

Appendix 1

**Bridgend County Borough Council
Education and Family Support Directorate**

Education Engagement Team

School Attendance Enforcement Policy

September 2025

1. Introduction

Bridgend County Borough Council (BCBC) has a legal obligation to make education provision for all children living within the county borough. There is also a duty to ensure that all children (between the school term after their 5th birthday and the last Friday in June of the school year they turn 16, regularly attend education provision.

The Education Engagement Team (EET) supports the Authority to ensure that every child and young person in Bridgend has access to appropriate education. The service acts to help families who are experiencing difficulties to ensure regular school attendance. If a pupil who is registered at a school fails to attend that school regularly and attempts by the EWO and the school fail to ensure that the pupil returns to regular attendance the EET will then consider taking legal action.

Once your child is registered at a school the responsibility for ensuring regular school attendance lies with parents/carers. The EET is responsible for making sure that parents fulfil their responsibilities and if necessary, the implementation of legal proceedings to address non-attendance issues is progressed by the EET.

When the pupil fails to attend school, the absence is recorded and is marked as either an authorised or unauthorised absence. Welsh Government guidance states that 'only headteachers and not parents can authorise an absence and schools must consider whether the reason for absence is reasonable before doing so' (Inclusion and Pupil Support Guidance 203/2016).

It is essential that all schools or cluster of schools adopt their own attendance policy which should include the rationale for fixed penalty notices, prosecutions and other intervention methods. This policy should also cover situations when an absence will and will not be authorised.

Legal action should be a planned intervention and appropriate to individual circumstances, any such action should serve to ensure each child's right to education. This document informs and guides EET staff and other local authority staff of the process of legal measures to ensure regular school attendance.

2. Interpretation

In this policy:

- "EET" means Education Engagement Team;
- "EWO" means Education Welfare Officer;
- "FPN" means fixed penalty notice;
- "SAO" means School Attendance Orders;
- "ESO" means Education Supervision Order;
- "parent" is as defined in paragraph 3 and references both singular and plural;
- "compulsory school age" is defined as the term after a pupil turns five years of age; and

- this continues to be compulsory school age until the last Friday in June in Year 11.

3. Legislative framework

The EET is the responsible body within BCBC to ensure that all children receive an education and attend school regularly.

The responsibility of ensuring compliance with the legislation is undertaken through the EWO officers working with the parents (as defined below at point 3) of the children and through the prosecution if appropriate of those failing to ensure their child attends school regularly. The EET will decide whether to instruct BCBC legal services to consider prosecution for an offence under section 444(1) and section 444(1a) of the Education Act 1996.

4. Parent defined

Under section 7 of the Education Act 1996, a parent of a child of compulsory school age is responsible for making sure that their child receives efficient full-time education through regular school attendance or otherwise.

Section 576 of the Education Act 1996 defines 'parent' as: all natural (biological) parents, whether they are married or not any person who, although not a natural parent, has parental responsibility for a child or young person. Any person who, although not a natural parent, has care of a child or young person. In some circumstances it may be appropriate to take action against only one parent whereas in other case it may be appropriate to take action against two or more parents.

5. Attendance policy

Schools must ensure that they have an Attendance Policy which is regularly reviewed. The policy must be available to the public and its existence should be advertised appropriately. Schools will be expected to try and improve a pupil's attendance before a referral is made to the EET. When a school's attempts to improve a pupil's attendance have been unsuccessful, the school will refer to the EET if attendance falls below 90%. This will be after the school have exhausted a range of interventions.

6. Fixed penalty notices

The Education (Penalty Notice) Wales Regulations 2013 which came into force in September 2014 have given local authorities new powers to issue fixed penalty notices (FPN). A Code of Conduct has been devised by BCBC regarding the issuing of a FPN. Under this code, the issuing of the FPNs will lie with the EET in response to requests from headteachers and nominated deputies or police officers. Penalty notices are an added means of enforcing attendance where there is a reasonable expectation that its use will secure an improvement. It is anticipated that a FPN will be used to improve attendance and prevent unnecessary absences from school.

The Education (Pupil Registration) (Wales) Regulations 2010 gives discretion to the school to grant a leave of absence for the purposes of a holiday upon the application by a parent. The decision as to whether to authorise an absence for the purposes of a holiday is at the discretion of the headteacher which is limited to 10 days per school year except in exceptional circumstances

Once an absence is unauthorised by the headteacher and the matter referred to the EWO penalty notices may be considered in the following circumstances:

- Where a minimum of 10 unauthorised sessions (5 school days) have occurred in the current term (these do not need to be consecutive).
- Where at the Head Teacher's discretion a holiday during term time has not been authorised
- Persistent lateness of more than 10 sessions (5 school days) in the current term they do not need to be consecutive (that is, arrived at school after the close of the registration period).
- Where parent/carers have failed to engage with the EWO in attempts to improve attendance but where court sanctions have not been instigated.
- Where a parent/carer has chosen to take their child on holiday during term time without headteacher authorisation.
- Where a pupil regularly comes to the attention of the police during school hours for being absent from school without an acceptable reason.

The EET will work with schools to ensure that:

- notices are used consistently
- relationships between schools and families are not compromised; and
- Penalty notices cannot be issued if legal proceedings against the parent/carer under section 444 of the Education Act 1996 have commenced or are contemplated at the time of the request.

The EET will consider the following in considering whether a FPN can be issued:

- level of absence – unauthorised absences equating to below 90% attendance in the school year
- any equalities considerations
- Individual Development Plans
- history of attendance
- level of parental engagement; and the support that has been actioned by the school
- any adverse effect a fine will have on the welfare of the family.

A FPN will be issued where there are circumstances of unauthorised absences and when a FPN is felt appropriate taking into account the above. Only one FPN will be issued to a parent of a child in one academic year. Where there is more than one child with poor attendance within the same family, a FPN may be issued for each child in that family resulting in the parents receiving more than one notice within the same academic year.

There are no restrictions on the number of times a parent may receive a formal warning of a notice prior to receiving a FPN.

It will be discretionary to the EET which person(s) will be issued with a FPN as per paragraph 3 above.

The EET will respond to all requests from the headteacher to issue penalty notices within 10 days of receipt of all relevant information. When, having taken into account the above, the EWO will in appropriate circumstances:

- send a formal written warning to parents/carers notifying that they may receive a FPN and why (this does not apply in relation to holiday related unauthorised absence);
- 15 days monitoring period and to allow parents to respond; During the fifteen days, parents/carers would have the right to provide any evidence they may wish to present to the school, including medical evidence, to argue that the penalty notice should not be issued. It will be for the head-teacher/nominated to determine whether the evidence is accepted and the register amended.
- during the 15 day period the pupil must not have any unauthorised absences from school; and
- if at the end of the 15 days and all information has been considered to be appropriate a penalty notice will be issued.
- Where the penalty notice is requested from a school in response to a parental request for unauthorised absence (holiday related unauthorised absence), the formal warning letter and 15 day improvement period will not apply.

A penalty notice is £60 if paid within 28 days of receipt of the notice, increasing to £120 if paid after 28 days. If the penalty is not paid in full by the end of the 42 days the local authority can prosecute parents/carers.

There is no statutory right of appeal against issuing of a penalty notice

The penalty notice may only be withdrawn when the Local Authority is satisfied that:-

- the notice has been issued to the wrong person to an incorrect address;
- the notice did not conform to code of conduct;
- evidence demonstrates that the notice should not have been issued (for example, medical evidence is provided; and circumstances warrant its withdrawal.

Non-payment of a penalty notice may trigger prosecution procedures brought under section 444(1) of the Education Act 1996.

Equality

The protected characteristics identified within the Equality Act, Socio-economic Duty and the impact on the use of the Welsh Language have been considered in the preparation of this enforcement policy.

7. Criminal offences

Every case of non-school attendance is addressed on an individual basis. Welsh Government guidance confirms that before consideration can be given for the prosecution of parents/guardians, the EWO is obliged to make every effort to engage and work with the child and family which includes additional support offered if

necessary. If after working with the family the attendance does not improve sufficiently, the EET will decide whether and at which point to instruct legal services to consider prosecution for the offence under section 444(1) and section 444 (1a) of the Education Act 1996.

The decision to refer the matter to legal for prosecution lies with individual EWOs but will be overseen by the Lead EET Coordinator. These cases normally are when parents/carers refuse to engage or cooperate with the EET or where it is felt that they could have done more to improve their child's attendance.

Decisions to instigate legal proceedings in BCBC are not taken lightly. All children have a right to be in education and the local authority has a duty to them to make sure that they receive an education.

The decision as to whether prosecution is the most appropriate course of action in a particular will made in accordance with the Code for Crown Prosecutors, a prosecution will only be commenced when the Legal Department is satisfied that there is sufficient evidence to provide a realistic prospect of conviction, and that the prosecution would be in the public interest.

8. Prosecution process

Warning notices

Consequences of non-school attendance should be made clear to parents/carers. There are two warnings which are issued to parents which give the parents/carers an opportunity to improve the situation; a maximum period of four weeks is given in between both warnings.

The expectation is that there will be an improvement in attendance. If, following the second warning, the situation does not improve the matter will be referred to the local authority's legal department. Local authority lawyers will decide whether to prosecute and will act on behalf of the local authority and present the cases in the local magistrate's court.

If, following the second warning, the situation does not improve and the EWO believes the parents may have committed the more serious offence, a formal letter will need to be sent to the parent by the Lead EET Co-ordinator. A more serious offence for poor school attendance occurs when a parent knowingly fails to secure their child's regular attendance, which carries a maximum fine of £2,500, a community order, or even a three-month prison sentence under Section 444(1A) of the Education Act 1996. The parent will be invited to a formal meeting in order to discuss the reasons for non-school attendance. The letter will include a questionnaire issued under the Police and Criminal Evidence Act 1984 (PACE) which will invite parents to answer questions under PACE.

Documentation

Evidence for prosecution must be provided by the school, and this has to include a headteacher's certificate confirming attendance with the headteacher's signature. A period of complaint can be from four weeks to twelve weeks. In cases of general

poor attendance, the period of complaint must pre-date the final warning. In cases where a FPN has not been paid within the required timescale, the period of complaint must match the period contained within the FPN.

EWOs will prepare a concise witness statement outlining their involvement with the pupil and parents. This needs to be recorded in first person and checked by the Lead EET Co-ordinator.

A witness statement must include name of pupil, date of birth, name of parent, address, period of complaint and the school that the child is registered to attend. The witness statement must exhibit the head teacher's certificate and any other relevant exhibits, including warning letters. When the matter is referred to the legal department, previous convictions, if appropriate, should be highlighted.

Local authority lawyers will assess the evidence and determine whether the matter is suitable for prosecution. If the legal department determines that the matter is suitable for prosecution they will proceed to prosecution and deal with all the paperwork and associated documents and will serve all the documentation on the parents.

The case is presented in court by BCBC lawyers. If the matter progresses to trial or has other complicating features, it may be necessary for the individual EWO to attend on the day of the first hearing or the day the matter is listed for trial. The legal department will advise the individual EWOs if their attendance is required at court.

9. Alternatives to prosecution

Alternatives to prosecution are more successful when used as an early intervention tool, addressing poor school attendance at the earliest point, avoiding the poor attendance becoming entrenched and the prospect of taking further action via the instigation of court proceedings. The alternatives to prosecution include simple cautions, Education Supervision Orders and School Attendance Orders.

Simple caution

A simple caution is a non-statutory disposal for adults committing an offence. It may be used for cases involving first-time, low-level offences where the public interest can be met by a caution. The EWO will recommend to the legal department that a caution be administered, and the legal department will determine whether the case is suitable for caution.

The local authority will consider the following in order to make a decision whether a caution is appropriate:

- the legal department has to be satisfied that there is sufficient evidence to provide a realistic prospect of conviction;
- the parent must make a clear and reliable admission of guilt to committing the offence; and
- is it in the public interest to use a Caution as the appropriate means of a disposal.

A simple caution should not be given where a person has been cautioned for, or convicted of, the same or similar offences within two years of the commission of

the current offence unless there are exceptional circumstances. A simple caution is given to someone who has admitted committing a minor criminal offence and can only be given when the offender agrees to accept it. He or she should not be induced to accept a simple caution in any way and should not be pressed to make an instant decision on whether to accept the same. They should be allowed to consider the matter and given the opportunity to take independent legal advice.

The simple caution forms part of the offender's record and a record will be kept by the EET and retained for future use. It may also be disclosed in court in future proceedings.

Education Supervision Order

At the conclusion of a successful prosecution for non-school attendance the Magistrates may direct an application for an ESO or the AWS may apply for an order. The legislation for these orders is contained in the Children Act 1989 section 36

In BCBC, these are currently not used and this must be made clear in the officers witness statement. The EWO strives to work with families and pupils and will ensure that all necessary support and efforts have been made before a prosecution is instigated.

School Attendance Orders

Under section 437 Education Act 1996 a School Attendance Order (SAO) may be made by the court, upon an application being made by the local authority, in cases when a parent of a child of compulsory school age fails to prove that the child is receiving suitable education and where the authority believed the child should attend school.

A SAO may be used to direct a parent to send their child to a specified school, and should be used when a pupil is not on roll at any school. They are not intended for pupils who attend irregularly. A SAO continues to be in force for as long as a child is of compulsory school age.

Before an application for a SAO is considered EWOs should make every effort to engage the parent and encourage and support them in ensuring they are on roll.

10. Legislative framework

Education Act 1996

- **Education Act 1996 section 7 – Duty on parents**

Duty on parents – parents/guardians have a legal responsibility to ensure that their children receive an efficient full time education that is suitable to their age, ability and aptitude and any special educational needs the child may have. This can be regular attendance at school or otherwise.

- **Education Act 1996 section 8 – Compulsory school age** Compulsory school age is between 5 years (commencing the term following a child's fifth birthday) and the school official leaving date is the last Friday in June.
- **Education Act 1996 section 444 (1)**
This section of legislation is used on the grounds of prosecution if a child of compulsory school age, who is registered pupil at school, fails to attend regularly and/or is persistently late at school. Maximum fine is £1000.
- **Education Act 1996 section 444 (1a)**
This is an aggravated offence, where a parent of a child of compulsory school age who knowing their child failed to attend without justifiable reason failed to cause them not to attend. Maximum fine is currently £2000 and/or a term of imprisonment for up to 3 months.
- **Education Act 1996 section 444 (ZA)**
This has extended the circumstances in which a parent can be prosecuted which includes 'failure to attend alternative provision that has been made for the pupil' (this was inserted in section 116 of Education Act 2005).
- **School Attendance Order – section 437-443**
These orders are issued by the local authority to direct parents to enrol their children at a named school. Failure to comply with an SAO is an offence unless parents can demonstrate that the child is receiving a suitable education otherwise than at school. The maximum fine is £1000.
- **Children Act 1989 – Section 36**
Education Supervision Orders (ESO) is an order granted by the Family Proceedings Court giving the local authority the legal right to work more closely with children and families to enable the child to benefit from all education opportunities available to them. Section 444/443 of the Education Act 1996 allows consideration to be given as to whether it would be appropriate to apply for an ESO. ESOs are normally granted for 1 year but can also remain in place for up to 3 years. An ESO requires the engagement and cooperation of the parents and pupil and research shows that they are more successful with younger age pupils.
- **Crime and Disorder Act 1998 – Section 16**
This incorporates Police Power to return truants to school or a place designated by the local authority.

SIMPLE CAUTION

CASE REFERENCE:

NAME OF DEFENDANT:

DATE OF BIRTH:

ADDRESS:

OCCUPATION:

Date of offences:

Place of offences:

Brief circumstances of offences:

Declaration

I hereby declare that I admit the offence described above and agree to accept a caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should I be found to be infringing the law in the future.

I further understand that this caution may be cited should I subsequently be found guilty of an offence by a Court of Law.

Name: (Block capitals)			
Signed:		Date:	

Signed:
Date: