

Burden of proof

It is for the **parents to prove** that one or more of these defences apply.

It is not a defence to say that you did not know that your child was absent from school or that they were being bullied at the time.

Sentencing

If you have pleaded to or been found guilty of the offence for which you have been summonsed the magistrates have the power to impose penalties as follows:

- a fine of up to £1000 or
- a fine of £2500 and or imprisonment for a term not exceeding three months.

Costs may also be awarded against you.

Fines and costs are collected by the court bailiff

Advice

The officer dealing with your case has specialist knowledge and experience in the courts. If you require legal advice, lists of solicitors are available at the Citizens Advice Bureau.

www.citizensadvice.org.uk.

Updated November 2020

Parents are strongly advised to seek legal help at the earliest opportunity. This may reduce delay and expense in dealing with your case.

For more information about prosecution for non-attendance at school you can contact the Education Inclusion Specialist Support Service team at:

Gloucestershire County Council
Education Inclusion Service
3rd Floor, Block 4
Shire Hall
Westgate Street
Gloucester
GL1 2TP

Telephone:
01452 427274

Email:
attendance@gloucestershire.gov.uk

Website:
www.gloucestershire.gov.uk/schoolattendance

Prosecution for Non-attendance at School



Information for Parents and Carers

The Law

The Education Act 1996 (Section 444) states:

'If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, his parent is guilty of an offence'.

The offence is called a "strict liability" offence. This means that if you are the parent of the child and that child is on roll at a school and they have not attended regularly then the court **must** find you **guilty** of the offence unless you have a defence.

A parent is defined in Education Law as:

- All natural parents, whether married or not
- Any person who, although not a natural parent, has parental responsibility for a child or young person.
- Any person who, although not a natural parent, has care of a child or young person.

The fact that you do not live with the child is not a defence against securing their attendance at school.

The Defences

For any case brought before the magistrates under section 444 there are only these possible defences:

- **The child had leave of absence**
This means that your child had the Headteacher's permission to be absent. You could prove this by producing a letter from the Headteacher.
- **The child was too sick**
Sickness means that your child was not fit for school on the dates listed on your summons. You could prove this by producing a medical certificate or letter from your child's doctor or consultant.
- **The child was unavoidably absent**
This means that there were exceptional circumstances preventing your child from attending school during all of the dates listed on the summons. This may be difficult to prove.
- **The child was absent for any day exclusively set apart for religious observance by the religious body to which his parent belongs**
This means that your child was absent because of your religious observance—not your child's.

You could prove this with a letter from your minister of religion. It is unlikely that this defence would apply to all the dates on your summons.

- **The school is not within "walking distance" of the child's home and no suitable alternative arrangements have been made by the LA**
For a child under 8 years old this distance is 2 miles. For a child 8 years old and over this distance is 3 miles. This means that where the Local Authority has an obligation to provide transport it has not done so. You could prove this with copies of your correspondence with the Local Authority. You should seek legal advice if you plan to use this as a defence.
- **The child has no fixed abode and the parent can prove that they were travelling for the purposes of obtaining work**
This means that you are a Traveller and that on the dates listed on your summons you were travelling to seek work or were working.

You could prove this with a witness who could explain to the court that this is what you were doing.