

Possible outcomes

Should you have pleaded guilty or be found guilty, the sentencing/disposal options available to the magistrates are:

- **A fine** of up to £2,500
- **A conditional discharge** – You will be given a set amount of time in which to improve your child's attendance. Should you fail the County Council may bring a further prosecution against you and, if found guilty you will be sentenced for both offences.
- **An absolute discharge** – The case is proved but you will not be subject to a penalty, although you will receive a conviction.
- **Deferred sentence** – A new Court date will be arranged, during which time you will be expected to have taken steps to improve your child's school attendance. Sentence will be passed at this new hearing.
- **Imprisonment** - Only for the more serious (aggravated) offence and repeat offenders. It can be for up to 3 months.
- **Parenting order** – The Magistrates may order you to attend parenting classes.

Education supervision order

The Court may also direct that the County Council consider making an application for an Education Supervision Order (ESO). The EWO may also decide on this option as an alternative to prosecution.

Applications for ESOs are heard in the Family Court, and if granted you and your child will be directed by the Court to co-operate with the County Council to ensure that your child attends school regularly.

What happens next?

Regardless of the outcome in Court, you will continue to receive support from the EWO and the school to ensure that your child attends school.

Should your child return to school and attend regularly, no further legal action will be taken against you.

If you would like a copy of this leaflet on audio cassette or in Braille, large print or other languages please contact your locality office.

Non-School Attendance and The Law

A Guide for Parents/Carers

January 2013

Introduction

Parents have a legal duty to ensure that their child receives an education suitable to his/her age, ability and aptitude and any special needs. Most parents fulfill their legal obligation by registering their child in a school.

Education Welfare Officers (EWOs) carry out the duty of the Authority to ensure that all children receive an education by regular school attendance.

School attendance order

Should you fail to register your child at a school and not make suitable alternative education arrangements, the County Council may issue a School Attendance Order requiring you to register your child at a named school.

Non attendance at school

Failure to ensure a child's regular attendance at school is a criminal offence. The EWO will try to work with you and your child to improve school attendance. A formal **Parenting Contract meeting** will be held. The Purpose of this will be to look at issues preventing regular school attendance and put together an action plan to make improvements. If with support from the school and the EWO, your child's attendance fails to improve, the EWO will consider one of two courses of action:

1. Fixed Penalty Notice

As an alternative to prosecution, parents may be subject to a Fixed Penalty fine of £60 (if paid within 28 days), rising to £120 (if paid after 28 days but before 42 days have elapsed). Failing to pay the fine will result in prosecution.

2. Prosecution in the Magistrate court

The prosecution process:

The PACE interview

Should your child's attendance fail to improve, in spite of help from the school and an EWO, you will be invited to a formal PACE interview held under Caution.

- A school representative and any others involved with you and your child may also be invited. If you wish, you may have a legal representative at this meeting.
- Before the meeting begins, you will be **formally cautioned** under the Police and Criminal Evidence Act 1984.(PACE)
- You will be asked a set of questions under formal caution. The aim of this interview will be to establish if an offence has been committed under The Education Act 1996.
- A record of the PACE interview will be given to you and shared with the Legal

Panel who will make a final decision on legal intervention appropriate to your case. The decision made will be communicated with you in writing.

Court

- Should the County Council decide to take Legal action against you, you will be served with a summons to appear before a Magistrates Court. You will receive a copy of the statement of the EWO and possibly a member of school staff, and any supporting documents ("Exhibits").
- Should you fail to attend, the court may consider issuing a warrant for your arrest or decide to hear the case in your absence.
- The case will be heard by the Magistrates. A Court Usher will be available to help you with the process.
- The Court Clerk will read the charge. You will be asked to plead 'Guilty' or 'Not Guilty'. Should you plead not guilty, the case will be adjourned to a future date. Should you plead guilty, the case will be heard immediately.
- The Court will first hear the evidence from the Prosecution.
- You or your legal representative will then be able to address the Magistrates and explain any reasons why your child has not attended school regularly.
- The Magistrates will then decide how they intend to deal with the case.