiday)
- A warning letter to parent(s) of the risk of a Penalty Notice or prosecution for taking their child out of school for a holiday
- The effects on that pupil's learning of taking the holiday and the impact on other children in the same class
- The registration certificate/record for the current academic year
- The registration certificate/record for the previous academic year

- A Head Teacher's Attendance certificate showing a minimum of 10 sessions missed recently through holiday (whilst an absolute minimum is required **schools are asked to provide at least the last 6 months attendance figures in the Head Teacher's Certificate** to provide a broader context)

The first penalty notice issued to a parent in respect of a particular pupil will be charged at £160 if paid within 28 days. This will be reduced to £80 if paid within 21 days.
A second penalty notice issued to the same parent in respect of the same pupil is charged at a flat rate of £160 if paid within 28 days.

A third penalty notice cannot be issued to the same parent in respect of the same child within 3 years of the date of issue of the first. In a case where the national threshold is met for a third time (or subsequent times) within those 3 years, alternative action should be taken instead. This will often include considering prosecution, but may include other tools such as one of the other attendance legal interventions. Where a penalty notice has been issued to the parent in respect of the same child in the preceding three-year period, the amount of the penalty is £160 with no reduction for earlier repayment.

A penalty notice is an out of court settlement which is intended to change behaviour without the need for criminal prosecution. If repeated penalty notices are being issued and they are not working to change behaviour they are unlikely to be the most appropriate tool and prosecution, or other legal interventions will be considered.

In presenting the case in Court, the local authority should set out clearly and concisely the facts of the case. To support prosecution schools must provide their named Access and Inclusion Officer with appropriate evidence.

Evidence should include:

- School's chronology of events to include:
  - Absence records, with reasonings
  - Letter sent home with regards to poor attendance
  - Evidence of attendance interventions and support provided
  - Minutes from meetings
- Section 9 Statement from the Access and Inclusion Officer
- Headteacher certificate

Any prosecution case must be laid before the Court within 6 months of the alleged offence. Before beginning any legal proceedings, the parent should be given a formal written notification, explaining the process and potential consequences.

All local authorities are expected to have an email mailbox to make these enquires as easy as possible. Cumberland Council can be contacted at accessandinclusion@cumberland.gov.uk

Attendance Prosecution

If a child of compulsory school age fails to attend regularly at a school at which they are registered, or at a place where alternative provision is provided for them, their parents may be guilty of an offence and can be prosecuted by the local authority.

Prosecution in the Magistrates Court is the last resort where all other voluntary and formal support or legal intervention has failed or where support has been deemed inappropriate in the circumstances of the individual case. Where it is decided to pursue prosecution, only local authorities can prosecute parents and they must fund all associated costs, including in the preparation of court documentation.

Local authorities have the power to prosecute:

- Parents who fail to comply with a school attendance order issued by the local authority to require a parent to get their child registered at a named school (under section 443 of the Education Act 1996). This may result in a fine of up to level 3 (£1,000).
- Parents who fail to secure their child's regular attendance at a school, for which there are 2 separate offences: section 444(1) where a parent fails to secure the 53 child's regular attendance; and section 444(1A) where a parent knows that the child is failing to attend school regularly and fails to ensure the child does so. The section 444(1) offence may result in a fine of up to level 3 (£1,000) and the section 444(1A) offence my result in a fine of up to level 4 (£2,500), and/or a community order or imprisonment of up to 3 months.
- Parents who fail to secure the regular attendance of their child at a place where the local authority or governing body has arranged alternative provision (under sections 444 and 444ZA). This may result in a fine of up to level 3 (£1,000), or if the parent is found to have known the child was not attending regularly and failed to ensure that they did so, a fine of up to level 4 (£2,500), and/or a community order or imprisonment of up to 3 months.
- Parents who persistently fail to comply with directions under an Education Supervision Order (under Schedule 3 to the Children Act 1989) or breach a Parenting Order or directions under the order (under section 375 of the Sentencing Act 2020). These may result in a fine of up to level 3 (£1,000)

The decision to prosecute rests solely with the LA as an independent prosecuting authority.

In presenting the case in Court, the local authority should set out clearly and concisely the facts of the case. To support prosecution schools must provide their named Access and Inclusion Officer with appropriate evidence.

Evidence should include:

- School's chronology of events to include:
  - Absence records, with reasonings
  - Letter sent home with regards to poor attendance
  - Evidence of attendance interventions and support provided
  - Minutes from meetings
- Section 9 Statement from the school attendance officer
- Headteacher certificate

Any prosecution case must be laid before the Court within 6 months of the alleged offence. Before beginning any legal proceedings, the parent should be given a formal written notification, explaining the process and potential consequences.

Parenting Orders

Parenting orders are an additional order that can be imposed by the Court following conviction for non-attendance alongside a fine and/or community order. Parents' agreement is not required before an order is made.

The order requires a parent to comply with the arrangements specified by the Court which can include a requirement for parents to attend counselling or guidance sessions (e.g. parenting education or parenting support classes) where they will receive help and support to enable them to improve their child's attendance for up to 3 months.

Any breach of the order could lead to a fine of up to £1,000.

School Attendance Orders

Where it appears a child of compulsory school age in their area is not receiving suitable education, either at school or otherwise than at a school (such as unsuitable home education), that local authority is responsible for serving a notice and if necessary, a SAO. Likewise, if prosecution for breaching the SAO is deemed necessary, it should be taken forward by the LA.

Any breach of the order could lead to a fine of up to £1,000.

Appendices

Register Codes

The full list of register codes and their definitions are available on Pages 55 – 65 of Working together to improve school attendance. There are some codes that are new or commonly misinterpreted which are collated below.

Code B: Off-site educational Activity

Attending an off-site educational activity that has been approved by the school and supervised by someone authorised by the school. For pupils of compulsory school age, schools must also record the nature of the activity, examples are:

- attending taster days at other schools.
- attending courses at college.
- attending unregistered alternative provision arranged or agreed by the school.

The educational activity must take place during the session for which it is recorded. Ultimately schools are responsible for the safeguarding and welfare of pupils educated off-site. Therefore, by using code B, schools are certifying that the education is supervised, and measures have been taken to safeguard the pupil. Schools should ensure that they have in place arrangements whereby the provider of the educational activity notifies the school of any absences by the pupil. The school should record the pupil's absence using the relevant absence code. This code must not be used for any unsupervised educational activity i.e., when a pupil is at home doing some schoolwork.

Code C: Leave of absence for exceptional circumstance

All schools are able to grant a leave of absence at their discretion. A leave of absence should not, and from a school maintained by a local authority or a special school not maintained by a local authority, must not be granted unless there are exceptional circumstances. Schools must judge each application individually considering the specific facts and circumstances and relevant background context behind each request. Where a leave of absence is granted, the school will determine the number of days a pupil can be absent from school. A leave of absence is granted entirely at the school's discretion. Generally, a need or desire for a holiday or other absence for the purpose of leisure and recreation would not constitute an exceptional circumstance.

Code C1: Leave of absence for the purpose of participating in a regulated performance or undertaking regulated employment abroad.

All schools can grant leaves of absence for pupils to undertake employment (paid or unpaid) during school hours. Schools maintained by a local authority and special

schools not maintained by a local authority can only do so in the following circumstances (under regulation 11(2)):

- Where the local authority has granted a licence for the pupil to take part in a performance regulated by section 37(2) of the Children and Young Persons Act 1963
- Where a pupil does not need a licence for such a performance because an exception applies under section 37(3) of the Children and Young Persons Act 1963, including where a Body of Persons Approval (BOPA) covering the pupil has been issued by the local authority in whose area the performance will take place or the Secretary of State
- Where a Justice of the Peace has given the pupil a licence to go abroad for a performance or other regulated purpose under section 25(2) of the Children and Young Persons Act 1933

Schools should be sympathetic to requests for leave of absence that are supported by a licence issued by a local authority or a BOPA as long as the school remains satisfied that this will not have a negative effect on a pupil's education. Where a local authority licence specifies the dates that a pupil is to be away from school to perform, the school should record the absence for those days as if a leave of absence had been applied for and granted. Where the terms of the local authority licence do not specify dates, however, or where a BOPA or other exemption or licence from a Justice of the Peace applies, it is at the discretion of the school to grant leave of absence.

Schools that are not required to follow regulation 11, must still use this code to record a pupil who is absent with leave for the purpose of participating in a regulated performance or work abroad under a licence or exemption as described above.

This code is classified for statistical purposes as authorised absence.

Code C2: Leave of absence for a compulsory school age pupil subject to a part-time timetable

All pupils of compulsory school age are entitled to a full-time education. In very exceptional circumstances, where it is in a pupil's best interests, there may be a need for a temporary part-time timetable to meet their individual needs.

Schools maintained by a local authority and special schools not maintained by a local authority can grant a leave of absence, under regulation 11(6) to temporarily reduce the timetable of a pupil of compulsory school age to part-time, if the school and a parent who the pupil normally lives with have agreed that, exceptionally, the pupil should temporarily be educated only part-time and have agreed the times and

dates when the pupil will, during the period of temporary part-time education, be expected to attend the school.

Schools that are not required to follow regulation 11, must still use this code to record when a pupil is absent with leave because they are subject to a part-time timetable in line with an agreement between the school and a parent the pupil normally lives with that the pupil should temporarily be educated part-time.

Where a pupil is receiving a full-time education, but only part-time at the school in question (e.g. dual registration, part-time unregistered alternative provision, or flexi schooling) this code must not be used and the appropriate code for why the pupil is not in school for that session should be used.

Code J1: Leave of absence for the purpose of attending an interview for employment or for admission to another educational institution

Schools maintained by a local authority and special schools not maintained by a local authority can grant leave of absence, where an application has been made in advance by the parent who the pupil normally lives with (or the pupil if they will be over compulsory school age by the time of the absence) and the leave is to enable the pupil to attend an interview for employment or admission to another educational institution. 327. Schools that are not required to follow regulation 11, must still use this code to record a leave of absence has been granted for the purpose of attending an interview for employment or for admission to another educational establishment.

This interview must take place during the session for which it is recorded.

This code is classified for statistical purposes as authorised absence.

Code K: Attending education provision arranged by the local authority

The pupil is attending a place, other than the school or any other school at which they are a registered pupil, for educational provision arranged by a local authority under section 19(1) of the Education Act 1996 (exceptional provision of education), section 42(2), or 61(1) of the Children and Families Act 2014 (special educational provision off site). A pupil attending provision arranged by the school rather than the local authority must be recorded using Codes P or B instead.

Schools must also record the nature of the provision (regulation 10(5)), examples are:

- attending courses at college.
- attending unregistered alternative provision such as, home tutoring

Schools should ensure that the arrangements are in place whereby the provider notifies the school of any absence by the pupil. The school must record the pupil's absence using the relevant absence code.

This code is classified for statistical purposes as attending an approved educational activity.

Code Q: Unable to attend the school because of a lack of access arrangements

The pupil is unable to attend the school because a local authority has a duty set out in regulation 10(12) or (13) to make access arrangements to enable the pupil's attendance at school and have failed to do so.

This code is classified for statistical purposes as not a possible attendance.

Code Y1: Unable to attend due to transport normally provided not being available

The pupil is unable to attend because the school is not within walking distance of their home and the transport to and from the school that is normally provided for the pupil by the school or local authority is not available.

Walking distance in relation to a child under the age of 8, means 2 miles, and for a child of 8 or above, means 3 miles. In each case measured by the nearest available route.

This code is classified for statistical purposes as not a possible attendance.

Code Y2: Unable to attend due to widespread disruption to travel

The pupil is unable to attend the school because of widespread disruption to travel caused by a local, national, or international emergency.

This code is classified for statistical purposes as not a possible attendance.

Code Y3: Unable to attend due to part of the school premises being closed

Part of the school premises is unavoidably out of use and the pupil is one of those that the school considers cannot practicably be accommodated in those part of the premises that remain in use. This code is classified for statistical purposes as not a possible attendance.

Code Y4: Unable to attend due to the whole school site being unexpectedly closed

Where a school was planned to be open for a session, but the school is closed unexpectedly (e.g. due to adverse weather), the attendance register is not taken as usual because there is no school session. Instead, every pupil listed in the admission register at the time must be marked with code Y4 to record the fact that the school is closed. This code may not be used for any planned closure such as weekends or holidays. This code is classified for statistical purposes as not a possible attendance.

Code Y5: Unable to attend as pupil is in criminal justice detention

Relevant regulation 10(14) 381. The pupil is unable to attend the school because they are:

- in police detention,
- remanded to youth detention, awaiting trial, or sentencing, or
- detained under a sentence of detention

If a pupil is remanded to local authority accommodation, they should attend school as normal where possible and where it is not possible any absence should be recorded using the appropriate code.

A pupil's absence should be recorded under code Y7 (unable to attend because of any other unavoidable cause) if they are unable to attend because they are serving a community based (i.e. non-detained) part of a sentence of detention, referral order, or youth rehabilitation order that requires them to be absent during the school day.

Schools are expected to communicate with the pupil's Youth Offending Team worker while the pupil is in custody and remains on the school roll to discuss the pupil's educational needs, progress and return to the school upon their release where appropriate. Education is a key part of effective resettlement; therefore, it is important that schools maintain contact with the Youth Offending Team throughout the sentence to support the child's resettlement where appropriate.

This code is classified for statistical purposes as not a possible attendance. Code

Y6: Unable to attend in accordance with public health guidance or law

The pupil's travel to or attendance at the school would be:

- contrary to any guidance relating to the incidence or transmission of infection or disease published by the Secretary of State for Health and Social Care (or the equivalent in Scotland, Wales, and Northern Ireland), or
- prohibited by any legislation relating to the incidence or transmission of infection or disease

Code Y7: Unable to attend because of any other unavoidable cause

An unavoidable cause, that is not covered by one of the other 'unable to attend' codes detailed above, is preventing the pupil from attending the school.

This code should be used only where something in the nature of an emergency has prevented the pupil from attending the session in question. The unavoidable cause must be something that affects the pupil, not the parent. The fact that a parent has done all they can to secure the attendance of the pupil at school does not, in itself, mean the pupil has been prevented by unavoidable cause.

Schools must also record the nature of the unavoidable cause (regulation 10(6)).

This code is classified for statistical purposes as not a possible attendance.

Fair Access Protocol, Managed Moves and Off-Site Direction

The School Admissions Code 2021 states all Local Authorities (LAs) must operate a Fair Access Protocol (FAP) and all admission authorities must participate to ensure that unplaced children, especially the most vulnerable, are offered places promptly and at a suitable school.

Cumberland Council's "Fair Access Protocol for the Placement of Vulnerable and Hard-to-Place Pupils" outlines the approach taken.

Families Information | Professionals Hub (cumberland.gov.uk)

Elective Home Education (EHE)

Elective Home Education (EHE) is the term used when parents choose to provide education for their children at home instead of sending them to school full-time. You may also hear the term 'home-schooling' used.

Parents have a legal right to have their child(ren) educated in accordance with their own beliefs and values, but the education provided must be efficient and full-time and must be suitable to the young person's age, ability, aptitude, and any special educational needs.

Cumberland Council's approach to supporting Electively Home Educated children is outline on the Home Education web-page.

Education otherwise than at school (EOTAS)

Every child should have the best possible start in life through high-quality education, which allows them to achieve their full potential. There are occasionally circumstances in which children/young people with special educational needs need to be educated outside of traditional educational settings, such as schools or colleges. To ensure that all children/young people are able to receive an efficient and effective education, the Children and Families Act 2014 allows for education outside of educational settings.

Education Otherwise than at School (EOTAS)

Children Missing Education (CME)

Children missing education are children of compulsory school age who are not registered pupils at a school and are not receiving suitable education otherwise than at a school. Children missing education 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.

Local authorities have a duty under section 436A of the Education Act 1996 to make arrangements to establish the identities of children in their area who are not registered pupils at a school and are not receiving suitable education otherwise. This duty only relates to children of compulsory school age.

Children Missing Education Statutory Guidance

Section 19

Section 19 of the Education Act 1996 requires local authorities to make arrangements to provide "suitable education at school, or otherwise than at school, for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them". Suitable education is defined as "efficient education suitable to the age, ability, aptitude and to any special educational needs", the child (or young person) may have.

In response to this duty, Cumberland Council have developed a Access to Education Policy that outlines the available support and Access to Education Decision Making process.

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