



Code of Conduct for The Issuing of Penalty Notices and Enforcement Policy

**To be reviewed August 2025
Education and Skills**

Non School Attendance Procedures

Code of Conduct for the issue of Fixed Penalty Notices and Enforcement Policy in relation to non-school attendance.

Every child and family has access to timely and appropriate support depending on need. Such support is individually negotiated in consultation with both adults and children in the family, in the context of the economic, cultural and geographical circumstances of that family.

The Local Authority (“the LA”) believes that the use of the legal sanctions to resolve pupils’ non-attendance is justified when it is considered that it will assist parents in fulfilling their legal responsibility to ensure that their children attend school on a regular basis. In this sense, legal action is not considered primarily as a punitive measure against parents, but a supportive measure in effecting a child’s right to receive efficient and full-time education in line with the Department for Education’s ‘Support First’ approach.

Definitions

Child – Means a child of legal school age which lasts from the term after a child’s 5th birthday to the last Friday in June of the year in which the child is in Year Group 11.

Parent - Anyone who is a biological parent of a child, or who has parental responsibility for the child, or who has care of the child.

School - Any maintained school, Academy or Pupil Referral Unit or other off-site provision paid for out of public funds.

Unauthorised Session - An unauthorised session is one school half day i.e. either morning or afternoon. One full school day is therefore two sessions. This applies where the school (Headteacher) has not accepted the reason for absence.

Authorised Officer – Following a line of delegation from cabinet, the Senior Attendance Officer (Legal Interventions) has delegated power to take actions under these Acts and as such is known as the ‘Authorised Officer’ it can also refer to the member of staff in a school who is responsible for attendance referrals to the LA’s Authorised Officer. They are ‘authorised’ to make referrals on behalf of the school.

Senior Attendance Champion – the member of SLT responsible for attendance.

Legal Framework

Section 444 of the Education Act 1996 (as inserted by section 23 of the Anti-Social Behaviour Act 2003) empowers designated Local Authority (LA) Officers to issue Penalty Notices in cases of unauthorised absence from school. The relevant legislation is listed below:

- The Education (Penalty Notices) (England) Regulations 2007 (and subsequent amendments)
- The Education and Inspections Act 2006.
- The issuing of Penalty Notices must conform to all requirements of the Human Rights Act 1998 and the Equality Act 2010.
- The Education Act 1996
- Section 444 of the Act makes it an offence if a parent fails to secure their child’s regular attendance at school at which they are registered if that absence is not authorised by the school. Penalty Notices supplement the existing sanctions currently available under s444 Education Act 1996 or s36 Children Act 1989 to enforce attendance at school where appropriate. The national framework for Penalty Notices is published in statutory guidance ‘Working Together to Improve School Attendance. It provides further national guidance on the operation of Penalty notice schemes for school absence in England.

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Code of Conduct for the Issue of Fixed Penalty Notices.

1. Local Context

The purpose of this local code of conduct is to ensure that Penalty Notices for school absence are issued in a manner that is fair and consistent across Milton Keynes City County Council's jurisdiction. The code sets out the arrangements for administering penalty notices in Milton Keynes and must be adhered to by anyone issuing a penalty notice for school absence in this area. The code complies with relevant regulations and the Department for Education's national framework for penalty notices as set out in the ['Working together to improve school attendance'](#) guidance.

Penalty Notices are an alternative to the prosecution of parents for failing to ensure that their child of compulsory school age attends the school where they are registered or at a place where alternative educational provision is provided. The purpose is to offer swift intervention for cases of unauthorised absence before the problem becomes too entrenched.

An offence occurs if a parent/carer fails to secure a child's regular attendance at school, or alternative provision, at which they are a registered pupil and that absence is not authorised by the school, or alternative provision. The Supreme Court judgement in the case of *Isle of Wight Council (Appellant) v Platt (respondent) [2017]* defined 'regular attendance' as 'in accordance with the rules prescribed by the school'.

Where difficulties arise with school attendance, professionals should take a 'support first' approach in line with the Department for Education's 'Working together to improve school attendance' guidance, only resorting to legal enforcement when necessary. The aim is that the need for legal enforcement is reduced by taking a supportive approach to tackle the barriers to attendance and intervening early before absence becomes entrenched.

Penalty notices will only be used in cases where support is not appropriate (e.g. a term time holiday) or where support has been provided and has either not been engaged with or has not worked.

The Milton Keynes City Local Authority administers the issuing of all Penalty Notices. The Code of Conduct is written to ensure consistent application in the issuing of Penalty Notices. Penalty Notices will be used as a means to challenge parents to meet their legal responsibilities and where there is a reasonable expectation that their use will secure improved school attendance.

The Senior Attendance Officer (Legal Interventions) known as the 'Authorised Officer' will act upon requests to issue Penalty Notices from schools, academies, or alternative education providers, provided that:

- All relevant information is supplied in the specified manner.

The circumstances of the pupil's absence meet the requirements of this Code of Conduct; and

- The issuing of a Penalty Notice does not conflict with other interventions, strategies in place or other enforcement sanctions already in process.

2. Consultation

This code has been drawn up in consultation with Milton Keynes headteachers and the school's Governing Body of state-funded schools and academies.

5. Circumstances where a Penalty Notice may be Issued.

(a) Leave of Absence in term-time resulting in unauthorised absence.

A Penalty Notice may be issued when:

- Parents have not sought permission from the Head Teacher before taking their child out of school for a holiday in term time.
- The Head Teacher has refused the request, but the absence occurs anyway; or
- A pupil has not returned to school by the agreed date with no satisfactory explanation.

In all cases there must be 10 sessions of unauthorised absence in a 10-school week period. A school week means any week in which there is at least one school session.

Under The Education (Pupil Registration) (England) (Amendment) Regulations 2013 (and subsequent amendments¹), Headteachers can only grant leave under exceptional circumstances. It is for Headteachers to determine whether or not such a request is exceptional and to state the number of days granted. Each request can only be judged on a case-by-case basis by the Headteacher.

Headteachers should only apply the above guidance and either refuse the holiday request or agree to the 'exceptional circumstances' with the period of such leave clearly marked. Where leave has not been granted by the Headteacher then a referral should be made to the Children Missing Education Team who may serve a Penalty Notice without any further recourse to assessment or casework with the pupil/family.

The national threshold of 10 sessions of unauthorised absence is in a rolling period of 10 school weeks. A school week means any week in which there is at least one school session. The threshold may be met with any combination of the following unauthorised absence codes – i.e. G (unauthorised leave/holiday taken during term time), O (unauthorised absence) and/or U (arriving late after registers have closed) codes.

(b) Persistent unauthorised absence/lateness after the register

All unauthorised absence should be addressed by the school. Schools should request a meeting with parents where there are concerns over attendance and where the absences are not consecutive or there are 'broken weeks. They should follow the 'Support First' guidance and offer one or more of the following interventions:

- Attendance letters.
- Attendance report with tutor/nominated staff member.
- Attendance Contract which should include a re-integration plan, gathering student voice, review of pupil needs, use of peer mentors, other offers of support and consideration of the EBSA pathway.
- Home Visit.

¹ The Education (Pupil Information and School Performance Information) (England) (Amendment) Regulations 2023. The School Attendance (Pupil Registration) (England) Regulations 2024

- Referral to medical support.
- Referral to CAMHS/counselling support services,
- Early Help Assessment and relevant referral to other support services such as Family Centres.
- SEN review/Annual Review (this may be a review of a child's needs without an EHCP).
- Medical review (review of reasons for absence and medical support on offer).

6. National Threshold for Notice to Improve

Where there is no improvement and there are at least 10 sessions (one session = ½ day) of unauthorised absence over a period of 10 school weeks (defined above) a Notice to Improve should be issued. These absences do not need to be consecutive.

Persistent late arrival at school, i.e., after the register has closed. 'Persistent' means at least 10 sessions of unauthorised late arrival over a period of 10 school weeks. These late episodes do not need to be consecutive but consistently recorded in line with the school's policy for registering late arrival at school.

Schools will issue their own Notices to Improve to the child's parents. School's will be able to find a proforma letter on the MKCC School Attendance website <https://www.milton-keynes.gov.uk/schools-and-lifelong-learning/secure-school-attendance-information>

School will need to be able to demonstrate the support they have offered, and what has been engaged with. Should a Notice to Improve be issued it will include a period of review in most cases this will be 6 weeks, however if there is no improvement within 3 weeks schools will have the right to refer the matter to Children Missing Education (CME) team. The Notice should make clear what sufficient improvement should look like and be clear about expectations.

All Notices to Improve issued will have a validity period of 6 school weeks (a maximum of 30 school days) and will clearly list the attempts which have been made and support which has already been offered to resolve the absence concerns.

The Notice will inform the parent that if further unauthorised absence / lateness after the register occurs, a Penalty Notice may be issued. This is to allow the parents a further period to address their child's irregular attendance by working with the school and/or other agencies. It is part of a scaled approach and affords the parents an opportunity to avoid receiving a Penalty Notice. If there are further unauthorised absences / lateness after the register following the Notice to Improve and after due consideration of the facts of the case, the school may refer for a Penalty Notice to be issued.

7. Administration of the Penalty Notice Scheme

To avoid duplication of Penalty Notices and to ensure consistency, cost effectiveness and equality, the Local Authority will be solely responsible for issuing Penalty Notices. They may be issued to parents whose children attend maintained schools, academies, or alternative provision providers within Milton Keynes City.

The Children Missing Education Team will process all requests from schools. Referrals will be processed through the on-line portal provided that:

- All relevant information is supplied in the specified manner to the Local Authority via the on-line portal [https://mycouncil.milton-keynes.gov.uk/service/Referral for the Issue of Fixed Penalty Notice](https://mycouncil.milton-keynes.gov.uk/service/Referral%20for%20the%20Issue%20of%20Fixed%20Penalty%20Notice) The requirements of this Code of Conduct are met; and

- The issue of a Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already in process.

Penalty Notices shall be issued in a prescribed manner and revenue from such Notices shall be collected through the current Milton Keynes City Council on-line system. All payments must be made on-line and payments in cash or cheque will not be acceptable forms of payment.

The Senior Attendance Officer (Legal Interventions) known as the ‘authorised officer’ and administrative staff will be able to track payments. If there is no payment of the fine of £160 (increased from £80 after 21 days) of the Fixed Penalty Notice after 28 days, the parent will be issued with a warning letter/notice to prosecute (see Section 14 on Payment of Penalty Notices). This gives them a further opportunity to pay a fine of £160 prior to prosecution. If no payment is forthcoming after the issue of a warning letter the Notice will be withdrawn and the parent will be prosecuted for the period of non-attendance under Section 444 (1) or 444 (1A) Education Act 1996.

8. Escalation

If repeated Penalty Notices are being issued and they are not effective to change behaviour, they are unlikely to be most appropriate tool. The National Framework for Penalty Notices sets out that a maximum of 2 Penalty Notices per child, per parent can be issued within a rolling 3-year period for any previous offence where a Notice has been issued, then the second Notice will start at £160 payable in 28 days. If the national threshold is met for a third time (or subsequent times) within 3 years, the Local Authority are required to consider prosecution under Section 444, or Section 444(1a) of the Education Act 1996. For the purpose of the escalation process, previous Penalty Notices include those not paid (including where prosecution was taken forward if the parent pleaded or was found guilty) but not those which were withdrawn.

Any penalty notices issued before 19 August 2024 will not count towards the 2-penalty limit per child, per parent within a rolling 3-year period.

The three-year period begins from the date of the first penalty notice issued.

9. Other Considerations

In cases where there is more than one child in a family with unauthorised absences, Penalty Notices may be issued for more than one child.

Penalty Notices will be issued to all parents identified within the referral under the Section 576 Education Act 1996 - Definition of a Parent. In such circumstances, separate notices will be issued to each person.

The following considerations will be made before the Authorised Officer issues a Penalty Notice to ensure consistency of approach:

- Is support appropriate in this case?
- Is a Penalty Notice the best available tool to improve attendance and change parental behaviour for this particular family or would one of the other legal interventions be more appropriate?
- Is issuing a Penalty Notice in this case appropriate after considering any obligations under the Equality Act 2010?
- Is it in the public interest to issue a Penalty Notice.

The Authorised Officer retains the right not to process the request in the following circumstances:

- in cases where further case work and intervention is required to support the family to improve the attendance of the child.
- previous Penalty Notices issued have not resulted in sustained attendance improvement therefore an escalation in enforcement procedures is required.
- there is historic non-attendance, or the child is a severely absent (below 50%) and multi-agency case work as not altered behaviour.

10. Circumstances where a Notice may be withdrawn.

- When it has been issued outside of the terms of the Code of Conduct; or where no offence has been committed.
- When it is issued to the wrong person.
- When it contains material errors*.
- When after the expiry of 28 days the Penalty Notice remains unpaid, and the Local Authority has not started legal proceedings or opts not to proceed with a prosecution under Education Act 1996 Section 444(1) or 444 (1A).
- If a parent can prove it was delivered to the wrong address*.

**Please note in the case of a material or wrong address error the Penalty Notice may be reissued with the appropriate corrections made.*

11. Schools action prior to requesting the issuing of a Penalty Notice

The School's Governing Body has endorsed the operation of the Penalty Notice scheme through the school attendance policy.

The School's Attendance Policy clearly explains the criteria and process for addressing poor attendance, and the expectation is that all children should attend every day that the school is open except for sickness, unavoidable causes, religious festivals where the whole family is engaged in worship, absences authorised by the school, local authorities' failure to make statutory travel arrangements, or, where the child has no fixed abode.

The school has taken a 'support first' approach.

The school has fully considered any extenuating circumstances and has established there are no justified causes for the absences.

A written notice (Notice to Improve) has been sent to parents informing them of the consideration to refer to the Local Authority to issue a penalty notice.

The Headteacher can delegate the authority to a member of the school's attendance team to make Penalty Notice referrals on their behalf.

All referrals must be sent to Milton-Keynes City Council using the portal.

12. Working Together

The LA will inform the school about whether Penalty Notices are paid, withdrawn or prosecuted for non-payment. When Notices are issued, payment received, or warning letters are sent following non-payment this will be communicated to schools via the automated Penalty Notice system. In the case of a withdrawal schools will be informed at the time of the withdrawal. On request schools can receive details of Notices issued, paid, withdrawn and prosecuted.

13. Cross Border Work

Where pupils move between local authority areas, The Milton Keynes City Council can be contacted on crossborder.penaltynotice@milton-keynes.gov.uk to find out if Penalty Notices have been issued previously.

14. Payment of Penalty Notices

Arrangements for payment will be detailed on the Penalty Notice.

- Payment of a Penalty Notice discharges the parent's or carer's liability for the period in question and they cannot subsequently be prosecuted under other enforcement powers for the period covered by the dates on the Penalty Notice.
- The payment due for a Penalty Notice is £160. This amount is reduced to £80 if paid within 21 days of the Notice being issued to the parent for the initial offence period. If paid after 21 days but within 28 days the amount will be £160.
- If the parent is issued a second Penalty Notice within a 3-year rolling period the payment required is £160, due within 28 days. The amount due **is not reduced to £80** in this circumstance.

The Local Authority retains any revenue from Penalty Notices to cover enforcement costs (collection or prosecuting in the event of non-payment) and costs of providing support to schools and families to improve school attendance.

There is no opportunity to pay the Notice in instalments and there is no right of appeal the Notice.

1 Criteria for Prosecution for Entrenched Non-attendance and/or Escalation.

- 1.1 The Local Authority regards prosecution as a last resort, when all other measures to assist a pupil to return to school have failed, including the consideration of issuing of a Notice to Improve and/or Fixed Penalty Notice in the first instance. The school needs to have followed their 'normal' non-attendance procedures first which will include some of the measures suggested above in section 1.2 and the 'Support First' approach. They must have also considered offering the parent support through Targeted Early Help or other related services. Schools should also have undertaken an Early Help Assessment prior to referral to MASH and they should also undertake a FACT or FACT Plus to assess whether the child has any underlying SEN needs if appropriate.
- 1.2 The school's Senior Attendance Champion will be responsible for overseeing that all possible steps are taken prior to referral for legal sanctions and then only after a Notice to Improve has been sent (if appropriate). A Notice to Improve is a final opportunity for a parent to engage in support and improve attendance before a penalty notice is issued. If the national threshold has been met and support is appropriate but offers of support have not been engaged with by the parent or have not worked, a notice to improve should usually be sent to give parents a final chance to engage with support. This will

be in place for 6 school weeks. However, the school's Senior Attendance Champion or Authorised Officer within the school who is responsible for attendance, can choose not to use one in cases where support is not appropriate due to the low level of attendance, or if they feel it would not have any impact on a parent's behaviour (e.g. because the parent has already been through the court process perhaps for another child or has been issued with a fine for a similar offence) or if they believe additional support is required such as escalation to Children's Services or as part of the escalation process where the parent has already been issued with two Penalty Notices in a 3 year period. In such cases the school has the option to send a Formal Warning Letter instead and commence formal legal proceedings. It is good practice at all times to write to each parent separately, even if they live at the same address.

1.3 Following a Formal Warning Letter, the school will monitor the child's attendance and if there is no improvement the school will write to the parents and invite them to an attendance meeting with a relevant member of school staff. This will usually be held at the child's school and could include other professionals involved with the family e.g. child's or family's Social Worker or Targeted Early Help caseworker. If the parent claims a lack of control over the child, an assessment by Children's Services or CAMHS is required. If other agencies such as Children's Services are known to be involved with the case, there should be immediate consultation with that Service before further action is taken. At this meeting an Attendance Contract will be drawn up if this has not happened previously. The Contract should have regular reviews of no more than 6-week intervals. If there is no improvement, the matter will be considered for referral to the LA for a PACE interview (legal interventions) on the V2 referral form. The decision to prosecute will be made by the Senior Attendance Officer (Legal Interventions), referred to as the 'Authorised Officer'.

2 Legal Process

2.1 Prior to requesting legal intervention, the school must: -

- Mark the pupil's absences as 'unauthorised' – this must be a minimum of 10 u/a sessions over ten school weeks. The LA's prosecution threshold is 90% attendance although it is likely most PACE referrals will fall well below this threshold.
- Prepare a 'Certificate of Pupil Attendance' clearly indicating this and obtain the signature from Headteacher or Principal, before sending it to the School Attendance Officer with the referral form via email at attendance@milton-keynes.gov.uk. No paper copies are accepted.
- Collate evidence of having written to or communicated with the parent, and the outcome.
- Check that sufficient enquiry (e.g. a letter to the GP) have been made to confirm or refute any parental claim that absence was due to illness.
- Check whether the parent is claiming that all the child's absences were for religious observance or festivals. Most religions do not have many days set apart exclusively for religious observance. However, if in any doubt about minority ethnic religious festivals, diaries must be checked, because the calendars by which the relevant dates are calculated differ and/or rely on the first sighting of celestial bodies, so certain festival days can only be approximate and are therefore rarely fixed. Normally only one day is recognised as authorised absence for religious observance e.g. Eid.
- Check the distance between the school and the child's home. If the child lives more than 2 miles (if aged under 8) or more than 3 miles (if over 8) from school, then the Council may be required to provide transport unless the parent specifically selected that school.

3 The Police and Criminal Evidence Act (“PACE”) Interview

3.1 In most cases where prosecution is felt appropriate, the parent will be invited to a PACE interview. The purpose of this is twofold – firstly to put the matter on a more formal footing as regards the parent, and secondly to obtain their reasons for the absences. This means that if the case later goes to trial, any explanation they give at Court can be compared with any explanation given in the PACE interview and the Court’s attention drawn to any discrepancies or ‘changes of story’.

3.2 The interview will be based on a series of written questions to which the parent will be expected to give their responses. The parent will be formally cautioned and notified of his/her rights prior to the PACE interview and asked if they wish to have legal representation present. If they do wish for legal representation, then the PACE interview will be re-arranged at a convenient date/time. Should the parent attend the interview and then decide they wish to have a legal representative or say they do not understand the Formal Caution, the interview should be terminated and reconvened at another time.

3.3 At the end of the meeting the parent/carer will be given the questions/answers to read, and the parent will be given an opportunity to make any amendments. When all parties are satisfied the PACE interview notes should be signed and a copy given to the parent.

3.4 After the PACE interview the LA’s Authorised Officer will decide how best to proceed, giving consideration to the following:

- Whether the evidence provided is substantial enough to prove a case in court.
- Whether all options to assist the child to return to school have been explored both by the school and other services.
- Whether a more proportionate response would be a Formal Caution or other action.
- Whether there is the likelihood of a conviction.
- Is the case in the public interest.

3.5 If the LA’s Authorised Officer decides that prosecution should follow, he will consider whether a Parenting Order or an Education Supervision Order should be sought.

4 Preparation for Court

4.1 The Authorised Officer will consider which of the two offences in the Education Act 1996 should be pursued.

4.2 The simple offence, under s444(1), of ‘being the parent of a child of compulsory school age, who is a registered pupil at a school, who has failed to attend regularly’.

Points to prove: -

- The child is of compulsory school age.
- The child is registered at the school.
- Failure to attend school regularly.

4.3 The aggravated offence, under s444(1a): being the parent of a child of compulsory school age, who is a registered pupil at a school, who has failed to attend regularly, but with the added element that the

parent knows that the child has failed to attend regularly, and the parent has failed to cause the child to do so.

Points to prove: -

- The child is of compulsory school age.
- The child is registered at the school.
- Failure to attend school regularly.
- The parent knew this.
- The parent failed to ensure regular attendance.

4.4 The maximum penalty for the lower-level offence is a fine of £1,000, and for the aggravated offence a fine of £2,500 and/or up to 3 months imprisonment. This means that the Court may also consider a community penalty for the aggravated offence and may order a probation report. The simple offence can be heard in the parents' absence, and the parents may be convicted in their absence, whereas with the aggravated offence a warrant could be issued for the parents' arrest should they fail to attend.

4.5 It is sometimes said that the lower-level offence is an 'absolute offence' but this is not strictly true, a parent cannot defend it by saying they did not know their child was failing to attend regularly. The Act provides for four statutory defences, namely, unavoidable cause; medical/illness; religious observance and distance from school where the school is allocated by the LA outside the statutory walking distances of 2 miles for a child under 8 and 3 miles for a child over 8 and transport has not been provided. This should be borne in mind during the drafting of a section 9 statement and during any PACE interview. The concept of 'any unavoidable cause' is very wide, but there is case law to say that the unavoidable cause must relate to the child not the parent and be of something like an emergency. Case law also says that 'unavoidable cause' does not mean the same as 'reasonable excuse'.

4.6 The Authorised Officer will draw up a Magistrates' summons for each parent who is to be prosecuted. The summons must be taken to the Court office not less than 6 months after the end of the period covered by the summons, for example a summons relating to a child's absence between 5th September 2023 and 19th December 2023 means the 'information' must be 'laid' before the Court office by 18th June 2024. It is not necessary for the hearing itself to take place within this six-month period.

4.7 The Summons will be signed and dated by the Court Office and returned for service on the parent. The Authorised Officer should send the summons to the parent by first class post with the following documentation: -

- The section 9 statement, and exhibits.
- The signed Certificate of Attendance – signed by the Headteacher/Principal or their representative.
- Notice to parent: proof by written statement.
- Notice of guilty plea.
- A Financial Means Form.
- Where appropriate, Notices of the Council's intention to cite any previous convictions or 'bad character' evidence.

4.8 The summons should be served so as to give the parent no less than two weeks' notice of the hearing. Sending by recorded delivery is not recommended as people being prosecuted often refuse to accept recorded delivery post. A Proof of Service Form listing the details of the delivery of the pack will be signed and stamped by the admin officer who has responsibility for the post. This can be produced at the Court hearing as proof of service so that the Court can hear a case in the absence of a parent who fails to attend.

4.9. Single Justice System (“SJP”)

The Single Justice Procedure is an alternative to prosecution in the Magistrates’ Court. Instead of the prosecutor and parent physically attending court the matter is dealt with via the postal system. Evidence is collected in the same way, but a briefer statement is produced just laying out the facts of the case. Normally the only exhibit will be the certificate of attendance. The statement is produced by the Authorised Officer, but the case is then prepared by Legal Services and there is no need for a summons. Due to the simpler nature of SJP cases they cannot be entrenched cases and/or have disputed reasons for absence. They are used, in the main, for straightforward cases where the parent has accepted liability, albeit they may have offered mitigation, at the PACE interview or a Penalty Notice has not been paid. The parent has the option of pleading guilty by post or, if they wish they can ask for the case to be heard before the magistrates or plead ‘not guilty’ both of which options will result in the case being listed in court. If they plead ‘not guilty’ they will have a further opportunity in court to confirm their plea. The SJP process can only be used for S.444 (1) cases and the likely outcome is a financial penalty. The parent cannot be given any form of ‘discharge’ and even if the parent has pleaded guilty the magistrates may refer the matter back to court. This will happen if the parent has provided detailed mitigation which the bench feel needs to be heard in open court where the parent can answer questions put to them by the magistrates.

5 Prosecution Outcomes

5.1 There are four possible outcomes from a court case:

- The parent attends the first hearing and pleads guilty: the case will usually be dealt with on this occasion with a penalty imposed. Occasionally, under the higher level, S.444 (1A), the bench may require a report on the parent from the Probation Service, which may lead to an adjournment to a later date.
- The parent pleads guilty by post: the case will be dealt with at the hearing, and a penalty imposed.
- The parent does not attend court and has not sent in a plea by post: here, the Authorised Officer will ask for the case to be heard in the parent’s absence. If the Court accepts that the summons was served properly, on the basis of the Proof of Service Form, the case will be heard, and the Court invited to convict on the basis of the material put before it.
- The parent pleads not guilty either by letter or in person. In this case, a trial date will be set. It may be necessary for the Authorised Officer to explore additional evidence depending on comments made by the parent at this hearing.

5.2 The Authorised Officer will inform the school of the outcome. The school will continue to monitor the pupil’s school attendance over the next six months, to inform future strategy and, where necessary, any further Court action, e.g. an application for a Parenting Order under section 8 of the Crime & Disorder Act 1998 or a further prosecution under Section 444(1A).

6 Primary Disclosure and Unused Material

6.1 The Authorised Officer will have sent the parent the section 9 statement and the evidence on which the case is based, at the same time as the summons. Where a parent pleads not guilty, however, the Council may be required to serve the ‘Unused Material’: this is all the material which is contained in the school, Children and Families Practice Worker’s file or additional information held by the Authorised Officer which has not been disclosed within the section 9 statement. The Council is required to disclose copies of anything which either assists the defence case or which undermines the prosecution case. It is for the Council as prosecutor to decide whether a particular item does or does not support the defence, and if we consider that it does not, there is no obligation to disclose it. It is common however

for the Council to send to the defence copies of the actual material so there is no room for dispute. Authorised Officers are recommended to seek advice from Legal Services when dealing with Unused Material.

7 Costs

- 7.1 The Council should ask the Court to order the parent to pay the costs of the prosecution: a schedule of work should be drawn up, to detail the costs involved in bringing a case to court. The costs will run from the start of the investigation which is deemed to be from the PACE Interview stage.
- 7.2 The Court has full discretion whether to award costs and if so the amount, but it cannot impose costs which the parent is realistically unable to pay. The amount of costs ordered must also not be disproportionate to any penalty imposed.

Date: 10th October 2024

Department: Access to Education, Employment, and Training.

Lead Officer: Colin Mayo, Senior Attendance Officer (Legal Interventions)

Contact: attendance@milton-keynes.gov.uk