North Yorkshire County Council

Information for Parents/Carers - rights and responsibilities relating to school attendance and behaviour

Children and Young People's Service

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1. RESPONSIBILITIES – PARENTS

All parents* who have children of compulsory school age are responsible in law for ensuring that their children receive a suitable education. Most parents fulfil this responsibility by registering their children at a school.

Parents whose children are registered at a school, or other educational provision, are then responsible for ensuring that they attend punctually, regularly, stay there as required and follow the school rules with regard to behaviour. If a parent fails to ensure this, there are a number of options open to the Local Authority and schools to secure an improvement in the child's behaviour and attendance and support parents to achieve this.

2. PARENTING CONTRACTS

The Local Authority (LA) and schools have powers to make formal agreements with parents to address their child's behaviour and/or attendance at school.

What is a Parenting Contract?

It is

- a formal agreement between a parent and either the LA or the governing body of a school
- a voluntary arrangement. Parents cannot be forced to make the agreement with the LA or school. It is intended to provide parents with the support they need and to encourage a positive working relationship between school, the LA and parents to tackle their child's persistent absence or poor behaviour in school and address any underlying causes
- Under the contract, the parent agrees to comply with specified requirements e.g. to ensure that the child attends school regularly and punctually over a specified period of time
- The School & the LA will agree to provide specified support (tailored to the child and family's needs) to enable the parent to comply with the Contract i.e the use of the Ladder of Intervention or an Early Help Assessment completed which could lead to a Team Around the Family Meeting (TAF) being arranged
- Parenting Contracts can be drawn up at an Attendance Panel Meeting as part of the School/LA's Formal Attendance Procedures – Fast track. A Children & Families Worker from the LA's Early Help Team or a worker from another agency may attend the meeting as support if requested by the parent
- In the event of the LA applying for a subsequent Parenting Order (see Section 4) a parent's refusal to agree to a Parenting Contract or failure to keep to it's terms can be used as evidence in those proceedings

** throughout this document 'Parent' also refers to a person having Parental Responsibility or having care of a child under the Education Act 1996*

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When can a Contract be offered?

- In cases of persistent absence as defined by the DfE (90% attendance and under)
- When a pupil is excluded from school (whether for a fixed term or permanently)

Why was it introduced?

- Recognition that parents need support and that some parents may need individualised support from the school, the LA or other agencies
- To help parents build a productive relationship with the School/LA and access the support they need

3. PROSECUTION – s444 Education Act 1996

A parent's failure to ensure the regular attendance of their child at a school where they are a registered pupil is a criminal offence. The LA has the authority to prosecute for this offence in the Magistrates' Courts under s444 (1) of the Education Act 1996 (Level 3 offence) or under s444 (1A) (Level 4 'aggravated' offence when 'knowingly' fail to ensure regular attendance must be proven).

On conviction, parents can be fined up to £1000 - s444 (1) or in the case of an "aggravated" offence s444 (1A) up to £2500 and a possible custodial sentence of up to 3 months or a Community Order.

If a parent fails to ensure their child's regular attendance at an alternative provision the LA also has the authority to take forward a prosecution in the Magistrates' Courts. In this case the parent must first have been given notice in writing of the requirement of their child to attend the alternative provision.

4. PARENTING ORDERS

Parenting Orders are available to the LA or the court following a successful prosecution of a parent under Section 444 of the Education Act 1996. The LA may ask the court for an 'ancillary' Parenting Order' or the Magistrates may deem it appropriate themselves as an outcome of the Hearing. Schools also have the authority to apply for a Parenting Order to address a child's poor behaviour at school.

What is a Parenting Order?

- It is a Court Order which compels a parent to attend Parenting Classes, and any other requirements as determined necessary by the court, for improving their child's behaviour or attendance
- In cases of a parent failing to ensure the regular attendance of their child at the school where they are a registered pupil, it follows a successful prosecution in the Magistrate's Court and is in addition to any other penalty imposed

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- In behavioural cases the application is a civil case and therefore does not involve a criminal conviction

When can it be used?

- When a court is satisfied that it would be desirable in the interests of preventing further unauthorised absence of a pupil at a school
- Where a pupil has been excluded for serious misbehaviour either permanently or for the second time in 12 months
- Where parenting is considered a factor in the child's behaviour or poor attendance and parents are unwilling to engage with the Local Authority or school

Why was it introduced?

- Recognition that parents need support and that some parents may need targeted and individualised support from school and the Local Authority
- Some parents are unwilling or feel unable to engage voluntarily when schools and/or the Local Authority raises issues over their child's behaviour
- Parenting Programmes, or 1:1 Parenting Sessions, can help parents gain the skills and confidence they need to improve the attendance and behaviour of their child. Participating parents have said that they would recommend them to other parents in their situation.

5. ALTERNATIVES TO PROSECUTION

Education Supervision Order (ESO) – Children Act 1989

The LA has a duty to consider an Education Supervision Order (ESO) prior to pursuing a prosecution against a parent through the Magistrates' Courts. The LA may apply for the Order instead of, or as well as a prosecution, as a means of ensuring a child is in receipt of a suitable education whether a child is enrolled at a school or not.

An ESO is made in respect of a child in the Family Proceedings Court under the Children Act 1989 and makes the LA responsible (through an appointed Supervising Officer – usually an Attendance and Enforcement Officer) for advising, supporting and giving Direction to the child and his or her parents in order to make sure that the child is suitably educated. Directions may include for example, a requirement for the parent and child to attend meetings with the Supervisor, or with staff at the school, to discuss the child's progress on a regular basis.

Where parents persistently fail to comply with Directions, and those Directions are reasonable, they may be guilty of a Level 3 offence. In such circumstances the Supervising Officer must ensure that the matter is drawn to the attention of the Magistrates' Court and, upon conviction, the parent will be liable to a fine of up to £1,000. The Supervising Officer must also inform Children's Social Care (CSC) and, in such cases, CSC must investigate the circumstances around the child and consider whether it is appropriate for them to take any action to secure the welfare of the child.

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Penalty Notice

Local Authority Attendance and Enforcement Officers, Head teachers (Deputy or Assistant Head teachers, if authorised by the Head teacher) or the Police, have the authority to issue Penalty Notices. However, the main responsibility is held by the Local Authority.

Penalty Notice - Failure to ensure regular attendance

- Parents of a registered pupil whose child fails to attend the school regularly are committing an offence (this includes the taking of an unauthorised leave of absence in term time when the request is not deemed by the Head teacher to be an exceptional circumstance)
- In cases other than unauthorised leave of absence in term time or following a Permanent of Fixed Term Exclusion, a Warning Letter will be sent as an outcome of a PACE Formal Caution Interview. It is required that no further unauthorised absence is to occur within the following 15 school days following receipt of the letter. A Penalty Notice will be issued if the terms of the Warning Letter are not met
- Penalty Notices provide an alternative to a prosecution for the offence in the form of a fine. There are 2 levels of penalty - £60 (if paid within 21 days of receipt of the notice) and £120 (if paid after 21 days but no later than 28 days)
- Parents who pay the penalty cannot later be prosecuted for the offence of failing to ensure their child's regular attendance within the same time period to which the Penalty Notice relates

What if I don't pay?

- If a parent does not pay an appropriately issued Penalty Notice within 28 days, the LA will withdraw the Penalty Notice and proceed to a prosecution for the offence of failing to ensure the regular attendance of a child at a school where they are a registered pupil under s444 (1) of the Education Act 1996.

Can I appeal against a Penalty Notice?

- There is no right of appeal against a Penalty Notice, but if you believe it to have been wrongly issued to you, you should contact the LA immediately. The Penalty Notice may be withdrawn if it has not been issued in accordance with the LA's Code of Conduct for the use of Penalty Notices
- If the Penalty Notice is not withdrawn and you do not pay, you may be prosecuted in a Magistrates' Court. The court will consider the evidence and decide whether an offence has been committed. If found proven, the appropriate penalty will be determined by the court.

Penalty Notice - Exclusion

A Penalty Notice can also be issued under the Education and Inspections Act 2006 if a child is seen in a public place, without a justifiable reason, in the first five days following a fixed term or permanent exclusion. Parents must have been informed by the school in writing of their duty under the Act and the time scale of the exclusion.

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6. SCHOOL ATTENDANCE ORDERS

If it appears to the LA that a child of compulsory school age is not receiving a suitable education either by regular attendance at school or otherwise, then procedures for issuing a School Attendance Order against the parent under s437 of the Education Act 1996 will be commenced. The Order will require the parent to register their child at a named school. If the Order is not complied with, the parent can be prosecuted in a Magistrates Court (Level 3 offence) and receive a fine of up to £1,000.

7.Contacts for further information:

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