

Legislation and Learning Attendance Legal Intervention

Fliss Falconer

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Living our values every day



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Integrity



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Attendance Legal Intervention

- Our role as the Education Inclusion Team in Gloucestershire County Council
- The 'Support First' ethos
- 'From First Signs to Legal Intervention' document
- Breaking barriers and relentless support
- Information and record-keeping for legal intervention
- How to write a Witness Statement and collate Exhibits
- Further support for schools and professionals
- Q&A



We are a Support First Team

Steps to take before initiating legal proceedings

Support for the **child**

- Anxiety**
- ☐ Has the child suggested that they have feelings of anxiety?
 - ☐ Have steps been taken to alleviate these feelings?
 - ☐ Is there evidence of child-on-child abuse or bullying?
 - ☐ Are home life or parenting styles causing concern for the child?
 - ☐ Has a part-time timetable been considered to support return to full-time learning?
 - ☐ Have the parents applied to their GP, TIC+ or CAHMS for a referral?

- SEN**
- ☐ Has specialist advice been sought?
 - ☐ Has the feedback been implemented?

- Patterns**
- ☐ Have patterns in attendance been identified and addressed?

- Section 19**
- ☐ Has a referral been considered?

Support for the **parents**

- Communication**
- ☐ Are communication lines with the parents open?
 - ☐ Are both parents contacted with information from school?
 - ☐ Is communication delivered in an alternative language or format?
 - ☐ Are parents aware that legal proceedings are being considered and what that means for them?
 - ☐ How often does the school send out leaflets about attendance? (Available on Schoolsnet)

- Meetings**
- ☐ Have meetings with the parents been arranged, either on- or off-site as necessary?
 - ☐ Have AIM (Attendance Improvement Meetings) been arranged and held?
 - ☐ Has the attendance of parents and outcome been recorded?

- Improvement**
- ☐ Has a Parenting Contract been considered?

Support for the **family**

- Collaboration**
- ☐ Are the parents in need of support for the whole family?
 - ☐ Has transport assistance been investigated?
 - ☐ Have schools where siblings attend been contacted and consolidated plans been arranged?
 - ☐ Have parenting courses and family support been considered?
 - ☐ Has Early Help been considered?



Has the graduated pathway been followed to identify barriers to regular attendance?

Support for the **school**

- Intervention**
- ☐ Have all absences been recorded as unauthorised?
 - ☐ Has evidence been collated for absences from the initial period of unauthorised absences?
 - ☐ Has all communication with parents been recorded with names, dates and details of information?
 - ☐ Has the Inclusion Officer been made aware of the attendance issues?

- Policies**
- ☐ Has the Attendance Policy been available to all parents?
 - ☐ Does it have a clear definition of what the school regards as 'regular attendance'? For example: We regard regular attendance for all children to be in school, on time. This is for every session of every day that the school is open to them.
 - ☐ Has it clear information regarding the school's expectation of good attendance and consequences of poor attendance?
 - ☐ Has it guidance on how to approach the school regarding attendance concerns?
 - ☐ Has it been updated in the last 12 months?

Steps to take before initiating legal proceedings

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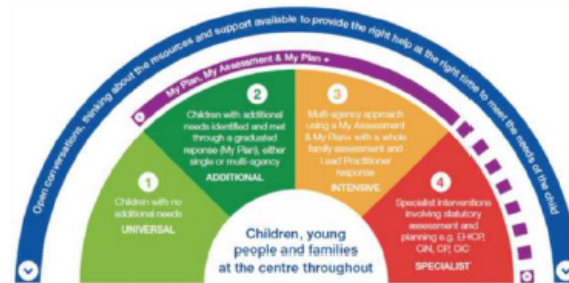
Improvement

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An attendance guide to support schools, their pupils and families

GCC ATTENDANCE GUIDANCE

'From First Signs to Legal Intervention'

To provide guidance on supporting attendance from early signs to legal intervention

Education Inclusion Team
October 2024

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With the barriers that all children may face while accessing their right to education, it is vital that we are breaking down as many of them as we can.

We must evidence what we are doing is in the child's best interest.

‘Continuing, Relentless Support’

Formalising Attendance Intervention

not prosecuting as a punitive measure

- What are the first things we can do?
- How can we support a pupil whose attendance is nearing persistent levels?
- What supportive measures are available to us inside and outside of school?
- What else is going on for this child? Is poor attendance a symptom rather than the cause?
- What happens when there is no engagement?
- How do we record what has been done?



Meeting the Notice to Improve Threshold

A Notice to Improve may be requested to be issued by the LA when a child has ten unauthorised absences within 10 weeks.

It often coincides with schools beginning Attendance Improvement Meetings and is considered the beginning of the legal process.

Do you **have** to request a Notice to Improve once a child has met the threshold?

It depends on the circumstances for the pupil and the family...

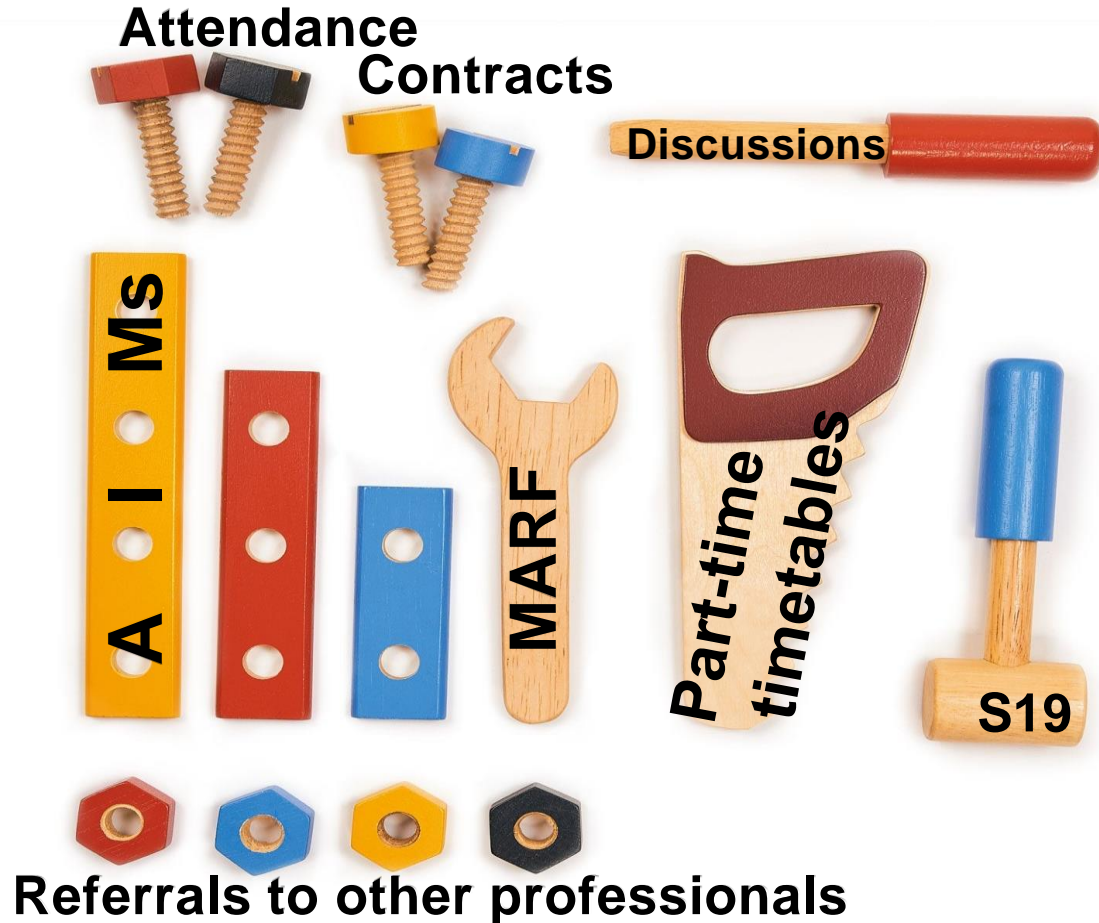
What is the best tool for the job?

When there are concerns with attendance, there are many avenues that can be explored.

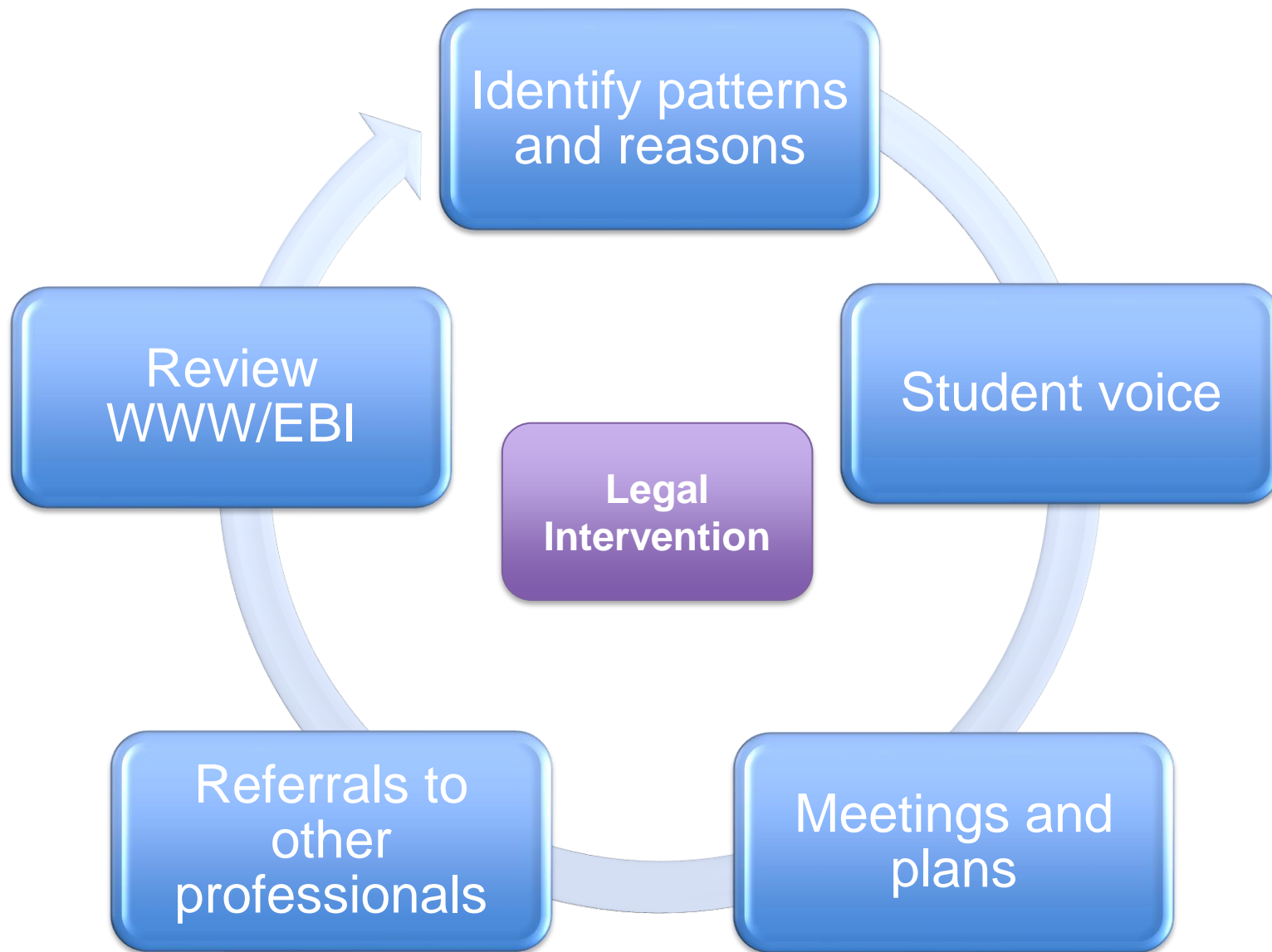
What is best for the child must always be our focus.

Legal intervention is always the last avenue. It can be stopped at any point in the process.

**It is always alongside
'continuing, relentless support'
from the school.**







If the school have identified that they have exhausted all other avenues and nothing appears to be improving, legal intervention may be considered **alongside** this relentless support, which may include revisiting previous offers.

Schools should be transparent with parents about the reasons for or for not offering support.

Records should be kept centrally and digitally.

The legal process

In the Education Act (1996), this is the first of the two offences.

It carries a penalty of a fine up to £1000 and a criminal conviction if the defendant (parent/carer) is found guilty.

According to the case *Isle of Wight v Platt* from 2017, it defines 'regularly' as 'in accordance with the school rules.'

Your attendance policy must contain a clear reference of how you define 'regular' attendance.

G-coded absences and other unauthorised absences/combination absences – first and second offences within rolling three-year period

Section 444(1)

Offence

Parent/Carer of a child of compulsory school age
Registered at a school
Fails to attend regularly

Defence

Sickness or unavoidable cause
Granted leave or due to religious observance
Local Authority has a duty to make travel arrangements and fails to do so
Parent is engaged in a business that requires travel from place to place

The parent must prove these defences on a balance of probabilities

In the Education Act (1996), this is the second of the two offences.

It carries a penalty of a fine up to £2500 and a criminal conviction if the defendant (parent/carer) is found guilty.

According to the case Isle of Wight v Platt from 2017, it defines 'regularly' as 'in accordance with the school rules.'

Your attendance policy must contain a clear reference of how you define 'regular' attendance.

Third offence in rolling three-year period

Section 444(1A)

Offence

Parent/Carer of a child of compulsory school age
Registered at a school
Fails to attend regularly
Parent/Carer knows that their child is failing to attend regularly at the school and fails to cause them to do so, they are guilty of an offence.

Defence

Sickness or unavoidable cause
Granted leave or due to religious observance
Local Authority has a duty to make travel arrangements and fails to do so
Parent is engaged in a business that requires travel from place to place

The parent must prove these defences on a balance of probabilities

Chronology of Support



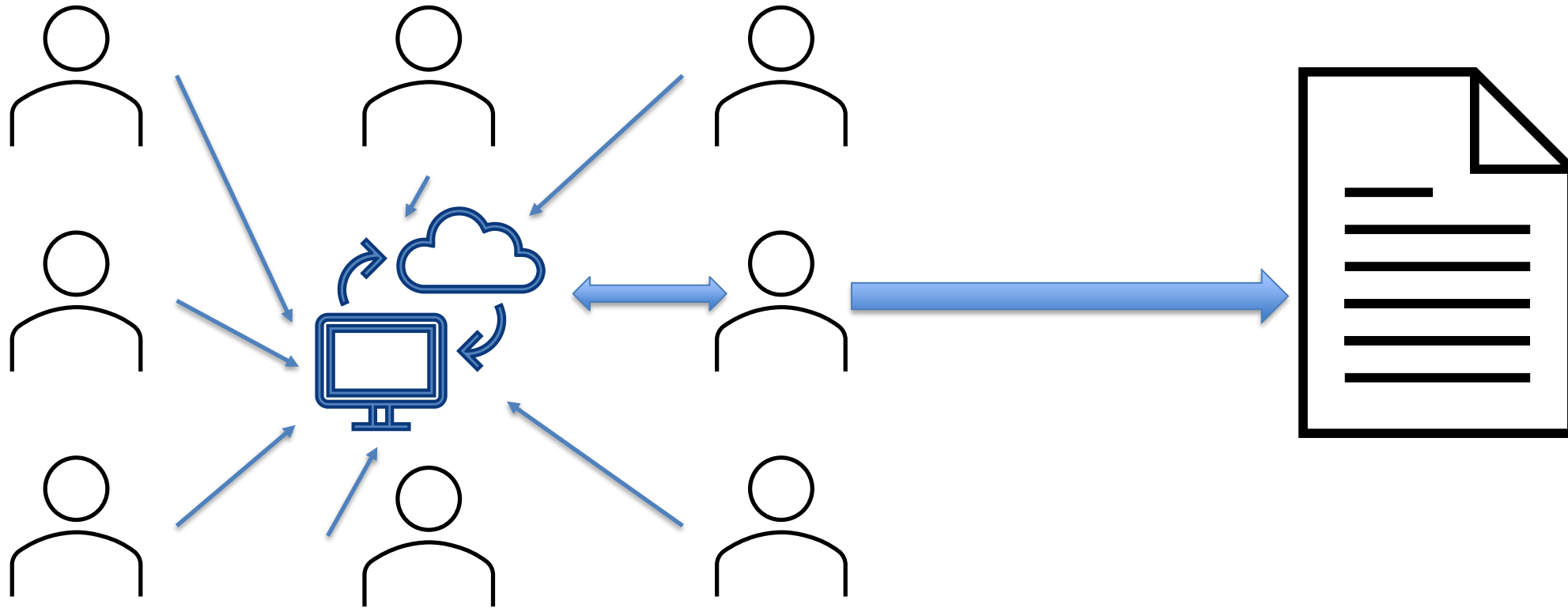
Maintaining a clear and comprehensive centrally-held record of all attendance matters is vital.

Being able to review the support you have offered and engagement in the process will help you and the family



Attendance is everyone's business

How do you log everyone's involvement?



Legal Intervention: the last avenue

What can you do when everything else has been exhausted?



Notice to Improve: schools may request a Notice to Improve when the threshold has been met e.g., 10 sessions of unauthorised absence in 10 weeks.

Schools should be able to say what support they have offered the pupil and their family before requesting it.

This often works as a 'shot across the bow' to encourage parents to engage with the school and their efforts to support the child and their attendance.



Generally, parents include:

- all natural parents, whether they are married or not;
- all those who have parental responsibility for a child or young person;
- those who have day to day responsibility for the child (i.e. lives with and looks after the child).

Legal Intervention: the last avenue

What can you do when everything else has been exhausted?



Penalty Notice: to allow for change in habit and/or circumstances, by week 3, if there is no improvement in attendance or patterns identified, then the school may request a penalty notice.

There still must be 10 sessions of unauthorised absence in 10 weeks and schools should include what support has been offered within the improvement period.

The supportive evidence must reflect what was included in the NTI request

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Legal Intervention: the last avenue

What can you do when everything else has been exhausted?



Unpaid Penalty Notices: if a PN remains unpaid following the 28 days, then schools complete a witness statement and provide the supportive exhibits that chronologically narrate the attendance events.



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Generally, parents include:

- all natural parents, whether they are married or not;
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- those who have day to day responsibility for the child (i.e. lives with and looks after the child).

Witness Statement and Exhibits

When a penalty notice remains unpaid, you may be asked to complete a witness statement and prepare the exhibits for the case to proceed to court.

The legal process can lead to a criminal conviction for parents. GCC follows the 'Support First' guidance from the Department for Education, and we ask you to ensure that legal action is the last avenue for attendance.

Prosecution Information

The Rehabilitation of Offenders Act 1974 confirms the following time periods before a sentence is classed as spent:

- A custodial sentence of 1 year or less - the end of the period of 12 months beginning with the day on which the sentence (including any licence period) is completed
- A relevant order (e.g. community order) - the last day on which the order is to have effect
- A fine - the end of the period of 12 months beginning with the date of the conviction

After the period ends, the conviction is still on the person's record and could come up on an Enhanced Records Check, but the defendant would be classed as a "protected person". They are essentially treated as if they have not been convicted of the offence. Before the rehabilitation period ends, the defendant must disclose the conviction when asked.

Proof-reading

Reasons for penalty notices not proceeding:

- Name inconsistencies – varied spellings/name choices
- Number inconsistencies – house numbers and post codes
- Dates – absence dates mixed with ‘returned to school’ dates
- Missing information – DOBs;



Our
paperwork checklist
can support schools
with ensuring their
paperwork is robust for
legal intervention

Paperwork Checklist for All Legal Disposals

Following the new legislation of the 'Working Together to Improve School Attendance' (2024), this guidance reflects the DfE guidance and GCC Code of Conduct for issuing penalty notices to support schools with all legal disposals, including Notices to Improve, Penalty Notices and 444(1) and 444(1A) cases under the Education Act 1996.

Attendance Policies

Page 15 of the *WTTISA* (2024) document states: To ensure all leaders, staff, pupils, and parents understand these expectations, all schools are expected to have a clear, written school attendance policy based on the expectations set out in this guidance.

- The attendance and punctuality expectations of pupils and parents including start and close of the day, register closing times and the processes for requesting leaves of absence

Legal Intervention Non-negotiables

- ☐ Have you a clear definition of attendance e.g., We expect all pupils to attend every session of every day that the school is open to them?
- ☐ Are your registration times clearly identifiable, with equal lengths of time for am and pm



Attendance Policy: Legal Intervention Non-negotiables

- ☐ Have you a clear definition of attendance e.g., We expect all pupils to attend every session of every day that the school is open to them?
- ☐ Are your registration times clearly identifiable, with equal lengths of time for am and pm registration periods (that are no longer than 30 mins) (*WTT/ISA*, page 19)?
- ☐ Is your pm registration period after a significant break e.g., lunch time?
- ☐ Have you defined how and when parents/carers must inform you of unexpected absence?
- ☐ Have you defined what a parent means under the Education Act 1996?
- ☐ Have you clearly shown how absences will be marked as L and U?
- ☐ Have you given a definition of exceptional circumstances where an absence may be authorised?
- ☐ Do you reference the new fine amounts from September 2024? N.B. penalty notices issued to parents of children seen in a public place within 5 days following an exclusion from school are still set at £60/£120 and are not subject to the rolling three-year period.
- ☐ Have you referenced penalty notices and the criteria for meeting them for G-coded absences and for U and O coded absences?
- ☐ Does the policy explain there is no option to pay a second penalty notice issued within a rolling three-year period at the lower amount?
- ☐ Have you informed parents that if the national threshold is met for a third (or subsequent) time within 3 years, the Local Authority will consider prosecution through the magistrates' court under Section 444(1) of the Education Act 1996?
- ☐ Have you referenced Notices to Improve and the potential escalation to a penalty notice should there be no improvement with attendance within the improvement period?
- ☐ Is your most recent policy on the school's website?

Writing a Witness
Statement and
collating Exhibits:
our training video,
example resources
and checklist are
available on
Schoolsnet

Join us online on
10 July at 3pm
for a review of the materials
and to have your questions
answered

STATEMENT OF WITNESS

(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)

STATEMENT OF Annie Person

Age of witness Over 18

This statement consisting of 5 pages is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signed: *A Person*

(Witness) Date: 10/04/2025

I am the Attendance Administrator employed by OneGloucester School, based at Bristol Road, Gloucester, GL1 1AB. I am authorised to make this statement on behalf of OneGloucester School and do so from my own knowledge unless otherwise indicated.

I can confirm that Ali Jones is 12 years old (DOB 01/02/2013), and is a registered pupil at OneGloucester School.

From our records, Ali Jones lives with Sarah Jones at 43 Bristol Road, Gloucester, GL1 1CD. They live 1.1 miles from the school.

In the preceding 10 school week period, Ali has attended 50 sessions out of a possible 100. The total number of unauthorised absences is 46.

Signed: *A Person*

(Witness) Date: 10/04/2025

OneGloucester School
Gloucester Road
Gloucester
GL1 1AZ

Sarah Jones
43 Bristol Road
Gloucester
GL1 1CD

23/09/2024

Dear Ms Jones

Re: Ali Jones – Attendance Concerns; current attendance 29.7%

I hope this letter finds you well. I am writing to inform you that as Ali has been absent from school for 10 days (20 sessions/65 hours) on the following dates: 5 and 6 September; 9 September; 11-13 September and 16-20 September.

Regular attendance is crucial for Ali's academic progress and social development. We understand that there may be valid reasons for these absences, and we would like to discuss any issues or concerns you may have. Our goal is to support Ali in improving his academic performance and social skills, and his experience in school. We have many ways to support Ali, and your family with attendance, and other issues that may be affecting his attending school, and we would like the opportunity to discuss this with you as soon as possible.

You are always welcome to request support from other professionals, including your GP, and the local authority. The Education Inclusion Services' website is: [Attendance and absence from school | Gloucestershire County Council](#), which has information about attendance you may find useful.

I am confirming our meeting discussed with you this morning for 25/09/2024 at 9.30am with me and Annie Person, our Attendance Administrator, where we hope to discuss any barriers that Ali and you may be facing, and discuss ways that we may support you both.

Exhibit AP05

01/05/2025

A Person



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Any questions?

