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The law requires parents and carers to make sure their children receive a full-time education suitable to their age, ability and any special educational needs.

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Parent and carer responsibilities

Your legal responsibility as a parent or carer is to ensure that your child or children of school age receive a suitable full-time education, by either enrolling your child or children at a school or by making other arrangements such as elective home education.

Once enrolled at a school, it remains the parent or carer's legal responsibility to ensure that their child attends school regularly and arrives on time each day.

Parents and carers are encouraged to maintain good attendance by:

- making sure they and their child understand the importance of school attendance and punctuality and know what the school rules are
- talking to the school to discuss what support is available if your child has any issues which could affect attendance levels
- avoiding making appointments during the school day, and if this is unavoidable, provide evidence (where possible) that an appointment was attended - this will enable the school to authorise the absence
- not taking holidays during school term-time

If you're a parent of a child of statutory school age (between 5 and 16 years) who is registered at a school you are responsible for making sure they attend school regularly.

Who a parent is

A parent is:

- any natural parent, whether married or not
- any parent who, although they are not a natural parent, has parental responsibility (as defined in the Children Act 1989) for a child or young person
- any person who, although not a natural parent, has care of a child or young person - having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child, is considered to be a parent in education law

Fines

A penalty notice fine offers a parent an alternative to prosecution. However, failure to pay a penalty notice will usually result in the original case being referred to a magistrates' court.

The fine is £120, to be paid within 28 days but will be reduced to £60 if paid within 21 days.

Penalty notice fines are issued per parent, per child and all fines issued must be paid.

Prosecution

If a parent is prosecuted this would take place in a magistrates' court under section 444 of the Education Act 1996. Prosecution could result in a fine of up to £2,500, a community order or a jail sentence of up to 3 months. The court can also issue a parenting order.

Prosecution in a magistrates' court would be via a Single Justice Procedure Notice (which removes the need for a formal hearing to take place) or by summons for a parent to appear at a magistrates' court in person.

Parents can be prosecuted for issues including:

- ongoing unsatisfactory school attendance
- repeated cycles of short-term improvements linked to the penalty notice process
- unauthorised leave of absence during term time (including holidays) which is excessive in length
- repeated periods of unauthorised leave of absence taken during term time (including holidays)
- non-payment of a penalty notice

Support

If you have any questions or concerns about school attendance, contact your child's school, where staff will be able to help.

Why attendance matters

Attending school on a regular basis is the key to your child doing well at school and will set them up with good routines for later life and the working world, as well as giving them the opportunity to:

- make new friends and feel included
- learn new things and develop skills
- increase their confidence and self-esteem
- improve social skills
- achieve their potential and fulfil aspirations

Every school day counts

Every single day a child is absent from school equates to a day of lost learning.

Attendance, absence and days of learning missed

Attendance	Absence and days of learning missed
100% attendance	No days missed
95% attendance	9 days of absence, 1 week and 4 days of learning missed
90% attendance	19 days of absence, 3 weeks and 4 days of learning missed
85% attendance	28 days of absence, 5 weeks and 3 days of learning missed

Authorised absence

This is any absence that is approved by your child's headteacher. These absences will be marked in the attendance register with an authorised absence code.

Unauthorised absence

Unauthorised absence is any absence that is not approved by your child's headteacher including:

- absence for which a parent has not provided a reason
- absence where the reason provided has not been accepted as justifiable or genuine by the headteacher
- if your child arrives late after the close of register

These absences will be marked in the attendance register with an unauthorised absence code.

Leave of absence in term time (including holidays)

In accordance with pupil registration regulations, headteachers must not grant approval for any leave of absence during term time, including holidays, unless there are exceptional circumstances.

Headteachers of maintained and academy schools across England are expected to abide by this regulation and request legal action when a child is absent during term time without their permission - regardless of the child's wider school attendance.

Persistent absence

Any child with attendance of or below 90% (regardless of whether the absence is authorised or unauthorised) is considered to be a persistent absentee. This equates to 2 days of absence each month.

Statistics show that a persistent absentee is less likely to achieve their full potential.

Your legal responsibility

As a parent, you are committing an offence if you fail to make sure your child attends regularly - even if they are missing school without your knowledge.

If the school believes this is the case, they can ask us to take action against you. This can be through a penalty notice fine or prosecution in a magistrates' court.

Penalty notice

The Anti-Social Behaviour Act 2003 introduced legislation for local authorities to issue a penalty notice fine to the parent of a child who has unauthorised absences from school.

A penalty notice can be issued for the following reasons:

- if leave is taken during term time without the permission of the headteacher
- if a child has unauthorised absence from school and their parent fails to improve the situation
- if a child persistently arrives late after the close of register
- if a child who has been excluded is seen in a public place during school hours without adult supervision

School responsibilities

School responsibilities are:

- to have an attendance policy which clearly explains the school attendance process and procedures to parents
- schools must take a register twice each day (at the start of the morning session and once during the afternoon)
- using the appropriate National Attendance Codes
- complying with statutory registration and deletion procedures
- where there are concerns about pupil absence, schools should seek to intervene early and maintain a chronology of all contact (successful and attempted) regarding pupil absence, with the pupil, parents and other agencies - schools will be required to produce this as evidence if legal intervention is later used

Taking a child on a family holiday during term time

Headteachers cannot grant any leave of absence for family holidays, unless there are exceptional circumstances which support the request being made.

Where a family chooses to take a holiday during term time and the absences are coded as unauthorised, headteachers may ask us to issue a penalty notice.

Authorising absence from school

The High Court has confirmed that schools, not parents, authorise absence.

Schools must use the national attendance codes to ensure consistency in the treatment and recording of attendance and absence.

In most cases, illness will be the reason for absence (code I). However, schools can also authorise absence for other exceptional circumstances (code C). Such decisions will take place at the headteacher's discretion. An example of authorised absence would be bereavement. Unacceptable reasons might include a shopping trip or a birthday.

Unauthorised absence from school

Where it is believed that a parent has the ability to improve a child's attendance at school but fails to do so, sanctions can be used as a means of enforcing attendance (never as a punishment). Parents may be prosecuted if they fail to ensure their child receives an education. The following sections of the Education Act 1996 apply:

- Section 444(1): if "a child of compulsory school age who is a registered pupil fails to attend regularly" at the school. This leads to a fine of up to £1,000 per parent

- Section 444(1A): if "the parent knows that his child is failing to attend regularly at the school and fails to cause him to do so" without reasonable justification. This aggravated offence leads to a fine of up to £2,500 per parent and/or up to 3 months imprisonment

The only grounds for challenge in law to an offence under Section 444 are:

- the child was absent for medical reasons (parents or carers should obtain medical evidence to cover the periods of absence)
- the local authority failed to provide transport when required to do so
- the absences were due to religious observance
- permission was granted by the school or there was unavoidable cause

Contact us

Email: ews.hq@derbyshire.gov.uk

Penalty notice helpline tel: [01629 532157](tel:01629 532157) 

Related documents



Penalty notices code of conduct - 762KB



Penalty notices advice for parents and carers - 779KB



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