

Practice Guidance for improving School Attendance in Sefton (incorporating Legal Measures)

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1. **Introduction** 
   1. These procedures set out the requirements for schools and other educational settings, for the management of school attendance, including the enforcement process in relation to pupil absence. They reflect statutory requirements.
   2. To ensure that the child, young person and their family receive the help and support they need, schools are required to have implemented an attendance support plan/early help assessment to bring about an improvement in attendance prior to requesting statutory intervention from the LA.
   3. If the required improvement is not achieved in the child’s attendance, and the child/family do not engage with the support available to them, including an early help assessment considering the needs of the whole family, the LA’s Formal Attendance Procedure through an invitation to the attendance panel should be applied.
   4. Other legal disposals are available to the LA outside of the formal attendance procedures, such as issuing Penalty Notices for unauthorised leave of absence in term time and being seen in a public place during the first five days of an exclusion. The LA is also responsible for issuing School Attendance Orders when a child of compulsory school age is not on a school roll and is not being suitably educated otherwise (e.g., by Elective Home Education).
   5. Although there are different arrangements for supporting attendance in Academies and Free Schools, the requirements set out in the Local Authority Enforcement Procedures apply to all settings, regardless of the arrangements that are in place for the delivery of support.
2. **Parental Responsibility**

2.1 Under Section 7 of the Education Act 1996, the Parent is responsible for making sure that their Child of compulsory school age receives efficient, full-time education. This can be by regular school attendance or otherwise. [Elective Home Education provided by the Parent or their representative].

2.2 A parent in relation to any child or young person, includes: -

a) all natural parents, whether they are married or not.

b) any person who is not a parent but who has parental responsibility for him/her; or

c) any person who has care of him/her.

This also includes all absent parents who have regular contact and an ability to influence the child including their attendance (separated parents who do not accompany the other parent on the unauthorised leave should not be included). Parental partners can be included (whether or not they are married) or the natural parent of the child as they have ‘care’ of the child. If a pupil lives with a grandparent or older sibling as their main carer they can also be included as they are the main care provider.

2.3 Compulsory school age is defined as beginning from age 5, the child should attend school at the start of the term commencing on or after their fifth birthday. A child continues to be of compulsory school age until the last Friday of June in the school year that they reach their sixteenth birthday.

2.4 In Sefton, if it appears that a child of compulsory school age is not receiving a suitable education, either by regular attendance at school or otherwise, then under Section 437 of the Education Act 1996; the Local Authority may begin procedures for issuing a School Attendance Order.

2.5 Sefton Council have a Partnership Agreement with schools which sets out how and when referrals should be made to the service. It also has a clear Enforcement Process for the prosecution of parents and the application of Education Supervision Orders.

1. **School**

The definition of a school includes Pupil Referral Units; therefore, the legislation applies equally to parents of children and young people registered at PRUs and other institutions registered as schools (such as IMPACT and other private providers registered with DfE) who are failing to attend regularly. Further amendments (1996 Education Act s444ZA) also extend the legislation to cover children failing to attend properly arranged off-site activities when parents have been informed in writing of the details of the proposed provision.

1. **School Attendance Order (SAO)**

4.1 The School Attendance Order (SAO) process is contained within **Appendix A**.

4.2 A SAO may be used to direct the parent to send their child to a specific school. It can also be used when a pupil is not on a school roll.

For Example

* The parent has failed to register their child at a primary school.
* The parent has failed to secure their preferred school and alternative options are viewed as unsuitable.
* The parent has failed in their duty under Elective Home Education and on the advice of the Complementary Education Service, a suitable education is not being provided.

4.3 Before serving a SAO every effort should be made to engage with the parent.

1. **The Role of the School**

5.1 All schools should have an Attendance Policy. Schools are required to take an attendance register twice a day, at the start of the morning session and once during the afternoon session. The register must show whether any absence is authorised or unauthorised.

5.2 Schools should have within their Attendance Policy effective systems for encouraging regular attendance and investigation of underlying causes of poor attendance. School Attendance Policies should be approved and reviewed regularly by the Governing Body.

5.3 Children who are identified as persistent absentees should be offered an Attendance Support Plan that will identify any barriers that is affecting the child attending school. The Attendance Support Plan should set an attendance target and identify actions to bring about an improvement. The school my also undertake an early help assessment.

1. **Referral to the Local Authority/School Attendance Panel**

6.1 Sefton Council currently employs a process whereby a Local Authority (LA) School Attendance Panel is convened for use where concerns exist about the levels of absence, the reasons given and when the school have tried a variety of methods to improve this.

6.2 The Panel will seek to develop a holistic understanding of the barriers to attendance. This will help enable a more considered approach to the support needed to enable successful re-engagement. The Panel will take a whole family approach to discussions, and consider pupil and parental preferences, to find the solution to educational engagement.

6.3 Different categories of absence are addressed at the LA School Attendance Panel. The LA School Attendance Panel provides a formal route to target setting, planned, and evaluated actions.

6.4 Membership of the Panel may include Officers from Sefton council, schools, and any other relevant agency. There is a criterion for selecting children and their parents/carers, to meet the School Attendance Panel.

**A referral form will need to be completed in relation to those children who have unauthorised/ persistent absence who belong in the following categories.**

* Children and young people missing from school for more than 10 consecutive days without an explanation.
* Referrals for those children and young people whose parents have withdrawn them from school.
* Referrals for those children who are supported by an Education, Health and Care Plan (EHCP) and whose attendance is giving cause for concern.
* Referral for those children and young people who cite bullying and whose parents remove the children from the school.
* Advice in relation to children and young people who are missing from school for more than 15 consecutive days where illness is cited as a reason for non - attendance.
* Those children who are supported by early help, child in need or a child protection plan.
* Those children who are looked after by the Local Authority and placed with parents.
* Those children and young people who are young carers.
* Those pupils who are at risk from radicalisation or extremism who are absent from school.

6.5 When a child is referred to the Local Authority a period of casework takes place to resolve issues. Documentary evidence of casework interventions must be kept. The School Attendance Support Service will work with the school to engage other services where appropriate. The team will also work with families who have been supported by an Attendance Support Plam/Early Help Plan which has not brought about an improvement in attendance.

# 6.6 Local Authority (LA) School Attendance Panel Procedures

**REFERRAL TO THE LOCAL AUTHORITY SCHOOL ATTENDANCE PANEL**

6.7 If a child’s attendance does not improve after a period of intervention, the LA Officers or staff from the School/Academy/ may refer the child to the LA School Attendance Panel.

6.8 A letter is sent out inviting the parent/carer to the panel by the School Support Service approximately 10 days before the panel meeting. This letter confirms the date, time, and venue of the meeting.

6.9 The Local Authority School Attendance Panel is chaired by a member of the school Attendance Support Service. At the beginning of the meeting introductions are made and the purpose of the panel is explained. Parents/carers are reminded of the legal consequences for them if the pattern of poor school attendance continues. It is important to ascertain accurate details about the parents/carers and other siblings in the family.

6.10 At the panel meeting, the relevant professional will provide information, outlining the reasons for the child’s poor attendance levels, and any other relevant information. In addition, the information will highlight strategies which have been employed to improve attendance. This may include an individual attendance support plan. The child’s current attendance at the school or education provision where they are registered will be discussed.

6.11 The parent[s]/carer[s] are invited to provide an explanation for the child’s poor school attendance. The child may attend the meeting.

6.12 The LA School Attendance Panel will fully consider the issues that contribute to the child’s non-attendance at school and try to establish, together with parent[s]/carer[s], schools and other agencies, strategies that may improve attendance. The School Attendance Panel may recommend an Early Help assessment. The School Attendance Panel may recommend the possibility of seeking an Education Supervision Order if deemed appropriate with or without parental co-operation.

6.13 During the panel an “action plan” in the form of a Parenting Contract will be agreed with the family. This is aimed at addressing the issues and returning the child to regular school attendance as soon as possible. At the panel, agreed targets for improvement for a defined period are agreed (usually 12 weeks). The level of support required from the school/service involved to ensure targets can be achieved is discussed and a review date set. During this period the child’s attendance will be monitored closely by the school and the Local Authority.

6.14 Following the LA School Attendance Panel, a letter is sent to parents/carer’s home address confirming what has been discussed and agreed including the target date for improvement. The parenting contract they have signed will be included in the documentation. The letter will explain that continued poor school attendance may result in the Local Authority issuing legal proceedings against the parents/carers.

6.15 In cases where parents/carers fail to attend the Local Authority Attendance Panel without an explanation the parent will be sent a copy of the parenting contract and the associated actions made at the meeting. They will be requested to sign and return.

6.16 The relevant Local Authority officer/ school/ staff from Academy/Free School will receive a copy of the letter sent to parent’s/carers.

**LOCAL AUTHORITY SCHOOL ATTENDANCE PANEL-TARGET PROGRESS/REVIEW**

6.17 All cases are reviewed to look at the progress made by the target date.

6.18 The LA Officer /School representative will be responsible for providing an updated printout of the child’s attendance, together with a summary of the current situation.

**OUTCOMES**

6.19 If there is a significant improvement in the child’s attendance, the Local authority will take no further action. The child’s attendance will continue to be monitored.

6.20 If there is no improvement without reasonable justification the Local Authority will review the child’s attendance and if a decision is made to consider prosecuting a parent aletter is sent to the parents/carers inviting them for an interview under caution subject to the Police and Criminal Evidence Act 1984

**6.21 The Local Authority may decide to seek an Education Supervision Order**

1. **The Offence of Failing to Ensure Regular School Attendance**

* **Section 444(1) of Education Act 1996**
* **Section 444(1A) Education Act 1996**
* **Section 444(ZA)**

7.1 **Section 444(1) of Education Act 1996** - If a child of compulsory school age who is registered at a school fails to attend regularly then the parent is guilty of an offence under Section 444(1) of the Education Act 1996. This offence carries a maximum fine of up to £1000.

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7.2 **Section 444(1A) Education Act 1996** states that an offence is committed where a parent, knowing that their child is not attending regularly at school, fails without reasonable justification to cause him to attend (Education Act 1996, Section 444(1A) as amended by the Criminal Justice and Court Service Act 2000). This offence requires proof that the parent knew of their child’s non-attendance and failed to act. Under this aggravated offence a warrant can be issued compelling a parent to attend court and conviction can lead to a custodial sentence of up to three months or a fine of up to £2,500.

7.3 **Section 444(ZA) of the Education Act 1996** states that a parent can be prosecuted for failing to ensure that a child for whom he is responsible attends regularly at any alternative provision that has been made for the child.

7.4 In relation to prosecutions associated with penalty notices, subject to **Section 444A of the Education Act 1996** details can be found in the document ‘Procedures for issuing Education-related Penalty Notices’ that is published on Sefton Council Website

1. **PRACTICE GUIDANCE-A FRAMEWORK FOR EDUCATION SUPERVISION ORDERS (ESO)**

8.1 The purpose of this guidance is to promote good practice in the management of Education Supervision Orders, [ESOs] made under s36 of the Children Act 1989. It will identify issues of management and organisation, define principles, and set out procedures.

8.2 Section 447 of the Education Act, 1996, requires the LA to consider whether it would be appropriate to apply for an Education Supervision Order [Section 36 of the Children Act, 1989]. An Education Supervision Order may be applied for by Sefton Council. The sole grounds for this order is that a child of compulsory school age is not being properly educated. The supervisor appointed by the Local Authority is required to advise, assist and befriend the child and their parents/carers to ensure that the child will be properly educated.

8.3 The guidance also reflects the broader principles which underpin all aspects of the Children Act 1989, of which the following are of particular importance.

* In all proceedings under the Act the welfare of the child shall be the paramount consideration.
* Intervention in a family should be in partnership with the parents whenever possible.
* It is of vital importance that agencies develop efficient and effective collaboration.
* Courts should not grant a request for an order unless making an order would be better for the child than making no order.
* It is important to establish whether a child is suffering, or is likely to suffer, significant harm.
* Children need to be involved in decisions made which may affect them.
* The question which must be asked is this: - Is making an ESO better for the child than not doing so? When making a decision, it must be noted that as a matter of good practice an ESO should not be sought without consultation with all persons with parental responsibility. For education purposes any person who has the actual day to day care and custody of the child may be treated as being a ‘Parent.’

8.4 The order lasts for **one** year, although an extension may be applied for within **three** months of the order expiring. Each extension may last for up to **three** years, but the order ceases to have effect if a care order is made or when a child is over school leaving age. The Education Supervision Order can run concurrently with a supervision order or a criminal supervision order.

8.5 The decision to apply for an Education Supervision Order is made by the School Support Service Team Manager/Service Manager. The School Attendance Panel may also recommend an Education Supervision Order. When a decision to ‘consider’ an ESO has been made, the following stages must be followed.

**EDUCATION SUPERVISION ORDER PLANNING MEETING**

8.6 The ‘Education Supervision Order Meeting’ will be convened by the Local Authority. The LA will send an invitation to the relevant personnel involved with the case, to take part in the consultation stage prior to seeking an ESO. A representative from the school will need to attend the conference.

8.7 The parents and children and any other persons who have care and custody of the child must also be invited to the planning meeting by the appropriate letter.

8.8The Planning Meeting is intended to be the forum for the sharing of information. The aim of the Local Authority or the designated attendance worker from school will be to provide support for children and their families, to ensure pupils make the best of those educational opportunities available to them. The purpose of a planning meeting should be to identify a child’s needs and to plan a multi–agency strategy to ensure educational opportunities are realised to the full potential of the individual child, using all available resources. There will be formal minutes recorded at the meeting.

8.9 Working in partnership with children, parents, their families and the relevant agencies, and consideration of their wishes and feelings, are of fundamental importance in order to fulfil the aims of the Children Act 1989. However, the key principle is that the child’s welfare shall be the paramount consideration in deciding questions concerning their upbringing and this must be the driving force behind all decisions made at the Education Supervision Order Conference.

8.10 It is envisaged that the child and their parents/carer’s will attend the Education Supervision Order Planning Meeting and take part in the assessment of their problem and any action to be taken. The wishes and feeling of the children and their parents/carers will be incorporated into the court report. If the Local Authority thinks you need support getting your child to go to school but you are not co-operating, they can still apply to a court for an Education Supervision Order.

8.11 In accordance with the Children Act 1989, an Education Supervision Order application will only be granted when a Court is of the opinion that to do so would be better for the individual child than making no order at all. The decision to seek an Education Supervision Order should therefore be a decisive action, preferably with the consent and agreement of the child and/or the parent/carer.

8.12 The task of the Education Supervision Order Planning Meeting is to set down the objectives for any Education Supervision Order and/or joint programme of work to be carried out with the child, parents, other involved agencies, and any relevant others.

8.13 Contribution to this planning process by the child and their parents/carers is preferable and should be openly encouraged; confrontation should be avoided, for the ethos of the children Act 1989 and Education Supervision Orders is one of co-operation and partnership.

**PROCEDURES FOR EDUCATION SUPERVISION ORDER PLANNING MEETING**

8.14 The meeting will be chaired by an LA School Support Service Manager/ Team Manager.

8.15 The Chair will introduce those present at the meeting and explain their role within the Service, followed by an outline of the purpose of the meeting and its ultimate objectives.

8.16 A discussion of the child’s problems and difficulties should then follow with all parties contributing. Documentation will be completed that will contain all the information discussed at the meeting.

8.17 In those cases where the planning meeting decision is to apply for an ESO, individual “case reviews” will take place bringing together the parents/carers, the child and nominated key workers from the various agencies involved with the family. The meetings are to share information and clarify key tasks and how to continue to make best progress.

8.18 At the Planning Meeting it can be decided that it is deemed inappropriate to apply for an Education Supervision Order at this stage and the decision may be to defer the decision and monitor attendance for a further period.

**PREPARATION FOR FAMILY PROCEEDINGS COURT**

8.19 Court report to be prepared which includes: -

* The child’s personal details.
* The child’s record of attendance.
* Reason for applying for ESO, clearly stated.
* Information outlining circumstances prior to application. This should highlight the fact that the child is not being educated properly, and so could be said, is suffering significant harm, and to make an order for the child is better for the child than not doing so.
* An outline of intended intervention, role of parents/child should be given. This should include how it is anticipated that this will help to resolve the problem.
* Information as to how the child and family have been consulted about the report (Education Supervision Order planning meeting and leaflet provided) and if they agree/disagree with the proposed action. This should be indicated in the report. An indication should also be included as to the child/parent’s attitude towards the child’s poor attendance.
* The child and parent’s views should be reflected within the report.
* A report should be requested from school indicating the child’s educational progress, which must be attached to the LA court report.
* Directions, which will be attached to the order should be outlined.
* A completed certificate of attendance signed by the Head teacher should be obtained.

8.20 As well as the court report prepared to support the ESO, the Local Authority Officer needs to prepare and include the following case papers for Sefton’s Legal Services:

* Copies of all relevant letters, attendance certificates, warning notices, medical notes, conference minutes etc, assessments, plans between the involved agencies.
* Relevant correspondence from the child’s school.
* Any other information which is relevant, e.g., Psychologist’s report.
* Contact sheet including parents/carers full names, addresses if different from the child, names and dates of birth of siblings and contact information. In the case of an Academy/ Free School, the name of the designated person with day-to-day contact with the child and the name of the LA Supervising Officer.

**OBTAINING THE ORDER - THE ROLE OF THE SUPERVISING OFFICER**

8.21 If an ESO is granted, it will initially be for 12 months duration. An extension for up to a further three years may be applied for. This application must be made 3 months before the original order expires. This action will be considered by the Review Panel on the recommendation of the Supervising Officer.

8.22 The allocated Supervising Officer will usually be a Local Authority Officer already involved with the child, but this could be altered if considered in the best interest of the child. This decision is at the discretion of the Service Manager.

8.23 The Supervising Officer, is required to advise, assist, and befriend the child and parents, and the Officer can give directions to child/parents to ensure that the child is properly educated. Joint working of the child/parent/School Attendance Worker is anticipated when the Order commences.

8.24 An ESO removes from parents their rights of appeal against admissions decisions and certain rights to have the child educated in accordance with their wishes. Parents should be made fully aware of this before an order is sought. They should also be made aware of their legal duty to comply with directions made under the order, and of the penalties to which they may be liable if they persistently fail to comply with directions.

8.25 Parents lose the right to change the child’s school without permission of the Supervising Officer.

8.26 If a child changes school during the period of the ESO, the original Supervising Officer will retain the Order unless it is deemed to be not in the child’s best interest. Any change of Supervisor will be at the discretion of the Manager of the Attendance and Welfare Service.

8.27 The parent retains responsibility for ensuring the child is educated. They are required to co-operate with the Order. If a parent persistently fails to comply with directions given by the Supervisor, they may be guilty of an offence unless they can show the direction was unreasonable and they took all reasonable steps to comply. If a child persistently fails to comply, the Supervisor is obliged to consider a referral to Children’s Social Care Assessment Team who have a duty to investigate under the Children Act and could commence care proceedings.

8.28 The Supervising Officer is responsible for ensuring that an Education Supervision Order brings about the required involvement, and for taking further action in the event that it fails to do so. Consideration must be always given to the best interest of the child and the parents, the requirements of the law and school attendance, and their responsibility to the Court for the effective discharge of the order.

8.29 Personal contact will be made by the Supervising Officer at least once every 14 days. There will initially be an expectation that intensive work will be done with the family. Depending upon the success of the Order, contact may be maintained at a lower level once a plan has been negotiated.

8.30 ESOs currently in force will be discussed by the Supervising Officer in supervision sessions carried out by the Team Managers School Support Service

8.31 Contents of visits/interviews and plans should be recorded as per departmental practice. The Supervising Officer should record details of any formal agreement. This should be presented in writing to the parent and child if deemed appropriate.

**REVIEWING EDUCATION SUPERVISION ORDERS**

8.32 **Six Week Review** -The Review Panel will consist of the Team Manager, the Person with Case Responsibility, the child, the parent and other representatives as required, [others to be invited as necessary]. The person with case responsibility should present a written summary of work to the Review Panel. If an Order is not being effective, the Supervising Officer may make new directions or apply for the discharge of the Order, in which case the Local Authority with social care responsibility may be required to investigate the circumstances of the child and consider alternative proceedings. If parents persistently refuse to comply with reasonable directions, they may be prosecuted in the Magistrates Court and be subject to the appropriate sentencing option.

8.33 **Three Monthly Review** - As six weekly reviews.

8.34 **Six Monthly Review** - As three-monthly review.

8.35 **Nine Monthly Review** - A decision is to be made as to whether: -

* To seek an extension of the Order for a further period.
* To allow the Order to lapse at the end of twelve months.
* To seek an early discharge of the Order [this may be done at any time during the period of the ESO].
* A discharge may be requested by the Local Authority, the parent or the child.

8.36 **Breach by Parents of Education Supervision Order** – If a parent of a child who has an ESO in force persistently fails to comply with directions given under the order, that parent is guilty of an offence for which they may be liable to prosecution. This is a criminal offence and will be brought before the adult court. If found guilty the parent may be liable on summary conviction of a fine not exceeding level 3 on the scale

8.37 Documentary evidence of the persistent failure to comply with the directions of the ESO order and any warning letters sent to the parents will be produced to the court to prove the case.

8.38 Children’s Social care will be informed of any persistent breach by a parent.

8.39 The Supervising Officer will be responsible for initiating breach proceedings.

8.40If a decision is made to consider prosecuting the parent following the breach of the ESO,aletter is sent to the parents/carers inviting them for an interview under caution subject to the Police and Criminal Evidence Act1984**.**

1. **Prosecution Policy**

9.1 Sefton Council’s policy regarding the prosecuting of parents/carers is a planned intervention in those cases where it is identified to be appropriate. The decision to consider taking legal action is made during supervision sessions or alternatively, at the review of the case at the Education Supervision Order Review/School Attendance Panel. In relation to prosecutions associated with Penalty Notices this can be found in Procedures for issuing Education-related Penalty Notices. The decision is based on all factors and the necessity to be able to provide the relevant evidence in accordance with the law.

9.2 The instigation of legal proceedings in relation to school attendance must have a positive impact on all children and young people, regardless of their protected characteristics as clearly, consistent attendance at school will improve children and young people’s attainment level.

9.3 It is good practice to make sure parents, at the outset of any case work understand the consequences of failing to ensure their child’s regular attendance at school.

1. **Legal Framework**

* Section 7 Education Act 1996 Parental Responsibility for School Attendance
* Section 437 Education Act 1996 School Attendance Order
* Section 444 [1] Education Act 1996
* Section 444 [1A] Education Act 1996
* Section 444(ZA) of the Education Act 1996
* Section 444A of the Education Act 1996

10.1 Section 447 of the Education Act, 1996 requires the LA to consider whether it would be appropriate to apply for an Education Supervision Order [Section 36 of the Children Act, 1989].

10.2 If the decision is taken to prosecute following a breach of the Education Supervision Order the following factors must be considered:

* Details of contact with child and parent.
* Periods of involvement and issues focused upon.
* Details of unauthorised absence over a given period.
* School based issues raised by parent/child have been addressed.
* Alternative strategies have been explored, e.g., change of class, extended work

experience programmes, reduced timetable.

**Audit Tool *[In relation to all schools, the audit document will be completed. The documentation in the file will be checked for accuracy and consideration will be given as to whether the evidence contained in the file is substantial enough to prove a case in court.]***

1. **Commencing Proceedings**

11.1 The information must be laid before the court within 6 months of the alleged offence. The Council’s Corporate Legal Services has responsibility for bringing cases before the court.

11.2 In order to commence proceedings, an application must be made to Sefton Magistrates’ Court for a summons to be issued. This is done by “laying on information” before the court (information is a brief description of the offence that has been committed, the name of the offender, the dates of the offence and where it was allegedly committed).

11.3 The information will be verified and checked that it contains all the details above and that it is within the time limits of the offence.

11.4 The date of the hearing is arranged by Sefton’s Corporate Legal Services Department by contacting the court listings clerk before the summons is issued. The summons is then issued by the court and gives details of the alleged offence, when it is to be heard, and at which court.

**EVIDENCE**

11.5 The Local Authority representative should present the Certificate of Service to the Court if the defendant is not in attendance. A witness statement prepared by the Local Authority/Representative from Academy/Free School managing the case (including details of the family and home visits) should be presented to the Court. The Court should be informed of the case work undertaken by the Local Authority/Representative of Academy/Free School/other education provision.

11.6 Documentary evidence may also include:

* Medical Certificates for all or part of the absence, if applicable.
* Copies of any warning letters/notices sent to the parents.
* Records of planning meetings held.
* Documentary evidence relating to the aggravating or mitigating circumstances.
* Report from the school.
* Pre court interview.

**This evidence must be submitted as exhibits attached to a witness statement.**

Oral evidence must be recorded at the time of, or very shortly after the interview in the form of notes. If prosecution seems likely, parents must be warned. This will be by letter, signed by the Service Manager/Team Manager

**All documentary evidence from the Schools or Education establishments in relation to the specific offence or any other information relating to the non – attendance of the child, such as telephone notes and letters from parents must be recorded on the Prosecution Audit pages and included on the used and unused schedules to be disclosed if the matter goes to a trial.**

**Serving the summons**

11.7 When the court has issued the summons, it is served on the defendant.

11.8 At the same time as serving the summons, the defendant will be served with the evidence the council intends to present to the court. This would take the form of:

* A witness statement [section 9 of the Criminal Justice Act 1967].
* Exhibits
* A copy of the Head teacher’s certificate.
* The citing of previous convictions [where appropriate].
* Any other documentary evidence.

11.9 It is important that the Local Authority/School/Academy continues to work with the child throughout the prosecution process. Following on from any court proceedings, the Local Authority Officer should continue to monitor and review the child’s attendance on a regular basis.

11.10 An Officer from the Corporate Legal Services department will attend, and the case will be presented before the court.

**SENTENCING OPTIONS**

|  |  |
| --- | --- |
| **Adjournment** | After conviction for a period up to 4 weeks at a time, this provides an opportunity for enquiries to be made to determine the best method of disposing of the case. |
| **Absolute Discharge** | Where the case is proven but Magistrates believe that the Parent is not deserving of punishment. The Absolute Discharge can be cited in future prosecutions. |
| **Conditional Discharge** | A means of disposal by way of a sentence lasts for a fixed period up to 3 years. If the defendant is convicted within the period, they could be re-sentenced for the offence. |
| **Fine** | For Section 444[1] fine not exceeding level 3. Up to £1,000.  For Section 444[1A] fine not exceeding level 4 up to £2,500- or 3-months imprisonment. |
| **Deferred Sentence** | Sentencing is deferred for up to 6 months during which the defendant must abide by conditions determined by the Court. |
| **Community Sentence** | Where Magistrates believe the offence is serious enough to warrant such a disposal. A pre-sentence report is required. |
| **Curfew Order** | The offender is to be present at a certain place for between two and twelve hours a day for a specified period of up to six months. There is a statutory presumption that compliance will be monitored electronically. |
| **Custodial Sentence** - | Section 444[1A] only. For up to 3 months. Pre-Sentence report is required. Sentence can be suspended for up to 2 years. |

**Attendance will be reviewed in 8 weeks following the first appearance at court.**

1. **Parenting Orders**

12.1 Parenting Orders are designed to help support parents in addressing their child’s.

non-attendance or behaviour. It consists of three elements:

1. A requirement to attend a parenting or counselling session for up to 3 months.

ii) The parent must comply with requirements within the order i.e., regular attendance at school or,

iii) That the child is at home at a specified time Section 8(4) Crime and Disorder Act 1998. This element can last for up to 12 months.

12.2 Wherever possible, Sefton Local Authority will seek to encourage voluntary parenting courses to support the parent in ensuring regular attendance at school or improvement in the child’s behaviour.

**13. Penalty Notices**

13.1 Under Sections 444A and 444B of the Education Act 1996, penalty notices can be issued as an alternative to prosecution under section 444[1]. Parents may discharge potential liability for conviction for an offence under section 444[1] by paying a penalty. There is no legal requirement for there first to have been a penalty notice before proceeding to prosecution. Each Local Authority is required to produce a Local Code of Conduct for the protocols and administration of the Penalty Notice scheme.

13.2 Where penalty notices remain unpaid and prosecution follows, Sefton Corporate Legal Services, on receipt of authorisation from the Officer with delegated powers, will then need to finalise the Section 9 (Witness statement) and evidence pack to be prepared which includes the following:

* Headteacher’s certificate.
* Statement proving service of the Notice and invoices from Officer with Delegated Powers.
* Copy of all correspondence sent.
* Copies of all PN invoices.
* Any other evidence that relates to the period of non- attendance such as telephone call notes, correspondence received from parents / doctors / social workers.

**14. The Voice of the Child**

The Local Authority continually reviews its practice and procedures to improve the way in which we communicate with children and young people. Case recording will reflect the views of the children and young people with whom we work, and we will adapt our processes for receiving feedback from children. We will listen to what they tell us about the service we provide when considering changes to service delivery.

1. **Record and File Keeping**

15.1 The LA must keep accurate and professional records of all the work undertaken.

Accurate record keeping forms the basis of informed planning and decision making; it provides the evidence for any future prosecution. Cases can stand or fall on the quality of the records.

15.2 All records are open to be read by parents and ultimately by the child when they become of age; they are also entitled to copies of records. This can be by a direct request to the Manager or through the provisions of the Freedom of Information Act. There have been circumstances where archived records have had to be released to former pupils and their representatives and then used to defend claims made against the Local Authority some years after the events recorded.

15.3 The Local Authority Officers must be clear that all records and files are the property of Sefton Council.

15.4 All records could potentially be disclosed to solicitors representing the parents in any prosecution under the requirements for the pre-trial disclosure of all unused material.

15.5 The Local Authority Officers will record all work and correspondence on referred cases in files relating to those cases. Such files will be updated after each contact. Copies of letters and notes of panels and reviews must also be kept on file. This will comply with the need for contemporaneous notes to support evidence given in Court.

15.6 Records need to be made on the case file of consultations with representatives of other agencies. This should record when the consultation took place, with whom, how it took place (e.g., telephone or face-to face), the points discussed, and conclusions reached.

15.7 Files must be available. If they need to be removed for a meeting or a court hearing, they should be returned immediately. Files should never be kept in Local Authority Officer’s homes or cars.

15.8 Records must be objective and accurate. Any assessment, view or opinions must be clearly distinguished from factual information. Records and files must be held securely at all times. Papers must not be left on view in the office and must be put away securely when finished with.Whilst information on files should only be shared on a 'need to know' basis, Local Authority Officers should inform appropriate colleagues of a child's change of circumstances.

15.9 In general, parents have the right of access to any information about them or their children. Nothing should be recorded which the Local Authority Officer could not subsequently justify and could not share with a parent, even though this could, on occasions, be difficult.

**16. Flexi Schooling**

16.1 Parents may request flexi schooling arrangements be put in place for their child. This can only be with the agreement of the Head teacher and the Governors of the school. In these instances, the pupil remains on the school roll, but the child is only expected to attend at arranged times and/or days of the week. For the remaining time it will be the responsibility of the parent to provide a suitable education for their child.

16.2 Under these arrangements, the school and not the Local Authority, is required to monitor the progress of the child. The school will be expected to discontinue the arrangement if the child is deemed not to be in receipt of a suitable education while being educated otherwise.

16.3The pupil will be marked with the code ‘C’ on the school’s register during the period when they are being educated at home. The pupil should not be marked with code ‘B’ as the child is not being supervised by the school and the school cannot therefore be liable for the child’s safety and welfare during the periods when the child is not being educated on the school premises.

**17. Cross Border Protocol**

The Local Authority in which the child attends school has the responsibility to take forward any required statutory intervention for poor school attendance. If a child lives in a different LA to where they attend school, then support services may be required to be provided by the authority in which the child lives. For example, a prosecution would normally be taken forward in the area where the offence was committed whilst an Education Supervision Order cannot be taken forward without consultation with the Local Authority where the child lives.

**18. Consent**

For statutory intervention the LA does not require consent to contact/intervene with parents although it is good practice for the school to keep parents informed of the attendance procedure and possible outcomes.

**Appendix A.**

**SCHOOL ATTENDANCE ORDER PROCESS**

If it becomes known to the Local Authority that a child of compulsory school age is not registered at school or not receiving a suitable education, either by regular attendance at school or otherwise, they should be referred to the Children Missing Education (CME) Co-ordinator at Sefton Council. The Pupil will be cited at the Monitoring and Placement Group, and the CME procedures will be invoked.

The School Attendance Order can be initiated through two routes -

* Electively Home Educated Team if they are not satisfied a child is receiving a suitable education.
* The School Admissions Team if a child does not arrive at a school after being allocated a place and is identified as not receiving a suitable education.

Both routes will be managed by the Children Missing Education Co-ordinator.

The Children Missing Education Co-ordinator will initiate and cause to be served a **“Notice to parent as to child’s school attendance” SAO1.**

If within 15 School days the parent does not comply with the requirements, the School Attendance Service will refer the pupil to the Admissions Team to ascertain the most suitable school. The ‘Named Schools’ will be determined by In Year Fair Access Panel (IFAP) in conjunction with the School Admissions Team. The schools identified will be advised accordingly in order that any admission request will not be delayed and a s439 will be issued to school and governors. The school may within the period of 15 days beginning with the day on which the notice was received, apply to the Secretary of State for a direction under this section, and must inform the Local Authority of this action.

After 15 days of serving the s439, if there is no response from the school, the School Support Service will initiate and cause to be served a **“Notice to parent of intention to serve School Attendance Order” SAO2.**

Within the period of 15 days of issuing the SAO2, or before if concerns are raised, the School Support Service/Children Missing Education Co-ordinator and a member of the Elective Home Education Team will visit the home, advise the Parent(s)/Carer(s) of the legal requirements requiring the child to receive a suitable education by attendance at school or otherwise. They will provide such support to the family as to try and ensure the requirements are met.

If after a period of at least 15 days the parent has not complied with the requirements, the School Support Service will initiate and cause to be served a **“School Attendance Order” (SAO3).**

**School Attendance Order**

**(**

**SAO) Process Map**

Informal request for information

**SAO 1**

days to provide evidence.

15

of a suitable education being

provided

No information provided or education not suitable. Referral to FAP to name School- Issue s439 to named school and Governors who have 15 days to respond.

**SAO 2**

days to register at a

15

school

**SAO 3**

Parent has not registered

child at a school. School

Attendance Order issued.

Legal Proceedings

Parent provides suitable evidence.

NFA

Parent registers child at a school/provides suitable evidence.

NFA

**If parent provides evidence**

**of a suitable education at**

**any time during the legal**

**process, the SAO can be withdrawn.**