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Arweinlyfr gweithredol i'r Gwasanaeth Lles Addysg

All Wales Attendance Framework

An operating toolkit for the Education Welfare Service



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Foreword

1. The Welsh Assembly Government's policies for children and young people have their basis in the United Nations Convention on the Rights of the Child (UNCRC). We believe it is vital that children and young people have access to appropriate and effective learning opportunities and provision. Any barriers to learning need to be identified early and removed, so that children and young people can engage in educational provision they need to achieve their full potential.
2. A child's success at school is likely to be affected negatively by poor attendance. Those who do not attend regularly may not be able to keep up with their work and in a busy school day it can sometimes be difficult for schools to find the extra time needed to help a child catch up. In addition, research shows that children who are not in school are more vulnerable and can be easily drawn into crime and anti-social behaviour and are more likely to be unemployed after leaving school.
3. Improving behaviour and attendance is an integral part of our wider educational initiatives such as the Foundation Phase and 14-19 Learning Pathways. These initiatives aim to ensure that children and young people do not become disengaged from education by ensuring that provision is suitable to their individual needs.
4. Attendance within the context of the School Effectiveness Framework is a key whole school improvement issue and has a strong direct relationship with the attainment of individuals and groups of students and the standards thereby achieved by the school. Through the self-evaluation process attendance strategies can be assessed and enhanced.
5. In March 2009, we published *Behaving and Attending: Action Plan Responding to the National Behaviour and Attendance Review*. Through the Action Plan we aim to create a culture of early intervention, effective support and ways to embed and disseminate good practice to promote positive behaviour and attendance in schools across Wales.
6. A key action in the Plan was to produce an Attendance Framework for Wales in partnership with the Education Welfare Service (EWS). The resulting document provides standards and guidance for practitioners to ensure greater consistency of practice throughout Wales. It also aims to enable the EWS and schools to deliver services that are consistent, accessible and of a high standard. Most importantly it is intended to be a practical resource toolkit for use by staff working within the Education Welfare Service.

7. This document draws on the experience, knowledge and expertise of colleagues across Wales brought together by a working group of the following EWS Managers:

Gerwyn Matthews	Wrexham
John Gould	Neath Port Talbot
Jackie Morton	RCT
John Jenkins	Cardiff
Noella Roberts	Conwy

8. The following legislation, guidelines and documents underpin the information and guidance contained in this toolkit:
- Education Act 1996
 - Children Act 1989
 - Children Act 2004
 - Education and Inspections Act 2006
 - SEN Code of Practice for Wales 2004
 - The Learning Country and Learning Country II: Vision into Action, WAG (2006)
 - School Effectiveness Framework
 - National Service Framework for Children, Young People and Maternity Services in Wales, WAG (2005)
 - Children and Young People's Workforce Development Strategy
 - Behaving and Attending: Action Plan Responding to the National Behaviour and Attendance Review, WAG (2009)
 - Inclusion and Pupil Support, WAG Circular 47/2006
 - Exclusion from Schools and Pupil Referral Units, WAG Circular 001/2004
 - Improving Attendance 2006, Estyn
 - Education (Admission of Looked After Children) (Wales) Regulations 2009
 - Services for children and young people with emotional and mental health needs, Wales Audit Office and Healthcare Inspectorate Wales, 2009
9. As part of the development of this toolkit the working group felt it important to include a Mission Statement which clearly sets out the vision and values for an Education Welfare Service. The group propose the following Statement which you may wish to adopt.

Mission Statement for the Education Welfare Service

10. The Education Welfare Service (EWS) will aim to provide professional, quality support to children, young people, families and schools so that children and young people living in Wales benefit from the educational opportunities provided to them.
11. The Service will investigate the reasons behind school absence, offer information and guidance, undertake planned interventions, advise families about specialist support services and make referrals to appropriate services when required.

12. The Service believes that children and young people are individuals and have a right to equal opportunities, whatever their ability, race, culture, religion, gender, sexual orientation or social background.
13. The Service recognises that children and young people with Additional Learning Needs (ALN) and families who are socially disadvantaged may, at times, require extra support.
14. The Service will work alongside other agencies in order to support all children and young people with specific emphasis placed on child protection issues.

About this Toolkit

15. This toolkit is divided into 3 sections:

Section 1 contains guidance and standards giving an overview of the role and responsibility of the EWS.

Section 2 contains a CD with exemplar material which has been collected from local authorities across Wales and the UK. These materials are not obligatory to use but may be useful as templates for you to create new or adapt existing documents.

Section 3 contains a good practice guide for schools with strategies and case studies to help improve attendance and manage lateness.



Section 1: Guidance and Standards

Part 1: The Education Welfare Service

This part is intended to:

- define the role and responsibilities of the Education Welfare Service (EWS)
- define the role of parents
- define the role of schools; and
- outline the referral process.

a. Role of the Education Welfare Service

Overview

16. The EWS provides support to schools, pupils and parents to ensure regular attendance and address problems relating to absenteeism. The Service liaises with other agencies and provides an important link between home and school helping parents and teachers to work in partnership in order that pupils benefit from the educational opportunities available locally.
17. Education Welfare Officers (EWO) are sometimes referred to as Education Social Workers. For the purpose of this document, EWO will be used throughout for this role.
18. The EWS acts on behalf of the local authority in enforcing a parent's duty to provide appropriate education. The main function of the EWS is to improve overall attendance and reduce persistent absence in all schools and alternative education provision. However, in many instances the EWS also undertake other related duties, which may include:
 - regulating child employment and performance licences for school age children;
 - helping to arrange alternative educational provision for individual pupils;
 - advising on children being educated otherwise than at school; and
 - advising on safeguarding children in education.
19. The main role of the EWS is to:
 - contribute to the local authority and school's drive for school effectiveness;
 - work in partnership with schools, pupils, parents and communities to ensure educational entitlement and regular attendance; and
 - link with a network of agencies providing education, health and social services for individuals with specific needs.
20. This is sought to be achieved through:
 - promoting and supporting whole school attendance policies;
 - providing advice on proven good practice;
 - working together with school staff, pupils, parents and relevant others on programmes designed to improve attendance level;

- undertaking individual work with pupils;
- undertaking family centred work;
- developing group work with pupils and parents; and
- initiating statutory proceedings on behalf of the LA.

21. Legal action to enforce attendance can only be taken by the local authority.

b. EWS values and principles

Purpose

- To assist parents, schools and the local authority to meet the duties placed on them by relevant legislation.
- To enable and enhance effective communication between and within families, schools, agencies and other services and the wider community.
- To foster and maintain a climate in which members of the EWS are able to fulfil these principles.

Rights of the Individual

- To acknowledge the rights of those using the service to access advice and support from the EWS in obtaining services to which they are entitled.
- To act as advocate, where appropriate, for children, young people and families when they seek to obtain the services they are entitled to.

Confidentiality

- To maintain confidence and participation in services and thereby help protect children's health and wellbeing. However, confidentiality may be breached where this is in the best interests of the child and in the wider public interest.
- To conduct working relationships with children, young people and parents in an open and honest way which allows for the sharing of information that is properly documented.

Anti-discriminatory practice

- To provide EWS support on an equitable basis according to need, regardless of race, culture, religion, gender, age, sexual orientation, disability, social background or additional learning needs.
- To promote equal opportunities within all aspects of work.
- To confront discrimination whenever it may arise.

Information management

- To ensure a co-ordinated and consistent approach to referral, recording and reporting systems.
- To recognise the need for objectivity, accuracy and confidentiality where appropriate.

- m. To recognise the requirements of both the legislation and underlying principles related to data protection, access to personal files and pupil records.
- n. To collate, interpret and present data on issues relating to relevant aspects of EWS work and then use it to plan and manage the work of the EWS.

Case and workload management

- o. To establish a case management policy that incorporates a formal referral system.
- p. To establish a system for case management that incorporates assessment, planning, monitoring and evaluation.
- q. To establish and maintain clear systems for assessment, planning, monitoring and evaluation of workloads, including self evaluation, appraisal and feedback from service users.
- r. To establish access to effective supervision and support from a line manager.
- s. To establish a system for closing cases.

Intervention

- t. To facilitate the process of intervention through a full assessment of needs and consideration of the resources and methods available.
- u. To make appropriate use of legal proceedings as part of a planned intervention.
- v. To empower families where they seek to resolve their own difficulties.
- w. To assist children and young people in maximising their educational opportunities.

Training and Professional Development

- x. To achieve a qualified service through support of training and professional development opportunities¹.

c. Induction and recommended In-Service Training

- 22. It is important that all new members of staff feel part of the team and are supported in their role. During the induction period, it is good practice to: -
 - clarify the role and responsibilities within the welfare service
 - begin the process of identifying learning / development needs in relation to the post; and
 - outline how the role contributes to the service and how it relates to the overall priorities and objectives of the local authority.
- 23. New members of staff are encouraged to shadow colleagues to introduce them to the role and to have the continued support of a member of the team.

¹ The Welsh Assembly will commence work in 2011 to produce, in collaboration with EWS officers, a training structure, qualification and progression route for the EWS in Wales.

24. Individuals are encouraged to participate in In-Service programmes and individual attendance at relevant specialist courses. On occasions training is made mandatory. Frequent multi-agency training is encouraged particularly in partnership with safeguarding and inclusion colleagues in line with good practice. Examples of checklists for the Induction Process for new staff can be found in Section 2.

d. Working with schools

25. The EWO has a dual role to play as a provider of a service to the school and as mediator between home and school. Schools will normally have a named EWO who has a duty to visit the school regularly and will normally, in the first instance, see the head teacher or head of year. However, attendance is the responsibility of the whole school. Schools should, therefore, consider the most effective ways of giving all staff access to the EWO and an understanding of his / her responsibilities within schools. It is inadvisable for work with the EWO to be regarded as the exclusive domain of pastoral staff.
26. The EWO's time is inevitably limited. Schools should, therefore, have a clear arrangement on how and when a referral to the EWS is made and to be sure all staff understands the procedures. Prior to a referral two things need to happen:
- a school's own procedures for dealing with absence should have been exhausted;
 - a referral form should always be used so there is a written record of the pupil's attendance, lateness, strengths and weaknesses, relationships with peers and teachers, past and present contact with external agencies and any other relevant information from the school's records (referral form document templates can be found in Section 2).

School Attendance Register

27. Schools are required under The Education (Pupil Registration) (Wales) Regulations 2010, to take an attendance register twice a day; at the start of the morning session and once during the afternoon session. The register may be requested in a court of law as evidence in a prosecution for non-attendance. It may also contribute information to pupils' end-of-term reports, records of achievement and leavers' references. An accurate and consistent registration system is crucial if poor attendance and punctuality within a school are to be tackled. It is vital that pupils are aware that registration is a significant part of the school day.
28. All staff involved with the registration process should be made aware that the law is specific regarding the keeping of registers. Marking and keeping the register is of the utmost importance.
29. Unauthorised absence is absence without approval from an authorised representative of the school and includes all unexplained absences. There will be occasions when the school may authorise a pupil's absence and hence no offence is deemed to have been committed. Thus, the decision taken by the school to give or withhold authorisation for an absence, is a critical factor in determining the local authority's decision to prosecute parents as prosecution is only possible for unauthorised absences.

30. It is important that schools exercise caution in the authorisation of absence. If they are suspicious of the explanation given by parents, the absence should be further investigated and left unauthorised until the matter has been clarified to the satisfaction of the school. The decision taken by the school to authorise absence or not, is of critical importance in determining the level of involvement of the EWS. If the school has authorised a pupil's absence they have, in effect, given leave, therefore there is no case in law for the parents to answer.

School Attendance Policy

31. Schools are encouraged to develop a whole school policy on attendance in discussion with staff, governors, parents and pupils taking account of Assembly Government guidance on Inclusion and Pupil Support and good practice identified by the local authority. This policy should:
- give a high priority to attendance and punctuality;
 - ensure compliance with all statutory requirements;
 - ensure that clear information is regularly communicated to parents and pupils;
 - collect and make effective and constructive use of attendance data;
 - provide clear guidance to staff on the process of registration and on such connected issues as the appropriate categorisation of absence;
 - contain clear procedures to identify and follow up all absence and lateness;
 - recognise the importance of early intervention;
 - make provision for first-day of absence contact;
 - monitor post-registration truancy through the taking of class registers and spot checks;
 - be alert to critical times (e.g. Key Stage 2/3 transfer);
 - identify a range of strategies to deal with absenteeism / lateness;
 - provide for a clear and unambiguous hierarchy of sanctions;
 - develop attendance incentive schemes which recognise pupils' attendance achievements;
 - consider the setting of targets for individuals, classes, year groups, etc.;
 - establish procedures for identifying and reintegrating long-term absentees;
 - provide for regular structured meetings between school staff and the EWO
 - ensure that reasonable steps are taken by the school before an appropriate referral is made to the EWO;
 - stress to parents the importance of continuity of learning, particularly in relation to family holidays during term-time (schools should grant leave for term-time holidays sparingly);
 - use opportunities such as parents' evenings and the school prospectus / brochure to remind parents of the school policy on attendance;
 - involve governors;
 - identify a key senior member of staff with overall responsibility for attendance;

- ensure that good practice is identified and disseminated;
- be regularly monitored and reviewed; and
- take steps to create a culture which encourages attendance, addressing school based causes of poor attendance such as bullying, racism, the curriculum, etc.

e. Engaging and working with parents

32. Parentally condoned absence is, in many ways, more difficult to identify than any other form of pupil absence. This form of absence is equally as damaging to the pupil's educational experience as any other form of absence. The parents, in many cases, perceive that they are keeping their child away from school for legitimate reasons. They may feel that they are protecting their child/children. It is essential when school staff feel that a pattern of non-attendance is emerging, they work closely with education, social and health support services to ensure the most appropriate and effective intervention is available to the pupil and parents.
33. Effective engagement is the bedrock on which all work with parents is built. Engagement should be underpinned by the values and principles that guide the work of the EWS. Key to this is respecting parents' rights and supporting them in meeting their responsibilities.
34. Parents of children from different cultures may feel that the school is not a safe or proper environment for their child. It is vital that schools investigate and endeavour to recognise cultural issues that may prevent a pupil from attending school. There are support services that will assist and advise schools and parents on ways forward when these difficulties arise.
35. A pupil's punctuality is a legal requirement and the parents / carers of a pupil who is persistently late are guilty of an offence. The law treats persistent lateness (after the close of the Register) in the same way as irregular attendance and parents can be prosecuted if late arrival is not resolved.
36. Leaflets entitled "Is your child missing out?" provide information on attendance for parents in a variety of languages are available in Section 2.
37. Parents can do a great deal to support the regular and punctual attendance of their children. Schools and the EWS should work with parents to support and encourage them to:
 - take an active interest in their child's school life and work;
 - attend, when possible, parents' evenings and other school events;
 - ensure that their child completes his / her homework and goes to bed at an appropriate time;
 - be aware of letters from school which their child brings home;
 - ensure that their child arrives at school on time each day;
 - ensure that their child only misses school for reasons which are unavoidable or justified, such as illness or days of religious observance;

- always notify the school as soon as possible - preferably on the first morning of any absence;
- confirm this in writing when the child returns to school;
- try to avoid booking family holidays during term-time; and
- talk to the school if they are concerned that their child may be reluctant to go to school.

f. Service Level Agreements

38. The purpose of a Service Level Agreement is to set out a clear agreement between the school and the local authority Education Welfare Service on the actions to be taken by the school and the EWS. Such documents go a long way towards ensuring that there is consistency of approach and a common understanding about who does what. Local authorities should draw up Service Level Agreements that set out the amount of support that schools can expect based on clear criteria including staff responsible for attendance as well as the responsibilities of the school on the appropriateness and timeliness of referrals etc.
39. Examples of Service Level Agreements can be found in Section 2.

g. Record keeping

40. EWOs should maintain an accurate and objective record of their ongoing involvement with service users together with details of referrals and outcomes.
41. The use of standardised forms can help to expedite this process and can include a:
 - referral form;
 - initial assessment form;
 - case file;
 - summary of contact form.
 - record of supervision; and
 - closure summary.

Examples of these forms can be found in Section 2.

42. Much of the EWO's work regarding attendance is related to the legislative framework and can result in providing information for courts when legal action is taken. It is expected that in most circumstances, reports requested concerning a particular child or family would be discussed with them prior to submission. It is essential that the EWO keeps documentary evidence of the casework undertaken.

h. The referral process

43. During the timetabled visit to the school, an analysis of attendance data should be made. The knowledge of the absences will be a factor contributing to whether a referral to the EWO is appropriate. Before accepting a referral for more intensive work an EWO should look for evidence that the school itself has made an effort to address the attendance issue through:
- action by the class / form tutor as part of their day-to-day duties;
 - involvement of others within the school, e.g. Head of year, Head teacher etc; and
 - contact with parents.
44. Referrals may include the following information:
- pupil information, e.g. name, age, date of birth, year / class group, gender, ethnic origin, language other than English / Welsh, requirements of any religious affiliation, address if different to parent(s) / carer(s), etc;
 - assessment by school of pupil, e.g. ability, academic history, areas of difficulty, reason for referral, attendance details etc;
 - parent / carer information; including their date of birth;
 - actions taken by school to resolve difficulties and the outcomes of these actions;
 - other relevant information relating to contributory factors and any other persons / agencies involved;
 - issues of risk e.g. safeguarding or protection issues, aggression or violence in family or by the pupil; and
 - any other information pertinent to the case.
45. Referrals should be made when:
- a pattern of irregular attendance has developed;
 - a period of entrenched non-attendance has become established;
 - letters sent by the school to the parents have met with little or no response;
 - there is a lack of parental co-operation in ensuring a child's regular attendance;
 - a pattern of post-registration truancy is persisting despite the school's efforts to prevent it;
 - a parent withdraws a pupil from school having expressed an intention to electively educate him / her at home but have not formally deregistered the pupil by advising the local authority of their intentions;
 - a pupil is withdrawn from school by the parents who are moving to another area and the school does not receive a request for the pupil's records from a school in the new area;
 - a pupil has reached the percentage absence trigger set by the school;
 - a pattern of persistent lateness (after the close of the school register) has developed;
 - there are specific and identifiable welfare issues which are preventing a pupil from accessing education; and

- where there are specific child protection concerns, these should be referred directly to the school's Child Protection Officer.

The EWO response to a referral

46. It is good practice for the EWO to make a risk assessment prior to visiting a home. Each local authority should have a staff Health and Safety Protocol that outlines this process. As part of this, the EWO may be required to collate information from school staff, other members of the Service and, if appropriate, other agencies, for example the Social Services Department, CAMHS, educational psychologist, etc. before making a visit to the home and interviewing the parents. Exemplar risk assessments can be found in Section 2.
47. Home visits make an important and appropriate contribution to the effectiveness of the work of the EWS. Decisions on home visiting should be made taking into consideration the reason for the visit, an assessment of the level and likelihood of risk, and effective risk management. There is a legal responsibility on employers for the health and safety of employees and all staff have a responsibility for their own, and each others, safety and well-being. An exemplar lone working policy can be found in Section 2.
48. The purpose of the home visit varies from case to case depending on the circumstances of the work being undertaken. It is important that staff acknowledge, and accept the requirement that contact with young people and their parents / carers in their homes and in other places in the community, represents an appropriate and important element of the Services response to families.

Time scale for response

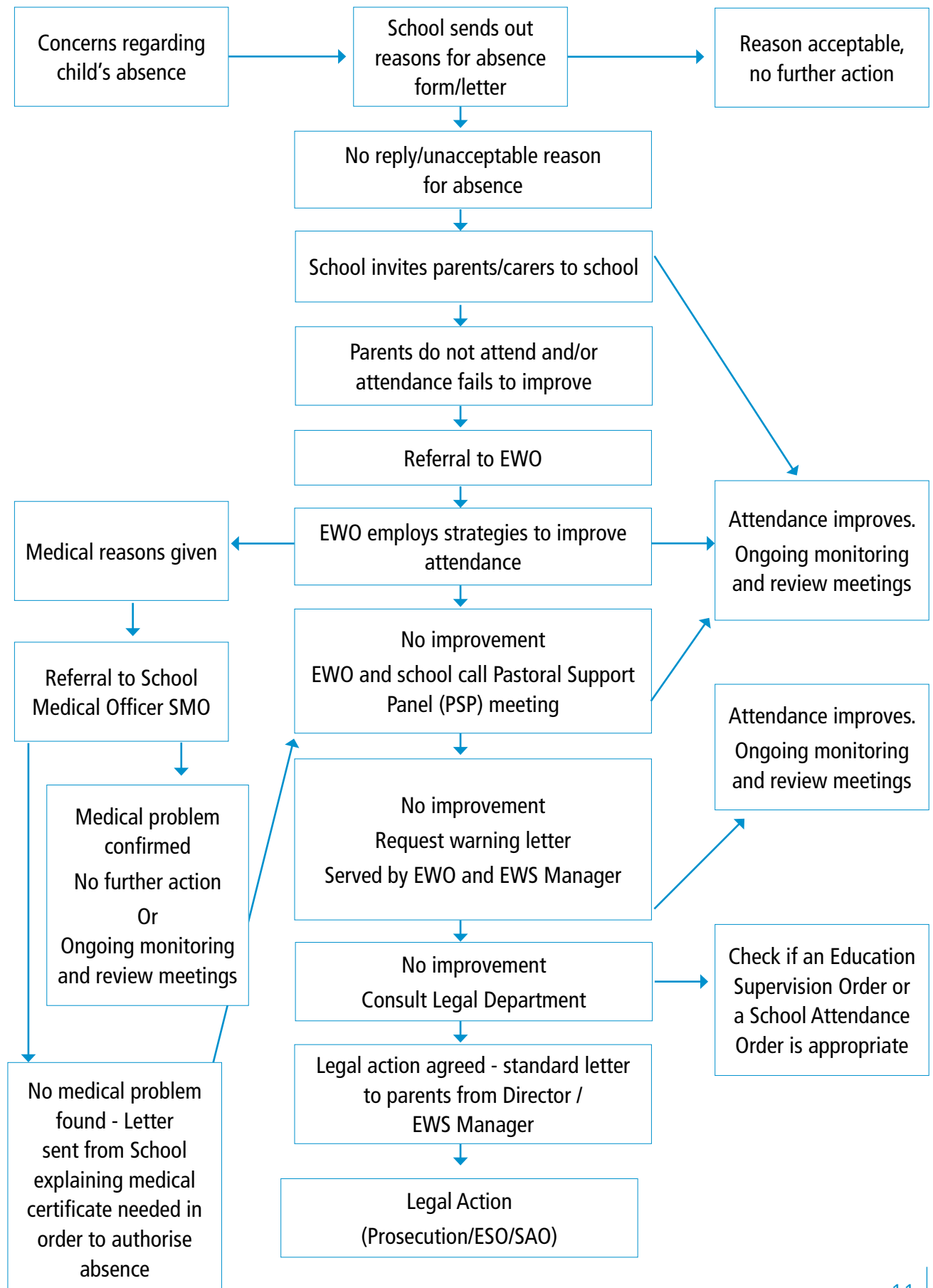
49. It is good practice to make a visit within 3 working days of a referral being made and a written response on the referral form provided and discussed with the head teacher/ year tutor within 5 working days. When there is no reply at the home and no response has been given by parents to a visiting card, follow up action should be taken either in writing (copy of letter to be given to school), by an evening visit or by contacting parents at work. If there is no subsequent improvement in attendance and if all attempts to contact the parent / carer fail, an official warning notice can be issued.

Issues raised by the family / specific action

50. Where ill health is a factor, the EWO will need to confirm the medical problems identified by the child / parent (particularly if there have been several referrals and the explanation for absence has been given as ill health). If it is felt that the parents have not sought appropriate medical help and the absence persists, with the co-operation of the parents, a referral should be made to the school nurse or school medical officer. In addition, where an illness such as mild asthma, migraine or period pains are given as a reason for frequent or prolonged absence, a medical opinion may need to be sought from the school nurse or school medical officer.

51. Where there may be additional learning needs or problems of school refusal / phobia, the EWO will need to consult with the special educational needs co-ordinator (SENCO) to consider a referral to the appropriate educational needs advisory teacher or the Educational Psychologist. The EWO may also need to discuss with the family and child a referral to the CAMHS or other agencies if appropriate.
52. Where there is social services involvement the EWO will need to liaise with the designated social worker in order to determine areas of responsibility and to consider the possibility of a joint visit.
53. Depending on age, the EWO may need to have discussed with the family and the school other options, such as an alternative education provision.
54. The EWO will need to address any issues raised by the child and/or family regarding any difficulties that might prevent regular attendance. Examples of this could be bullying, curriculum problems, teacher / pupil relationships, domestic problems, financial hardship, drug / alcohol misuse etc. and draw up a plan of action with the school to address the problems.
55. Assessment is an on-going process and complex cases may require a number of visits. After the initial assessment has been made, the EWO, in liaison with school staff and possibly other agencies, will plan a course of action. In some cases this may involve working with parents to help them to see the school's view and vice-versa. The resolution of conflict between school and home and trying to change parental attitudes towards education, are regarded as being fundamental to the EWS.

Procedures for Non-Attendance





Part 2: Guidance On The Legal Powers To Secure Regular School Attendance In Wales

56. This part is intended to:
- clarify the roles and responsibilities of all stakeholders involved in supporting attendance
 - summarise the range of interventions available to LAs to support and enforce regular attendance
 - provide information on the powers available under law for ensuring regular attendance; and
 - give examples of good practice, e.g. case management, working with Magistrates' courts.
57. The EWS undertakes proceedings on behalf of the LA, in respect of parents who do not ensure their children's regular attendance at school or enrol them at school or education otherwise than at school.
58. The EWS will make relevant assessments and action plans in partnership with pupils, parent(s), school staff and other relevant parties, concerning attendance at school or alternative educational provision.
59. The use of legal action against parents will be considered as part of a planned intervention with families. The EWS must ensure accountability for cases taken to court and liaise with schools concerning such cases.
60. The EWS will offer information to parents and pupils about rights and responsibilities concerning attendance and the legal process, during any intervention with the family.

a. Definitions

61. **Compulsory school age** - Under Section 8 of the Education Act 1996, children and young people should attend school from the start of the first term commencing after their fifth birthday. The end of term dates are 31 March, 31 August and 31 December. A young person ceases to be of compulsory school age on the last Friday in June of the school year in which they have their 16th birthday.
62. The definition of '**parent**' is set out in section 576 of the Education Act 1996 and includes:
- all natural parents, whether they are married or not;
 - any person who, although not a natural parent, has parental responsibility (as defined in the Children Act 1989) for a child or young person; and
 - any person who, although not a natural parent, has care of a child or young person.
63. Having care of a child or young person means that a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child, is considered to be a parent in education law.

64. **Walking Distance** - As defined by Section 3 of the Learner Travel (Wales) Measure 2008:
- a. in relation to a primary school aged child receiving education at a maintained school, a non-maintained special school, a Pupil Referral Unit or independent school named in a statement maintained for the child, means two miles (3.218688 kilometres), and
 - b. in relation to a secondary school aged child receiving education at a maintained school, a non-maintained special school, a Pupil Referral Unit or independent school named in a statement maintained for the child, means three miles (4.828032 kilometres).
65. In each case measured by the nearest available route which is safe to walk either escorted or unescorted.
66. **Full-time education** - Inclusion and Pupil Support 47/2006 defines full time education as:
- | | |
|---|------------|
| Key Stage 1: | 21 hours |
| Key Stage 2: | 23.5 hours |
| Key Stage 3 / 4 (Including Year 10 only): | 24 hours |
| Key Stage 4 (Year 11): | 25 hours |

b. Roles and responsibilities

67. Ensuring regular school attendance is a demanding area of work that depends on establishing and utilising close working relationships between parents, pupils, schools, the EWS and other professionals working with children and young people in social, educational and health care settings.
68. A key element of any successful working relationship is a clear understanding of each person's role and responsibilities, and as such this section sets out to clarify the roles and responsibilities for those people engaged with tackling attendance issues.

Parent

69. Under section 7 of the Education Act 1996, the parent is responsible for ensuring that their child of compulsory school age receives efficient full-time education that is suitable to their child's age, ability and aptitude and to any special educational needs the child may have. This can be by regular attendance at school, alternative provision or by elective home education (the parent can choose to provide education for their child).

School

70. Schools are required under the Education (Pupil Registration) (Wales) Regulations 2010 to take an attendance register twice a day; at the start of the morning session and once during the afternoon session. The accuracy of the register is important in order to support any statutory interventions that may be required. It should be noted that it is an offence not to maintain accurate registers. Detailed guidance on attendance codes (revised in 2010) can be found in Annex 4.i of the 'Inclusion and Pupil Support' guidance document.

Local authority

71. Under section 437 of the Education Act 1996, LAs have a duty to ensure that a child for whom they are responsible is receiving a suitable education either by regular attendance at school or otherwise. Further information can be found in Section 4 of the 'Inclusion and Pupil Support' guidance document.
72. In September 2009 the Welsh Assembly Government commenced Section 436A of the Education and Inspections Act 2006 which requires that local authorities must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children residing in their area who are not receiving a 'suitable education'.
73. Implementation of the duty under section 436A should be integrated with the wider range of duties placed on local authorities, including the Children's Act 2004 (sections 25-29) and the Welsh Assembly Government's Safeguarding Children Working Together under the Children's Act 2004 that aims to improve outcomes, and safeguard and promote the welfare of children. The new duty should strengthen and complement these existing duties. Statutory guidance to help prevent children and young people missing education, including a practical toolkit is available on the Welsh Assembly Government's website. <http://wales.gov.uk/topics/educationandskills/publications/guidance/missingeducation/?lang=en>

c. School Attendance Orders (SAO)

Legislative basis

Sections 437 - 443, Education Act 1996

Application

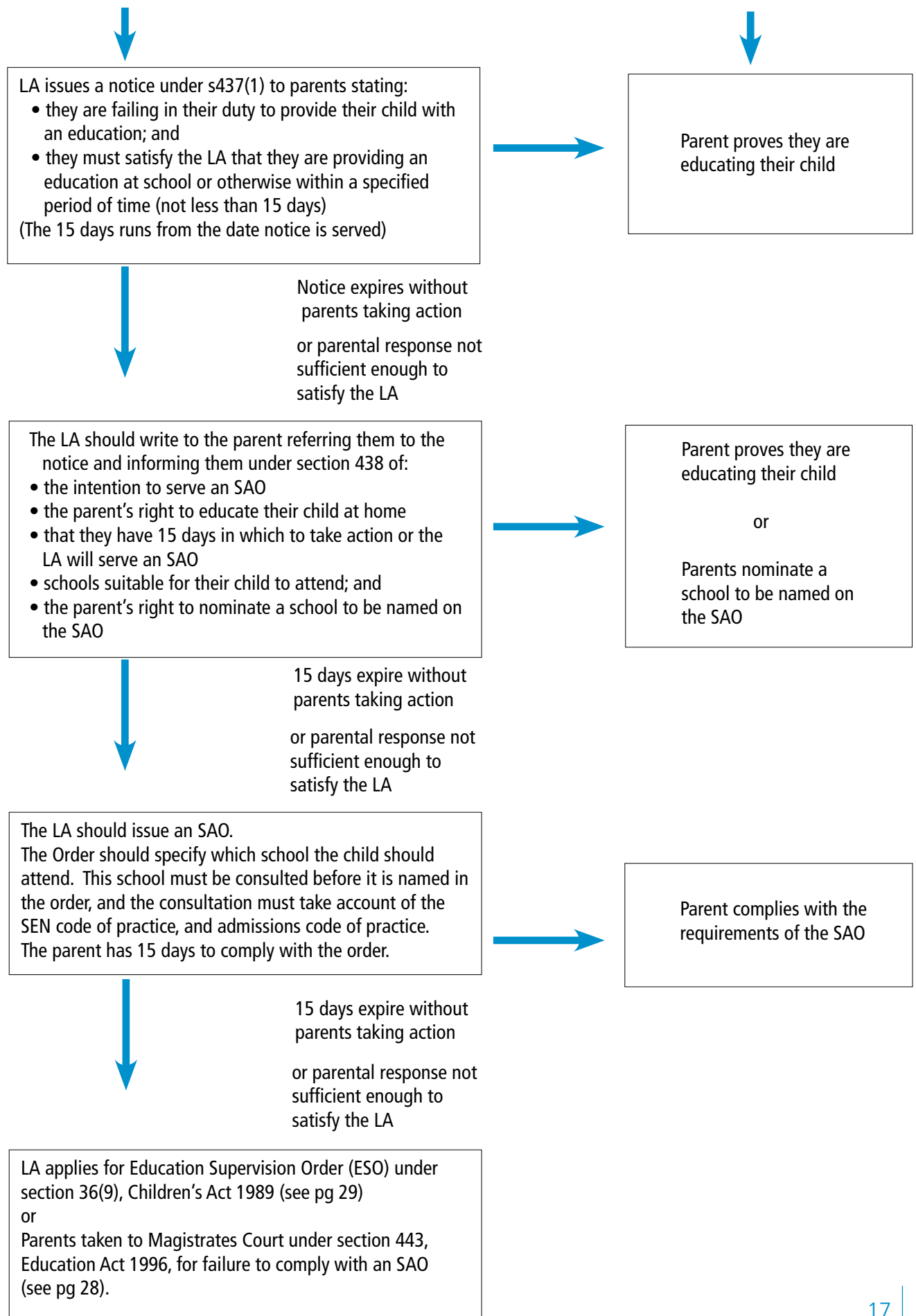
74. A School Attendance Order (SAO) applies in cases when a parent of a child of compulsory school age fails to prove that the child is receiving suitable education and where the authority believes the child should attend school. A SAO may be used to direct a parent to send their child to a specified school, and should be used when a pupil is not on roll at **any** school. They are not intended for pupils who attend irregularly.
75. A SAO continues to be in force for as long as the child is of compulsory school age. If there is a continued failure to register the child, the LA has the option of referring the case to Social Services for consideration of care proceedings.

Process

76. There are a number of circumstances which may lead to a child not being on roll at a school, and therefore the use of an SAO may be appropriate:
 - the parent has not registered their child with any primary school;
 - there is a change in school phase, such as transition from primary to secondary school;

- the parent has failed to secure a place at the school of their preference and they are faced with options which they view to be unsuitable;
 - the parent has failed in their duty under arrangements for elective home education and is reluctant to engage with any school; and
 - children from another LA move into the area and have been taken off the school roll in their previous LA.
77. Before serving an SAO, EWOs should make every effort to engage the parent and help them to get their children to school. This may include making sure the parent is aware of the location of schools in the area, and explaining and assisting with the admission or admission appeal arrangements where necessary.
78. If, following engagement, a parent has still not made arrangements for their child's education, LAs should follow procedures to serve an SAO. The key stages in this procedure are summarised in the following flowchart.

SAO Flowchart



Format of School Attendance Order:

As you [name of parent] of [address of parent], being the parent of a child of compulsory school age in the area of the Authority, have failed to satisfy the Authority in accordance with the requirements of the notice served on you under section 437(1) of the Education Act 1996 by the Authority on [date of notice] that [name of child] is receiving suitable education, either by regular attendance at school or otherwise:

And as, in the opinion of the Authority, [name of child] should attend school:

You are required to cause [name of child] to become a registered pupil at the following school:

[Insert full name and address of the school and omit the whole or part of the following words as the case requires]

being the school [specified by the Authority] [selected by you] [determined by a direction of the Secretary of State for Education and Employment] [as the school to be named in this Order] [specified in the statement for the child under section 324 of the Education Act 1996].

Failure to comply with the requirements of this Order is an offence unless you can prove that [name of child] is receiving suitable education otherwise than at school.

Signed [name of officer] of [name of Authority] Local Authority.

[Dated]

d. Failure to comply with a School Attendance Order

Legislative basis

Section 443, Education Act 1996

Offence

79. Being a parent of a child of compulsory school age in respect of whom a SAO was served who failed to comply with the requirements of the order.

Key points

80. It will be necessary to prove that the:
- child is of compulsory school age;
 - parent has care of the child,
 - parent has failed to comply with the order;
 - notices served under sections 437(1) and 438, give recognition to the time limits set out in the Act, i.e. the parent is given 15 days notice to respond to each notice; and
 - notices were served upon the parent.

Statutory Defences

None

Notes

81. This offence carries a fine up to a maximum level of 3 on the standard scale - currently £1,000 a parent for each absent child.
82. Unless it is revoked, an SAO continues to be in force for as long as a child is of compulsory school age. In cases of continued failure to comply, a further prosecution is not possible; another SAO has to be made before a second prosecution can be brought.
83. For parents who do not comply with a SAO, it would be normal practice to refer the family to Social Services. Alternatively, an application can be made in the Family Proceedings Court for an Education Supervision Order.

e. Education Supervision Order (ESO)

Legislative basis

Section 36, Children's Act 1989 (see also section 447, Education Act 1996)

Application

84. An Education Supervision Order (ESO) can be used to ensure regular school attendance whether or not a child is enrolled at a school. It should also ensure that a child receives full-time education suited to their age, ability, aptitude and any special educational needs, and that parent and child are given sufficient support and guidance.
85. An LA has a duty under section 447 of the Education Act 1996 to consider applying for an ESO before a decision to prosecute parents for poor attendance or failure to comply with an SAO is made. An LA can apply for an ESO instead of or as well as prosecuting the parents. If a LA chooses not to apply for an ESO, then they should record / provide evidence of the consideration and the reasons that it was not felt to be appropriate.
86. An ESO makes the LA responsible for advising, supporting and giving 'directions' to the supervised child and his / her parent/s in such a way as to ensure that the child is properly educated. These directions must be defined by the LA and should aim to be helpful in bringing about an improvement in the child's attendance (for example the LA could direct the parent to attend meetings at the school over the period of the ESO, require parent / child to keep the LA informed of their address, or require the parent to attend parenting classes).
87. An ESO will normally cease to be effective:
 - after one year;
 - when a child becomes over compulsory school age; and
 - when discharged by the court following an application from the child, parents or LA.

88. However, an LA can apply for an ESO to be extended for up to three years, if it is thought necessary to ensure that the child's education continues to progress. This must be done three months before the ESO is due to expire.

89. Courts may not make an ESO when the child is already in the care of the authority.

Process

90. An 'ESO' is a 'family proceedings' matter as defined by the Children Act 1989, which regards the welfare of the child as the main concern and is a civil matter.

91. When applying for an ESO, LAs should provide the court with a report on the child, which should include the following information:

- record of attendance, which gives information about attendance over the 2 previous terms prior to the ESO application, or over a longer period if appropriate. This should be presented as a percentage breakdown of attendance, authorised and unauthorised absences;
- relevant details on the child's circumstances, including: age, gender, background and any particular physical, emotional or educational needs (including special educational needs as defined by Section 312, Education Act 1996) the child may have;
- assessment of the causes of the child's poor attendance;
- medical assessment, if relevant;
- indication of the attitudes of the child, parent, school and other agencies towards the poor attendance;
- short description of the effect of work already undertaken;
- reasons why an ESO is being requested and assessment of how the child might be disadvantaged should an ESO not be made;
- outline of the intended intervention, including targets for timing and monitoring; and
- programme of the intended work, indicating role of child, parents and school, with an indication of how the LA believes this will help to resolve the problem and ensure that the child attends school regularly.

92. The court must also consider the child's welfare needs (a list of these is given in section 1(3) of the Children Act 1989), and the wishes and feelings of the child need to be sought and taken into consideration.

93. An ESO should be reviewed at regular intervals, through discussion between supervising officers and their managers.

f. Failure to ensure regular school attendance - section 444(1)

Legislative basis

Section 444(1), Education Act 1996 as amended by sections 3 and 4 of the Learner Travel (Wales) Measure 2008.

Offence

94. Being a parent of a child of compulsory school age that is registered at a school and who fails to ensure that their child regularly attends this school.

Key points

95. It will be necessary to prove that the:
- child is of compulsory school age
 - child is registered to the roll of the school
 - parent has care of the child; and
 - parent has failed to ensure that the child regularly attends this school.

Statutory Defence

96. A child shall not be taken to have failed to attend where the:
- pupil was absent with leave granted by an authorised representative of the school
 - pupil was prevented from attending by reason of sickness or other unavoidable cause
 - absence occurred on a day exclusively set aside for religious observance by the religious body to which the pupil's parents belongs; and
 - the LA has failed in its duty under section 3 of the Learner Travel (Wales) Measure 2008 to make suitable transport arrangements in relation to the child to facilitate their attendance every day at the place they receive their education, or has failed in its duty under section 4 of the same Measure to make other travel arrangements.
97. There are three possible circumstances when this final bullet point would apply. The first relates to parental choice of school. Where parents choose to send their child to a school other than their local catchment school, LAs assume the parent becomes responsible for the child's transport and their boarding/accommodation. If the parent wishes to change school to that of the local catchment school at a later date, the LA will seek to enable the child to register at that school.
98. The second relates to permanently excluded pupils. Through becoming permanently excluded, a child could be required to attend a school other than the local catchment school. LAs inform parents that they become liable for funding transportation to and from school in this circumstance.
99. The third relates to primary school aged pupils where the local catchment school has legally imposed limitations on pupil numbers/class sizes. The nearest primary school may not be able to accommodate the pupil due to the limitations.

100. The special position of Traveller families is recognised in law (section 444(6), Education Act 1996). Traveller parents are protected from conviction if the parent can demonstrate:
- he or she is engaged in a trade or business of such a nature as requires travel from place to place
 - the child has attended at a school as a registered pupil as regularly as the nature of that trade or business permits; and
 - the child, where aged six or over, has attended school for at least 200 sessions (half days) during the preceding twelve months.

Notes

101. Section 444(1) creates an absolute/strict liability offence which carries a fine up to a maximum level of 3 on the standard scale - currently £1,000 a parent for each absent child.
102. Offences under section 444 are summary only which means they are tried before magistrates and there is no recourse to a hearing in high court.

g. Failure to ensure regular school attendance - section 444(1A)

Legislative basis

Section 444(1A), Education Act 1996 (as amended by section 72, Criminal Justice and Court Service Act 2000).

Offence

103. Since March 2001 there has been an aggravated offence where a parent of a child of compulsory school age who, knowing that their child is failing to attend regularly at school, fails without reasonable justification to cause their child to attend.

Key points

104. It will be necessary to prove that the:
- child is of compulsory school age
 - child is registered at the school
 - parent has care of the child
 - **parent knows the child is failing to attend regularly; and**
 - **parent fails without reasonable justification to cause their child to attend regularly.**

Statutory defences

As for section 444(1)

105. It is also a defence to show that he or she had reasonable justification for his or her failure to cause the child to attend school regularly.

Notes

106. Under this higher offence a warrant can be issued compelling a parent to attend court.
107. Section 444(1A) creates an absolute/strict liability offence which carries a fine up to a maximum level of 4 on the standard scale - currently £2,500 a parent for each absent child, or imprisonment up to a maximum of 3 months, or both.
108. If the court finds a parent not guilty of an offence under section 444(1A), but is satisfied that a parent is guilty of an offence under section 444(1), the court may find the parent guilty of that offence.
109. Where the prosecution is being brought under section 444(1A), the local authority may ask the court to issue a warrant in order to compel the parent to attend court. The legal advisor in court should be consulted as to the procedure to be followed in each particular case. The court may choose to issue a warrant with or without bail. If a warrant is issued with bail then the defendant is arrested by the Police and granted bail on the condition that they attend court on the new date of the hearing. If a warrant is issued without bail, then the defendant is arrested and placed before the next available court where a decision is taken as to how to proceed with the case.

h. Failure to ensure regular attendance at alternative provision - section 444(ZA)

Legislative basis

110. Section 444(ZA), Education Act 1996 (as inserted by section 116, Education Act 2005). This extends the circumstances in which a parent can be prosecuted under section 444 for failing to ensure that their child attends the alternative provision that has been made for the child. The parent must first have been given notice in writing, or by other effective means, of the alternative provision.
111. Section 29(3), Education Act 2002 (as amended by section 115, Education Act 2005) gives the governing body the power to direct a pupil to attend alternative educational provision if the pupil is not in attendance but is registered at the school, e.g. pupils excluded for a fixed period or a pupil still on the register awaiting appeal following a permanent exclusion.

Application

112. Where a child is of compulsory school age, but is not registered at any school and:
- an LA has made arrangements under section 19 of the 1996 Act for the provision of education for the child otherwise than at a school, or at the child's home; and
 - notice in writing of the arrangements has been given to the child's parents.
113. If the parent of the child then fails to ensure regular attendance at the alternative provision, then they are guilty of an offence under section 444.

114. Where a child of compulsory school age has been excluded from a relevant school, and:
- remains for the time being a registered pupil at the school
 - is required by the appropriate authority for the school to attend a place outside school premises for the purpose of receiving any instruction or training; and
 - notice in writing of the requirement has been given to the child's parents.
115. If the parent of the child then fails to ensure regular attendance at this alternative provision (not the school they are on roll at), then they are guilty of an offence under section 444.
116. However, it is a defence to such proceedings if the child is receiving suitable education otherwise than by regular attendance at a school or at a place mentioned in section 444ZA(1).

Notes

117. Section 444(ZA) provides for prosecutions under section 444(1) and 444(1A), which are covered in detail on pages 21 - 23.
118. Methods in which notices can be served are defined in section 572 of the Education Act 1996:
- a) by delivering it to that person, or
 - b) by leaving it at their usual or last known place of residence, or
 - c) by sending it in a prepaid letter addressed to the parent at that place.
119. However section 444(ZA) also provides that notice of alternative provision arrangements may be given to a child's parents by any effective means.

i. Parenting Contracts

Legislative basis

120. Section 444(1) of the Education Act 1996 provides that a parent commits an offence if his or her compulsory school age child who is a registered pupil fails to attend school regularly. It is the commission of that offence that can trigger the use of a Parenting Contract. The proof required that the offence has been committed is the same as that which would be required for a prosecution for the strict liability offence under section 444(1) of the Education Act 1996.

Application

121. If a pupil fails to attend school regularly or is excluded from school, the LA or school may consider whether it would be appropriate to offer a Parenting Contract to the parent. A Parenting Contract can be issued where the school or LA have reason to believe that a pupil has behaved in such a way as to:
- cause, or be likely to cause, significant disruption to the education of other pupils or significant detriment to the welfare of that pupil or other pupils or to the health or safety of any staff; or
 - form part of a pattern of behaviour which if continued could lead to the pupil being excluded.
122. The behaviour in question can take place at school or elsewhere if reasonable for the school to regulate it. What is reasonable will depend on all the circumstances and will be set out in the school's behaviour policy
123. A Parenting Contract is a formal written agreement between a parent and either the LA or the governing body of a school and should contain:
- a statement by the parent that they agree to comply for a specified period with whatever requirements are specified in the Contract; and
 - a statement by the LA or governing body agreeing to provide support to the parent for the purpose of complying with the requirements of the Contract.
124. Entry into a Parenting Contract is voluntary. The parent cannot be compelled to enter into a Parenting Contract if they do not wish to do so. Equally, there is no obligation on the LA or governing body to offer a Parenting Contract in cases of non-attendance or exclusion.
125. Parenting Contracts will, however, often be a useful tool in identifying and focusing on the issues behind the non-attendance or misbehaviour and in developing a productive relationship with parents to address these issues.
126. The LA or governing body of a school should take into account a number of issues before deciding to enter into a Parenting Contract. These include whether other agencies are already involved in working with the pupil and family, whether a Parenting Contract would complement or join-up this work, the type of support that might be helpful to the parent and how a Parenting Contract arranged by the LA or governing body will be funded.

Notes

127. The party entering into the Parenting Contract with the parent (namely the LA or the governing body of a school) is responsible for bearing the costs of any support provided under a Parenting Contract although these costs may be recovered from another body e.g. a school may incur the costs but these will be recovered from the local authority.

128. There is no liability in tort or contract for breaching a Parenting Contract.
129. However, in cases of exclusion from school, failure by the parent to comply with the Contract would be a relevant consideration for the LA in deciding whether to apply for a Parenting Order and, in deciding whether to make a Parenting Order, the court must take into account any failure by the parent to comply with the requirements specified in a Parenting Contract.
130. Similarly, in cases of truancy, failure to comply with a Contract may lead the LA to consider prosecuting the parent for failing to ensure their child attends school regularly in which case evidence that the parent failed to comply with the Contract could be presented to the court.
131. It is therefore important that any breach of the contract is recorded so that it can be presented to the court when it becomes necessary.
132. More detailed guidance on Parenting Contracts can be found in Annex 3i of Inclusion and Pupil Support.

j. Parenting Orders

Legislative basis

133. Section 20 of the Anti-social Behaviour Act 2003 and sections 97 to 99 of the Education and Inspections Act 2006 set out provisions for local authorities to apply for Parenting Orders for exclusion from school, serious misbehaviour and truancy.

Application

134. The court may make a Parenting Order in a number of circumstances, including following a conviction for an offence under section 443 or 444 of the Education Act 1996. The court must be satisfied that the Order would be desirable in the interests of preventing the commission of any further offence under those sections. The Parenting Order is an ancillary order and cannot be a sentence in its own right - therefore if given will be in addition to any other penalty imposed.
135. Before making a Parenting Order on a child or young person under 16, the court must obtain and consider information about the family's circumstances and the likely impact of an Order on those circumstances. This is usually in the form of a written or oral report prepared by the EWS as appropriate. The EWS should include this in court report information.
136. Parenting Orders are designed to help and support parents in addressing their child's problem behaviour. They are intended to be a means of support rather than a punishment.

137. The Parenting Order consists of 2 elements:

- A requirement on the parent to attend counselling or guidance sessions where they will receive help and support in dealing with their child. This is the core of the Parenting Order and lasts for 3 months.
- A requirement on the parent to comply with such requirements that are specified in the order. This could include ensuring that the pupil attends school every day or are back home by a certain time. Section 8(4) of the Crime and Disorder Act 1998 provides that this element can last up to 12 months. However, no such requirements need be specified if there has been a previous order in respect of the parent.

138. The Order can be made on one or both parents and their consent is not required.

139. Parenting Orders can be made against the parent of the child in the care of the Local Authority, but care should be taken that this is appropriate. The court should only consider this when it believes that the parents or guardians would benefit from the help and support offered, in that it may lead to the child eventually being able to return home.

140. All Parenting Orders are supervised by a 'responsible officer'. The responsible officer means one of the following who is specified in the order namely:

- a. an officer of a local authority, and with their consent
- b. a head teacher or a person nominated by a head teacher.

141. It is the role of the responsible officer to arrange provision of counselling or guidance sessions and ensure that the parent complies with any additional requirements. The counselling and guidance sessions last for up to 3 months with no more than one session a week. They can be delivered on a one-to-one basis or in a group format. The majority of Orders are delivered through groups as this offers parents the opportunity to gain support from other parents experiencing similar issues.

142. Additional requirements may run for up to 12 months alongside the parenting support and guidance. They could include that the young person:

- attends schools or other educational provision;
- avoids contact with other specific children;
- avoids visiting certain areas at certain times;
- is back home by a certain time; and
- requires parent to attend a specific programme such as anger management.

143. Once a parent has successfully completed an Order, further support can be offered on a voluntary basis if appropriate.

144. If the parent, without reasonable excuse, fails to comply with an Order, then breach proceedings must be considered. The responsible officer must take all necessary action to contact the parent and seek to re-engage them. However, if this fails the parent must be taken back to the Magistrates Court and prosecuted for breach of the Order. There will

be a hearing to determine guilt and, if convicted, the parent will be liable to a fine not exceeding level 3 and the court may also consider any other sentence available for a non-imprisonable offence.

k. Amendments to legislation relating to Parenting Contracts and Parenting Orders

145. The Welsh Assembly Government introduced Parenting Contracts for truancy and exclusion and Parenting Orders for exclusion in May 2006 as another intervention available to promote better school attendance and behaviour. The primary legislation is contained in the Anti-Social Behaviour Act 2003 with further detail set out in the Education (Parenting Orders) (Wales) Regulations 2006.
146. From 5th January 2011 sections 97 and 99 of the Education and Inspections Act 2006 extend the availability of Parenting Contracts and Parenting Orders in respect of misbehaviour in school.
- Section 97 extends the use of parenting contracts so that they may be used for serious misbehaviour as well as exclusion. It also clarifies that the behaviour in question can take place at school, or elsewhere if reasonable for the school to regulate it.
 - Section 99 adds a requirement for courts to take into account the failure of parents to attend a reintegration interview in considering whether to issue a parenting order. It also allows regulations to set out arrangements for 'cross-border' or 'cross-school' pupils.
147. In addition to this from 5th January 2011 new regulations on Parenting Orders and Parenting Contracts will bring the following extra provisions into force:
- Where the pupil lives in one authority, but attends school at another, the local authority where the pupil attends school has the power to apply for a Parenting Order or enter into a Parenting Contract. The authority of residence could do so with agreement from the educating authority. In the case of a permanently excluded pupil the authority of residence has the power to apply for Parenting Order or enter into a Parenting Contract. In this case the educating authority may also do so with the agreement from the authority of residence.
 - Where a permanently excluded pupil has moved schools the new school has the power to enter into a Parenting Contracts. The original school may also do so with the agreement of the new school.
 - Where more than one body has the power to apply for a Parenting Order or enter into a Parenting Contract (e.g. school and local authority) the one proposing to exercise the power must consult with each other body.
 - Where an organisation is proposing to use these powers they must request information from any other body which may be able to also use the powers to decide whether this is the best course of action, to avoid multiple applications or contracts and to decide whether an order or a contract is preferable.

- The costs of the Parenting Order or Contract is borne by the body making the application or entering into the Contract although these may be recovered from another body by agreement. For example a school may incur the costs but these will be recovered from the local authority.

I. Prosecution guidance and policies

148. Prosecution should be a planned intervention in those cases where it is identified to be appropriate. It is a tool which, if applied consistently, can serve to protect a child's right to education and offers a way of engaging parents who have failed to co-operate with previous interventions to improve attendance.
149. LAs have a responsibility to ensure that their prosecution process is transparent, consistent and fair. This should take the form of a clearly written statement of how the LA will address non-attendance, which should be regularly updated and available to all interested parties.
150. Whilst each LA will have a distinct policy developed to address their local circumstances, a prosecution policy should:
- provide a clear statement of the LA's duties and responsibilities;
 - incorporate safeguards to promote a fair and consistent service;
 - incorporate work practices;
 - identify priorities for intervention;
 - provide a clear structure for decision-making, including the criteria and timescale for prosecution;
 - cover arrangements for supervision, review and monitoring casework;
 - incorporate details of multi-agency approaches;
 - address issues of confidentiality, equality of opportunity, the rights of parents and children; and
 - identify arrangements for monitoring and evaluation of practices and procedures.

Formally Notifying a Parent

151. Formal warnings (usually 2) are sent to parents before proceedings are commenced, but this is not at the outset of EWS casework. The legal implications of non-school attendance should, of course, be made clear at an early stage of intervention, but care should be taken to avoid prejudicing a collaborative approach to underlying problems.

m. Decision to prosecute

152. The LA must be satisfied that prosecution is justified in terms of the Attorney-General's Guidelines for Crown Prosecutors. (The Code for Crown Prosecutors can be found at: www.cps.gov.uk/publications/prosecution).

153. The Crown Prosecution Service (CPS) provides guidance to crown prosecutors, setting out the general principles which should be applied when making decisions about prosecutions to ensure that they are fair and consistent.

154. The CPS advises a prosecution is likely to be appropriate if:

- a conviction is likely to result in a significant sentence;
- the defendant was in a position of authority or trust;
- there is evidence the offence was premeditated;
- the defendant's previous convictions or cautions are relevant to the present offence;
- the defendant is alleged to have committed the offence while under an order of the court;
- there are ground for believing that the offence is likely to be continued or repeated; and
- the offence, although not serious in itself, is widespread in the area where it was committed.

155. A prosecution is less likely to be needed if:

- the court is likely to impose a nominal penalty
- the defendant has already been made the subject of a sentence and any further conviction would be unlikely to result in the imposition of an additional sentence or order, unless the nature of the particular offence requires a prosecution
- there had been a long delay between the offence taking place and the date of the trial; and
- the defendant is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious and / or there is a real possibility that it may be repeated.

156. As such, an LA must be satisfied that any prosecution is justified in terms of the above guidelines. They should also consider factors such as:

- How poor is the attendance level?
- Is there a history of poor attendance?
- Are there genuine reasons for the absence? e.g. Bullying, bereavement, emotional issues, medical issues.
- Have the school authorised the absence; if so for what reason?
- Are the parents aware of the absence?
- How much control / influence do the parents have over the child?
- How co-operative are the parents?
- What are the family circumstances?
- What is the child's view and how far should this be taken into account (e.g. age of child).
- What work has already been undertaken with the family? How effective has this been?
- Is there sufficient evidence to support a prosecution?

- Would a prosecution resolve the attendance problem?
- Would prosecution be in the public interest?

n. The Police and Criminal Evidence Act 1984 (PACE)

157. The Police and Criminal Evidence Act 1984 (PACE) sets out the principles of fairness and openness in the investigation of crime. In carrying out their duties in investigating and prosecuting parents for non-attendance of their children, LAs will fall within PACE whenever they interview a parent about the non attendance of their child with a view to obtaining evidence for a prosecution. If a LA does not comply with the relevant provisions of the PACE Codes of practice, evidence obtained in an interview may be inadmissible in court and hence put the entire prosecution at risk. By following PACE, the LA can invite the court to draw an inference if a parent raises matters in their defence later in the proceedings which they failed to raise at interview.
158. LAs should take their own legal advice about the use of PACE in specific cases.
159. For more information about PACE and latest versions of the PACE codes go to <http://police.homeoffice.gov.uk/operational-policing/powers-pace-codes/pace-code-intro/>

Further guidance on the use of PACE

160. PACE came into effect on 1st January 1986 and sets out the conduct that Police or persons other than Police Officers who are charged with the duty of investigating offences or charging offenders should observe when carrying out these duties (section 69(9) Police and Criminal Evidence Act 1984). This includes EWOs and other LA officials involved in investigating and prosecuting parents under section 444 of the Education Act 1996.
161. PACE codes of practice are issued in relation to powers conferred under the Act, which explain how the principles should be interpreted in practice. In the case of irregular school attendance, the codes which EWOs and LAs need to be aware of are:
162. Code C - in relation to interviewing suspects - particularly, the parent should:
- understand the basis of the interview;
 - be made aware of his or her rights (to silence and legal representation); and
 - have access to legal advice, interpreters and appropriate adults (e.g. when the parent has mental health problems) as appropriate.
163. The interview should also be recorded either on tape or by written note.
164. Code E - This sets out the procedures to be followed in the tape recording of interviews with suspects and the handling and security of tapes.

When should local authorities use PACE?

165. The PACE codes of practice set out a framework of conducting an investigation taking into account principles of fairness and equity, and should be viewed as best practice. As such, we would expect LAs to work within the spirit of PACE when investigating offences for non-attendance. This ensures that parents are clear about the offence, understand their rights and responsibilities and have access to support where appropriate.
166. LAs should take legal advice about whether to apply the PACE Act to casework and, if so the point at which it should be applied. However, as a guide:

Prosecutions under section 444(1)

167. Under this section the LA needs to show that the child failed to attend regularly at the school without authorisation.
168. This prosecution relies on documentary evidence provided from the school, the attendance record, and as such there is no need to obtain evidence through interviewing the parent, or to use such evidence in court.
169. Therefore, whilst it is good practice to act in accordance with the PACE Code of Practice, the LA does not need to follow the codes when prosecuting under this section.
170. However, where parents are aggressive or uncooperative, the use of PACE would be appropriate. If circumstances should arise where, for whatever reason, it was not possible to caution the parent(s), prosecution should go ahead without the caution being administered and the EWS would then follow the agreed PACE guidelines.

Prosecutions under section 444(1A)

171. Under this section the LA needs to show both that the child failed to attend regularly at the school without authorisation, **and** that the parent knew and failed without reasonable justification to cause the child to do so.
172. Section 444(1A) proceedings are only used where previous prosecutions have failed and hence it can therefore be assumed that the parent(s) are aware that their child is not regularly attending school. A specific final warning is then issued before Section 444(1A) proceedings are commenced.
173. LAs may well need to conduct interviews with the parent, in order to establish the extent of their knowledge of the non-attendance and any reasonable justification for not causing their child to attend. Should the LA wish to use evidence obtained during these interviews as part of their case for a prosecution then it should have been obtained within the PACE codes of practice.
174. Whilst failure to comply with the codes issued under PACE will not, in itself, make a case-worker liable to civil or criminal proceedings, it could lead to the exclusion of evidence obtained in breach of the codes and thus jeopardise the entire prosecution.

Complying with PACE

Code C - What you need to know

Basis of Interview

175. Before asking any questions relating to the potential prosecution, the EWO should explain to the parent the basis on which the interview is being conducted i.e. that the LA is considering prosecuting the parent under s 444 (1A) Education Act 1996. They should explain what the offence is and check that the parent understands what has been said.

Right to leave and right to legal representation

176. The parent should also be made aware that they are not being held under arrest and are free to go at any time. They should also be informed of their right to independent legal representation and advice at the interview if they so wish. Parents should take their own legal advice as to whether legal aid may be available to them.

Caution

177. The EWO or LA official conducting the interview should also caution the parent as follows:

You do not have to say anything, but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.

178. The EWO should satisfy himself or herself that the parent understands the effect of the caution. If there is any break in the interview, the parent must be reminded that they are still under caution. This would also apply if for example the caution is included in a letter inviting the parent to the meeting.

Interpreter

179. If a parent has difficulty in understanding English and wishes to have an interpreter, LAs should arrange for a suitable interpreter to be present at the interview.

Appropriate Adult

180. In some cases, there may be concerns over the parent's mental health. If the LA believes that the parent is suffering from a mental disorder or is otherwise mentally vulnerable, the caution should be given and the interview conducted in the presence of an appropriate adult. This may be the adult who is normally responsible for their care, a mental health worker or social worker experienced in dealing with mentally vulnerable people or another responsible adult, but must not be someone employed by the local authority in the same department as the interviewing officer.

181. An interview should not be carried out if:

- the parent is mentally vulnerable and there is no appropriate adult available;
- the parent is under the influence of alcohol or drugs; and
- the parent is suffering from illness, ailment or other condition which may impair their ability to understand and answer the questions put to them in interview.

Record of the interview

182. An accurate record must be made of each interview stating the place, time at which it begins and ends and (if different) the time the record is made.

183. If possible, the interview should be tape recorded (see guidance on code E below). However, this will often not be possible for LAs. In most attendance cases interviews between the LA officer and the parent will be recorded through a written note.

184. If this is the case, as precise a note as possible should be taken (preferably verbatim) during the interview and the parent should be given the opportunity to read the note and to sign it to verify that it is correct or to indicate which areas he or she considers it to be inaccurate. This requires the presence, whenever possible, of a second LA officer to take the note.

185. If an interpreter is present, he or she should make a contemporaneous note of the interview in the language of the person being interviewed. Sufficient time should be allowed for the interpreter to make a note of each question and answer after each has been put or given and interpreted.

Code E - What you need to know

186. LAs often may not have recording equipment to tape record interviews with parents. If they do not have access to the equipment or a tape recorded interview is impractical, LAs should simply ensure that an accurate written note is made of the interview as set out above. However, if LAs are able to tape record the interview, they should follow the guidelines set out below.

187. If an interview is recorded, it should be recorded openly and preferably on two tapes on a double cassette deck. The interviewer should state that the interview is being recorded. The tapes should be clean and unwrapped and loaded into the machine in the parent's presence.

188. Once recording has started, the interviewer should:

- state their name and position and the name and position of any other interviewer present;
- ask the parent and any other party present to identify themselves for the tape;
- state the date, time and place of the interview; and
- confirm that the parent will be given a notice about what will happen to the tapes.

189. If the parent has impaired hearing, a written note of the interview should also be made. If the parent objects to the interview being tape recorded, they should be asked to record their objections on the tape before it is switched off. If they will not record their objections, the interviewer should record what they understand these to be on the tape instead. A written note of the interview should then be made as set out above.
190. The taking of any break and reason for it should be recorded on the tape. After any break, the parent should be reminded that they are still under caution or the caution should be given again.
191. At the end of the interview, the parent should be asked if they wish to clarify or add anything. The time should be recorded, the tape recorder switched off and one tape (the master tape) sealed with a label to be signed by the interviewer, parent and any third party (e.g. solicitor or appropriate adult). If there is a second tape, this can be used as a working copy.
192. The parent should then be handed a notice explaining how the tape recording will be used [e.g. as evidence in court], arrangements for access to the tape [e.g. by attending at LA offices or requesting a copy of the tape by post] and, if it is decided to proceed with the prosecution, a copy of the tape as soon as practicable. Copies should be made from the unsealed tape (the working copy). Where it is only possible to record on one tape, a copy may be taken from the sealed tape, but a record must be made of the time, date, place, persons present and actions taken when the seal was broken [e.g. "tape placed in tape recorder and played so that copy could be made"].

o. Disclosure

193. The Criminal Procedure and Investigations Act 1996 (CPIA) sets out certain obligations of disclosure and is supported by a code of practice (Criminal Procedure and Investigations Act 1996, Code of Practice), which is primarily concerned with the recording and retention of material and evidence.
194. EWO and LA staff investigating or prosecuting under Section 444 of the Education Act 1996 should act in accordance with the Criminal Procedure and Investigations Act 1996 (CPIA) and the relevant provisions of the CPIA code of practice.
195. EWOs and LA Staff involved in prosecutions for school non-attendance should also act in accordance with the Attorney General's Guidance on Disclosure issued in 2000.
(<http://www.attorneygeneral.gov.uk/attachments/disclosure.doc>)

What should you disclose?

196. The LA must disclose to the parent any material on which it intends to rely in support of its case and any material which might undermine its case or support the parent's case. The stages and process of disclosing such material are set out below.

How does disclosure take place?

197. First of all the LA should produce a summary of their case setting out the facts on which the LA is relying.
198. If the parent puts in a not guilty plea, the LA should produce a list of all the material which it has which supports or undermines the LA's case, setting out whether the material will be served on the parent (i.e. copies made and sent to him or her) or, if not, where it can be inspected. This is known as primary disclosure.
199. The parent (or his or her solicitors) may then serve a defence statement setting out the nature of the defence and any matters on which they take issue. The LA should read the defence statement carefully and consider whether they have any material which it has not previously disclosed ("unused prosecution material") and which might reasonably be expected to assist the defence the parent has put forward in the defence statement. Any such material must be disclosed. This is known as secondary disclosure.
200. The parent (or his or her solicitors) may also make requests for specific disclosure e.g. of the school records. Such requests should be dealt with promptly. However, the LA or EWO should be alert to speculative requests. Material should only be disclosed if it is directly relevant to the case i.e. if it will support or undermine either the LA's case or the parent's case.
201. Where the LA refuses to disclose material requested (e.g. if it does not consider it is relevant to the case), the defence may apply under section 8 of the CPIA for disclosure to be ordered by the court. Similarly, the defence may apply to the court for material held by a third party to be disclosed. In such cases, the defence must satisfy the court under the Criminal Procedure (Attendance of Witnesses) Act 1965 that the material is likely to be relevant evidence.
202. Documents which may be relevant to sentence e.g. information which might mitigate the seriousness of the offence should also be disclosed.

p. Prosecution process

203. It is highly advisable that LAs liaise with local courts to ensure that there is a clear mutual understanding of the court's powers and procedures.
204. It is advised that for EWS departments who regularly prosecute, court dates are booked in advance to minimise delay between issuing warnings / applying for summonses and the hearing date.
205. The diagram on the next page provides a summary of the key stages in the prosecution process, starting with the formal notification of the parent.
206. It should be noted that all LAs operate differently in bringing information to the attention of the court. In some LAs Legal Officers or solicitors are responsible for bringing cases to the court whereas in others the EWS bears responsibility. The procedures outlined below should be followed regardless of who brings the case to court.

Formally notifying a parent

- Formal written notification at outset of casework stating legal action may be taken by the LA.
- Allow 15 days for parent to improve situation before starting proceedings.



Commencing proceedings

- Application made to the Magistrates Court for a summons to be issued by 'laying an information' before the court.
- Information must be laid before the court within 6 months of the alleged offence and is a brief description of the offence, the name of the offender, dates of offence and where it was allegedly committed.
- Information is considered.
- Date of hearing arranged.
- Summons issued by the court - this gives details of the alleged offence, when it is to be heard and at which court.



Serving the summons

- Decide on method of service - by hand / first class post / registered post / process server.
- Obtain Certificate of Service. (See below).
- Aim to provide at least 10 days working notice of hearing date.
- Include Witness Statement (section 9, Criminal Justice Act 1967) – this is the evidence the LA intends to present to the court.
- Include a Certificate of Attendance signed by the head teacher.
- Include details of any previous convictions the LA intends to draw to the court's attention.
- Include a notice advising that the parent has 7 days to object to the content of the witness statement and to request that the 'witness' (the EWO) be present at the hearing.
- Include form for parent to indicate plea, sign and return to the court.



The court hearing

- District Judge / Lay Bench
- Option to request adjournment - case adjourned if judged to be in the interests of justice.
- Parent asked to enter plea.
- Not Guilty Plea - case adjourned until trial date set by court.
- Guilty Plea - LA representative outlines case, followed by parent or their solicitor.



Failure to attend

- Adjournment notice sent setting out new hearing date.
- Failure to attend on second date, case may be heard in the absence of the parent.
- Section 444(1A) prosecutions - court can issue a warrant to compel the parent to attend.



Guilty pleas in absence

(section 12, Magistrates' Courts Act 1980)

- LA must have presented parent with evidence prior to court hearing (witness statement) and
- Defendant indicated they wish to plead guilty and for the case to be dealt with in their absence.
- Only information served on the defendant can be referred to in court.
- Court can sentence based on the basis of what is placed before them.

Not appropriate for section 444(1A)

q. Sentencing options available to the court

207. In reaching their sentence the Magistrates will consider all of the information presented to the court. Before deciding upon a sentence the Magistrates will need to consider the aggravating and mitigating factors of the offence in the context of the Magistrates' Court Sentencing Guidelines which can be found at <http://www.sentencing-guidelines.gov.uk/>
208. On conviction the court can choose from the various disposals available to it, which include the following:

Adjournment

209. After conviction a case may only be adjourned for up to 4 weeks at a time for enquiries to be made and to determine the most suitable method of dealing with the case. In addition prior to conviction the case may be adjourned, usually for a fixed period. At the end of that period the parent would have to re-appear before the court, unless the child's attendance had been improved and the LA had decided to discontinue the case against the parent.

Absolute Discharge

210. Where a case is proven but the court believe the parent is not deserving of a punishment this disposal may be used. This can be cited in future prosecutions.

Conditional Discharge

211. This disposal is by way of a sentence that last for a fixed period of time, up to 3 years. If the defendant is convicted of another offence during the period fixed then they could be re-sentenced for this offence.
212. In the case of non-attendance at school this could be used if the child's attendance has improved. As long as the parent does not re-offend within the discharge period no further action is taken.

Fine

213. For an offence under section 444(1) this could be up to level 3 on the standard scale (currently £1,000) Where the offence is under section 444(1A) the fine could be up to level 4 on the standard scale (currently £2,500). In considering the fine, the magistrates must take into account the means of the offender to pay.

Deferred Sentence

214. This is when the sentencing decision is deferred for a fixed period of time, up to a maximum of 6 months, dependent on certain conditions that the defendant must agree to abide by. This enables the court to consider the parent's conduct after conviction. The court will explain what it expects during the deferment e.g. the child to attend school regularly. If the parent meets the court's expectations a reduced sentence could be imposed.

Community Orders

215. Before passing a community sentence, the court must be of the opinion that the offence is serious enough to warrant such a sentence. If it is not, a fine or a discharge will be appropriate. The community order, available for those aged 18 or over, must not exceed 3 years. It must also include at least one of the following twelve requirements.

- Unpaid work: for between 40 to 300 hours usually within a twelve month period.
- Specified Activity: a specified activity for a specified number of days which may be for the purpose of reparation.
- Programme: a specified accredited programme aimed at changing the offender's behaviour.
- Prohibited Activity: for specified times and durations, the offender must refrain from participating in stated activities.
- Curfew: attendance at a certain place for between 2 and 12 hours a day for a specified period of up to 6 months. (There is a statutory presumption that compliance will be monitored electronically).
- Exclusion: prohibited from entering a specified place for a stated period up to a maximum of two years.
- Residence: resident at a specified place for a stated period.
- Mental Health Treatment: offender consents to submit to treatment by or under supervision of a registered medical practitioner or chartered psychologist for a stipulated period with a view to improving the offender's mental condition.
- Drug Rehabilitation: offender consents to submit to treatment for a specified period with a view to reducing dependency on, or the propensity to misuse, drugs.
- Alcohol Treatment: offender consents to submit to treatment for a specified period, not less than 6 months, with a view to reducing dependency on alcohol.
- Supervision: offender must attend appointments to monitor rehabilitation. A supervision requirement lasts the whole length of the order.
- Attendance Centre: offender, when aged under 25 years, attends for a specified number of hours (between 12 and 36) for no more than 3 hours per day. National Offender Management Cymru are responsible for 'attendance centres' in Wales.

216. There are 6 attendance centres in Wales (1 for adults and 5 for young people). The main purpose of attendance centres is to put a restriction on young offenders' leisure time - they are open on Saturdays for two or three hours. Their programmes concentrate on group work to give attendees basic skills - literacy and numeracy, life skills, cookery, first aid and money management, for example - as well as encouraging attendees to make better use of leisure time. The programme also includes victim awareness sessions, which consider the impact of offending on individuals and the community and how the young person might make amends; and sessions on drug and alcohol awareness, and sexual health matters.

217. The court will often order a report to be prepared by the Probation service before imposing a community sentence. A Specific Sentence Report may be prepared on the day, but a pre-sentence report will require the case to be adjourned.

Custodial Sentence (Only available under Section 444(1A))

218. This could be a period of up to 3 months. The offence must be considered so serious that only custody is appropriate. A custodial sentence will not be imposed in the absence of the parent. The court will normally ask the probation service to prepare a pre-sentence report before considering a custodial sentence. In exceptional circumstances the court could suspend the sentence for up to 2 years subject to the successful completion of requirements in the community.

r. Exclusions: The legal aspects

Education and Inspections Act 2006

219 The Education and Inspections Act 2006 contains several clauses relating to discipline, behaviour and exclusion. This section sets out which clauses apply to Wales.

Parental responsibilities and excluded pupils

- Section 102 Reintegration interviews - requirement for head teachers to request parents to attend a reintegration interview
- Section 108 Removal of excluded pupils to designated premises
- Section 109 Failure to secure school attendance

Part 3: Attendance Data Analysis

220. This part is intended to:

- provide an overview of the new school attendance codes
- outline the statistical information available to the EWS
- summarise the types of analysis
- provide examples of types of analysis to improve targeted work; and
- provide a framework for LAs to self evaluate their work on attendance.

a. School attendance codes

221. A key action of the Behaving and Attending Action Plan was to revise current school attendance codes and update the guidance on monitoring and analysing absences. The new codes support a more consistent approach to collecting school attendance data across Wales and allow greater potential for exploring further the reasons why pupils are absent.

222. The majority of the changes represent a more detailed split of the current codes and do not affect the overall classification of attendance as present or authorised/unauthorised absence. However, a few changes do affect the overall classification. The main changes are:

- A new 5th statistical category of 'not required to attend' to be used for a small number of specific infrequent circumstances. This category will cover absence due to the partial closure of a school e.g. due to bad weather when road conditions make some roads impassable with the result that the school bus or taxi can only collect some of the pupils. They are no longer recorded as an unauthorised absence.
- Where Traveller children are registered at more than one school and are present at one of those schools, the other school(s) at which they are registered can receive them as receiving an approved educational activity. They are no longer recorded as an authorised absence.
- A young offender may now only be deleted from the register where his or her period of custody is for at least four months and where the school has reasonable grounds for believing that the pupil will not be returning to school at the end of that period. He or she will be recorded as an authorised absence until his or her name is deleted from the register. If an alternative approved educational activity is provided during the period of custody, the school may record the pupil as receiving approved educational activity. Previously a pupil's name could be deleted from the register if he or she had been absent for four weeks and had been detained by a court order.

223. The new codes are grouped under the following statistical categories

- Present
- Approved educational activity (treated as present)
- Authorised absence
- Unauthorised absence
- Not required to attend

Code	Meaning	Statistical category
/ \	Present at registration	present
L	Late but arrived before the register closed	present
B	Educated off-site (not dual registration)	approved educational activity
D	Dual registered (present at another school of PRU)	approved educational activity
P	Approved sporting activity	approved educational activity
V	Educational visit or trip	approved educational activity
J	Interview	approved educational activity
W	Work experience (not work based learning)	approved educational activity
C	Other authorised circumstances (not covered by another appropriate code/description)	Authorised absence
F	Agreed extended family holiday	Authorised absence
H	Agreed family holiday	Authorised absence
I	Illness	Authorised absence
M	Medical or dental appointment	Authorised absence
S	Study leave	Authorised absence
E	Excluded but no alternative provision made	Authorised absence
R	Day set aside exclusively for religious observance	Authorised absence
T	Traveller absence	Authorised absence
N	No reason for the absence provided yet	Unauthorised absence
O	Other unauthorised absence (not covered by other codes or descriptions)	Unauthorised absence
G	Family holiday (not agreed or sessions in excess of agreement)	Unauthorised absence
U	Late and arrived after the register closed	Unauthorised absence
X	Un-timetabled sessions for non-compulsory school-age pupils	Not required to attend
Y	Partial and forced closure	Not required to attend
Z	Pupil not on roll yet	Not required to attend
#	School closed to all pupils	Not required to attend

224. Full guidance on the application of these codes can be found on the Inclusion and Pupil Support pages of the Welsh Assembly's website.

b. Statistical information

225. Data alone is unlikely to provide solutions to identified issues instead it raises questions - the answers to which might provide a solution. It is good practice for local authorities to collect, analyse and disseminate data on attendance. The presentation of data can be extremely powerful in encouraging schools and staff to take an interest in the effect any strategies they may be implementing are having on attendance.

226. Local authorities should be collecting and analysing attendance data on at least a half-termly basis. Good practice would be to collect it on a weekly or monthly basis.

227. Since the introduction of the annual electronic attendance data collection in 2008, data is now available at individual pupil level. This enables schools to monitor not just the attendance patterns of individual pupils, but also across year groups and specific cohorts. This allows for the early identification of absence trends (i.e. every Monday or Friday). Some schools also record attendance at every lesson which enables them to further analyse the development of absence patterns at individual, year group or subject level.

228. The thorough analysis of attendance data can help highlight the early indicators of disengagement which can ultimately lead to persistent absence.

c. All Wales Core Data Sets

229. The first All Wales Core Data Sets were issued in the 2009/2010 academic year. The introduction of these data sets reflects the decision to discontinue the National Pupil Database from 31 August 2009 and responds to issues raised in Estyn's 2008 report on the use of performance data in local authorities and schools.

230. An All Wales Core Data Set is produced for every school to improve consistency and ensure that all staff working in school improvement are working from the same set of analyses. The packs are a key tool in supporting the School Effectiveness Framework and support and align with Estyn's 2010 Common Inspection Framework. The data is in fixed format reports supported by guidance notes and training materials.

231. A key element of the new approach is the introduction of 'statistical families'. Schools are grouped together into families of around 10 according to their circumstances and their pupil characteristics. This enables schools to compare their own performance, strengths, weaknesses and progress to that of others working in similar circumstances. The packs are intended to support school self-evaluation and promote challenge and support across schools.

232. The packs specifically include the following attendance data:

- % of half-day sessions missed due to unauthorised absence by gender and year at school, LA and Wales level.
- % of half-day session missed due to all absence by gender & year at school, LA and Wales level.
- National benchmarking data based on the correlation between the % of pupils eligible for Free School Meals and school absences.

d. Analysis

233. LAs need to give schools access to local and national data so they can have the opportunity to act on it. The following table sets out some possible analyses and gives examples of possible uses.

Type of analysis	Some possible uses of analysis for LAs	Some possible uses of analysis for schools
Analysis of overall attendance rates of schools within LA.	Enables LA to determine which schools are in difficulty and which schools are doing well.	Allows schools to get a sense of their relative position locally and how important the issue is for them.
Analysis of unauthorised absence rates in schools within LA.	As above but also when analysed at absence code level provides an insight into specific trends or issues e.g. increase in extended family holiday in excess of agreement.	Allows schools to consider and focus on specific areas of concern e.g. late arrivals after registration closes.
Analysis of persistent absentee rates.	Enables LA to determine school or area which may have a problem with this.	Allows schools to consider and focus on specific individuals and put in place measures to tackle the problem.
Analysis of attendance rates in different year groups.	Provides the LA with an insight into trends or issues between different cohorts.	As with LAs but also provides information on issues like the possible effectiveness of staff or school systems with respect to attendance.
Analysis of improvement in attendance rates in LA.	Provides a measure of how hard a school is working on attendance issues. May also give an insight into where there is effective practice.	Allows schools to see whether or not measures they are taking are having an impact and where other local schools may have good practice.

Type of analysis	Some possible uses of analysis for LAs	Some possible uses of analysis for schools
Comparison of data with national averages.	Provides an overview of the LA compared to other LAs nationally and puts local achievements in context.	Provides a view on how the school is achieving compared to national standards.
Comparison of data with statistical neighbours	As above but in the context of a variety of socio economic factors.	As above but in the context of a variety of socio economic factors
Comparison of data between local schools with similar characteristics	This provides the LA with an opportunity to make valid comparisons (based on issues such as size and FSM etc.) between local schools.	Allows local schools the opportunity to partner with each other in a meaningful context to spread good practice.
Comparison of pupil cohorts at phases of transition (e.g. key stage 2 to 3).	Allows LAs to assess the impact on attendance of transferring school.	Gives schools a measure on how effective they are at smoothing transition for pupils.
Correlation between SEN and attendance	Could be used to provide an insight into the effectiveness of a social inclusion policy.	Highlights potential access and inclusion issues.
Correlation between ethnicity, gender, looked after status and attendance	Highlights potential access and inclusion issues.	Highlights potential access and inclusion issues.
Correlation between behaviour and attendance	Highlights potential inclusion issues.	Highlights potential inclusion issues.
Correlation between attendance and achievement	Fundamental to maximising achievement.	Fundamental to maximising achievement.

234. By analysing attendance data it may be appropriate to ask the following questions:

- What are the absence levels?
- How do these compare to the LA and national figures?
- Are there any trends for boys, girls or all pupils?
- Are absence levels attributed to specific pupils in the school?
- What strategies have been employed to address absenteeism for specific pupils?
- Have these strategies impacted on attendance?

235. All schools hold a great deal of information about attendance which is not always fully utilised. This information can be of great use in schools for strategic planning and can enable schools to manage attendance issues more effectively. Whole school attendance figures produced monthly, termly or yearly, based on year groups, can indicate factors such as:

- declining attendance in year groupings; and
- the effect of seasonal attendance e.g. attendance may decline during colder months and preceding school holidays.

236. Weekly figures may illustrate the:

- effect of staff absenteeism;
- fall in attendance preceding teacher training days, half terms, study leave or work experience;
- effect of ending terms on a Monday or Tuesday;
- effect of activity days, day trips or residential trips;
- effect of the timing of the school day; and
- effect of pupil holidays in term time.

237. Continuous analysis of individual pupil's attendance and of the whole school can give scope for strategic planning. By identifying those levels which the school considers are indicators of persistent absenteeism or irregular attendance, it is possible to identify the extent of the problem. The school can then target time provided by the EWO and pastoral staff more effectively by producing:

- individual attendance records which highlight reasons for absence and the pattern and rate of unauthorised absence; and
- obtain lists of all pupils with unexplained absence which can be fed back to the responsible member of staff.

238. The pastoral staff will then be able to identify those pupils who give cause for concern. Coded absence, broken down into a class and / or group format, would allow identification of excessive unauthorised absences.

e. Dissemination of data

239. The dissemination of data places the issue of attendance which is fundamental to achievement and social inclusion into the open so that they can be acted upon. It is important to provide some explanation of the data so that those receiving it are able to make the best use of it, form constructive judgements and ask key questions that will allow improvements to be made.
240. Those routinely receiving data should be Chief Education Officers and other relevant LA staff including Chief Advisers, Chairs of Governing Bodies, Head Teachers, the YOT, the Police, Directors of Social Services, Chief Executives and elected members. The data and analyses should be disseminated on a termly and annual basis (academic year). It is good practice to consult those in receipt of the data whether any new analyses are required and whether the information can be improved in anyway.
241. Evaluation of weekly attendance at specific sessions may show up regular patterns of non-attendance and may reveal, for example, an association with certain subjects, teachers or teaching groups. Such analysis can also draw attention to the improvement or deterioration in the attendance of individual pupils. The analysis can help to target intervention more selectively and help to establish the cause of an absence.

f. Self Evaluation Tool - Attendance Good Practice Checklist

Self Evaluation Framework

240. The self evaluation framework has been produced to support LAs and help identify the position of the Local Authority. It can be used as a tool to aid self evaluation as well as support the identification of priorities for development work.

241. The self evaluation framework mirrors the elements of the School Effectiveness Profile. The intention is to describe for each aspect 'what it looks like' in a LA. These statements have been placed along a continuum from 'expected' through to 'transforming'. The continuum describes a journey of improvement and the stages a LA might potentially go through as it seeks to achieve the highest outcomes for all learners. Broadly, the definitions of each stage are:

Expected	Developing	Deepening	Transforming
The elements and aspects of the Framework are in place to the extent which might reasonably be expected of all LAs.	There is a clear sense of strengths and areas for development in the elements of the framework. Strategies to build on strengths and tackle areas for development are in place. Impact is evident in some areas of the LA.	Distributed leadership combined with a strong inclusive culture is impacting on attendance, learner outcomes and wellbeing across the LA.	Effective practices are embedded and sustained. They are regularly reviewed and evaluated for their impact on outcomes for learning and wellbeing. These evaluations inform future planning. They engage and involve a wide range of partners, including children and young people themselves. The LA routinely shares practice with others.

Attendance	Expected	Developing	Deepening	Transforming
Improvement and Accountability: • Data • Targets • Evaluation	Data collected and reported on including: • Overall attendance • Unauthorised absence Evaluation of the service needs to be developed to inform policy and practice. The LA uses the national performance indicator (EDU/016) and a broader range of national and local data (e.g. National Core Data Sets) to improve attendance rates at primary and secondary levels.	Some data analysis is undertaken on: • Overall attendance • Unauthorised absence • Number of secondary schools with improved levels of attendance • Number of primary schools with improved levels of attendance • Rate at which cases are closed due to an improvement in attendance having been secured by EWS Some evaluation of the service is undertaken and is being developed to inform policy and practice. The LA uses the national performance indicator (EDU/016) and a broader range of national and local data (e.g. National Core Data Sets) to track improvement in attendance rates at primary and secondary levels.	Data is analysed and used to strategically plan the service. Evaluation of the service is undertaken and is shared to inform policy and practice. The LA can demonstrate that attendance at PRUs and in special schools is improving and on track to meet targets. The LA uses the national performance indicator (EDU/016) and a broader range of national and local data (e.g. National Core Data Sets) to track improvement and inform the planning of initiatives for attendance at primary and secondary levels.	The LA has clear outcomes linked to current strategies and initiatives for improving attendance. All work is informed by comprehensive data analysis including making cross authority comparisons. Evaluation of the service is measured and used to inform policy and practice. The LA uses the national performance indicator (EDU/016) and a broader range of national and local data (e.g. National Core Data Sets) in their data analysis to inform all work.

Attendance	Expected	Developing	Deepening	Transforming
2. Leadership: • Policies and procedures	There is a LA Attendance Policy under development. Attendance policies are focussed on attendance services and are being updated to include all stakeholders.	The LA is developing an Attendance Policy with an expectation of roles and responsibilities of various stakeholders which will be focused on the impact of work undertaken within the LA (including schools).	There is a clear Attendance Policy. Written policies and procedures relating to attendance and persistent absence are shared and adhered to at a variety of levels by all officers, schools, pupil, parents / carers.	Outcomes are measured and policies and procedures are adjusted to reflect effective practice.
3. Intervention and Support: • Improving outcomes for all • Narrowing the gaps for disadvantaged children	Planning and action around attendance is being developed to ensure that it is not the sole responsibility of the attendance service. Support for vulnerable pupils with persistent absence is provided by the attendance service and schools. Attendance rates of vulnerable groups such as Travellers, Looked after Children and those with Special Educational Needs are monitored.	All schools and parts of the LA understand what they need to do to contribute to improving attendance and reduce persistent absence. The LA has an integrated approach to supporting identified pupils. Attendance rates of vulnerable groups such as Travellers, Looked after Children and those with Special Educational Needs are analysed to inform practice. Referral procedures for schools to LAs are clear, consistent and adhered to.	Planning for attendance is undertaken strategically in line with the attendance strategy. It is evident that the LA uses data to identify vulnerable groups and plan across services and schools to ensure resource is matched to need. Referrals from schools and services are consistent and ensure vulnerable pupils get the support they need. Attendance at alternative provision is dealt with rigorously with clear lines of communication and accountability.	The LA is very clear about how early intervention is provided and which strategies improve attendance. The LA knows which services have the greatest impact with persistent absence. Where gaps are identified the LA agrees how these can best be met.

Attendance	Expected	Developing	Deepening	Transforming
4. Working with Others / Networks of Professional Practice: • Working in partnerships - schools and services • Developing school culture	Schools and the LA are developing an action plan to reduce persistent absence. Support services are developing their limited capacity for early intervention. The LA is establishing a culture of whole school responsibility for attendance. Partnership work is developing to make attendance a shared responsibility rather than solely as the work of the LAs attendance team / personnel. LA has some evidence of pupil and parental views on attendance.	The LA knows that schools address persistent absence in their overall planning. LA and school partnerships are beginning to coordinate and prioritise services to reduce persistent absence. The LA is working to get schools to take on whole school responsibility and this is working in some schools. LAs are planning to consult with a range of pupils and parents about their views and experiences in relation to attendance. There is use of parental responsibility measures but the system to determine the impact of this is not fully established. Literature and information about attendance is available.	The LA have worked with schools to ensure they have a consistent, coordinated agreement with a range of support services. Early intervention ensures that there is a reduction in the number of pupils with persistent absence. The LA can demonstrate that all schools have taken on whole school responsibility which consists of: • A senior leader for attendance and clear and consistent roles and responsibilities for all staff • Use of data to inform practice • Work to reduce the number of pupils with persistent absence A range of parental responsibility measures are used and the impact of these is measured and acted upon.	Impact of the support offered by services to the partnership to reduce persistent absence is measured termly and actions amended where impact levels are low. Feedback from service users recognises the positive and timely support available. Well developed links with local magistrates are in place. The LA support sharing of effective practice and measure outcomes to help schools inform future areas for development. There is well-developed and regular pupil consultation on a wide range of issues including attendance and well-being.

Attendance	Expected	Developing	Deepening	Transforming
5. Curriculum and Teaching - Personalised approaches to teaching and learning - Developing the workforce	Plans and expectations are established in all provision to ensure there is a whole school / unit approach to attendance with practice and procedures that safeguard all pupils and staff. The LA is developing the system to ensure consistency. Attendance service staff have a clear understanding of how their role contributes to the aims and priorities of the Children and Young People's Plans. Some attendance training is provided. Supervision is regularly provided by attendance professionals.	Links are made between attendance and attainment to support schools. This still needs to be developed so it is consistently applied. The LA provides support that enables all PRUs, special schools and alternative provision to have established practice to promote attendance and reduce persistent absence. Vulnerable pupils are quickly identified and relevant support is offered. The LA workforce has sufficient knowledge about attendance to offer advice when appropriate. There are opportunities for joint training.	The quality of teaching and learning is seen as a reason for attendance. Appropriate action is taken to address absence through effective school improvement strategies. The LA provides data to enable schools to benchmark for improvement. Levels of support and challenge are evident with clear expectations of standards. The LA provides formal audits as part of routine school improvement reviews with clear feedback to support action planning. There is an agreed programme of staff development to ensure continuity and development of expertise in school attendance.	There is a clear understanding about the impact of attendance on attainment at primary, secondary and special schools of pupils. Appropriate actions needed are taken by all relevant services and the impact is measured and shared with schools. The LA has a clear understanding of the impact of the type of provision being made for pupils with persistent absence and can demonstrate improvements. There is an on-going review of professional development needs of staff within LA to ensure that they have the skills to support and challenge schools. Staff are multi-skilled and there are professional progression routes that cross disciplines.

Part 4: Procedures And Practical Application

242. This section is intended to:

- Set out procedures for the EWS.
- Provide signposts to other relevant documents; and
- Highlight areas / issues facing the EWS.

a. Safeguarding and Child Protection

243. It is the role of all EWS team members to: -

- Help identify welfare concerns and indicators of possible abuse or neglect of all pupils at an early stage, referring those concerns to the appropriate agency; (categories of abuse are physical, emotional, sexual and neglect).
- In conjunction with the LA ensure that all school staff are familiar with safeguarding procedures and understand their responsibilities.
- In conjunction with the LA provide advice and training when required.
- When requested, assist child protection agencies in the investigation of abuse and in the protection of pupils "at risk".
- Represent Education at Child Protection case conferences, core groups and reviews.
- When appropriate, act as an advocate for the child.
- Be aware of the issue of forced marriage, child trafficking, safeguarding children in whom illness is fabricated and safeguarding children from abuse.

All Wales Child Protection Procedures 2008

244. All EWS staff should be fully compliant with the updated version of the procedures as they are an essential part of the wider agenda of safeguarding children and young people and promoting their welfare. The procedures have been rewritten and substantially revised to take into account more recent changes in policy and legislation.

245. The guidance for EWOs states:

- If there is a concern or an allegation of abuse is made whilst in a school situation, the head teacher or senior member of staff designated to take lead responsibility for dealing with child protection issues should be immediately informed and the school-based procedures should be followed.
- If there is a concern or allegation of abuse made "out of the school situation" the same procedures should be followed without delay.

246. An example of a Model Child Protection Policy is in Section 2.

247. Further guidance is available in Safeguarding Children in Education (Circular No: 005/2008). This guidance also contains an appendix on the broad areas of responsibility for the Designated Senior Person for Child Protection.

b. Employment / Performances

248. The main provisions governing children's employment are contained in section 18 of the Children and Young Persons Act 1933. Local Authority bylaws made under the 1933 Act may place further restriction on the hours and conditions of work and the nature of employment permitted. Although these bylaws differ from authority to authority all must conform to the primary legislation and to the general principle that the welfare of the child is of paramount importance. The National Network for Children in Employment & Entertainment (NNCEE) provides further information and can be found at <http://www.bucksinfo.net/nncee/>

Child Employment: Key Facts

- 13 years old is the minimum age to work part time.
- Full time work can only start after official school leaving.
- Work can only take place between the hours of 7am and 7pm and outside of school hours.
- 13 and 14 year olds can work up to 2 hours on school days and 5 hours on Saturday and holidays, up to a maximum of 12 hours per week term time and 35 hours per week during holidays.
- All ages can work no more than 2 hours on a Sunday.
- To ensure protection and insurance, employers must register all children who work for them with the local authority.
- The minimum wage does not apply to children under 16.
- Children can be stopped from working if their attendance and / or punctuality at school or their health suffers.
- Children cannot work in a pub or club; amusement arcade or fairground; warehouse or factory; slaughterhouse or butchery; kitchen or cook shop; on a street; in a theatre or cinema unless licensed to perform there.
- Children cannot sell alcohol, cigarettes or medicine; be involved in gambling; deliver milk; sell door to door; collect money; work using dangerous machinery or chemicals; sort rags or refuse; do work which may cause injury or harm.
- 14, 15 and 16 year olds can only be employed to do light work (exceptions above).
- 13 year olds are allowed to do light work only in the following settings: agricultural or horticultural work; delivery of newspapers, journals, leaflets; shop work; hairdressing salons; office work, in a café or restaurant (but not the kitchen); in riding stables, catteries and kennels.

Part Time Work - Hours of work that are allowed:

249. If a child or young person works, the following rules apply until they reach school leaving age. An application form signed by their parents and employer should be completed and sent to the LA below before they start working.

Age	Hours that can be worked	During The Following Hours -
13 & 14	School Days	Not more than a total of 2 hours in one day during the following periods: a) In the morning between 7am and the start of the school (1hour max) b) In the evening between close of school and 7pm
	Saturdays*	5 hours a day between 7am and 7pm
	Sundays	2 hours a day between 7am and 11am
	To a maximum of 12 hours in any week in which students are required to attend school	
	School Holidays *	5 hours a day on any weekday (except Sundays) between 7am and 7pm, but total hours worked each week must not exceed 25 hours. A child/young person must have 2 consecutive weeks break in a year and they must be taken during the school holidays
Age 15	School Days	Not more than a total of 2 hours in one day during the following periods: a) In the morning between 7am and the start of school (1 hour max) b) In the evening between close of school and 7pm
	Saturdays*	8 hours a day between 7am and 7pm
	Sundays	2 hours a day between 7am and 11am
	To a maximum of 12 hours in any week in which students are required to attend school	
	School Holidays *	8 hours a day on any weekday (except Sundays) between 7am and 7pm, but total hours worked each week must not exceed 35 hours. A child/young person must have 2 consecutive weeks break in a year and they must be taken during the school holidays
Age 16	The hours of employment specified for 15 year olds will apply whilst they are of compulsory school age. If the child/young person wishes, they are legally able to leave school on the last Friday in June in the school year in which they reach the age of 16. They are not able to take full-time employment until after that date.	

* No child of any age may work more than 4 hours in any day without a rest break of 1 hour

Work That Is Allowed

Age 13	You may only be employed in 'light work' on one or more of the following: - Agricultural or horticultural work - delivery of newspapers, journals and other printed material - Shop work, including shelf stacking - Hairdressing salons - Office work - In a cafe or restaurant (but not in a kitchen) - In riding stables - Domestic work in hotels and other establishments offering accommodation
Age 14 & 15	• A child/young person may be employed only in light work. • A child/young person may engage in street trading if they are employed by their parents in connection with their business and if they are supervised by them, or if they have been granted a street traders licence by the local authority.
When You Are 16	The above restrictions will still apply whilst they are of compulsory school age.

Prohibited employments for all children of compulsory school age

250. No child of any age may be employed:

- On any day that he or she is absent from school by reason of ill-health.
- In cinema, theatre, discotheque, dance hall or night club, except in connection with a performance given entirely by children.
- To sell or serve customers with or deliver alcohol.
- To deliver milk.
- To deliver fuel oils.
- In a commercial kitchen.
- To collect or sort refuse.
- In any work which is more than three metres above ground level or, in the case of internal work, more than three metres above floor level.
- In employment involving harmful exposure to physical, biological or chemical agents.
- To collect payment or to sell or canvas door to door.
- In work involving exposure to adult material or in situations which are for this reason otherwise unsuitable for children.
- In telephone sales.
- In any slaughterhouse or in that part of any butcher's shop or other premises connected with the killing of livestock, butchery, or in the preparation of carcasses or meat for sale.

- As an attendant or assistant in a fairground or amusement arcade or in any other premises used for the purpose of public amusement by means of automatic machines, games of chance or skill or similar devices.
- In the personal care of residents of any residential care home or nursing home unless under the close supervision of a responsible adult.

Children's Performances Licences: Key Facts

251. The Children and Young Persons Act 1933 and the Children (Performances) Regulations 1968 as amended set out the rules governing children who take part in performances, including broadcast performances, child photography and modelling. The Regulations require children below Minimum School Leaving Age to be licensed before taking part in a performance. The purpose of these provisions is to safeguard the health, welfare and education of children taking part in performances. The legislation requires that all children, from new born babies until they cease to be of compulsory school age, need to be licensed to perform by the LA in which they live. Each LA has a statutory responsibility to issue a Child Performance Licence for children who live in their area. Each LA has the responsibility to inspect any premises in their LA area where children are / may be performing.

252. The LA when considering a licence application must be satisfied that:

- The child's formal education will not be affected.
- The child's health will not suffer.
- The venue where the performance or rehearsal takes place is suitable.
- All of the conditions of the licence will be maintained.

253. The child will be under the supervision of a chaperone. The law states that 'the Chaperone is acting **in loco parentis** and should exercise the care "which a good parent might be reasonably expected to give that child'. Further information on Chaperones can be found in Section 2.

Broadcast Performance Table

Topic	Age 0 to 4	Age 5 to 8	Age 9 & Over
Maximum Time at Place of Performance	5 Hours	7 ½ Hours	9 ½ Hours
Maximum Times Present	Between 9.30 am & 4.30 pm	Between 9 am & 4.30 pm	Between 7 am & 7 pm
Maximum Performing Time	2 Hours	3 Hours	4 Hours
Maximum continuous time to take part without a rest	30 Minutes	45 Minutes	1 Hour
Minimum rest/meal Times	All times when not taking part	Present 3 ½ hours = 2 breaks, 1 hr meal & 15 mins rest. Present 8 hours = 3 breaks 1 x 1 hr meal & 15 mins rest.	Present 4 hours = 2 breaks, 1 hr meal & 15 mins rest. Present 8 hours = 3 breaks 2 x 1 hr meal & 15 mins rest.
Education	NIL	3 hours per school day	3 hours per school day
EXCEPTIONS to the above for BBC, ITV, a programme contractor (TV Act 1964 S.1(5) or body supplying programmes to such a contractor for CHILDREN AGED 13 AND OVER ONLY			
Maximum time PRESENT per 7 day week	12 hrs any 1 day OR 10 hrs per day any 2 days OR 9 ½ hrs per day any 3 days provided not present on any other day that week & not present after 7 pm on more than 20 days in previous 12 months Times between 7 am & 7 pm OR between 10 am & 10 pm		
Alternative To Above Exceptions			
Maximum time PRESENT per 7 day week	12 hrs 1 day provided not present more than 4 hrs on any other day that week and: does not take part for more than 2 hrs any other day that week and: does not take part on day following a day on which he was present after 7 pm and: has not been present after 7 pm on any of the 6 previous days. Times between 7 am & 7 pm OR between 10 am & 10 pm		

Non-Broadcast Performance Table

Performances (same nature)	2 per day	1 Performance & 1 rehearsal OR 2 Performances
Performances per Week	Max. 6 days per 7 day week	Max. 8 consecutive weeks requires 2 week interval before performing again in same production
Time Gap between performance days	14 hours must elapse between the end of the previous days performance and the beginning of the following days performance	
Performance Time	Max. 3 hrs 30 mins	Including breaks
Appearance in Performance	Max. 2 hrs 30 mins	aggregated
Intervals	1 1/2 hours minimum	Between 2 performances OR 1 performance & 1 rehearsal
Exception to Intervals (in any week)	On not more than 2 days minimum of 45 minutes interval between performances and/or rehearsals. Maximum 6 hours at place of performance	
School Day	Attending school in the morning	1 performance OR 1 rehearsal ONLY
Performance Hours	Age 12 & Under	Age 13 and over
Earliest Arrival	10.00 a.m.	10.00 a.m.
Latest Departure	10.00 p.m.	10.30 p.m.
Exception (1)	10.30 p.m.	11.00 p.m.
Exception (2)	Not later than 11 p.m. on not more than 3 evenings per week, provided that he is not so present on more than 8 evenings in a period of 4 consecutive weeks.	
Medical (1)	YES (period longer than 1 week)	Performing over 6 consecutive days
Medical (2)	NO (period less than 1 week)	Performing under 6 consecutive days
Arrangements for getting Home	Applicant shall ensure that suitable arrangements (having regard to the child's age) are made for the child to get to his home or other destination after the last performance or rehearsal or the conclusion of any activity on any day.	

Further Information on child employment and performance licences for school age children can be found in Section 2.

c. Children missing education

254. In September 2009 the Welsh Assembly Government commenced Section 436A of the Education & Inspections Act 2006 which requires that local authorities must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children residing in their area who are not receiving a 'suitable education'.
255. The purpose of the duty is to make sure that children and young people missing from education are identified quickly and that effective monitoring systems are put in place to ensure that action is taken to provide them with 'suitable education' once found. 'Suitable education', in relation to a child, is defined as efficient full-time education suitable to their age, ability and aptitude and to any special educational needs they may have.
256. The duty applies in relation to children and young people of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school (for example, at home, privately, or in alternative provision) and who have been out of any educational provision for a substantial period of time (usually agreed as four weeks or more).
257. The duty does not apply in relation to children who are registered at a school who are not attending regularly. The new duty complements and reinforces duties that already exist for schools to monitor attendance and it is important that local authorities work with schools to make sure they do it effectively.
258. The duty does not apply to children who are being educated at home. Parents have a duty to ensure that their children receive a suitable full-time education either by regular school attendance at school or otherwise (under section 7 of the Education Act 1996) or they may choose, as is their right, to provide this by educating their child at home.
259. Statutory guidance to help prevent children and young people from missing education including a practical toolkit can be found at <http://wales.gov.uk/topics/educationandskills/publications/?lang=en>.

d. Gypsy and Traveller children

260. The special position of Traveller families is recognised by Section 444(b) of the Education Act 1996. It protects Traveller parents from conviction if the parent can demonstrate that:
- he is engaged in a trade or business of such a nature as requires him to travel from place to place
 - the child has attended at a school as a registered pupil as regularly as the nature of the trade or business permits; and/or
 - where the child has attained the age of six years, he has made at least 200 attendances (i.e. sessions or half days) during the preceding twelve months.

261. The purpose of this section is not to protect Traveller parents from legal action, nor does it relieve parents of their duties under section 7 of the Education Act 1996. It is to ensure that children are receiving suitable education through regular attendance at school or otherwise.
262. In general, the aim should always be to ensure that Traveller children, in common with all other children, attend school as regularly and as frequently as possible - 200 attendances should not be regarded as the norm. A balance has to be found between the need for legal action taken against individual cases, the interests of the child and adopting a sensitive and sympathetic approach that recognises the lifestyle and cultural traditions of the family.
263. Schools may authorise absence of Traveller children where they are satisfied that a family migrates but gives reasonable indications that it has every intention of returning (although consultation with the Traveller Education Service may be helpful at this point). This includes Gypsy and other Travellers, circus and fairground families leaving sites and winter quarters, with every expectation that they will return. Some schools in these circumstances are able to maintain contact with the children by outreach work or the provision of distance learning packs, although such activities should not be viewed as a preferable alternative to attendance at school. Some reasonable latitude on absence might also be offered in respect of families who have moved from, or have been evicted from, unauthorised sites while the family finds another site. However, in the latter circumstances, all efforts should be made to encourage the maintenance of attendance at school.
264. The Education (Pupil Registration) (Wales) Regulations 2010 introduced the power for schools to dually register a Traveller child when they are known to be attending another school. In such situations their attendance can now be recorded as attending an 'approved educational activity'.
265. The school of main attendance should take responsibility for setting up the appropriate communication systems with the other educational provider to ensure the pupil is in attendance when they are supposed to be. For safeguarding and educational reasons the responsibility for following up on unexplained and unexpected absences in a timely manner falls to each school during the time in which the pupil is in situ. Where Traveller children are registered pupils at a school and are known to be present either at a site (official or otherwise) or in a house and are not attending school, the absence should be investigated in the same way as that for any pupil.
266. Further guidance can be found in 'Moving Forward Together' WAG Guidance Circular 003/2008 - which has a section on Access and Attendance.

e. Good practice guidelines for Truancy Sweeps

267. This section provides a summary of the roles and responsibilities of those taking part in truancy sweeps, based on UK Government advice to the Police and local authorities (LAs) on the provisions under section 16 of the Crime and Disorder Act 1998. (www.statutelaw.gov.uk)

Main elements of the Power

268. The main elements of the power set out in section 16 of the 1998 Act are as follows:

- the section empowers a police officer to take a child or young person, who he or she has reasonable cause to believe is of compulsory school age and is absent from school (including a pupil referral unit and an independent school) without lawful authority, back to school or to another place designated by the LA. This also applies where the pupil has been excluded on disciplinary grounds, either for a fixed term or permanently, has not been admitted to another school and has no reasonable justification for being in a public place;
- the child or young person must be in a public place when the power is exercised. This includes private premises to which the public have access e.g. shops, shopping centres and arcades. Public place is defined as “any highway or any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission”.

269. Section 108 of the Education and Inspections Act 2006 amends section 16 to include pupils who have been excluded for a fixed period or permanently.

270. Note: Police and Police Community Support Officers are not empowered to remove pupils whose absence is unauthorised or excluded pupils from their home or any other private place and do not have the power to remove children who are educated outside the school system.

- The power may be used where a local authority has designated premises in a police area for the purpose of the provision and has notified the chief officer of police for the area.
- It will be for a police officer of at least superintendent rank to specify areas and time periods in which the power may be used.
- The power is not a power of arrest or detention nor does it make truancy a criminal offence for the child (however, it remains an offence for parents to allow their child to be absent from school without authority. If convicted, under section 443 or 444 of the Education Act 1996 parents can face a substantial fine or imprisonment).

Planning For Truancy Sweeps

271. In planning for truancy sweeps, the LA should hold preliminary discussions with schools in the area concerned (including independent schools) to develop a plan of action.

LA representatives should then discuss with the police the objectives and parameters of the truancy initiative and to agree operational guidelines for all concerned. Schools, the local youth offending team(s), the youth service, young people's partnerships and other relevant local agencies such as community safety partnerships and substance misuse advisory regional teams should also be involved in these discussions.

272. During this process particular attention should be paid to ensuring that:

- There is a personnel briefing before the sweep begins. This should include a risk assessment - to focus on the risks to staff that may occur on a sweep.
- Protocols are agreed:
 - a. between neighbouring authorities;
 - b. for dealing with children “off the school roll”, including clearly defined follow up responsibilities;
 - c. for returning pupils to their school or designated place;
 - d. for children who may be subject to an ABC or ASBO who may be out of school without appropriate authority;
 - e. for children registered at school in another area;
 - f. for children from other jurisdictions who have different laws and regulations; and
 - g. on how children identified late in the school day will get home.
- Police officers are aware of categories of children who may have a justifiable cause to be out and about during school hours, especially home-educated children and excluded pupils.
- Clear geographical boundaries are set for the exercise; the partners involved should keep these in confidence.
- Information is shared about places where pupils are known to gather (e.g. shopping centres).
- The police are aware of other relevant information such as local school hours, school holidays, training days, and whether the area is frequented by children from other areas with different school holidays (e.g. is it a popular holiday destination).
- The police are given the names and known movement patterns of children known to be persistent non-attendees and, where appropriate, their names.
- Thought is given regarding how to deal with children in the company of adults, and what follow-up is put in place. Parentally condoned, unjustified absence is a significant problem for some schools and many of these children will have no good reason to be out of school: there is also a potential child protection issue. The police officer and accompanying education representative should aim, therefore, to establish whether the child is a registered pupil and the reason for absence. Parents should be reminded that they are legally responsible for their child’s regular school attendance.
- Local schools, including independent schools, are aware that a truancy sweep is taking place. Schools can provide valuable information on absentees that day, pupils who are legitimately out of school and days of school closure.
- Guidelines are established for approaching young people. We recommend that police officers operating the power do so in uniform (because of child protection concerns) and where practicable are accompanied by an education representative such as an EWO, who will be able to check the school status of the young person concerned. (Some LAs use fluorescent jackets which clearly identify them and address child protection concerns).

- Where appropriate, the British Transport Police are brought into the discussions, in respect of problems involving pupils congregating on the rail network.
 - Where appropriate, other bodies, such as representatives of the retail trade and the local community, are encouraged to be partners in the approach. These partners can provide valuable information on days, times and areas in which absentees congregate or cause nuisance.
273. The EWS should continue to monitor attendance records of all pupils picked up both prior to and following on from truancy sweeps to ensure cases of persistent truancy are addressed. As well as collecting this data to return to the Welsh Assembly Government for nationally co-ordinated exercises, the EWS should make use of this information for planning purposes. It will be particularly useful for giving details of the range of pupils involved as well as the benefits and impact of such an initiative.
274. For monitoring purposes, so as to provide feedback for the overall truancy reduction strategy, staff involved in the sweep should establish from the child the reason for truanting. It is good practice to keep documentation of the encounter although this is not a requirement. Exemplar documentation can be found in Section 2.
275. Prior to the sweep, planning on how the initiative can be monitored and evaluated should be carried out to ensure the effectiveness of the initiative can be measured. This will help inform future strategy and operational arrangements. Basic data to assist the evaluation process may include:
- number of children stopped;
 - number with no valid reason to be out of school;
 - number with acceptable / legitimate reason and what that reason was;
 - number of excluded pupils;
 - gender and age of those stopped;
 - number stopped accompanied by an adult; and
 - follow up action and outcome.
276. It is good practice to discuss with schools the possibility of following up truancy sweeps with discussion during Personal and Social Education lessons, other parts of the curriculum or school assemblies to endorse the message of the importance of attending school.

Exchange of Personal Information

277. Section 115 of the Crime and Disorder Act 1998 ensures that education authorities have a legal power to disclose information to the Police for the purpose of the truancy provision. This would include, for example, the names of persistent truants. The requirements of the Data Protection legislation need to be taken into account in exercising this power, as will certain other requirements. The best way to ensure these requirements are satisfied is by using carefully drawn up protocols between the authority and the Police. Further advice

on the drawing up of information sharing protocols along with a model protocol has been prepared by the Home Office in co-operation with the Data Protection Register and is available on the Crime Reduction website:

www.crimereduction.gov.uk/infosharing13.htm

www.crimereduction.gov.uk/infosharing_guide.htm

Designated Premises

278. Before the power is invoked, the LA will have to designate premises to which young people of compulsory school age may be removed to and formally notify the Chief Constable in writing. The power to remove absentee and excluded pupils from a public place cannot be used unless the authority has established a designated place. These may be schools, but a designated central location is recommended where this is feasible and where it will take pressure off schools and provide them time to prepare to receive pupils back. It is envisaged that some of the young people returned will be the most hard to reach with a range of issues and will probably be pupils that the EWS are already working with.
279. The central point should be a neutral location such as a youth centre with appropriate staff in place, who can discuss the problems young people are facing. This will also enable key workers from relevant agencies to be notified or assigned. This can be staffed by local agencies as well as EWS, ensuring that there will be staff who can work with primary school age children as well as secondary. It is the responsibility of the LA to ensure that all staff who are directly involved with the children should have the relevant checks made by the Criminal Records Bureau. Police Services are responsible for their personnel.
280. The LA may also designate other premises, which they will be responsible for staffing. These could include offices available to the EWS or offices within a shopping precinct maintained by the LA for the duration of a truancy operation. The options should be discussed with the police at an early stage. The designated premises must not include police stations or the school(s) from which a pupil is excluded.
281. Children and young people should not be taken to police stations in exercise of the truancy powers. In this connection, as indicated above, it should be remembered that children who truant from school are not committing a crime; their parents are legally responsible for their non-attendance.

Points To Take Into Account

Children and young people not registered at school

282. Reasons for a child not being registered at school may include:
- children unable to access education due to illness and unlikely to do so before ceasing to be of compulsory school age;
 - children who are permanently excluded and waiting to start at a new school, PRU or other form of alternative provision;

- children non-resident but on holiday in Wales;
- new to the area and not having found a school place; LAs are responsible for children who do not have a school place and must make other arrangements for their education until a place is found;
- children missing education: In September 2009 the Welsh Assembly Government commenced section 436A of the Education and Inspections Act 2006 which requires that local authorities must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children residing in their area who are not receiving a 'suitable education'. Guidance on this can be found at: <http://wales.gov.uk/topics/educationandskills/publications/guidance/missingeducation/?lang=en>

283. Elective home education: These are not the target for the sweeps, but are likely to be encountered due to the fact they are often educated outside of traditional school hours and access local services such as libraries and sports facilities as part of their education. Families are not legally required to register with their LA although some do and this obviously makes it easier when confirming the child's status. LAs have a duty to identify children missing from education and to safeguard all children in their area. Further discussions are not necessary if the lead officer has no concerns and is satisfied that a child is genuinely receiving elective home education. Further information on elective home education can be found later in this guidance.

284. The welfare and protection of all children and young people are of paramount concern and the responsibility of the whole community. If any child protection concerns become apparent in the course of engagement with children or families, or otherwise, these concerns should be reported to the appropriate authorities using established protocols.

Pupils legitimately out of school

285. The section 16 power only applies to children of compulsory school age who are registered at school. Police officers will need to be aware of valid reasons for registered pupils and other children and young people being out of school during school hours. These include:

- excluded children (permanent / fixed term);
- pupils who are on alternative provision and who are travelling between education venues;
- pupils en route to, or returning from, a medical or dental appointment which should have been notified to the school;
- children who may not be able to access full time education due to their medical needs (NB: these children will usually be registered at a mainstream school and may be receiving education from LA hospital or home teaching service etc.);
- field trips, educational visits or surveys (pupils engaged in such activities will normally be accompanied by school staff, so there should be no difficulty with these);

- religious observance (the law allows for non-attendance in the case of a day exclusively set aside for religious observance in the faith to which the parents belong, although normally schools would expect to agree this in advance);
- Gypsy and Traveller children with leave of absence granted for purposes of travelling;
- Guidance can be found in Moving Forward - Gypsy Traveller Education (circular 003/2008);
- pupils en route to off-site sports facilities or going to other school buildings in the case of split-site schools;
- other special circumstances for which leave of absence has been granted or truly unavoidable circumstances which may justify absence;
- children taking part in performances under the provision of a licence granted in accordance with the Children and Young Persons Act 1963 and associated regulations;
- study leave; and
- children on work experience placements arranged through the school.

286. No further action should be taken where children indicate any of the above unless there is reason to doubt.

Pupil Passes

287. Some schools already operate systems whereby printed passes are issued to pupils to confirm that they have authority to be off-site during school hours, e.g. for a dental appointment. The issuing of passes by schools is strongly recommended as a permanent strategy, and it is, of course, particularly helpful in areas where truancy initiatives are operating. Arrangements should be made at the planning stage for police officers to see a sample of passes used locally. The local authority should consider the issue of guidance to school governing bodies about pupil passes.

Out-of-Area Pupils

288. It is a common occurrence for a pupil living in one area to attend school in an adjacent area and truancy operations may encounter children truanting across LA boundaries. The police officer will have the discretion to take a pupil back to school or to the designated central location for the LA area in which the child is picked up, but there is no legal obligation on the police to take the child back to its own school if that school is out of the area. The LA should therefore liaise with neighbouring LAs about follow-up arrangements for children found out of area and ensure that an understanding is arrived at before a truancy sweep takes place. Where a child's home area makes it impracticable for him or her to be collected by a representative of the home LA, the LA running the initiative should ensure that the child's details are passed to the home LA's EWS or equivalent. LAs should have protocols with neighbouring authorities including England for dealing with cross border issues. LAs would not be expected to retain or exchange information collected from a sweep on children who reside outside Wales as this could be breach of the Data Protection Act 1998.

289. Where pupils are found not to be from the LA or neighbouring LAs, the LA should notify the EWS of the school of the pupil. If this is not possible, the EWS where that pupil lives should be notified, in light of the fact that the pupil may be missing education.

Refusal to Comply

290. There may be occasional cases in which suspected truants refuse to comply. In such cases, if the police officer has reasonable grounds for believing that the child or young person is absent from school without authority, the power under section 16 and section 8 will enable the officer to use such reasonable force as is necessary in the circumstances. What this reasonable force might be will depend on the circumstances at the time. It must be proportionate to the nature of the power and the behaviour of the child or young person concerned. If the child or young person resists with violence, that, in itself, might be an offence of assault and other powers would come into play.

Once the child is returned to the Designated Central Location or School

291. Once a child or young person has been returned, it is important that there should be adequate reception arrangements. In the case of a school, (or a Pupil Referral Unit) this means ensuring that a pastoral or named person(s) are ready to receive back into school pupils found outside school premises and return them to class or make other suitable arrangements for them. The school or the EWS will also need to notify parents that their child has been picked up and returned to school or place of safety.

292. If children are being returned to other premises, the LA needs to ensure that arrangements exist for notifying schools that their pupils are at a particular location and of the arrangements for their return. Whether pupils are returned to a school or other location, formal recording procedures should be instituted.

293. It is also worth establishing an attendance plan, completed for each young person within one week of their being picked up. This plan will mainly concentrate on their reintegration back into school and should therefore be written in conjunction with schools. Where pupils already have a Pastoral Support Programme (PSP) this should be reviewed. Consideration should also be given as to whether a PSP should be drawn-up for the other pupils whose poor attendance and other problems are highlighted as part of the truancy sweep. A referral to the EWS should be considered if appropriate. An identified person within the school e.g. head of year can be assigned to monitor progress.

294. There may be occasional cases in which suspected truants refuse to comply. In such cases, if the police officer has reasonable grounds for believing that the child or young person is absent from school without authority, the power under section 117 of the Police and Criminal Evidence Act 1984 enables an officer to use such reasonable force as is necessary in the circumstances. What this reasonable force might be will depend on the circumstances at the time. It must be proportionate to the nature of the power

and the behaviour of the child or young person concerned. If the child or young person resists with violence, that, in itself, might be an offence of assault and other powers would come into play.

Follow-Up Work in Schools

295. Truancy sweeps represent a good opportunity to highlight the importance of attending school and as such any further endorsing of the message in schools following a truancy sweep is to be welcomed. This might take the form of discussions as part of PSE lessons or other parts of the curriculum. Alternatively, it may be raised as part of school assembly or as a discussion point for school councils.

Collaborative and Multi-Agency Working

296. Good practice at school level needs to be mirrored by collaborative and multi-agency approaches to support schools. Poor attendance and behaviour in school are likely to be linked to a range of other issues outside school: only a coordinated approach is likely to achieve a long term solution.

297. LAs have a duty under the Children Act 2004 to make arrangements to promote cooperation between themselves and various other bodies to improve the well-being of all children in their area including those educated outside the school system. Support from other agencies can ease the burden on schools and the EWS, enhance multi-agency working and lead to better outcomes for the young people involved. Plans should be discussed with schools, school staff and other agencies working in the authority such as children and young people's partnerships, the youth service, youth offending teams, substance misuse advisory regional teams and community safety partnerships.

298. The EWS, educational psychologists, health workers, social services departments and child and adolescent mental health services (CAMHS) each make distinct contributions. The youth service are increasingly beginning to work with young people who are disaffected or who have dropped out of school or have other behavioural problems. Increasingly youth workers work with young people wherever they happen to be, not only those who attend centres and clubs.

299. Multi-agency teams in many LAs can support and train teachers, or work with individual or groups of pupils to improve behaviour. For example Behaviour Support Team can bring together a complementary mix of professionals from the fields of health, social care and education. The aim of this team is to promote emotional well-being, positive behaviour and school attendance, by identifying and supporting those with, or at risk of developing, emotional and behavioural problems. They work with children and young people, their families and schools to intervene early and prevent problems developing further.

300. The Youth Offending Service will involve social services, probation officers, police officers, health and education staff, co-ordinated local youth justice services. The YOS education

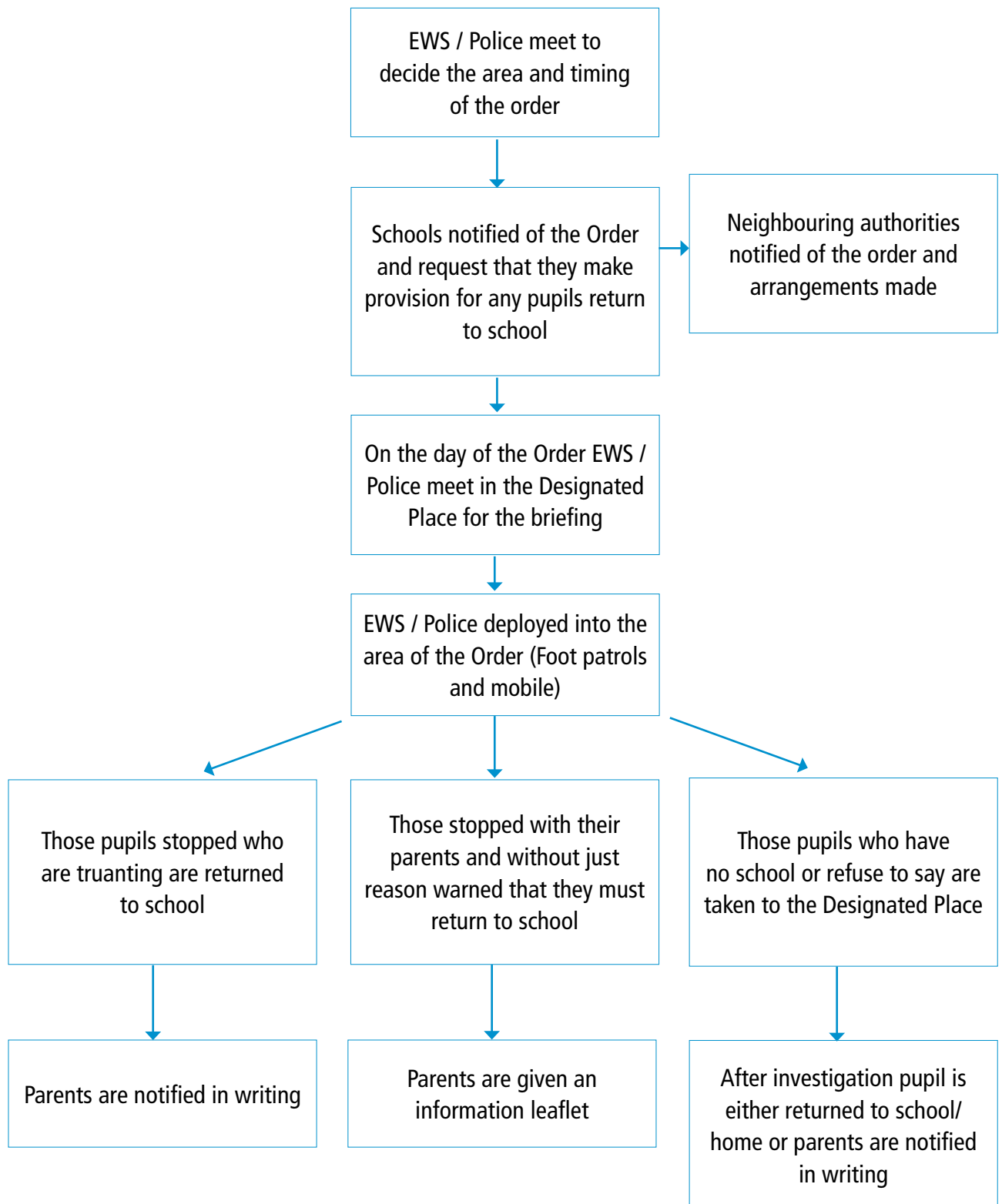
worker acts as a linkage for pupils out of school with the relevant local authority services, as a point of contact with the aim of re-engaging with mainstream education.

301. It is common for pupils to attend a school in a different local authority's area to the one in which they live. Local authorities should establish protocols for dealing with such children and supporting schools which utilise appropriate levels of multi-disciplinary and multi-agency working for each individual case. However, initial responsibility for dealing with attendance and behaviour issues rests with the school and then the school's local authority.
302. Social services departments undertake assessments of children in need in collaboration with other relevant professionals including health, education and the voluntary child care sector. The assessment should look at all aspects of the child's developmental needs and their parents' capacity to respond to those needs within the wider family and community network.
303. Where a child or young person has a range of additional and interlinked support needs which are supported by more than one practitioner, integrated support can most effectively be delivered through one person taking the lead role - the lead professional. The lead professional acts as a single point of contact for the child, young person and family; ensures that appropriate and coordinated interventions are effectively delivered; and reduces overlap and inconsistency from other practitioners.

Exemplar docs can be found in Section 2.

Example Process Map

Crime and Disorder Act 1998 section 16 (Police Powers to Remove Truants)



Schools are told of the pupils stopped and the outcome. In some cases the EWO visits the home of those returned to school and monitors the attendance of those pupils

f. Child and Adolescent Mental Health Services (CAMHS)

304. Developing a universal school-based counselling service for all children and young people in Wales was a recommendation of the Children's Commissioner for Wales Clywch Inquiry Report. It was also one of the key actions set out in the National Service Framework for Children, Young People and Maternity Services in Wales. The Welsh Assembly Government's goal is to have counselling provision available to all school pupils providing them with someone to turn to if they need help or support.
305. Counselling is one of a range of services that help to support the health, emotional and social needs of pupils and lead to a healthy school culture. Evidence shows that a counselling service which provides support within an overall school strategy can be highly effective in promoting young people's welfare, supporting their learning and alleviating and preventing the escalation of mental health problems.
306. Referrals for young people for schools' counselling will be taken from any interested parties including young people, parents, teachers, welfare officers, school nurses, Youth Offending Service, General Practitioners, Children's Services, CAMHS, Youth Workers etc. In making a referral for a pupil to have counselling from the school counsellor, teachers need to be aware of the need to access parental consent for pupils to access counselling for pupils aged 16 years of age and under. For the pupil to be eligible to receive counselling, the pupil must understand the nature of counselling and be able to make a valid verbal counselling contract, including the ability to understand the principle of confidentiality.
307. Primary mental health workers have been introduced in many areas. They provide support to a wide array of professionals who work with children and young people, such as GPs, school nurses, school staff and social workers. The support provided by primary mental health workers can ensure staff are more confident in identifying and managing emotional and mental health problems in their early stages.
308. The EWS are often an early port of call when schools need to deal with an attendance problem, which can be an early symptom of a developing emotional or mental health problem. Some education welfare services identify a range of steps to be taken to support continuing access to education for children with an emotional or mental health problem. These include negotiating revised timetables, reintegration packages and home tuition. A balance needs to be struck between screening processes designed to ensure referrals to specialist CAMHS are appropriate and enabling timely and effective access to these services.
309. Children can be placed out of their local authority area for a number of reasons including admission to an inpatient CAMHS unit, or because there is a lack of suitable accommodation, services or specialist foster carers locally. It is good practice for a child's local EWS to take steps to support continuing access to education when a child is an inpatient out of area.

310. A common issue for all groups of staff who work with and support children and young people is that the respective roles of different professionals and agencies in supporting children and young people with mental health problems is often unclear. It is good practice for EWS to agree their role with specialist CAMHS, social services and educational psychologists in their local authority and have guidelines for referral that have been distributed to all schools.

g. Pupils with Additional Learning Needs (ALN)

311. All local authorities should have in place a policy to support where appropriate the inclusion of pupils with additional learning needs (ALN). The term ALN refers to those persons who receive education and training and have a 'greater difficulty in learning than the majority of persons of the same age'. This is to encompass all learners in Wales whose learning needs are greater than their peers of the same age and which do not necessarily amount to SEN as defined in the Education Act 1996. Further guidance on pupil groups who have been identified as having additional learning needs can be found in Inclusion and Pupil Support Guidance Circular 47/2006.

312. The term 'Special Educational Needs' is a sub category of ALN and continues to be used for those learners who have a learning difficulty which calls for special educational provision to be made for them.

313. In accordance with the SEN Code of Practice for Wales (2004) the EWS will:

- assist school staff and parents with early identification and management of children who may have special educational needs and / or behavioural difficulties;
- participate in the formal assessment of the child, provide written reports, refer to and liaise with other agencies;
- where appropriate, support parent participation throughout the assessment and review process and act as an advocate for the pupil and the family;
- advise, guide and support school staff and parents when a child's behaviour gives cause for concern either at school or at home; and
- escort/transport pupils and family when requested by the LA.

h. Youth Offending Service (YOS)

314. Youth Offending Service (YOS) in Wales are working to prevent children and young people from offending through a range of targeted programmes. They carry out a standard assessment for all young people coming into the youth justice system and develop individual supervision plans to address particular needs. They provide intervention programmes for young people who have a final warning from the police or a community penalty. YOS also support those with custodial sentences, as well as providing court-based services.

315. There should be close liaison between the YJS Education Officer and the EWS Team.

In this working context, additional responsibilities to the EWS's role are to:

- promote multi-disciplinary working within the Youth Offending Service;
- work closely with Police, Safeguarding and Support, Probation, LA and the schools to prevent and reduce offending behaviour;
- support access to mainstream re-integration; and
- when requested provide reports for the Youth Court.

i. Family holidays during term time

316. The Education (Pupil Registration) (Wales) Regulations 2010 give schools discretionary power to grant leave for the purpose of an annual family holiday during term time. Parents do not have an automatic right to withdraw pupils from school for a holiday and, in law, have to apply for permission in advance. Such permission is usually granted in accordance with arrangements made by the governing body of the school. Only in exceptional circumstances may the amount of leave granted exceed (in total) more than ten school days in any twelve-month period.

317. Welsh Assembly Government guidance clearly states that the reference to **exceptional circumstances** means that the parent must make out a strong case for taking the child away for more than two weeks a year. Parents should not expect, or be led to expect, that schools will agree to family holidays during term time. Schools may need to remind parents of this from time to time (see Section 2). School staff should consider each request individually - "blanket approval" policies are not acceptable. The following factors should be considered when assessing requests - no one factor should be regarded as conclusive:

- time of year of proposed trip;
- length and purpose of the holiday;
- duration of the holiday and its impact on continuity of learning;
- circumstances of the family and the wishes of parents;
- the overall attendance pattern of the child; and
- Leave of absence for more than two weeks must be seen as exceptional. Schools should carefully explore with parents why such leave of absence is necessary. Where such absences are sanctioned they should be counted as an **authorised absence**.

318. Where parents fail to abide by the agreement reached with the school and keep a child away from school in excess of the period agreed or where parents fail to apply for permission, the extra time taken should be treated as an **unauthorised absence**.

319. Where schools are experiencing difficulties with family holidays in term time, they may wish to:

- focus on the issue at parents' meetings;
- issue a letter on the matter to parents; or
- contact the school EWO for advice and support.

320. All requests for holiday leave should be in writing, which should be made by a parent / carer of the child even if they are not going on holiday with them. If the parent with whom the child lives does not give consent to the holiday, leave cannot be given lawfully by the school except by a court order.

Documents to support this can be found in Section 2.

j. Extended overseas trips

321. When making judgements about extended absence for pupils from minority ethnic families, schools should ensure that full account has been taken, not only of the Regulations and Welsh Assembly Government guidance, but also of the situation of minority ethnic families in general and the particular circumstances relating to each individual case. It is important that schools show an understanding of the parents' perspective even though the school may not be able to comply with a request for absence.

322. Schools should ensure that all parents are aware of the school's policy on absence. In the case of minority ethnic parents, special care should be taken to ensure that the Regulations are fully explained and understood. Interpreters should be used if necessary or, where a number of parents are concerned, the school may wish to consider organising a special meeting for these parents.

323. Schools should take account of the following:

- a visit involving a family overseas has an entirely different significance from the normal associations with 'holiday' which is the category recognised by the Welsh Assembly Government;
- visits may be very important in terms of children's identity and self-esteem as they grow up;
- parents may feel that the planned visit outweighs the importance of their child's uninterrupted attendance at school - maintaining family links may involve greater significance and greater pressure in some societies than it does in the UK; and
- the reasons for parents making a visit may be similar to those for indigenous parents, e.g. family illness, bereavement, etc.

324. However, schools should explain to parents that:-

- advance permission must be agreed;
- the absence should be planned carefully with the school;
- where possible, extended visits should be made during school holidays;
- if holidays must be taken during term time, absence should not exceed more than ten school days;
- holidays during examination time should be avoided at all costs;
- some children never catch up and will under-perform in their examinations; and
- their child's name may be removed from the register if he or she has not returned to school within ten school days of the expected date of return.

325. If absence is agreed, schools should consider: -

- the potential educational value of the visit;
- the amount of school work missed and how parents and the school can help their child catch up on his/her return to school;
- preparing a study pack;
- asking pupils to make notes/observations in relation to a current or forthcoming class topics;
- going through any work that has been completed by the pupil on return to school; and
- sharing experience with other pupils - the class teacher could ask the child to bring into school postage stamps and other memorabilia from the country visited. These items could be used to make a class display.

Documents to support this work can be found in Section 2.

k. Absence for trivial medical reasons

326. Pupils are not expected to attend school when they are not well enough to do so whether as a result of short term, long term or recurring illnesses. However, they should not be kept away from school when they are well enough to go to lessons or when they have minor ailments which do not prevent them from taking part in their education. A useful rule of thumb is whether the ailment would keep parents and teachers away from work.

327. Schools should have an established system in place to enable parents / carers to report their child's absence because of illness. It is reasonable for the school to ask the nature of the illness, ask the parent the expected length of absence and make arrangements for the parent to call the school again if the situation changes.

328. Schools have the right to consider whether to accept the parent / carers position with regard to medical absence as there are occasions when parents report parentally condoned absence to the school as medical absence. If the school has concerns that the illness may not either be genuine or warrant the amount of absence accruing, the school may ask the parent to substantiate the illness by asking to see additional evidence such as an appointment card.

329. However, they should not request additional evidence every time pupils miss school due to illness. Restricting such requests to when the school has concerns that a pupil was not ill or that the illness was trivial and did not warrant time off reduces the administrative burden on schools. Schools and local authority staff should also be aware of the pressure they could place on doctors' appointment systems if they request a Doctor's Note every time pupils are ill. They should also be aware of the limited value that such notes have if a doctor did not treat the pupil for the illness.

330. Schools should have a clear policy to address incidences of recurring absence where illness is given as a reason, but there are indications or concerns that this may not be the case. In some schools, 10 sessions of illness that appear unfounded can result in the pupil and parent or carer being offered an appointment with the school nurse.

I. Looked After Children (LAC)

331. Research has shown that one of the factors most likely to disadvantage looked after children (LAC) is the time lost in their education, especially prevalent when moving between schools or places of residence. Attendance monitoring is pivotal to ensuring all children can access education at all times.

332. Within a local authority there are several agencies that require information on the attendance of looked after children and clear communication channels are required that are mindful of the need for sensitivity and confidentiality.

333. The EWS, as well as ensuring attendance information is collected centrally and relevant information from home visits is related to the school and /or social worker, are the gatekeepers for providing an overview of the attendance of looked after children both internally across the county and to social workers from other local authorities who are acting in their corporate parent role.

334. Some local authorities enlist independent support to facilitate the tracking of looked after children. Companies which offer such a service to LAs make contact with schools on the LAs behalf on a daily basis. If a child is absent from school the carers are contacted to determine the reason why. The social worker is also contacted to advise them that the child is absent. Reports can be generated overnight, listing the children who were absent the previous day, this report can be sent to as many recipients as the authority would like, which helps in the information sharing and allows all departments to access the same information.

335. The Looked After Children Education Co-ordinator (LACE) and the designated member of staff in a school, each have a role to play in the tracking of pupils looked after, which includes attendance. LACE co-ordinators will be central to the LA's policies on admission and exclusion and legislation set out in: **Towards a Stable Life and Brighter Future 2007**. There is a requirement for a multi-agency panel, consisting of relevant colleagues from Health, Education and Children's Services to discuss the placement options for children in care. For example, transport arrangements can be made so that travelling does not become a barrier for attendance at school or other education setting. The EWS should be contribute to the Panel.

336. **The Education (Admission of Looked After Children) (Wales) Regulations 2009** requires that admission into a school is prioritised for looked after children and that any educational elements of a looked after child's plan can be implemented swiftly. EWOs are well placed to assist schools with transition arrangements for looked after children both in admission to and from the school, details of which are recorded on the Personal Education Plan (PEP).

337. LACE Co-ordinators are most likely to have the responsibility for the performance indicators on the attendance of looked after children in primary and secondary, which are located within social services element of the local authority performance management framework. To this end, an audit on attendance and numbers of LAC in each educational provision should be provided by the EWS to the LACE Co-ordinator when required during the school year and always at the end of the school year.
338. **Section 20 of the Children and Young Persons Act 2008**, requires the governing body of a maintained school to appoint a designated member of staff at the school to promote educational achievement (including attendance) of looked after children who are registered pupils at the school. The designated member of staff will be trained in key aspects of attendance of LAC as well as daily monitoring and implementing first contact procedures for LAC. This includes:
- the type of care order in place, as permission for LAC to attend school trips or other activities associated with education varies according to the type of care order in place. Truancy can be a temptation if permission has not been gained and friends are on the school trip, for example;
 - when a direct application for a school place is made to the school for a child from another local authority. It has been known that children of other local authorities have been placed in an area with an independent foster carer who then applies to the school regardless of appropriate support being available or the educating authority being aware;
 - the information recorded on the Pupil Level Annual School Census (PLASC);
 - the encouragement of good attendance, setting targets where appropriate in liaison with the EWO, the social worker, the foster carer and parents where appropriate; and
 - the facilitation of recording of attendance information on the Personal Education Plan (PEP). It is a statutory requirement for all looked after children to have a PEP which sets out clear educational goals and targets and provides a record of progress and achievement.

m. Elective home education

339. Elective Home Education is where parents or guardians decide to provide home based education for their children instead of sending them to school. It is not home tuition provided by the local authority or where a local authority provides education otherwise than at school. Section 6 of the Inclusion and Pupil Support WAG circular 47/2006 sets out the current Welsh Assembly guidance on Elective Home Education.

The legal background

340. Article 2 of Protocol 1 of the European Convention on Human Rights states that: No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions.

341. Parents have a right to educate their children at home providing that they fulfil the requirements of Section 7 of the Education Act, 1996 which places a duty on the parents of every child of compulsory school age to cause him or her to receive efficient full-time education suitable to their age, ability and aptitude, and to any special educational needs that they may have, either by regular attendance at school or otherwise.
342. Under section 437 of the Education Act 1996, a LA must by law serve a School Attendance Order on the parent of a child of compulsory school age who fails to prove that the child is receiving suitable education and where the authority is of the opinion that the child should attend school. This duty applies equally in relation to all children, regardless of whether or not they have previously attended a local authority school in the area. The definition of suitable education is the same as that contained in Section 7 of the Education Act 1996 as described above.

Identifying children who are receiving elective home education

343. Parents whose children are registered pupils at a school must ensure that their names are removed from the school admissions register when they withdraw them from school to home educate. If they do not do so they may be liable to prosecution for failing to ensure their child's regular attendance at the school where they are registered. Under the Education (Pupil Registration) Regulations, 1995 as amended parents are required to inform schools in writing that they are educating their children at home.
344. There is no general requirement for parents to inform LAs of the fact that they intend to educate at home. This makes it particularly difficult for LAs to keep track of certain groups of children, for example:
- those who have never attended a maintained school;
 - those who have never attended a maintained school in that authority's area;
 - those who have finished primary education in one school but has not started secondary education in another; and
 - those where the school they have been attending has closed.
345. Where parents have notified the LA or the LA is otherwise made aware of a child's withdrawal from school with the intention of being home educated, the LA should acknowledge the receipt of this notification and consider quickly whether there is any existing evidence, either in an authority's own records or from other services or agencies, indicating whether there may be cause for concern over the withdrawal. Previous irregular attendance at school is not of itself a sufficient cause for concern. In these cases the LA should immediately refer these concerns to the appropriate statutory authorities using established protocols. Otherwise, the LA should assume that efficient educational provision is taking place, which is suitable for the child, unless there is evidence to the contrary. There is no express requirement in the 1996 Act for LAs to investigate actively whether parents are complying with their duties under Section 7.

Flexi-schooling

346. 'Flexi-schooling' or 'flexible school attendance' is an arrangement between the parent and the school where the child is registered at school in the normal way, but where the child attends the school only part time; the rest of the time the child is home-educated (effectively on authorised absence from school). This is sometimes done as a short-term measure for a particular reason. Flexi-schooling is a legal option provided that the head teacher at the school concerned and, in many cases, the LA as well, agree to the arrangement

Local authority policy

347. It is recommended that LAs should have a written policy statement on home educated children and their families which has been prepared in consultation with home educating families. It is also recommended that the LA be willing and able to provide guidance for parents and carers who request it. In addition, LAs should organise training on the law and home education methods for all their Education Officers who have contact with home-educating families in their area. Local authorities should seek to build effective relationships with home educators that not only function to safeguard the educational interests and welfare of the child or young person, but also provide opportunities for parents to access information about health services, vaccinations, careers guidance etc.

n. Advocacy

348. Meic is a new helpline service for children and young people up to the age of 25 in Wales. The service provides advice and advocacy as appropriate through free phone lines, free texting and instant messaging. It complements and signposts to other local and national services, however there may be times when the service needs to contact another service on behalf of a child or young person (with their consent)
(<http://www.meiccymru.org>)

o. Unlawful exclusions (sometimes referred to as unofficial or illegal exclusions)

Unlawful exclusion refers to:

- head teachers or other school staff sending pupils home for disciplinary reasons, but not following the procedures required for formal exclusion (even if done with the agreement of parents or carers);
- pupils being sent home for either short periods of time, or for longer, indefinite, periods which can sometimes result in the pupil not returning to school at all (even if done with the agreement of parents or carers); and
- influencing or encouraging a parent to 'voluntarily' withdraw their child from school.

349. These pupils may be marked as an authorised absence, or in some cases marked as attending, and eventually taken off the school roll incorrectly without having another school place to go to. This practice is illegal and the formal exclusion process should always be used.

'Cooling Off'

350. Where critical situations have erupted during the school day, head teachers may decide to send pupils home to 'cool off' for the remainder of the day without following the formal exclusions process. This may be viewed as a suitable way to manage the pupil's behaviour in the short-term and as preferable to formal exclusion. However, this also constitutes unlawful exclusion and there is no legal basis for it. It cannot be viewed as an internal management arrangement as this ignores the rights of the individual child and could lay the school open to legal challenge.

351. Being unlawfully excluded or sent home to 'cool off' may result in a breach to the pupil's human right not to be denied education which could result in an order for damages against a school if a pupil were to be successful in such a claim.

Other mechanisms some schools may use as a means of 'unofficially excluding' pupils include:

- following a fixed-term exclusion, a pupil remains out of school awaiting a reintegration interview which may be indefinitely delayed and the pupil does not return to school;
- parents being advised that if their child returns to school after the fixed-term exclusion ends, the child will be permanently excluded;
- parents being strongly encouraged to home educate even though they may not be aware of the responsibilities involved;
- disruptive pupils being asked to stay out of school for particular reasons e.g. for the duration of an ESTYN inspection; and
- pupils placed on study leave for periods of time longer than recommended in guidance.

Ways that the EWS can identify unlawful exclusions

352. The very fact that unlawful exclusions are not recorded means that it can be extremely difficult to identify instances of this practice. However, the following methods could be used to identify unlawful exclusions:

- **Formal lines of communication established** with other agencies and the voluntary sector to ensure sharing of information about children out of school.
- **Analysis of individual school data** and follow-up of worrying patterns may include LAs monitoring patterns such as numbers of pupils outside usual age for transfer looking for other schools, or gaps in admissions data between dates when pupils leave one school and apply for another. In addition, LAs should have protocols in place to allow robust follow up of pupils taken off roll, especially where pupils have no school or alternative provision place.
- **Close working between the Education Welfare Service and schools** should include periodic detailed register checks of schools, matching pupils to ticks on register and investigating reasons for authorised absences, education off-site or other forms of approved education activity. The LA can also utilise software that allows central access to registers in order to scrutinise patterns and follow up. In addition

EWS should follow up informal intelligence (from parents, pupils, home visits, etc.) about pupils out of school.

- **Providing an opportunity for the public to inform the LA of possible instances of unofficial exclusion.** This could include encouraging parents to report instances of unlawful exclusion to the LA.
- **Truancy sweeps** may identify pupils who have been unlawfully excluded and details of the pupil will be passed to the LA.

Next Steps

353. If a pupil is excluded unlawfully they are unlikely to have educational provision made for them. The following policies and practices may be used to tackle unlawful exclusions where they are identified:

- training for school governors and managers, and EWO meetings with all schools to remind them of their obligations
- letter to relevant school(s) from Senior Education Officer reminding head teachers of their legal obligations
- formal feedback to all schools in a LA on findings from data or register checks
- head teachers to challenge/support their peers
- follow-up visits to relevant school(s) accompanied by an action plan.

354. Further guidance on managing exclusions is available in Exclusion from Schools and Pupil Referral Units, WAG Circular 001/2004.

The Exclusion Regulations, SI 2002/3178, can be found at:
<http://www.opsi.gov.uk/si/si2002/20023178.htm>

p. Confidentiality / Complaints

355. The EWS is committed to respecting the confidentiality of service users. Service users have the right to decide what information they wish to share with the team and no personal details of service users should be divulged to outside agencies without their prior permission, except in some circumstances. The confidentiality of service users will only be breached if any information received by the team gives rise for concern for the safety or well-being of a person. The limitations should be made clear by all team members at first point of contact with regards to harm to self or others.

356. All staff should be aware of, and agree and adhere to the confidentiality policy of their local authority and be trained to maintain confidentiality and provide an impartial service in accordance with the Data Protection Act 1998.

An exemplar flowchart for procedures can be found in Section 2.