



Department
for Education

Statutory guidance on identifying children not receiving suitable education

For local authorities in England

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Summary

About this guidance

This statutory guidance sets key principles to enable local authorities in England to implement their legal duty to identify, as far as it is possible to do so, children missing education (CME) and get them back into education. Local authorities should be able to demonstrate that they have considered this statutory guidance and, where it is not followed, have reasonable grounds for deciding not to follow it. This advice is not exhaustive and judgements will need to take account of the circumstances of individual cases.

This guidance replaces the 2009 version.

Expiry or review date

This guidance will next be reviewed in December 2013.

What legislation does this guidance refer to?

- Section 436A of the Education Act 1996 (added by section 4 of the Education and Inspections Act 2006).
- Other related legislation is cited at the back of this document.

Who is this guidance for?

This guidance is for:

- Local authorities in England.
- It may also be useful for maintained schools, Academies and Free Schools, health professionals, Youth Offending Teams and the police.

Introduction - overview

All children, regardless of their circumstances, are entitled to a good education which will help them shape their own futures. Children missing education (CME) are at significant risk of underachieving, being victims of abuse, and becoming NEET (not in education, employment or training) later on in life. Local authorities should have **robust procedures** in place to enable them to meet their duty in relation to these children, including appointing a named person that schools and other agencies can make referrals to.

The purpose of the section 436A duty is to ensure that local authorities can identify and return to full-time education those children who are missing education (or those at risk of becoming CME). The duty relates to children of **compulsory school age**¹ who are not on a school admission register and not receiving a suitable education² otherwise than at school, for example, at home.

From June 2013, Ofsted will implement new joint inspections for multi-agency arrangements for the protection of children³ which will include CMEs.

Parents' responsibilities

Parents have a legal responsibility⁴ to ensure that all their children of compulsory school age are receiving a suitable education. Some parents may elect to educate their children at home and may withdraw them from school at any time to do so, unless they are subject to a School Attendance Order. Where a parent notifies the school in writing of their intention to home educate, the school must delete the child from its admission register and then inform the local authority. Children with statements of special education needs can be home educated but the relevant local authority must provide the special educational provision specified in the child's statement.

Schools' duties

Schools, including Academies and Free Schools, must monitor pupils' attendance through the daily register. Where a pupil regularly fails to attend school the school must inform the local authority. They must also notify the authority if a pupil is deleted from the admission register in certain circumstances under the Education (Pupil Registration) (England) Regulations 2006. Schools also have safeguarding duties in respect of their pupils, and as part of this should investigate any unexplained absences.

¹ A child reaches compulsory school age on or after their fifth birthday. If they turn 5 between 1 January and 31 March they are of compulsory school age on 31 March; if they turn 5 between 1 April and 31 August they are of compulsory school age on 31 August. If they turn 5 between 1 September and 31 December, then they are of compulsory school age on 31 December. A child continues to be of compulsory school age until the last Friday of June in the school year that they reach sixteen.

² 'Suitable education' means efficient full-time education suitable to the child's age, ability and aptitude and to any special educational needs the child may have.

³<http://www.ofsted.gov.uk/resources/proposals-for-joint-inspection-of-multi-agency-arrangements-for-protection-of-children>

⁴ Section 7 of the Education Act 1996

Schools must also arrange full-time education for excluded pupils from the sixth school day of a fixed period exclusion. Information on school attendance and exclusions can be found at: <http://www.education.gov.uk/schools/pupilsupport/behaviour/attendance>.

Local authorities' related duties and powers

Local authorities can use other duties and powers to support their work on CME. These include:

- Providing suitable full-time⁵ education to permanently excluded pupils from the sixth school day of exclusion;
- Issuing School Attendance Orders (SAOs)⁶ to parents who the local authority believes are not securing a suitable education for their child;
- Prosecuting parents that do not comply with an SAO;
- Prosecuting or fining⁷ parents who fail to ensure their school-registered child's regular attendance;
- Applying to court for an Education Supervision Order⁸ for a child; and
- Safeguarding duties, for example, visiting a family if they have concerns about a child's welfare and poor school attendance and, if appropriate, making an application to the family court⁹.

Children at particular risk of missing education

Children of Gypsy, Roma and Traveller (GRT) Families - Although many are settled, some GRT families have a mobile lifestyle. When families move regularly, children can be at increased risk of missing education. Local authority Traveller Education Support Services (TESS), where these exist, can advise schools on the best strategies for ensuring the minimum disruption to GRT pupils' education, for example dual registration with other schools or the provision of electronic or distance learning packages where available.

Families of Armed Forces - Families of members of the Armed Forces are likely to move frequently – both in UK and overseas and often at short notice. Schools and local authorities should contact the MOD Children's Education Advisory Service (CEAS) on 01980 618244 for advice on making arrangements to ensure continuity of education for those children when the family moves.

Children and young people supervised by the Youth Justice System - Children who have offended or are at risk of doing so are also at risk of disengaging from education. Local authority Youth Offending Teams (YOTs) are responsible for supervising those

⁵ The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007 ([SI 2007/1870](#))

⁶ Section 437 of the Education and Inspections Act 1996

⁷ Prosecution powers under section 444 of the Education Act 1996 and penalty notices under section 444A (as amended by section 23 of the Anti-social Behaviour Act 2003)

⁸ Section 447 of the Education Act 1996

⁹ Section 47 of the Children Act 1989

young people (aged 8 to 18). YOTs should work with the local authority CME officer to ensure that children are receiving, or return to, appropriate full-time education. Where a young person was registered at a school prior to custody, the school may keep the place open for their return.¹⁰

Missing children/runaways¹¹ - Children who go missing or run away from home or care may be in serious danger and are vulnerable to crime, sexual exploitation or abduction as well as missing education. Further sources of information about missing children are listed at the back of this document.

Pupils at risk of harm/neglect - Children may be missing from education because they are suffering from abuse or neglect. Where this is suspected schools should follow local child protection procedures. Local authority officers responsible for CME should check that a referral has been made and, if not, they should alert children's social care. If there is reason to suspect that a crime has been committed or the child's safety is at risk, the police should also be involved. The Department's statutory guidance *Working Together to Safeguard Children (2010)* is available on the Department's website¹².

Working with others

Families moving between local authority areas can sometimes lead to a child becoming 'lost' in the system and consequently missing education. Where a child has moved, local authorities should **check with other authorities** – either regionally or nationally – to ascertain where a child has moved to and ensure that they are attending education or being home educated.

Local authorities should regularly **raise awareness of their procedures** with local schools, partners and agencies working with children and families, for example, GPs and other health professionals, police, emergency services, children's homes, Youth Offending Teams. It may also be helpful to contact the Department for Works and Pensions, the UK Border Agency or HMRC.

We provide a secure internet system – school2school¹³ – to allow schools to transfer pupil information to another school when the child moves¹⁴. If the departure school agrees, the local authority may do this on the school's behalf. Further guidance can be found at: <https://securedatatransfer.teachernet.gov.uk/sdtlive/asp/Login.asp>

¹⁰ See regulation 8(1)(i) and 12(3) of The Education (Pupil Registration) (England) Regulations 2006

¹¹ See guidance: <http://www.education.gov.uk/childrenandyoungpeople/safeguarding/a0066653/young-runaways>

¹² <http://www.education.gov.uk/aboutdfe/statutory/g00213160/working-together-to-safeguard-children>

¹³ <http://www.education.gov.uk/schools/adminandfinance/schooladmin/ims/datatransfers/s2s/a0064650/school-to-school-s2s>

¹⁴ In line with The Education (Pupil Information)(England)Regulations 2012.

Further sources of information

Related legislation

Attendance:

- Education Act 1996 (ss7, 8, 14 & 19)
- Education Act 2002 (s21)
- Education and Inspections Act 2006 (ss 4 & 38)
- The Education (Pupil Registration) (England) Regulations 2006

Child protection:

- Children Act 1989 (ss 17 & 47)
- Children Act 2004 (ss 10,11, 12 & 17)
- Education Act 2002 (s175)
- DfE advice and guidance

Departmental advice and guidance

- Behaviour and attendance (including exclusions, bullying and alternative provision): www.education.gov.uk/pupilsupport/behaviourandattendance
- Child sexual exploitation: www.education.gov.uk/tackling-child-sexual-exploitation
- Child trafficking: www.education.gov.uk/publications/standard/publicationDetail/Page1/DFE-00084-2011
- School Admissions Code: www.education.gov.uk/schools/adminandfinance/schooladmissions
- Young runaways: www.education.gov.uk/childrenandyoungpeople/safeguarding/a0066653/young-runaways

Further information and contacts

- Child abduction: <http://www.pact-online.org> and www.reunite.org (international child abduction)
- Forced marriages (FCO): www.fco.gov.uk/forcedmarriage <http://www.fco.gov.uk/en/travel-and-living-abroad/when-things-go-wrong/forced-marriage/>
- HM Customs and Revenue: www.hmrc.gov.uk/
- Home Office: www.homeoffice.gov.uk
- Local Safeguarding Children Boards: www.everychildmatters.gov.uk/socialcare/safeguarding/lscb/
- Missing Children/People: www.missingpeople.org.uk
- UK Border Agency: www.bia.homeoffice.gov.uk/
- Youth Justice Board and working with Youth Offending Teams: www.yjb.gov.uk/en-gb/



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