

Introduction

By law, all children of compulsory school age must receive appropriate education. Should your child not attend the school where they are registered and are absent without a satisfactory reason, then the Education Welfare Service may have to consider taking legal action against you under Section 444 of the Education Act 1996. This leaflet explains this action.

Failure to ensure a child's regular attendance at the school where they are registered is a criminal offence which carries a fine of up to £1000 per parent per child (sec 444(1)) or in more serious cases (aggravated offence) a fine of up to £2500 per parent per child and/or up to 3 months imprisonment (sec 444 (1a)). If you are to be prosecuted under this section, you will be formally cautioned and interviewed under the Police and Criminal Evidence (PACE) Act 1984.

Pre Court Meeting

If your child fails to attend school regularly, we will usually hold a meeting at the school. At this meeting, you and your child will be able to explain why your child's attendance has been poor and how you plan to improve it. The meeting will be chaired by a Senior Education Welfare Officer.

Everyone present will be expected to sign the agreement and normally a review date will be set. If your child begins to attend school regularly after this meeting/s, we will not take court action.

Evidence for Prosecution

Should the Local Authority decide to take legal action you will be served with a summons to appear before a Magistrates Court at a specified time and date. You will also receive a copy of the Education Welfare Officer's report based on the evidence of their work (Section 9 Statement), 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 (the limits are 2 miles for children under 8 and 3 miles for children aged 8 and over);

- your child is not registered at the school and you are providing suitable alternative education;
- that your trade or business requires you to travel from place to place (further details available from the Education Welfare Service).

Attendance at Court

You **must** attend court on time and on the date on 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, sometimes two and on occasions the District Judge. 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 court 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 the court why your child's attendance is poor. We will ask the court to consider costs in addition to any decision they make 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 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;
- a **Parenting Order** – you may be ordered to attend parenting groups;
- **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.



Other Education Welfare Service Leaflets

The Education Welfare Service – Information for parents

- School Attendance Orders
- Penalty Notices
- Education Supervision Orders
- Holidays during Term Time
- Employing School-age Children
- Absentee Investigation Patrols
- Children Missing Education

Where can you contact us?

The Education Welfare Service will continue to support you, if required, following the court action. Education Welfare Officers are based in schools. Please contact your school for the telephone number of your Education Welfare Officer.

Alternatively, contact the Education Welfare Service at Borough Hall as per the address and phone number on the back of this leaflet.

Finding out more

If you would like further copies, a large-print copy or information about us and our services, please telephone or write to us at our address below.

Për Informacion

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Per Informazione


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BEDFORD
BOROUGH COUNCIL

School Attendance - Guidance on prosecutions



The Education Welfare Service

The Education Act 1996
Section 444 (1) and (1a)