

Education Engagement Service

Statutory Legal Action: Criteria and Options to address irregular school attendance:

The table below outlines the main criteria and options to address irregular attendance available to the local authority on behalf of schools and academies for pupils of compulsory school age.

Before considering the suitability of legal action schools will need to evidence how they have attempted to engage and work with the pupil's parents or carers to address any identified barriers or issues to attendance including for example any letters, meetings, undertaking an Early Help action plan, initiating referrals or signposting to appropriate support agencies e.g. CAMHS, SENDAS etc.

School staff will need to be aware or have considered any suitable alternatives to prosecution and any other agency advice and support options presented.

School staff also need to be aware that any legal proposed action will be subjected to and need to meet the criteria of the public interest test.

The table is intended to act as a **guide only** and school staff will need to also further consider the individual circumstances of each pupil that are impacting on the irregular attendance.

Criteria level	Options	Activity	Timescale
0-10 unauthorised absence sessions	School action	<ul style="list-style-type: none"> First day absence contact, letters to parents, meeting(s) in school, attendance clinic invite, home visit(s), CME, WCF checks etc 	<ul style="list-style-type: none"> 3-4 weeks max from first period of unauthorised absence
0-10 lates after register has closed U code	School action	<ul style="list-style-type: none"> First day absence contact, letters to parents, meeting(s) in school, attendance clinic invite, home visit(s), WCF checks etc. 	<ul style="list-style-type: none"> 3-4 weeks max from first period of unauthorised absence.
Any action undertaken by the school will form part of the evidence needed to request statutory legal action (see evidence required for penalty notices) on referral form			

<p>FIRST instance of 10 plus sessions of unauthorised absence within the previous 10 weeks. Staff feel warning notice is likely to encourage an improvement in attendance. <u>Attendance above 80%</u> <u>- no other issues</u></p>	<p>Penalty Notice</p>	<ul style="list-style-type: none"> • First Notice issued, • Notice to Improve Letter -20 days warning notice letter issued, • 20 day notice attendance reviewed • Penalty request submitted if warning notice failed. 	<ul style="list-style-type: none"> • First notice should be issued after 3 -4 weeks of School Action and the 20 day notice to improve thereafter. • Requests for issuing a Penalty notice must be submitted within 6 weeks of notice failure.
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Please note only 2 penalty notices can be issued by the LA in each academic year. However there is no restriction on the number of warning notices issued in an academic year. If the parent does not pay a fine, legal action under s4441 can be instigated which will require submission of witness statements.

<p>10 plus sessions of unauthorised absence within the previous 10 weeks. Evidence of historical or persistent absence. Penalty notice already issued/ tried for absence. <u>Attendance below 80%</u></p>	<p>Prosecution under s4441 Ed Act 1996</p>	<ul style="list-style-type: none"> • School Action • First warning Notice • Ongoing engagement and working to address any identified issues or concerns • Final Notice issued • Submission of Legal Action referral application • Consideration of a Pupil Attendance & Welfare Review Meeting (PAWRM) if required, chaired by prosecution officer • Submission of witness statements, reg cert etc if deemed suitable for prosecution 	<ul style="list-style-type: none"> • School action (3-4 weeks max from first period of unauthorised absence) • First warning notice issued during or immediately after school action • Final Notice to be issued within 3 months after First notice • Legal Action review form to be submitted as soon as possible to consider appropriateness for legal action
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<p>10 plus sessions of unauthorised absence in the previous 10 weeks. Evidence of significant historical or persistent absence without reasonable justification. Previous s4441 conviction. <u>Attendance significantly below 80%</u></p>	<p>Prosecution under s4441A Ed Act 1996</p>	<ul style="list-style-type: none"> • School Action • First warning Notice • Ongoing engagement and working to address any identified issues or concerns • Final Notice issued • Submission of Legal Action referral application • Consideration of a Pupil Attendance & Welfare Review Meeting (PAWRM) if required. • PACE interview / submission undertaken by LA rep Prosecution Officer • Submission of witness statements, reg cert etc if deemed suitable for prosecution 	<ul style="list-style-type: none"> • School action (3-4 weeks max from first period of unauthorised absence) • First warning notice to issued during or immediately after school action • Final Notice to be issued within 3 months after First notice • Legal Action review form to be submitted as soon as possible to consider appropriateness for legal action • PACE interview to be undertaken by LA rep / Prosecutions officer
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Rationale / Criteria

20 day warning Notice to Improve

First instance of unauthorised absence and where you feel the issuing of a Penalty notice will have an impact on a parent/ carer to carry out their responsibility. Attendance above 80% - no other issues.

S444 1

Persistent and historical irregular attendance with inconsistent parent or carer engagement with school or other agencies despite notification and warnings to improve attendance. Attendance below 80%.

S4441A

Persistent and historical irregular attendance with no parental /carer engagement with the school or other agencies despite notifications and warnings to improve attendance. No reasonable justification for the pupil not attending school. Attendance significantly below 80%. Possible previous prosecutions under s4441.

Limitations

- The legal representatives will usually submit a 10 week period of evidence to the court for the purposes of prosecution of irregular attendance
- 6 month rule: Any prosecutions brought by the Local authority are subject to the 6 month rule, whereby the prosecution has to be lodged with the magistrates court within 6 months of the last recorded unauthorised absence.
- Schools should always seek parent/carers consent before contacting GP for medical evidence. This should only be in cases where long term illness is a concern.