



Sentencing

If you are pleading guilty or are found guilty you are liable to a fine of up to £1,000 for each offence under **Section 444(1) Education Act 1996**.

If it is proved that you knew that your child was not attending school regularly and there is no justifiable reason, the court may find you guilty of an offence under **Section 444 (1) (a) Education Act 1996**. In this case a fine of up to £2,500 may be imposed and/or a term of imprisonment not exceeding 3 months.

Costs may also be awarded against you. Fines and costs are collected at a rate linked to income.

Magistrates sometimes issue a **Conditional Discharge** which means that if you commit a further offence during the period for which the Conditional Discharge is imposed you could be given a penalty for the original offence as well as the current offence.

The Court can also impose other penalties, such as a **Parenting Order** or a **Community Order**.

The Magistrates may also defer sentence for a period of time so that school attendance can be monitored and taken into account when sentence is passed subsequently.

Education Supervision Order (ESO)

The Court may request that the Local Authority consider applying for an ESO but this will always have been considered as an option by the Education Welfare Officer and his/her manager prior to prosecution.

An ESO empowers the EWO to give directions to parents and children in order to secure regular school attendance. Application for an ESO is an alternative to prosecution and the hearing would be held in the Family Proceedings Court.

An ESO will not be considered where the parent is failing to engage with the school and/or the EWO in addressing poor school attendance.

Further enquiries may be made to:

Court Presentation Officer
Education Welfare
Surrey County Council
Quadrant Court
35 Guildford Road
Woking
Surrey
GU22 7QQ
Tel: 01483 517874

The court process

Advice to parents



School Attendance and the Law

The **Education Act 1996** states that parents must ensure that their children of compulsory school age receive appropriate full-time education according to their age, ability and aptitude. Ordinarily this involves ensuring children attend school regularly and punctually.

Under the Sec.576 of the Education Act, any person who has care of a child – whether or not they are the parent – or who has parental responsibility, is deemed to be ‘a parent’ and is therefore responsible for ensuring regular school attendance.

A parent is guilty of an offence if their child of compulsory school age who is a registered pupil at a school fails to attend regularly – **Sections 444(1) Education Act 1996**. In such a situation if the parent **knows** that their child is not attending they may be prosecuted for a more serious offence – **Section 444 (1) (a) Education Act 1996**. Failure to ensure school attendance can result in prosecution.

Parents who fail to register their child at a suitable school without good reason and who are not providing a suitable education themselves, will be served with a School Attendance Order directing that their child attends the school named on the order. Failure to comply with the order is an offence and will result in prosecution – **Section 443 Education Act 1996**.

Prosecution

Prosecution for offences mentioned in this leaflet are undertaken by the Education Welfare Service on behalf of the Local Authority. Parents are liable to prosecution if they do not co-operate with the Education Welfare Service and school to secure their child’s regular attendance at school. Hearings are held in the Magistrates Court.

Evidence for prosecution is supplied by the school in the form of an attendance certificate signed by the Head Teacher. The Magistrates must be satisfied that it is a true record of attendance.

The Education Welfare Officer (EWO) at his/her manager’s direction will prepare the case for prosecution. This will include evidence of letters sent to parents regarding school attendance and details of the EWO’s contact with parents evidencing the support that they have been offered by the EWO to improve their child’s attendance.

Parents summoned for an offence of failing to ensure their child’s regular school attendance have the right to challenge the evidence for the prosecution for the following reasons:

- Absence that has been authorised by the Head Teacher.
- Sickness or unavoidable cause – sickness should be supported by medical evidence.

- Religious Observance – absences are as a result of special religious observance days of the parent’s religion.
- The nearest appropriate school with available places is beyond the statutory limits for walking and no transport has been provided by the Local Authority. The limits are 2 miles for children under 8 and 3 miles for children over 8.

Parents must demonstrate that one or more of these grounds apply.

Information for parents who have received a summons

If you, as a parent, are prosecuted for failing to ensure your child’s regular school attendance, you will be sent a summons stating the time, date and place of the court hearing. You will be provided with copies of the prosecution evidence including witness statements made to support the proceedings. You will be asked at court if you intend to plead guilty or not guilty. If legal advice is required this should be sought prior to the hearing to avoid the need for adjournments.

On the day of the hearing you should arrive on time and report to the Court’s reception. If you have any questions regarding the proceedings or cannot attend on the date arranged you must contact the court beforehand. If an interpreter is needed this must be requested in advance and the court will make this provision.