



Department
for Education

Children missing education

Statutory guidance for local authorities

November 2013

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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 local authorities' 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 2014.

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

This guidance could be used as a non-statutory advice by:

- All school leaders, school staff and governing bodies in all maintained schools and academies, Youth Offending Teams, independent schools, health professionals and the police.

Introduction - overview

All children, regardless of their circumstances, are entitled to a full time education which is suitable to their age, ability, aptitude and any special educational needs they may have. 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** and **policies** 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. Local authorities should undertake regular reviews and evaluate their processes to ensure that these continue to be fit for purpose in identifying and dealing with CMEs in their area.

The purpose of the section 436A of the Education Act 1996 is to ensure that local authorities' arrangements enables them to establish the identities of children in their area who are not registered pupils at a school, and are not receiving suitable education otherwise than at a school. The LA should consult the parents of the child when establishing whether the child is receiving suitable education. Local authorities should have procedures in place to prevent children at risk of becoming CME. Those children identified as not receiving suitable¹ education should be returned to full time education either at a school or in alternative provision. This duty only relates to children of **compulsory school age**².

From June 2013, Ofsted has been implementing a new joint inspection for multi-agency arrangements for the protection of children³ which will include CMEs.

Parents' responsibilities

Parents have a duty⁴ to ensure that their children of compulsory school age are receiving efficient full-time education. Some parents may elect to educate their children at home⁵ and may withdraw them from school at any time to do so, unless they are subject to a

¹ 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

² 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.

³ [See the Ofsted website.](#)

⁴ Section 7 of the Education Act 1996

⁵ Elective Home Education advice:

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 special educational needs statements⁶ can be home educated. Where the statement sets out special educational provision that the child should receive at home, the local authority is under a duty to arrange that provision. Where the statement names a school as the place where the child should receive his or her education but the parent chooses to home educate their child, the local authority must assure itself that the provision being made by the parent is suitable to the child's special educational needs. In such case the local authority must review the statement annually.

Schools' duties

Schools, including Academies and Free Schools, must monitor pupils' attendance through their daily register. Schools should agree with their local authority the intervals in which they will inform local authorities of the details of pupils who are regularly absent from school or have missed 10 school days or more without permission. Schools must also notify the authority if a pupil is to be deleted from the admission register in certain circumstances⁷. Pupils who remain on a school roll are not necessarily missing education but schools should monitor attendance and address it when it is poor. It is also important that pupils' irregular attendance is referred to the authority.

Schools also have safeguarding duties under section 175 of the Education Act 2002 in respect of their pupils, and as part of this should investigate any unexplained absences. Academies and independent schools have a similar safeguarding duty for their pupils⁸.

Schools must also arrange full-time education for excluded pupils from the sixth school day of a fixed period exclusion. This information can be found in the [school attendance and exclusions advice](#).

⁶ [Special Education Needs : Code of Practice](#)

⁷ Regulation 12(3) Education (Pupil Registration) (England) Regulations 2006

⁸ Part 3 of Schedule 1 to the Independent School Standards (England) Regulations 2010 (SI 2010/1997)

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-time⁹ education to permanently excluded pupils from the sixth school day of exclusion;
- Safeguarding children's welfare, and their duty to cooperate with other agencies in ensuring children's safety
- Serving notice on parents requiring them to satisfy the LA that their child is receiving suitable education when it comes to the local authority's attention that a child might not be receiving such education.¹⁰
- Issuing School Attendance Orders (SAOs) on parents who fail to satisfy the local authority that their child is receiving suitable education, and in the opinion of the authority it is appropriate that the child should attend school¹¹.
- Prosecuting parents that do not comply with an SAO¹²;
- Prosecuting or fining parents who fail to ensure their school-registered child attends school regularly¹³;
- Applying to court for an Education Supervision Order¹⁴ for a child¹⁵.

Children at particular risk of missing education:

There are many circumstances where a child may become missing from education so it is vital that local authorities make judgement on a case by case basis. The list (is not exhaustive) below presents some of the circumstances that local authorities should consider when establishing their CME practices and policies:

1. **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

⁹ The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007 ([SI 2007/1870](#))

¹⁰ Section 437(1) of the Education Act 1996

¹¹ Section 437 (3) of the Education Act 1996

¹² Section 443 of the Education Act 1996

¹³ 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)

¹⁴ Section 447 of the Education Act 1996

¹⁵ Section 47 of the Children Act 1989

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 (2013)* is available on the Department's website¹⁶.

2. **Children of Gypsy, Roma and Traveller (GRT) Families** – Research¹⁷ has shown that many children from these families can become disengaged from education, particularly during the secondary school phase. It is therefore vital that schools inform the LA when a GRT pupil leaves the school without identifying a new destination school, particularly in the transition from primary to secondary so that they can attempt to facilitate continuity of the child's education. Although many are settled, some GRT families move regularly and their children can be at increased risk of missing education. Local authority Traveller Education Support Services (TESS), where these exist, or named CME officer within the LA, 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 these are available.
3. **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.
4. **Missing children/runaways**¹⁸ - 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.
5. **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 young people (aged 8 to 18). YOTs should work

¹⁶ [Working together to safeguard children](#)

¹⁷ Wilkins, A et al (2010)Improving the outcomes for Gypsy, Roma and Traveler pupils: final report DFE-RR043 pp54-60

¹⁸ [See guidance.](#)

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.¹⁹

6. **Children who cease to attend a school** – there are many reasons why a child stops attending a school. It could be because the parent chooses to home educate their child. However, where the reason for a child who has stopped attending a school is not known, the local authority must investigate the case and ensure the child is receiving suitable education.

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 local authorities** – either regionally or nationally – and share information in order to ascertain where a child has moved. Once the location of the child is established, the relevant local authority must ensure that the child is receiving an education either by attending a school or otherwise.

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, Primary Care Trusts, police, housing agencies, emergency services, children's homes, voluntary groups for youth and Youth Offending Teams.

It may also be helpful for local authorities to have local contacts with the Department for Works and Pensions, the UK Border Agency and HMRC to assist them in tracing those children known to be missing education.

We provide a secure internet system – school2school²⁰ – to allow schools to transfer pupil information to another school when the child moves²¹. If the departure school agrees, the local authority may do this on the school's behalf.

¹⁹ See regulation 8(1)(i) and 12(3) of The Education (Pupil Registration) (England) Regulations 2006

²⁰ [School to School \(s2s\) advice](#)

²¹ In line with The Education (Pupil Information) (England) Regulations 2012.

Further sources of information

Associated resources (external links)

[Child abduction](#)

[International child abduction](#)

[Forced marriages \(FCO\)](#)

[HM Customs and Revenue](#)

[Home Office](#)

[Local Safeguarding Children Boards](#)

[Missing Children/People](#)

[UK Border Agency](#)

Other departmental advice and guidance you may be interested in

[Behaviour and attendance \(including exclusions, bullying and alternative provision\)](#)

[Child sexual exploitation](#)

[Child trafficking](#)

[School Admissions Code](#)

[Elective Home Education guidelines](#)

[Young runaways](#)

Related legislation

School Attendance: Education Act 1996 (section 7, 8, 14 & 19)
Education Act 2002 (section 21)
Education and Inspections Act 2006 (section 4 & 38)
The Education (Pupil Registration) (England) Regulations 2006

Child protection: Children Act 1989 (section 17 & 47)
Children Act 2004 (section 10, 11, 12 & 17)
Education Act 2002 (section 175)



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