

School Attendance

**Advice and requirements of all schools
for consideration of legal enforcement
by the Local Authority**

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Website	All guidance and sample documentation are available on the CYPS.Info website (School Attendance) for downloading: http://cyps.northyorks.gov.uk/. Templates can be found as Appendix 3 and 4 at the back of this document	

Section 1- Requirement of all schools* when requesting consideration of legal enforcement for attendance by the Local Authority (LA)

1.1 Introduction

Early intervention by schools to improve and maintain good attendance and reduce persistent absence levels is crucial for the well-being of children and young people. If early intervention is not successful however then, prior to any statutory intervention being carried out by the LA, there is a requirement for schools to have followed their own School Attendance Procedure ('fast track'). (**See Appendix 3; Leg 1a, Pg 25**).

This **must** also include a referral having been made to the LA's Prevention Service (PS) to offer support to the young person and their family. This ensures that families receive the help and support they need; addressing problems that are beyond the capacity of the school to deal with unaided, but also enables the building up of a comprehensive portfolio of evidence should legal action be required at a future date. (**Appendix 2; School Attendance Pathway V3, Pg 16**).

If there is no improvement in attendance following all support offered, the appropriate manager in the Prevention Service will refer to the LA's Attendance and Enforcement Officer (A&EO) for consideration of legal action. This process includes consultation with schools and other agencies. (*Where appropriate, schools may also directly consult with one of the A&EO's at this stage*). If legal action is required then a PACE Formal Caution Interview will be arranged with the school and parent(s) and will be chaired by the appropriate Attendance and Enforcement Officer.

(If consent from the family is not possible for a referral to the PS or the referral does not meet thresholds for support, please liaise with your named locality Area Prevention Manager (APM) for advice. If the family is an open case to Children's Social Care (CSC), rather than the Prevention Service, a consultation will need to take place with the relevant Team Manager from CSC).

There are only a limited set of circumstances when the above process is not required to be followed in full, e.g. when a Penalty Notice is to be issued for taking unauthorised leave of absence in term time where there are no exceptional circumstances.

Statutory intervention by the LA must always follow the Crown Prosecution Service (CPS) Code for Crown Prosecutors*** and have due regard to the Human Rights Act.

* 'schools' throughout this document refers to state funded, independent, academies, free schools and pupil referral units

** (P)olice (A)nd (C)riminal (E)vidence Act 1984 - when there are grounds to suspect that a person has committed an offence, you must caution them before any questions about it are put to them to ensure that the answers (or any failure to answer) are capable of being admissible in evidence in a prosecution.

*** Prosecutors may only start a prosecution if a case satisfies the test set out in the Code for Crown Prosecutors. This test has two stages: the first is the requirement of evidential sufficiency and the second involves consideration of the public interest.

The following is information regarding sanctions available and the requirements and standards which must be met by schools to enable the LA to carry out its statutory duties.

1.2 A brief overview of sanctions available to the LA

- **Prosecution through the Magistrates Courts (with or without an ancillary Parenting Order)** - applied in cases where parents/carers are not complying with the Education Act 1996 s444 (1) or (1A - aggravated offence), by failing to ensure that their child(ren) of compulsory school age attend school regularly and punctually and that some or all of these absences are deemed as unauthorised absences under the Education (Pupil Registration) (England) Regulations 2006. **(See 3.1, Pg 7)**

Alternatives to prosecution are also available to the LA which include the following:

- **Education Supervision Order (ESO)** - pursued through the Family Courts (Children Act 1989, Section 36, Education Act 1996 Section 447). In law, the LA is under a duty to consider applying for an ESO prior to pursuing a prosecution and should be used when there are significant welfare concerns as well as educational issues **(See 3.3, Pg 9)**
- **Penalty Notice (PN)** – issued as an alternative to prosecution where it is established that an offence under Section 444 (1) of the Education Act 1996 has been committed and also in cases of a child being seen in a public place, without justification, in the first five days of an exclusion **(See 3.4; Pg 11, LA's Code of Conduct for the use Penalty Notices, Pg 55-59)**
- **School Attendance Order (SAO)** - pursued under the Education Act 1996 Section 443, naming a school in the Order. This is applied by the LA when a child is not registered at any educational provision and the parent fails to evidence that any education has been provided otherwise (e.g. Elective Home Education) **(See 3.5; Pg 13)**

NB: *if a child is looked after by the local authority these sanctions cannot be applied*

1.3 Relevant legislation

Education Act 1996
Children Act 1989 and 2004
Crime and Disorder Act 1998
Police and Criminal Evidence Act 1984
Anti-Social Behaviour Act 2003
Education and Inspections Act 2006

Section 2 - Summary of recommended early intervention and School Attendance Procedure ('fast track')

Stage 1

2.1 Early Intervention

Requirements of schools

In accordance with Ofsted Inspection guidelines there should be a clear escalation of intervention to address absence from the first day. Some or all of the following planned intervention should therefore commence as early as possible in those cases where it is identified to be appropriate:

- telephone calls, letters, home visits (***see Appendix 3; Early Intervention - Letters 1,2,3, Pg 20 - 22***)
- meetings in school, alternative education packages/programmes, referral to other agencies
- referral into the LA's Prevention Service

The next stage of the procedure should be commenced if there is no improvement in attendance or engagement with support by the parent/child.

Stage 2

2.2 School Attendance Procedure ('fast track') (See Appendix 3; Leg 1a, Pg 25)

Requirements of schools

If the attendance of a child in the current school year (also the preceding summer term if appropriate) includes evidence of unauthorised absence and/or early intervention not achieving the required improvement, then it is recommended that the following procedure be followed:

- An **Initial Warning Letter** (***Appendix 3; Leg 1, Pg 24***) should be issued to parents (which must include the intention of possible legal action being pursued). A copy of the Time Restricted Attendance Procedure (***Appendix 3; Leg 1a, Pg 25***) and 'Information for Parents/Carers' booklet (***CYPS.Info Website – School Attendance***) should be included with the letter.

Normal first day response, telephone calls and letters should continue to be implemented by the school. Absences deemed to be for justifiable reasons should also continue to be authorised.

There should follow a minimum of a 10 school days monitoring period. If the attendance of the child has not improved to the required standard, with further evidence of unauthorised absence, then the case should be progressed as follows:

- A **Panel Meeting** should be held (**Appendix 3; Leg 2 and Leg 3, Pg 26 - 31**). At the commencement of the meeting parent(s) must be made clearly aware that the meeting is part of a formal attendance procedure which could lead to legal intervention by the LA. A support plan should be formulated to address any problems the young person/family may be experiencing with attendance targets and timescales set. If the actions agreed are signed by the parent, school and other agencies involved (who should be invited to the meeting) then this then constitutes a **Parenting Contract**.
- If parents do not attend the Panel Meeting, and do not supply a reason why, then a support plan can be drawn up in their absence and a copy sent by 1st Class post (legally served) with a covering letter
- **Review Meeting/s** should only be arranged if there has been evidence of progress made but targets not completely met, especially if there has been a number of (T)eam (A)round the (C)hild/Developing Stronger Families meetings already held through support from the Prevention Service (or Core Group Meetings if open to Children's Social Care).

Stage 3

2.3 Consultation/Portfolio of Evidence

Requirements of the LA

Where very little progress or engagement by the parent/child has been evidenced through school or Prevention Service provision, then the Attendance and Enforcement Officer will be contacted by the relevant Area Prevention Manager or CSC Team Manager for consideration of statutory intervention by the LA. School's evidence will be part of this consultation. (*When appropriate, schools may also consult directly with the A&EO at this stage*). If agreed a **PACE Formal Caution Interview (Appendix 3; Leg 7, Leg 8 and Leg 9 Pg 32 - 37)** will be arranged with the school and the parent(s) and chaired by the Attendance and Enforcement Officer.

Requirements of schools

Please note that, if the requirement for statutory intervention is to be assessed, there will need to be a **portfolio of evidence** from the school that the above strategies have been applied.

The portfolio should include all documentation from early intervention, e.g. recording of home visits, telephone calls and copies of letters sent. (*This information will be required for inclusion in the school's Witness Statement should a prosecution be pursued at a later date*). Also all documentation from the School Attendance Procedure ('fast track') should also be included, e.g. Initial Warning Letter and Minutes of Panel Meeting/Reviews, Parenting Contracts/Support Plans, as they may be required as evidence and be presented to the court as exhibits. (**see Section 3, Pg 7 - 13**).

NB: *all contact needs to be recorded as soon as possible following intervention as this constitutes 'contemporaneous notes'. In the event of a not guilty plea, if referral to*

them is required when giving evidence in court, the magistrate may ask if this is the case.

Stage 4

2.4 PACE Formal Caution Interview

Requirements of the LA

Following agreement that there is sufficient evidence to proceed to the next stage, a **PACE Formal Caution Interview** will be arranged and chaired by the Attendance and Enforcement Officer when the parent will be cautioned under the Police and Criminal Evidence Act (1984).

A decision will be made from this interview regarding the most appropriate way forward, i.e. an Education Supervision Order is pursued through the Family Court, a Prosecution is pursued through the Magistrates Court under s444 (1) or (1A) or a Penalty Notice Warning Letter is issued as an alternative to prosecution. If new evidence comes to light at the interview it may be that no legal action is taken at that time and a Review Meeting date is set. **(see Section 3; Pg 7 - 13)**.

NB: *The information (regarding the offence) contained in the Summons served on the parent/carer(s) cannot be more than **six months** prior to being laid before the Magistrates (in accordance with the Statutes of Limitations).*

Section 3 – A complete outline of Legal Enforcement options with School/LA responsibilities

3.1 Prosecutions under the Education Act 1996 s444 (1) and (1A)

For the LA to take forward a prosecution in the Magistrates Courts a PACE Formal Caution Interview must have taken place with the decision following the interview being to pursue a prosecution against the parent/carer (s) under s444 (1) – a Level 3 offence with up to a £1,000 fine, or a s444 (1A) a Level 4 ‘aggravated’ offence with up to a £2,500 fine and /or 3 months imprisonment, or a Community Order.

Requirements of schools

The school will be responsible for submitting the following:

- A Certificate of Absence, providing evidence of unauthorised absence, completed and signed by the Head teacher **(Appendix 3; Leg 10, Pg 38)**
- In collaboration with the Attendance and Enforcement Officer, a Witness Statement (s9 of the Criminal Justice Act 1967) completed and signed by the Head teacher/school case worker **(Appendix 3; Leg 11 - Model Witness Statement, Pg 39)**

- Based on intervention by the school, the body of the witness statement will need to include information regarding dates of letters sent, meetings, home visits (number of) and their outcomes i.e. whether the parent was available, what explanations for absence were discussed, how the needs of the child and family were assessed and expressed needs met, level of engagement from the parent and child with support offered, whether meetings were attended during the attendance process, targets set, strategies used, (other agencies involved where appropriate), evidence of what progress was made and any mitigating circumstances identified and dealt with
- In the case of a s444 (1A) prosecution it will be necessary to have a more comprehensive written Witness Statement to prove the parent 'knowingly' failed to ensure the attendance of their child at the school where they are a registered pupil
- Documentation from the school's attendance 'case management' procedure (fast track) should already have been submitted to the LA at the consultation stage so they may be used as exhibits to lay before the court e.g. Initial Warning Letter, Minutes of Panel Meetings, Reviews and Parenting Contracts/Support Plans
- In the event of a 'not guilty' plea the case worker and or Head teacher may be required to attend court and be cross examined in the witness box with regard to the information presented in the statements submitted

Requirements of the LA

The LA will be responsible for the following:

- Gathering together all relevant Witness Statements from the school, Prevention Service or any other agencies involved
- Securing a Hearing date through the Magistrates Court listings system
- Completing and submitting all papers and administrative documentation with regard to the court process ('laying information before the Magistrates')
- Serving the Summons on the parent(s)
- Being the named Prosecutor on behalf of the County Council by attending court and presenting the case to the Magistrates (including Initial Hearings, Adjournments and Sentencing)
- Ensure all parties are kept informed of dates and outcomes

3.2 Parenting Orders

The court may make, or can be requested to make, a Parenting Order following a conviction for an Offence under Section 443 or 444 of the Education Act 1996. 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.

The requirements of a Parenting Order generally involve the attendance of the parent at a suitable Parenting Programme, either group or individual based, for a period of at least three months. The LA will assess the parent's level of engagement regarding compliance with the Directions of the court.

If the parent has been subject to a voluntary referral to an individual or group Parenting Programme, the outcome of this may have an impact on whether a Parenting Order would be an appropriate measure to be taken by the court at that time.

Alternatives to Prosecution

3.3 Education Supervision Orders

In law, prior to pursuing a prosecution in the Magistrates Court, the LA is under a duty to consider applying for an Education Supervision Order (ESO), through the Family Proceedings Court, as the child's educational provision must be considered in context with any wider family welfare issues. The LA may apply for the Order instead of, or as well as a prosecution, as a means of ensuring regular school attendance whether a child is enrolled at a school or not. In cases where a parent has been convicted of an offence under Section 443 (School Attendance Order) or Section 444 of the Education Act 1996 the court can direct the LA to apply for an Education Supervision Order unless an agreement has been reached between the LA and the Court that the child's welfare will be satisfactorily safeguarded without one. Once granted the ESO will normally be for the duration of one year.

Before proceeding, consultation must take place with Children's Social Care, with particular regard to assessments against child in need and child protection thresholds. This must form part of the decision making process as subsequently the court will pay particular attention to the Welfare Checklist (Section 1 (3) Children Act 1989) and, although it is rare, the court can recommend care proceedings be commenced if required.

The ESO is made in respect of a child in the Family Proceedings Court under the Children Act 1989 and makes the LA responsible (through an appointed Supervising Officer – usually the LA's Attendance and Enforcement Officer) for advising, supporting and giving Directions to the child and his or her parents in order to make sure that the child is properly educated. Directions may include for example, a requirement for the parent and child to attend meetings with the Supervisor, or with school support staff, to discuss the child's progress.

Where parents persistently fail to comply with the Directions, and those Directions are reasonable, they may be guilty of a Level 3 offence. In such circumstances the Supervising Officer must ensure that the matter is drawn to the attention of the Magistrates Court and, upon conviction, the parent will be liable to a Level 3 fine of up to £1,000. The Supervising Officer must also inform Children's Social Care (CSC) and, in such cases, CSC must investigate the circumstances around the child (s47 Assessment) and consider whether it is appropriate for them to take any action to secure the welfare of the child.

Requirements of schools

A report by the school and a certificate of absence will be required, providing information regarding attendance levels and previous assessment and strategies

implemented to address the underlying cause (s) of the poor attendance needs to be included in submissions to the court:

This can include:

- Pastoral support plans and /or parenting agreements/contracts
- Meetings with parents to discuss concerns (if this has been problematic this can be supported by a 'direction' in the application)
- In school support such as providing a Learning Mentor, implementing a re-integration plan or reduced time table or attending a home work club/careers advice appointment.
- Referral to other agencies (Prevention Service required)

The school will be called upon to agree responsibilities and to deliver the interventions included in the application documentation. The Intervention Plan formulated and put in place for the ESO will be needs and outcomes based with the views and wishes of the parent and child taken into consideration.

Requirements of the LA

The relevant application forms will be completed together with an accompanying statement to the court. It should address the welfare checklist and information under the following headings:

- The child or young person's record of attendance
- Relevant details of the child or young persons circumstances, including age, gender, background and any physical, emotional or educational needs
- The causes of poor attendance, including a medical certificate if necessary, and should indicate attitudes of the child, parents, schools and other agencies toward the poor school attendance
- A description of the work undertaken and its results including an assessment of any likely educational disadvantage should an order not be made
- The intended intervention including targets for timing and monitoring and why it is believed such a programme of work will help to resolve the problem
- Particular factors such as the young person's religious persuasion, racial origin or cultural and linguistic background

It is necessary to provide evidence to the court that the requirement to consult with Children's Social Care and other agencies has been met. A multiagency meeting can be used as part of the consultation process although consent based support will not necessarily become part of the Order.

Once an application for an ESO has been submitted, Cafcass will be put in place by the court who will act as a guardian for the child, and a date will be set for a Direction Hearing.

The subsequent appointed Supervising Officer will monitor progress and ensure compliance of the child and the family with the Order; taking responsibility for returning the case to court if the conditions of the Order are breached.

3.4 Penalty Notices

Overview

Penalty Notices can be issued where there are unauthorised absences for the following: overt truancy, parentally condoned absence, persistent late arrival after the close of registration and the deliberate taking of a leave(s) of absence without school's permission.

Under legislation, all schools, LA's or the Police can potentially issue Penalty Notices but at issue they must comply with the LA's Code of Conduct for the use of Penalty Notices and be administered by the LA.

A Penalty Notice (PN) is an alternative to a Prosecution in the Magistrates Court, when an offence under the Education Act 1996 s444 (1) has been committed by the parent (s). It is a fine of £60 if paid within 21 days of issue rising to £120 if not paid after 21 days but within 28 days of issue. *(It would be unlikely that a Penalty Notice would be offered as an alternative to a Prosecution other than for a first offence, therefore proceeding under a s444 (1A), if not paid, would also be unlikely).*

A 15 day Warning Letter will be issued initially. This will have followed as a recommended outcome of a PACE Formal Caution Interview/LA Panel Meeting and informs the parent that, if their child has any further unauthorised absence in the stated 15 school day monitoring period, it will result in a Penalty Notice being issued.

NB: In the event of the deliberate taking of leave of absence without schools permission (Holiday in Term Time) the PACE Formal Caution Interview and the 15 day Warning Letter is not required but there must have been a minimum of 10 sessions unauthorised absence in the preceding four months. (Cyps.Info Website – School Attendance; LA's Code of Conduct for the use of Penalty Notices, Pg 55 - 59).

Exclusions

Under the Education and Inspection Act 2006 Sections 103 to 105 and the Anti Social Behaviour Act 2003, the parents of pupils excluded from school can also be issued with a Penalty Notice if their child is found in a public place during the first five days of exclusion without a justifiable reason.

Requirements of schools - Penalty Notices for irregular attendance (excluding unauthorised leave of absence (holiday in term time)

All the relevant criteria are required to be met prior to issue and information supplied to the LA in the following manner:

- Evidence that the circumstances of the pupil's absence meets all the requirements of the LA's Penalty Notice Code of Conduct (as above)
- The procedure for a PN should only be commenced following a decision from a PACE Formal Caution/LA Panel Meeting (fast track) and therefore will have evidence of previous casework having been delivered including a referral and/or consultation with the LA's Prevention Service (or CSC if appropriate)

- The family circumstances/ability to pay is set against the likelihood of securing improved attendance, (the fine is not means tested as in a Prosecution)
- The LA has issued a 15 day warning letter (notification of possible issue of PN) and there has been further unauthorised absence in the stated monitoring period
- The issuing of the Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being processed by the LA or other agencies

Documents required (to be used in the event of non-payment of the fine):

- Certificate of Absence signed by the Head teacher with evidence of unauthorised absences (**Appendix 4; PN 2, Pg 42**)
- In collaboration with the LA, a Witness Statement (s9 of the Criminal Justice Act 1967) is required to be completed and signed by the Case Worker/Head teacher (**Appendix 4; PN 3 Model Witness Statement, Pg 43**)
- Copies of the Initial Warning Letter and Attendance Panel Meeting/Review Meeting notes (to be used as exhibits)

Requirements of the LA:

Where the criteria are met and it is established that an offence under s444 (1) of the Education Act 1996 has been committed following the PACE Formal Caution Interview the LA will:

- Issue a formal written Warning Letter to the parent of the possibility of a Penalty Notice being issued setting a period of 15 school days within which the child must have no further unauthorised absence (**Appendix 4; PN 1, Pg 41**)
- Issue the Penalty Notice through the post at the end of the 15 day period if the required level of attendance has not been achieved
- Process the payment of the Penalty Notice which is £60 if paid within 21 days of issue or £120 if paid after 21 days but within 28 days of issue
- The LA retains any revenue from Penalty Notice's to cover administration costs
- Non-payment of a Penalty Notice will trigger the Prosecution process under the provisions of the Education Act 1996 Section 444 (1) for the unauthorised absence of the child during a specified period (not the non-payment of the fine, although this will be used as part of the evidence)

Documentation required by the LA for other specific types of Penalty Notices to be issued:

1.Unauthorised Leave of Absence (Holiday in term-time)

- **Certificate of Absence** - signed by the Head teacher with evidence of the required threshold of unauthorised absence having been met (a minimum 10 sessions or more in a block or amalgamated over a period of 4 months). (**Appendix 4; PN 4, Pg 44**)
- **Registration Certificate (electronic) for a minimum of the previous six months attendance** (this may straddle two academic years)

- **Witness Statement** - completed and signed by the Head teacher. (**Appendix 4; PN 5, Pg 45) Model Witness Statement** (to be used in the event of non-payment of the Penalty Notice)
- **Application form** - for leave of absence in exceptional circumstances (**Appendix 4; PN 6, Pg 46 - 47**)
- **Notification letter** - to the parent regarding un authorisation of the leave (if possible), (**Appendix 4; PN 7, Pg 48**)

(A Penalty Notice can still be issued without an application form having been submitted by the parent as long as the subsequent Witness Statement provides evidence that the leave was taken without the authorisation of the school and the parent was aware that the leave would not be authorised, e.g. by school newsletters).

2. Fixed Term or Permanent Exclusion

- **Witness Statement** - providing evidence from the person who observed the student in a public place during school hours without justification. (*School premises are not deemed to be a public place in this context - Section 547 Education Act 1996*). (**see Appendix 4; PN 9, Pg 50**)
- **Written confirmation letter** - sent to the parent by school outlining parents responsibilities regarding the exclusion (**see Appendix 4; PN 10, Pg 51 - 54**)

NB: All documentation for type 1 & 2 Penalty Notices, as above, should be forwarded by e-mail to safeguardingunit@northyorks.gov.uk or by post to Rm SB114, Safeguarding Unit, County Hall, Racecourse Lane, Northallerton, North Yorkshire, DL7 8AD.

3.5 School Attendance Orders

A School Attendance Order will be used by the LA when a child is not on roll at any school and there is reason to believe that the parent is not ensuring their child is receiving an efficient full-time education suitable to their age, ability, and aptitude and any special educational needs they may have. Notice is given to the parent by letter to provide evidence of educational provision otherwise than at school e.g. Elective Home Education. If this is not complied with, then a Notice of Imminent Order requesting the parent identify a school is issued. If there continues to be no further evidence of educational provision by registration at a school or otherwise then the Order will be issued by the LA directing the parent to make arrangements for their child to be admitted to the school named in the Order.

If the parent fails to comply with the requirements of the Order they are guilty of an offence under Section 443 of the Education Act 1996 and, if found guilty, can be fined up to £1,000 in the magistrates courts.

NB: Before instigating proceedings for this offence, if the Order is breached, the LA is required to give consideration to an ESO when wider welfare concerns are evident).

3.6 Cross Border Arrangements

The local authority in which the child attends school has the responsibility to take forward any required statutory intervention for school attendance issues. If a child lives in a different county to where they attend school then support services are required to be provided by the authority in which the child lives.

Section 4 – Other recommended Standards

4.1 Consent

For statutory intervention i.e. legal procedures, the LA does not require consent to contact/intervene with parent(s)/carer(s) although it is good practice for the school to keep them informed of the process.

4.2 Recommended Minimum Recording Standards

When completing any record of contact, the following standard should be adhered to:

- Record date and type of contact i.e. Home Visit, Telephone call, School visit, Meeting, Correspondence (letter or e-mail)
- Record who was present, who did you speak to
- Include purpose of contact
- Record all discussion held including: any observations (objective), outcome of contact, any agreed actions
- Record who is responsible for what
- Record required time scales for completion of the task
- All recording should be factual and evidence based
- Record what decisions were made/reasons why
- If you are expressing an opinion you should state it is your opinion and qualify it
- Sign and date all individual entries
- If contact recording is not electronic it should be legible and in ink
- Recording should be carried out as soon as possible after the contact is made. (Recording constitutes contemporaneous notes for legal purposes and if you need to refer to your file in court you may have to declare to the magistrates that this was the case)
- All documentation should be stored confidentially and safely; preferably in an individual file for each child

April 2016

Appendix 1

Extract of Education Act 1996 - Section 444 offence - failure to secure regular attendance at school of registered pupil

1) if a child of compulsory school age who is a registered pupil at the School fails to attend regularly at the school, his *parent is guilty of an offence

1A) if in the circumstances mentioned in sub section (1) the parent knows that his child is failing to attend regularly and fails to cause him to do so, he is guilty of an 'aggravated' offence

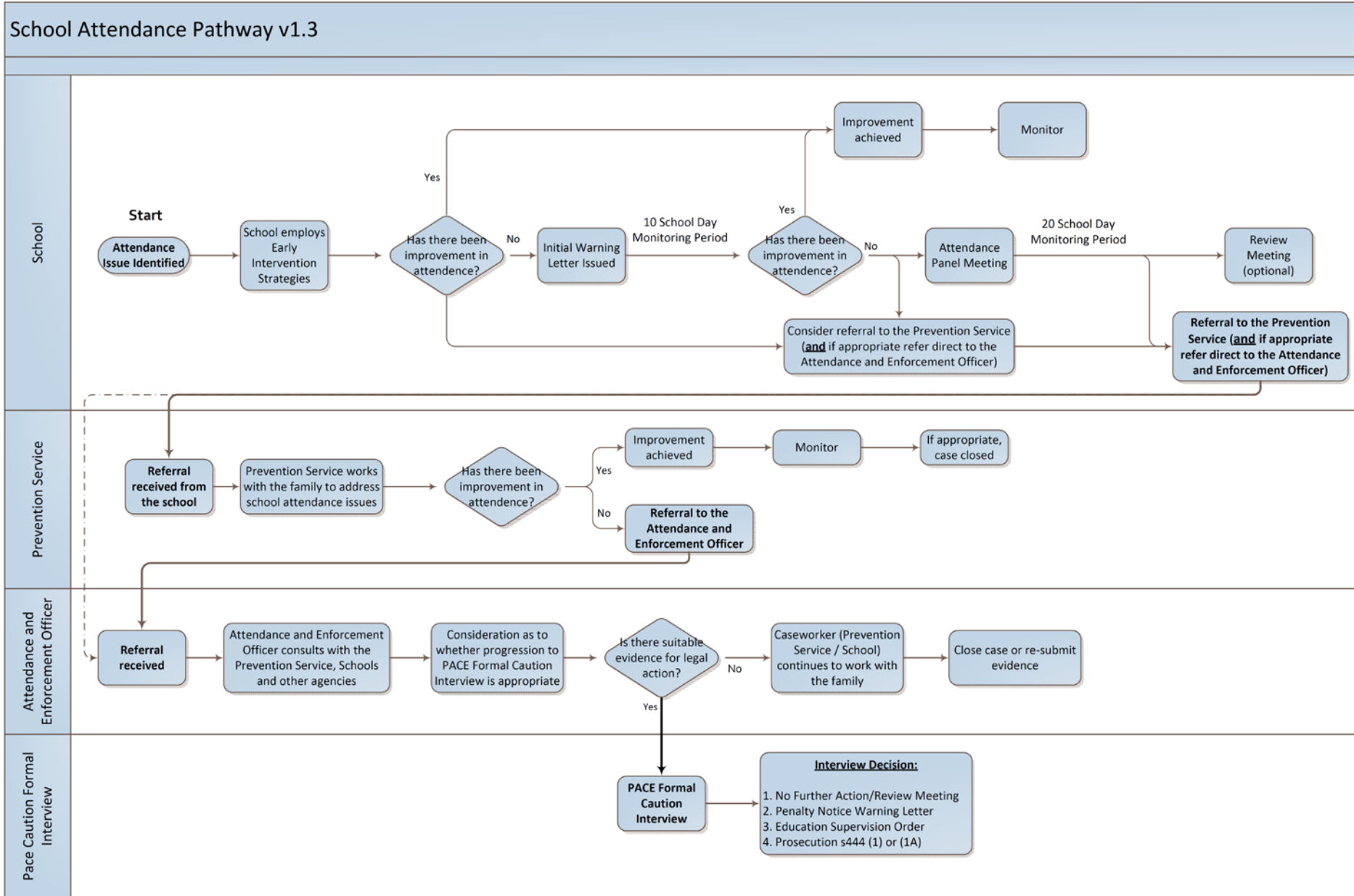
1B) it is a defence for a person charged with an offence under subsection 1A to prove that he had reasonable justification for failure to cause a child to attend regularly at the school

** The term "parent" means anyone who 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 a young person (Section 576 of the Education Act 1996).*

No offence is committed if the parent proves any of the following statutory grounds:

- the pupil was ill or prevented from attending by any unavoidable cause
- the pupil's absence was authorised by the school or, in the case of alternative, by a person authorised to grant leave by the school or local authority as appropriate
- the absence was on a day exclusively set aside for religious observance by the religious body to which the parent belongs
- the local authority are under a duty to provide transport to the school and have failed to do so or in certain circumstances, that the school is not within walking distance of the child's home and the local authority has made no suitable arrangements for; 1) the child's transport to and from school unless it is a non-qualifying independent school 2) enabling a child to attend a school nearer to their home (under the age of 11 years; two miles, above 11 years; three miles)
- if the child is receiving education otherwise than by regular attendance at school
- the parent can show that their trade or business requires them to travel and the child has attended school as regularly as the trade or business permits and if (the child is 6 or over) the child has attended school for at least 200 sessions during the preceding 12 months from the date on which the proceedings were instituted

Appendix 2



Appendix 3 - Attendance

Index of Templates and Proforma - Early Intervention, School Case Management 'fast track' and LA intervention

Early Intervention	Letters/Forms	To	Responsible
Letter 1 (Pg 20)	Lateness letter	Parent	School
Letter 2 (Pg 21)	Under% letter	Parent	School
Letter 3 (Pg 22)	Contact letter	Parent	School
School Attendance (case management – 'fast track') Procedures	Letters/Forms	To	Responsible
Leg 1, Leg 1a (Pg 24,25) Information for Parents/Carers–Rights and Responsibilities (Cyps.Info Website – School Attendance)	Initial Warning Letter School Attendance Procedure/Information for Parents/Carers	Parent	School File
Leg 2 (Pg 26)	Attendance unsatisfactory Invite to Attendance Panel Meeting	Parent/ other agencies	School
Leg 3 (Pg 27,28)	Attendance Panel Meeting Pro forma	Parent/School	School, other attendees
Leg 4 (Pg 29)	Letter and Notes of Meeting	Parent/File	School
Leg 5 (Pg 30)	Failure to attend Panel Meeting	Parent	School

School Attendance (case management) Procedure (fast track)	Letters/Forms	To	Responsible
Leg 6 (Pg 31)	Required level of attendance achieved – monitor	Parent	School
Leg 7 (Pg 32)	Letter of Invite to PACE Formal Caution Interview/LA Panel Meeting	Parent	LA
Leg 8 (Pg 33-36)	Transcript of PACE Caution Formal Interview/LA Panel Meeting	Parent	LA/File/School
Leg 9 (Pg 37)	Letter of decision from PACE Formal Caution Interview/LA Panel Meeting	Parent	LA/File/School
Leg 10 (Pg 38)	Certificate of Absence	Attendance and Enforcement Officer	School
Leg 11 (Pg 39)	Model Witness Statement	Attendance and Enforcement Officer	School

Early Intervention

Letter 1

Date:

Dear Mr/Mrs/Ms

Name:

D.o.b:

School:

Please find enclosed a copy of your child's registration certificate. There are concerns regarding the amount of times your child is registered as late for school.

Please note that arrival after the close of registration* is classed as an unauthorised absence. Under the Education (Pupil Registration) (England) Regulations 2006 these absences could be used as evidence against you if legal action were to be considered by the Local Authority under Section 444 of the Education Act 1996.

National statistics show that poor time keeping seriously affects a young person's chance of achieving their full potential. Arriving late may mean that your child misses important instructions for the day and can lead to feelings of isolation and disengagement from learning.

I hope that you will make the necessary arrangements to ensure that your child arrives at school on time in the future.

Yours sincerely,

School Staff

Letter 2

Date:

Dear Mr/Mrs/Ms

Name :

D.o.b:

School :

I wish to draw your attention to the enclosed registration certificate for your child. He/she has only achieved % attendance so far this academic year. As an acceptable level of attendance is a minimum of%,(school target) the school are concerned about this level of absence.

Irregular school attendance may have a serious impact on your child's academic progress if it is allowed to continue and you as parent are legally responsible to ensure that his/her regular and punctual attendance is maintained.

We understand there may at times be unavoidable, genuine reasons for your child's absence of which the school should be informed as soon as possible.

However, if your child continues to have absences, you may be requested to provide medical or other evidence before any further absence can be authorised. Medical evidence should be in the form of a doctor's note, appointment card or prescription.

Should you have any queries, or require further support, please do not hesitate to contact me on the above telephone number.

Yours sincerely,

School Staff

Letter 3

Date:

Dear Mr/Mrs/Ms

Name:

Dob:

School:

There are concerns regarding your child's attendance this current academic year which currently stands at%. This level of attendance is below the threshold by which the Department for Education (DfE) defines a pupil as being a persistent absentee (...) and can seriously affect your child's academic progress if allowed to continue.

All parents who have children of compulsory school age have a legal responsibility to ensure that they receive an efficient education.

Parents whose children are registered at school are therefore responsible for ensuring that they attend regularly, punctually and stay in school during school hours. Failure to do so is an offence under Section 444 of the Education Act 1996.

I would like to discuss this matter further with you, with a view to looking at ways we can work together to improve the situation.

Please contact me on the above telephone number to arrange a mutually convenient time to meet.

Yours sincerely,

School Staff

School Attendance Procedures ('fast track')

Leg 1

Date

Dear Mr/Mrs/Ms

Initial Warning Letter

Re:.....**D.o.b:**.....

School:.....

As your child's current attendance stands at%, (so far this academic year), it falls below the threshold of a persistent absentee as defined by the Department for Education (.....). The absences also include unauthorised absences under the Education (Pupil Registration) (England) Regulations 2006.

Your child's attendance will now be closely monitored by the school for the next 10 school days. Should’s attendance continue to be of concern it will become necessary to arrange an Attendance Panel Meeting, in accordance with the next stage of the formal School Attendance Procedures, which you will be expected to attend bringing your child with you if requested.

Any further absence your child may have due to illness must now be supported by medical evidence before authorisation is possible by the school and it remains your responsibility to provide this evidence.

May I remind you that it is the legal duty of those with parental responsibility to secure the regular and punctual attendance of their child at school.

Failure to do so is an offence under the Education Act 1996 Section 444 (1) or (1A) and, following referral to the Local Authority for statutory intervention, may be dealt with by prosecution in a Magistrates Court, a Penalty Notice being issued of £60 if paid within 21 days rising to £120 if paid after 21 days but within 28 days (if the conditions of a 15 day Warning Letter are not adhered to), or an application made to the Family Courts for an Education Supervision Order under Section 36 of the Children Act 1989. You will have the right to pursue your own legal representation regarding the above.

Should you wish to discuss this matter further, please do not hesitate to contact me on the above telephone number.

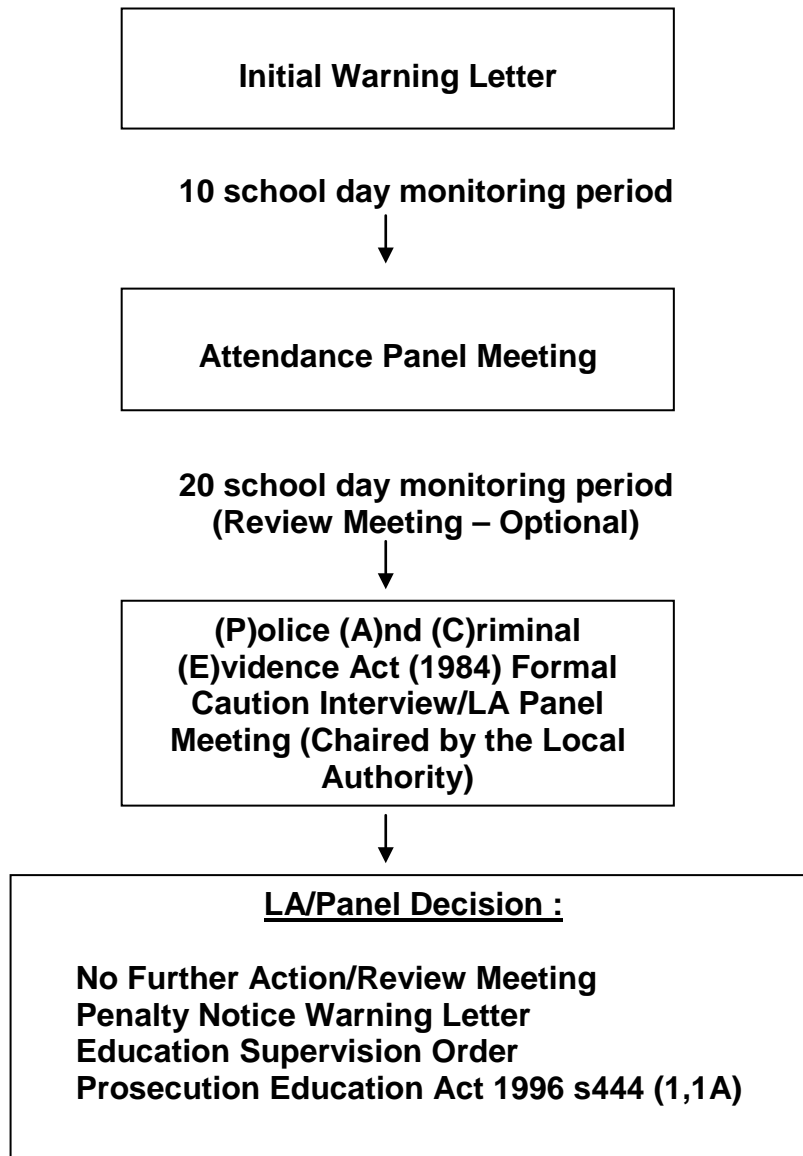
Yours sincerely,

Head teacher

Encl: School Attendance Procedure – Time restricted
Information for Parents – Rights and Responsibilities

School Attendance Procedure – Time restricted (Leg 1a)

The following procedure will be undertaken by the school. Should there be no significant improvement in your child's attendance and unauthorised absence continues to be recorded.



If at any stage in the above procedure your child's attendance improves significantly the school will not proceed to the following stage. (Normally...% (school target) and above during the monitoring period).

However, your child's attendance will continue to be monitored by the school and should there at any time in the future become further concerns the above procedure will be continued onto the next stage or recommenced from the first stage depending on the situation.

Leg 2

Your ref:

Our ref:

Please Call:

Direct line:

Date :

Dear Mr/Mrs/Ms,

Name:.....**D.o.b:**.....

School:.....

An Initial Warning letter was issued to you on..... Unfortunately, the attendance of your child continues to be unsatisfactory despite this and other numerous contacts made with you by school support staff and/or other agencies.

It is now necessary to arrange an **Attendance Panel Meeting** to be held at **School, on** **at**in accordance with the formal School Attendance Procedures. Would you please bring.....with you to the meeting or if in school he/she will be asked to join us (*if appropriate*).

It must be emphasised again that it is the duty of those with parental responsibility to secure the regular attendance of their children at school. Failure to do so is an offence under Section 444 (1) or (1A) of the Education Act 1996.

If you are unable to attend the meeting, please contact the school direct, to discuss an alternative time. If you fail to attend, and do not provide a reason, then this may be used as evidence of your unwillingness to cooperate and the meeting may go ahead in your absence. You may wish to pursue your own legal representation with regard to any of the above proceedings.

Yours sincerely

Head teacher

Leg 3

**ATTENDANCE PANEL MEETING
Parenting Contract/Support plan**

NAME OF SCHOOL: PANEL MEETING HELD ON:

PUPIL NAME: D.O.B:

ADDRESS:

(CHAIR):

PRESENT:

DETAILS OF PARENT(S) PRESENT:

Full names and D.o.b. of parent/carer(s) present:	Parent i)	D.o.b.
	Occupation:	
	Parent ii)	D.o.b.
	Occupation:	

AWARE OF PARENTAL RESPONSIBILITY/ENFORCEMENT PROCESS: YES/NO

ATTENDANCE DETAILS:

Timescale :

Possible : Authorised :

Actual : Unauthorised :

Percentage Attendance = %

SUMMARY OF DISCUSSION

ACTIONS AGREED: State what, by whom and by when

	Action Agreed	Who will carry out the action	By When
1	To achieve% attendance during the six week monitoring period following the meeting today (100% to be aimed for)	Parent / Child	Immediately
2	To notify school if child unable to attend / provide evidence to support future absences i.e. doctors appt. card / sight of medication with child's name and date, medical note	Parent to provide to school if child absent	For any future absences
3	To speak to designated member of school staff should there be any problems	Parent/Child Name of school contact.....	On going
4	Parent/Carer(s) to be available at appointment times agreed or make contact to re-arrange	Parent/Carer/Staff	As per arranged home/school visit
5			
6			

Attendance target set: % **Timescale:**

Timescales and Outcomes: To be reviewed on

- If targets are met there will be a period of further monitoring for six school weeks
- If targets are not met then, depending on the level of progress made, either a Review Meeting will be held or a Pace Formal Caution Interview will be arranged by the Local Authority

Signed :.....**(Parent/Carer)**

Signed :.....**(Parent/Carer)**

Signed :.....**(Pupil)**

Signed:.....**(School)**

Signed:.....**(other agency)**

Leg 4

Date

Address

Dear Mr/Mrs/Ms

Name of child :

Dob :

School :

Thank you for attending the Attendance Panel Meeting held on

.....at.....

Please read the enclosed copy of the notes of the meeting. It is important that you adhere to the action plan agreed by yourself and the school in order to maintain an improved attendance for.....

The situation will be reviewed on.....

If you wish to discuss any points arising from the notes or require further support, please do not hesitate to contact me on the above telephone number.

Yours sincerely,

Head teacher

Leg 5

Date :

Dear Mr/Mrs/Ms

Attendance Panel Meeting held on

Name of Pupil.....Dob.....

Registered Pupil atSchool

You were invited to an Attendance Panel meeting held on to discuss the unsatisfactory attendance of your child at the above school.

Unfortunately you failed to attend and, as no acceptable reason was offered by you, the meeting went ahead in your absence. Enclosed is a copy of the notes made at that meeting including information about the extent of your child's absences and a Parenting Contract/Support Plan which you are requested to sign and return if in agreement.

I have to advise you that under the Education Act 1996 parents have a duty to ensure that their child/ren attend school regularly and punctually. Failure to do so may result in the Local Authority considering taking legal proceedings against you. This could be in the form of an Education Supervision Order, Penalty Notice or pursuing a Prosecution in the Magistrates Courts under Section 444 (1) or (1A) of the Education Act.

You should be aware that if your child's level of attendance at school continues to be unsatisfactory, you do not keep arranged appointments with the school or fail to engage in any of the support agreed, the matter may be referred to the Local Authority and progressed to a **Pace Formal Caution Interview/LA Panel Meeting** without delay.

Yours sincerely

Head teacher

Leg 6

Date:

Dear Mr/Mrs/Ms

Child:

D.o.b:

School:

There have been serious concerns regarding’s attendance atschool which initiated the formal School Attendance Procedures.

As part of this procedure an Attendance Panel Meeting was held in school on Following that meeting you were required to ensure that your child reached a minimum of% attendance for the following 20 school days.

I am pleased to inform you thathas achieved the appropriate level of attendance for the recommended time period, therefore no further formal action will be taken at this point.

Please note, your child’s attendance will continue to be closely monitored in school. Should have further unauthorised absences, the attendance procedure may require to be recommenced, and further support will be made available to you at this time.

I would like to take this opportunity to thank you for your co-operation in this matter.

Yours sincerely

Head teacher

Leg 7

Date:

Dear Mr/Mrs/Ms

Re:**Dob**.....

School:.....

Pace Formal Caution Interview/LA Panel Meeting – INVITATION TO ATTEND

You were invited to attend an Attendance Panel Meeting/Review Meeting arranged by the above school on the..... Unfortunately your child’s attendance has not improved to the required satisfactory level agreed at that meeting.

As a consequence, in accordance with its statutory duties, it is now necessary for the Local Authority to arrange a Pace Formal Caution Interview/LA Panel Meeting.

The meeting will be held

at.....**on**.....**at**.....

The purpose of this Interview is to give you an opportunity to offer any reasons to justify or explain why you have not ensured an improvement in your child’s attendance.

As the Local Authority is now contemplating taking legal action against you, this Interview will be conducted under the terms prescribed by the Police and Criminal Evidence Act (1984) and you will be formally cautioned 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 may later rely on in court. Anything you do say may be given in evidence’.

You have the right to seek legal advice prior to this interview or request an interpreter or appropriate adult to attend with you.

We urge you to attend the meeting and please bring.....with you * (if secondary school age).

If you are not present, and you have not provided the authority with a reasonable explanation as to why you cannot attend, the meeting may still take place and a decision from the following will be made in your absence; no further action will be taken at this time/Review Meeting arranged, a Penalty Notice Warning Letter will be issued to you, an Education Supervision Order will be pursued through the Family Court (if not previously put in place) or a Prosecution through the Magistrates Court will be commenced under the Education Act 1996 Section 444 (1) or (1A).

If the stated time is not convenient, it is important you contact me on the above telephone number as soon as possible,

Yours sincerely,

Attendance and Enforcement Officer

Leg 8

**North Yorkshire Local Authority
POLICE AND CRIMINAL EVIDENCE
FORMAL CAUTION INTERVIEW/LA PANEL MEETING**

Child's Name and D.o.b:	
Date of Meeting:	
Venue:	
Present: Parent/Carer's Name & D.o.b: Occupation:	
Chair:	
Note taker/Witness:	
Others present:	
Interview Start Time:	

1. CHAIR: I wish to put to you some questions under S.444 of the Education Act 1996 in respect of attendance atschool between theand.....
Delivery of Caution "You do not have to say anything, but it may harm your defence if you do not mention, when questioned, something you may later rely on in court. Anything you do say may be given in evidence."
Do you understand the words of the Caution?

RESPONSE:

2. CHAIR: You are not under arrest and are free to leave at any time. You have a right to be legally represented. I note you are not. Are you happy to proceed?

RESPONSE:

3. CHAIR: What is your relationship to ?

RESPONSE:

4. CHAIR: Does live with you atIf not, where does he/she live and with whom?
What is your contact with_____)?

RESPONSE:

5. CHAIR: Is the distance from home to school more than 2 miles (child 7 years and under) or 3 miles (for a child of 8 years and over)?

If yes, is the school one you have elected for by way of parental preference?

Or if not, is transport provided by the LA?

RESPONSE

6 (a) CHAR: You attended an Attendance Panel Meeting held on _____.

Were you happy to sign the notes of the meeting to confirm them as a true record? OR If not, please give reasons and state why you did not raise these issues earlier.

RESPONSE:

OR

6(b) CHAIR: You did not attend an Attendance Panel Meeting arranged at _____ on _____ and the school received no apologies. Why was this?

RESPONSE:

7. CHAIR:’s attendance for the period under review currently stands at% with..... unauthorised sessions out of ...
..... possible attendances.

Are you aware your child has not been attending school? YES/NO
IF NO: Why not? / IF YES: What have you done to address this?

RESPONSE:

8. CHAIR:

Has your child been prevented from attending school on medical grounds during any of the days during the period under review? YES/NO

IF YES

**a) What medical evidence have you provided to the school to confirm their unfitness to attend?
and**

b) Do you have any other medical evidence in respect of these absences that you have not presented to the school.

RESPONSE:

9. CHAIR:

Have any of the absences during this period related to religious observance? If so, please specify dates and reasons.

RESPONSE:

10. CHAIR:

Has bullying ever been a reason for non-attendance during this period? If so, what have you done about it?

RESPONSE:

11. CHAIR:

Are there any Special Educational Needs which prevent your child attending regularly? If so, what have you done about it ?

RESPONSE

12. CHAIR:

Are any other agencies/workers involved with you in respect of your child. If so, who are they and what work are they undertaking?

RESPONSE:

13. CHAIR:

Is there anything further you wish to say regarding’s unauthorised absence from school.

RESPONSE:

The Local Authority will now be considering which option available to them is most appropriate in your case. No further action/Review Meeting, a Penalty Notice Warning Letter, an application for an Education Supervision Order, or a Prosecution under Section 444 1/1A of the Education Act 1996.

Interview Finish Time:	
------------------------	--

I DECLARE that the above notes are a true and accurate record of this meeting and fully understand the implications of this meeting. I have been informed that I can ask for legal advice from a solicitor and I confirm that the procedure has been explained to me.

Signed _____ Parent/Carer Dated _____

Signed _____ Parent/Carer Dated _____

Signed _____ Chair Dated _____

I DECLARE that I was present at the above meeting as a witness and note taker.

Signed _____ Dated _____

Designation.....

Decision:

EITHER	No further action/Review Meeting	<input type="checkbox"/>
	Education Supervision Order	<input type="checkbox"/>
	Penalty Notice Warning letter	<input type="checkbox"/>
	Prosecution of Parent(s)/Carer(s)* Section 444 (1) or (1A)	<input type="checkbox"/>
Summary of discussion points relating to decision made above: (this must include reasons for decision taken, in particular if an ESO is not felt appropriate please summarise reasons why in detail)		

Name of Attendance and Enforcement Officer: _____

Signed: _____ Date: ____/____/____

Leg 9

Date:

Dear Mr/Mrs/Ms

Pace Formal Caution Interview/LA Panel Meeting

Child :

School :

A Pace Formal Caution Interview/LA Panel Meeting was held on to consider the attendance ofat.....between..... 200.. and 200...

or

It is unfortunate that you did not attend the Interview to consider the attendance of at between.....200...and 200... Had you attended you would have been Cautioned under the terms of the Police and Criminal Evidence Act 1984. You would have had an opportunity to put forward anything you could then present in your defence or mitigation in Court. The meeting was held in your absence and a decision has been made as follows.

This letter confirms the decision of the Local Authority made at the meeting. The LA has decided that :

- no further action is to be taken at this point
- an Education Supervision Order is to be pursued
- a Penalty Notice Warning Letter is to be issued
- the case is to be referred for legal proceedings under Section 444 (1) or (1A) of the Education Act 1996 to be instigated against you in relation to your child's attendance between the above dates. (*this can include a request for an 'ancillary' Parenting Order*)

(delete as appropriate)

.....'s attendance will be closely monitored for a further 6 school weeks and support will continue to be offered to assist you*.

Please note that it remains your legal responsibility to ensure that your child continues to attend school regularly and punctually. Failure to do so could result in a further offence being committed. The court will be informed of any actions that you have taken to improve your child's attendance.

If you have any queries please do not hesitate to contact me onor school directly.

Yours sincerely

Attendance and Enforcement Officer

CERTIFICATE OF ABSENCE

Section 444 Education Act 1996

This form is to be completed by the Head teacher. It will be used in legal action under the above Act relating to the irregular school attendance of a registered pupil at the school.

I certify that..... date of birth..... is a registered pupil of compulsory school age, on roll at..... school and that they had unauthorised absence from school on or between the.....to.....

Week beginning:																		Totals
Possible number ½ days																		
Actual attendance																		
Unauthorised Absence																		
Authorised																		

To the best of my knowledge, the person(s) with parental responsibility for this pupil are:

1. First Name Surname Address
2. First Name Surname Address

Declaration

I am the Head teacher of the school named. I hereby certify that the information given in this form is true to the best of my knowledge. The information has been extracted from the school’s register of attendance which can be made available to confirm it is an accurate record.

Dated this.....day of..... 20...

Signature.....Name (printed).....

Leg 11 - Model Witness Statement

Statement of Witness

(Criminal Justice Act 1967, S.9; Magistrates Courts Act 1980, Ss5A(3)(a) and 5B; Criminal Procedures Rules 2010, Rule 27.1)

Statement of:

Occupation of witness:

Age of witness (if over 21 enter "over 21"): **OVER 21**

School Address:

This statement consisting of ... page(s) and corresponding exhibit(s) signed by me 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.

Dated the Day of 200.. Signed

..... age Years (d.o.b.....) is a registered pupil at school and is the child ofwho resides with him/her at.....

Between and, attended school on only sessions out of a possiblesessions. This equates to only% attendance. Under the Education (Pupil Registration) (England) Regulations Act 2006, of these absences are considered to be unauthorised. A copy of the Certificate of Absence is included (Exh 1).

..... was referred to due to concerns over his/her attendance. I have personally visited the home on occasions. I was unable to get a reply on occasions so I left calling cards, at the home highlighting the reason for my visit and asking for to contact me / spoke to Mr/Mrs/Ms..... during of the home visits. I was informed that the reasons why has not been attending school are..... / I was not offered any explanation as to why was not attending school. I have had no contact from Mr / Mrs

A letter was sent to detailing concerns over attendance on I received no contact to discuss attendance and there was no significant improvement so on An Initial Warning Letter was sent on.....(Exh 2).

..... attendance did not improve, therefore I invited Mr/Mrs/Ms to attend an Attendance Panel Meeting in school where a support plan was drawn up to help with attendance. (Exh 3). (Refer to points in plan e.g did parent/carer(s) attend?, did parents/child adhere to recommendations of the plan? was parent home at time of appointed home visits? what was discussed). Despite the strategies put in place (and agreed to), (including referral to the Prevention Service etc.) there was still no significant improvement in attendance. The matter was referred to the Local Authority and a Pace Formal Caution Interview was subsequently held in school on the ...(Exh 4) It was decided that the matter would be brought before the magistrates courts with regard to’s unauthorised absence. Mr/Mrs/Ms has continued to fail to ensure’s regular attendance to date.

Signed.....dated.....

Appendix 4 – Penalty Notices

Index of Templates and Proforma – Penalty Notices for irregular attendance, unauthorised leave of absence and a child being seen in a public place, without justification, during school hours in the first five days of an exclusion

Penalty Notices	Letters/Forms	To	Responsible
PN 1 (Pg 41)	15 Day Warning Letter	Parent	LA
PN 2 (Pg 42)	Certificate of Absence – Penalty Notice – Irregular attendance	LA	School
PN 3 (Pg 43)	Model Witness Statement – Penalty Notice – Irregular attendance	LA	School
PN 4 (Pg 44)	Certificate of Absence – Un authorised Leave of absence	LA	School
PN 5 (Pg 45)	Model Witness Statement - Penalty Notice - un agreed leave of absence	LA	School
PN 6 (Pg 46/47)	Application for Leave of Absence in Exceptional Circumstances	School/LA	School/Parent
PN 7 (Pg 48)	Letter – not authorising leave of absence	Parent/LA	School
PN 8 (Pg 49)	Letter – authorising leave of absence	Parent/LA	School
PN 9 (Pg 50)	Model Witness Statement – found in a public place (first five days of exclusion)	LA	School
PN 10 (Pg 51-54)	Model Letters – (Exclusion – first five days)	Parent/LA	School

PN 1 – 15 day Warning Letter

Please call:

Direct Line:

E-mail:

Date

Dear Mr/Mrs/Ms

Re: D.o.b:

School:

Under the Provisions of Section 7 of the Education Act 1996 it is the duty of all parents to ensure their children receive an efficient, full time education. This letter is issued under the terms of North Yorkshire Local Authority's Code of Conduct for the use of Penalty Notices.

I must formally to draw your attention that has been recorded as having ... school days of unauthorised absence in the previous 12 school weeks at the above school.

This letter formally warns you that if has any further unauthorised absence during the next 15 school days, you will be issued with a Penalty Notice for £60.00 if paid within 21 days, rising to £120.00 if paid after 21 days but within 28 days. **The 15 day period will commence on ..**

If a Penalty Notice is issued and you fail to pay the fine, you will then be prosecuted in the Magistrates Court for the offence of failing to ensure your child's regular attendance at school under the Education act 1996 s444 (1).

The school is unlikely to authorise future absences unless you provide medical evidence.

Please contact me if you wish to discuss the contents of this letter.

Yours sincerely

Attendance and Enforcement Officer

PN 2

**PENALTY NOTICE
CERTIFICATE OF ABSENCE**

Section 444 Education Act 1996

This form is to be completed by the Head teacher. It will be used in legal action under the above Act relating to non-school attendance of a registered pupil at the school.

I certify that..... date of birth.....is a registered pupil of compulsory school age, on roll at and that they had unauthorised absence from school on or between.....to..... for a reason that comes within North Yorkshire’s Code of Conduct for Penalty Notices.

Week beginning:																		Totals
Possible number ½ days																		
Actual attendance																		
Unauthorised Absence																		
Authorised																		

To the best of my knowledge, the person(s) with parental responsibility for this pupil are:

1. First Name Surname Address
2. First Name Surname Address

Declaration

I am the Head teacher of the school named. I hereby certify that the information given in this form is true to the best of my knowledge. The information has been extracted from the school’s register of attendance which can be made available to confirm it is an accurate record.

Dated this.....day of..... 20...

Signature.....Name (printed).....

PN 3 - Model Witness Statement (Unpaid PN for Irregular Attendance)

Statement of Witness

(Criminal Justice Act 1967, S.9; Magistrates Courts Act 1980, Ss5A(3)(a) and 5B; Criminal Procedures Rules 2010, Rule 27.1)

Statement of:

Occupation of witness:

Age of witness (if over 21 enter "over 21"): **OVER 21**

School Address:

This statement consisting of ... page(s) and corresponding exhibit(s) signed by me 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.

Dated the Day of **200..** Signed

..... d.o.b. (...yrs) is a registered pupil at ... school and is the child ofwho resides with him/her at.....

Between and, attended school on only sessions out of a possiblesessions. This equates to only% attendance. Under the Education (Pupil Registration) (England) Regulations Act 2006, of these absences are considered to be unauthorised. The Penalty Notice Certificate of Absence is included (Exh 1)

..... was referred to ... due to concerns over his/her attendance. I have personally visited the home on occasions. I was unable to get a reply on occasions so I left contact cards, at the home highlighting the reason for my visit and asking for.. to contact me / spoke to Mr/Mrs..... during of the home visits. I was informed that the reasons why has not been attending school are.. / I was not offered any explanation as to why ... was not attending school. I have had no contact from Mr / Mrs

A letter was sent to detailing concerns over attendance on ... I received no contact to discuss .. attendance and there was no significant improvement so on .. an initial warning letter was issued on...(Exh 2). attendance did not improve, therefore I invited Mr / Mrs to attend a Panel Meeting in school where a support plan could be drawn up to help with... attendance. (Exh3). (Refer to points in plan, did parents attend?, did parents/child adhere to points in plan? was parent home at time of appointed home visits? what was discussed).

Despite the strategies put in place, and agreed to, including support from the Prevention and Support Service, Mr/Mrs continued to fail to ensure....'s .regular attendance. Subsequently A Pace Formal Caution Interview was arranged in school by the Local Authority on.... (Exh 4). The decision of the meeting was that a Penalty Notice Warning Letter would be issued (Exh 5). Ashad further unauthorised absences within the 15 day warning period a Penalty Notice was subsequently issued by the LA. Despite reminder letters being sent the fine has remained unpaid to date therefore the matter is now being brought before the court with regard to the unauthorised absence.

Signed.....dated.....

PN 4 – Cert of Absence

**PENALTY NOTICE
CERTIFICATE OF ABSENCE
(UNAUTHORISED LEAVE OF ABSENCE)**

Section 444 Education Act 1996

This form is to be completed by the Headteacher. It will be used in legal action under the above Act relating to non-school attendance of a registered pupil at the school.

I certify that date of birth..... is a registered pupil of compulsory school age, on roll at School and that they had unauthorised absence from school on or between.....to.... for a reason that comes within North Yorkshire’s Code of Conduct for Penalty Notices for Un agreed Leave of Absence in exceptional circumstances.

Week beginning:																		Totals
Possible number ½ days																		
Actual attendance																		
Unauthorised Absence																		
Authorised																		

To the best of my knowledge, the person(s) with parental responsibility for this pupil are:

- 1. First Name Surname Address
- 2. First Name Surname Address

Declaration

I am the Head teacher of the school named. I hereby certify that the information given in this form is true to the best of my knowledge. The information has been extracted from the school’s register of attendance which can be made available to confirm it is an accurate record.

Dated this.....day of..... 20...

Signature.....Name (printed).....

PN 5 - Model Witness Statement (Unpaid Penalty Notice - Unauthorised leave of absence in term time)

STATEMENT OF WITNESS

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedures Rules 2010 – Rule 27.1)

STATEMENT OF:

AGE OF WITNESS: OVER 21

OCCUPATION OF WITNESS: Head teacher

ADDRESS OF SCHOOL:

STATEMENT:

This statement (consisting of _ pages) signed by me) 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.

..... D.o.b.... (yrs), is a registered pupil atSchool and is of compulsory school age. He/she is the child of..... who resides with him at.....
.....was absent from school for sessions between and the All of these were unauthorised absences due the taking of un agreed Leave of Absence in term time. The Penalty Notice Certificate of Absence (Un agreed Leave), is included.

.....applied to the school for the Leave of Absence on the,.....giving the reason as due to a family holiday. The decision to authorise a leave of absence is entirely at the discretion of the Head teacher whose decision is final. A family holiday is not deemed by the school as an exceptional circumstance in accordance with the DfE Guidelines (August 2013) therefore the absence was unauthorised.

A letter of confirmation was sent to by 1st Class Post on the
However, despite parent(s) knowing that the absence had not been agreed by the school, was not in school on the dates stated. Contact was also not possible with the family despite a home visit and two telephone calls being made during the period in question.

Subsequently, the absence was recorded as unauthorised, and a request was made to North Yorkshire Local Authority to issue a Penalty Notice on the

(Optional statement – e.g.) Year 11 is one of the most important times in a child's education and absence affects teaching, learning and revision for important exams.

Signed.....dated

PN 6

APPLICATION FOR PUPIL LEAVE OF ABSENCE IN EXCEPTIONAL CIRCUMSTANCES DURING TERM TIME

This form should be completed by the parent/carer and returned to the school as far in advance as possible and preferably at least **6 weeks** before the first date of the period of leave being requested. Parents/carers must obtain the schools permission **before making any arrangements for leave in exceptional circumstances, otherwise the absence will be recorded as unauthorised.**

No parent/carer can demand leave of absence as of right. The Education regulations state that applications for leave must be made in advance by a parent with whom the child lives and can only be authorised by the school in exceptional circumstances. Each application is considered individually by the school. The following are examples of the criteria for leave of absence, which may be considered as 'exceptional':

- Service personnel returning from active deployment
- Where inflexibility of the parents' leave or working arrangement is part of the organisational or company policy. This would need to be evidenced by the production or confirmation from the organisation/company
- Where leave is recommended as part of a parents' or child's rehabilitation from medical or emotional problems. Evidence must be provided
- When a family needs to spend time together to support each other during or after a crisis

Please note: Head teachers would not be expected to class any term time holiday as exceptional

This is not an exhaustive list and Head teachers must consider the individual circumstances of each case when making a decision on this matter. Where a Head teacher feels that there may be exceptional circumstances which do not fit the criteria, they may refer to the local authority for advice. The decision of the Head teacher is final. Parents who take a child on leave in term time without the permission of the school risk being issued with a penalty notice fine for unauthorised absences.

Taking a pupil on leave during term time interrupts teaching and learning and can disrupt educational progress. Before completing this application form parent/carers are asked to consider the effect on their child's continuity of education.

APPLICATION FOR PUPIL LEAVE OF ABSENCE DURING TERM TIME IN EXCEPTIONAL CIRCUMSTANCES

Name of pupil(s):

Full Name of Parent/Carer(s)

School:

Home Address:

Telephone No:

Siblings: (if different school)

Schools attending:

I request permission for my child to be absent from school

From.....To.....Total school days.....

Exceptional circumstances for request:

(this section must be answered in full and against stated criteria)

Signature of parent/carers.....Date.....

For school use only

Seen by Head teacher (signature).....Date.....

.

Decision reached.....

Date reply returned to parent (s).....

PN 7

Letter not authorising leave of absence.

Dear (*insert full name of parent/carer(s)*)

Refusal for exceptional leave in term-time.

I have considered carefully your request for leave in term-time and on this occasion I will not be authorising your child(ren)'s absence.

This is because (*insert reason*)

If your child(ren) do not attend school during the dates you requested (*insert dates*) the absence will be recorded as unauthorised and a request to issue you with a penalty notice will be made to the local authority

OR

If your child(ren) do not attend school during the dates you requested (*insert dates*) the absence will be recorded as unauthorised. As the un agreed leave does not amount to 10 sessions or more, a request to the Local Authority to issue a penalty notice will not be made at this time.

However, please note, that if further leave of absence is taken without the agreement of the school, and amounts to 10 sessions or more over a period of 4 months, inclusive of the current request, this can result in a penalty notice being requested.

A penalty notice of £60 is payable within the first 21 days and rises to £120 thereafter. The Local Authority will consider taking legal action if the penalty notice is not paid within 28 days of date of issue. Legal action may result in a fine of up to £1,000 and a criminal record for each parent/carer.

A copy of this letter will be placed on your child(ren)'s school file.

Yours sincerely,

Head teacher

PN 8

Authorising leave of absence

Dear *(insert full name of parent/carer)*

Re: Request for exceptional leave in term-time.

I have considered your request for leave of absence in term-time and I have agreed to grant permission on this occasion.

Your child(ren) *(insert names and dates of birth of pupil(s))* will be marked as *authorised absence from(insert dates)*. He/she/they are expected to return to school on *(insert date of return)*.

Please note, any further absence taken without permission beyond these dates will be recorded as unauthorised absence and could result in a penalty notice being requested from the Local Authority. Your child's school place could be at risk if he/she does not return to school up to 20 days after the agreed date of return. This would be following reasonable enquiries being made regarding your whereabouts.

A copy of this letter will be placed on your child(ren)'s school file.

Yours sincerely,

Headteacher

PN 9 - Model Witness Statement - Exclusion (found in a public place during first five days)

STATEMENT OF WITNESS

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedures Rules 2010 – Rule 27.1)

STATEMENT OF:

AGE OF WITNESS: OVER 21

OCCUPATION OF WITNESS:

ADDRESS OF SCHOOL:

STATEMENT:

This statement (consisting of _ pages) signed by me) 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.

I am (full name) and I am employed by(Occupation). I have held this position since(date). One of my responsibilities is to(brief description).

.....(Name of child), D.o.b, is a registered pupil at.....(school) and is of compulsory school age. He/she is the child of(name) and resides with her/him at.....(address).

On the(date),(Name of child) was in receipt of a Fixed Term/Permanent exclusion fromschool. Written notification of this was issued to parents/carers on.....(date). Within that notification it warned.....(Name of parents) that should(Name of child) be identified in a public place without reasonable justification during school hours between the dates of, then a Penalty Notice may be issued (Exh 1).

On(date) I identified(Name of child) as being in the skate park next to the school at.....(time) which was during school hours and between the dates pertaining to the first five days of the exclusion. Parents were contacted by.....(how contacted) on.....(date) but no justifiable reason was given to explain why(Name of child) was in a public place at that time.

Subsequently a request was made to the Local Authority to issue a Penalty Notice on.....(date).

Signed.....dated.....

Model letter 1

From Head teacher (or teacher in charge of a PRU) notifying parent(s) of a fixed period exclusion of 5 school days or fewer in one term, and where a public examination is not missed. NB – if the pupil's total excluded days for the term is more than 5 days please use Model letter 2.

Dear **[Parent's Name]**

I am writing to inform you of my decision to exclude **[Pupil's Name]** for a fixed period of **[specify period]**. This means that he/she will not be allowed in school for this period. The exclusion begins/began on **[date]** and ends on **[date]**.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[Pupil's Name]** has not been taken lightly. **[Pupil's Name]** has been excluded for this fixed period because **[reason for exclusion]**.

[For pupils of compulsory school age]

You have a duty to ensure that your child is not present in a public place in school hours during this exclusion on **[specify dates]** unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the local authority if your child is present in a public place during school hours on the specified dates. If so, it will be for you to

show reasonable justification.

[For pupils of compulsory school age]

We will set work for **[Pupil's Name]** to be completed on the days specified in the previous paragraph as school days during the period of his/her exclusion when you must ensure that he/she is not present in a public place without reasonable justification. **[Detail the arrangements for this]**. Please ensure that work set by the school is completed and returned to us promptly for marking. **[NB – if you are making provision from day 1 i.e. for Looked After Children – information should be given as to what provision will be made, the venue, the start and finish of the day and who they should report to on the first day]**

[School/PRU]

You have the right to make representations about this decision to the governing body/management committee. If you wish to make representations please contact **[Name of Contact – your Clerk to the Governor/Clerk of the Pupil Discipline Committee]** on/at **[contact details – address, phone number, email]**, as soon as possible. Whilst the governing body/management committee has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's school record.

[ALL]

You should also be aware that if you think the exclusion relates to discrimination (under the Equality Act 2010) you can also make a claim to the First-tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination). The address to which First-tier discrimination claims should be sent SEND, Mowden Hall, Staindrop Road, Darlington DL3 9DN.

[NB – Re-integration meetings are no-longer compulsory but the LA would suggest that they are seen as good practice - particularly for exclusions of 5 days or more]

You **[and your child or pupil's name]** are requested to attend a reintegration interview with me **[alternatively, specify the name of another staff member]** at **[place]** on **[date]** at **[time]**. If that is not convenient, please contact the school **to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed [not for parents of secondary aged pupils].**

You also have the right to see a copy of **[Pupil's Name]**'s school record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of **[Pupil's Name]**'s school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

You may wish to contact at **[LA name]** LA on/at **[contact details — address, phone number, email]**, who can provide advice.

You may also find it useful to contact Government funded helpline on exclusion matters which is provided by 'Coram Children's Legal Centre' (www.childrenslegalcentre.com). They aim to provide free legal advice and information to parents on education matters. They can be contacted on 0808 802 0008. The advice line is open from 8 am to 8 pm Monday to Friday, except Bank Holidays and 24th December to the 1st January. You may also wish to refer to the Department for Education Guidance on Exclusion which can be accessed by entering the DfE website (www.education.gov.uk/) and putting in a search on exclusions.

[Pupil's Name]'s exclusion expires on **[date]** and we expect **[Pupil's Name]** to be back in school on **[date]** at **[time]**.

Yours sincerely

[Name]

Head teacher

Model letter 2

From Head teacher (or teacher in charge of a PRU) notifying parent(s) of a fixed period exclusion of more than 5 school days in total in one term (where cumulative days excluded in the term are between 6 and 15 days in total)

Dear **[Parent's name]**

I am writing to inform you of my decision to exclude **[Pupil's Name]** for a fixed period of **[specify period]**. This means that he/she will not be allowed in school for this period. The exclusion begins/began on **[date]** and ends on **[date]**.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude **[Pupil's Name]** has not been taken lightly. **[Pupil's Name]** has been excluded for this fixed period because **[reason for exclusion]**.

[for pupils of compulsory school age - next 3 paragraphs]

You have a duty to ensure that your child is not present in a public place in school hours during the first 5 school days **[or specify dates if exclusion is for fewer than 5 days]** of this exclusion, that is on **[specify dates]**. I must advise you that you may be prosecuted or receive a penalty notice from the local authority if your child is present in a public place on the specified dates without reasonable justification. It will be for you to show that there is reasonable justification for this.

We will set work for **[Pupil's Name]** to be completed on the days specified in the previous paragraph as school days during the period of his/her exclusion when you must ensure that he/she is not present in a public place without reasonable justification. **[detail the arrangements for this]**. Please ensure that work set by the school is completed and returned to us promptly for marking. **[NB - if you are making provision from day 1 ie for Looked After Children — information should be given as to what provision will be made, the venue, the start and finish of the day and who they should report to on the first day]**

[if the individual exclusion is for more than 5 days]

From the 6th school day of the pupil's exclusion **[specify date]** until the expiry of his/her exclusion we **[For PRUs the local authority] — set out the arrangements if known at time of writing, if not known say that the arrangements will be notified shortly by a further letter]** will provide suitable full-time education. On **[date]** he/she should attend at **[give name and address of the alternative provider if not the home school]** at **[specify the time — this may not be identical to the start time of the home school]** and report to **[staff member's name]**. **[If applicable — say something about transport arrangements from home to the alternative provider. If not known, say that the arrangements for suitable full time education will be notified by a further letter].**

[School/PRU] You have the right to request a meeting of the school's discipline committee/PRU's management committee to whom you may make representations, and my decision to exclude can be reviewed. As the period of this exclusion is more than 5 school days in a term the discipline committee/management committee must meet if you request it to do so. The latest date by which the discipline committee/management committee must meet, if you request a meeting, is **[specify date — no later than the 50th school day after the date]**

on which the discipline committee were notified of this exclusion]. If you do wish to make representations to the discipline committee/management committee, and wish to be accompanied by a friend or representative, please contact **[name of contact]** on/at **[contact details — address, phone number, email]**, as soon as possible. Please advise if you have a disability or special needs which would affect your ability to attend or take part in a meeting at the school. Also, please inform **[contact]** if it would be helpful for you to have an interpreter present at the meeting.

You should also be aware that, if you think the exclusion relates to discrimination (under the Equality Act 2010), you can also make a claim to the First-tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination). The address to which First-tier discrimination claims should be sent is SEND, Mowden Hall, Staindrop Road, Darlington DL3 9DN.

[NB — Re-integration meetings are no-longer compulsory but the LA would suggest that they are seen as good practice particularly for exclusions of 5 days or more]

You **[and your child or pupil's name]** are requested to attend a reintegration interview with me **[alternatively, specify the name of another staff member]** at **[place]** on **[date]** at **[time]**. If that is not convenient, please contact the school to arrange a suitable alternative date and time. The purpose of the reintegration interview is to discuss how best your child's return to school can be managed **[not for parents of secondary aged pupils]**.

You have the right to see and have a copy of, your child's school record. Due to confidentiality restrictions, you must notify me in writing if you wish to be supplied with a copy of your child's school record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

You may wish to contactat **[LA name]** LA on/at [contact details — address, phone number, email], who can provide advice.

You may also find it useful to contact Government funded helpline on exclusion matters which is provided by Coram Children's Legal Centre'. They aim to provide free legal advice and information to parents on education matters. They can be contacted on 0808 802 0008 or <http://www.childrenslegalcentre.com/>. The advice line is open from 8 am to 8 pm Monday to Friday, except Bank Holidays and 24th December to the 1st January.

[Pupil's Name]'s exclusion expires on **[date]** and we expect **[Pupil's Name]** to be back in school on **[date]** at **[time]**.

Yours sincerely

[Name]
Head teacher

NORTH YORKSHIRE LOCAL AUTHORITY'S CODE OF CONDUCT FOR THE USE OF PENALTY NOTICES - UNAUTHORISED ABSENCE AND EXCLUSION

1. Legal Basis

Irregular Attendance

Under Section 23 of the Anti-Social Behaviour Act 2003, the Education Act 1996 was amended with the introduction of 2 new subsections under Section 444 (subsections 444A and 444B) which make it possible for Penalty Notices to be used as an alternative to prosecution in cases of unauthorised absence from school.

Exclusions

Section 103 of the Education and Inspections Act 2006 places a duty on parents in relation to an excluded pupil. A parent has to ensure their child is not present in a public place during school hours, without reasonable justification, during the first five days of each and every fixed term or permanent exclusion. Section 105 allows for a Penalty Notice to be given to a parent guilty of an offence under Section 103 of the Act.

The issuing of **all** Penalty Notices must conform to the requirements of the Human Rights Act and all Equal Opportunities legislation.

2. Rationale

The Local Authority (LA) has the responsibility, as determined by the Department for Education (DfE) for developing the Code of Conduct within which all partners named in the Act will operate. This is a requirement of the Parental Responsibility Measures for School Attendance and Behaviour Statutory Guidance for Maintained Schools, Academies, Local Authorities and the Police (DfE November 2013).

Although the regulations make provision for a Head teacher (or other nominated school staff), the Police and the LA to issue Penalty Notices, it is a requirement of the LA's Code of Conduct for the use of Penalty Notices that procedures are consistently applied and enforcement action is not duplicated. In order to support compliance with this requirement, and that any subsequent court action can be integrated within existing arrangements, this protocol places the main responsibility for issuing Penalty Notices with North Yorkshire Local Authority. The Authority will administer the scheme for all schools in its area, including academies and free schools.

Parents and pupils are supported at school to overcome barriers to regular attendance and through a wide continuum of assessment and intervention strategies delivered by the LA's Prevention Service. Sanctions of any nature are for use only where parental co-operation in this process is either absent or deemed insufficient and there is a reasonable expectation that parents are able to exercise their responsibility more effectively. Sanctions are never used as a punishment, only as a means of enforcing attendance where there is a reasonable expectation that it will secure an improvement.

3. Circumstances where a Penalty Notice may be issued

Irregular Attendance

A Penalty Notice for irregular attendance can only be issued in cases of **unauthorised** absence. No parent will receive more than two separate Penalty Notices resulting from the unauthorised absence of an individual child in any twelve-month period.

In cases where families contain more than one poor-attending pupil, multiple issue may occur. This will be the subject of careful consideration and co-ordination.

There will be no restriction on the number of times a parent/carer may receive a formal warning of a possible Penalty Notice if further unauthorised absence occurs within 15 days of the letter being sent.

The issuing of a Penalty Notice is considered appropriate in the following circumstances:

- Parentally-condoned absences including unacceptable reasons for absence (e.g. too tired after a late night, birthday treat)
- Leave of absence taken but not agreed as exceptional circumstances by the Head teacher when requested in advance e.g. for a family holiday
- Excessive delayed return from agreed leave of absence without prior school agreement (amounting to a minimum 10 unauthorised sessions)
- Persistent late arrival at school recorded as unauthorised absence (after the register has closed).

Exclusions - see Pt. 6

4. Procedure for issuing Penalty Notices for Irregular attendance

(excluding unauthorised leave of absence (holiday) in term time – (see Pt. 5)

The LA will issue Penalty Notices to achieve consistent and equitable delivery and allow cohesion with other enforcement sanctions. Penalty Notices will only be issued by post. This is to satisfy that all evidential requirements are in place and to meet Health and Safety requirements.

Penalty Notices will be issued if the following is in place:

- There has been a prior referral to the Prevention Service for support
- The formal School Attendance Procedure (fast track) has been implemented by the school
- All relevant information has been supplied to the LA in the specified manner
- A decision has been made to issue a Penalty Notice Warning letter from a PACE Formal Caution Interview/LA Panel Meeting
- Ability to pay is set against improving attendance by the issuing a Penalty Notice (PN's, unlike a prosecution, are not means tested - this to include any cases of possible multiple issue to any one family)

- The issue of a Penalty Notice does not conflict with other intervention strategies in place or other enforcement sanctions already being progressed
- The circumstances of the pupil's absence meets all the requirements of this Code of Conduct

Documents required (to be used in the event of non-payment of the fine):

Certificate of Absence – completed and signed by the Head teacher evidencing the unauthorised absence.

Witness Statement - supporting written evidence completed and signed by the Head Teacher/school practitioner including evidence that the school has supported the family to improve their child's attendance, e.g. home visits, meetings in school, formal School Attendance Procedures (fast track) implemented and referral to the Prevention Service and/or other agencies.

Documentation should provide evidence that the parent has not engaged with the support offered and has continued to fail to exercise their legal responsibility to ensure their child's regular and punctual attendance at their educational placement. (*This will support a prosecution under the Education Act 1996 s444 (1) should the fine not be paid*).

Where the criteria is met and it is established that an offence under Section 444 (1) Education Act 1996 has been committed the LA will:

- Issue a formal written warning to the parent/carer of the possibility of a Penalty Notice being issued
- In the same letter set a period of 15 school days commencing 3 school days following dispatch of the Warning Letter within which the pupil must have no unauthorised absence (*to be sent by 1st Class Post*)
- Issue a Penalty Notice through the post at the end of the 15 day period if there has been further unauthorised absence recorded
- Progress a prosecution through the Magistrates Courts for the offence of failing to ensure the child's regular attendance if the PN remains unpaid. (*Not regarding the non-payment of the fine although this will be used in evidence*)

N.B. If a not guilty plea is entered by the parent then the initial hearing would be adjourned to prepare for trial when the Head teacher and or practitioner (s) may be summoned to give evidence regarding the unauthorised absence.

5. Procedure for Issuing Penalty Notices for unauthorised leave of absence taken in term time

Amendments to the Education (Pupil Registration) (England) Regulations 2006 removed references to 'family holiday' and 'extended leave' as well as the statutory threshold of 'ten school days'. The amendments make clear that head teachers may not grant any leave of absence during term time unless there are exceptional circumstances (*requests for holidays in term time would not normally meet the criteria*).

The issuing of a Penalty Notice applies only to the deliberate taking of leave of absence in term time, where 1) the Head teacher has deemed on application that the reason given did not meet the criteria for exceptional circumstances and 2) where it can be clearly demonstrated that the parent/carer understood that permission had not/would not be given.

If parents have not applied in advance then, by default the absence is not agreed, as leave of absence cannot be approved retrospectively. This must have created a period of unauthorised absence in the last 4 months of at least 10 sessions (or 5 school days). The absence can be in one block or accumulated over the 4 month period.

If the leave of absence is agreed, the Head teacher should determine the number of school days a child can be away from school. Any leave taken in excess of this period is deemed in itself to be unauthorised absence and can be liable to a Penalty Notice being issued if the excess absence amounts to 10 sessions or more.

The Head teacher should contact the LA to issue a Penalty Notice sending all relevant documentation no more than two weeks following the taking of the unauthorised leave. The following documentation needs to be submitted:

- **Certificate of Absence (Unauthorised Leave)** - for the period in question completed and signed by the Head teacher
- **Certificate of Registration (electronic) for a minimum of the previous six months attendance prior to the leave** (this may straddle two academic years)
- **Witness Statement** - completed and signed by the Head teacher
- **Leave of Absence Application Form and reply to the parent** (if available)

Where a parent fails to pay a Penalty Notice issued in these circumstances, the LA will pursue a prosecution of the parent under the Education Act 1996 s444 (1) and will present the case in court. The evidence provided by the Head teacher will be laid before the magistrates regarding the unauthorised absences.

6. Procedure for Issuing Penalty Notices for exclusion (fixed term or permanent)

A parent/carer is required to ensure that their child is not present in a public place during school hours, without reasonable justification, during the first five days of each and every fixed period or permanent exclusion. A public place means any highway or any place to which the public have access. *N.B: School premises are not a public place for this purpose (Section 547 Education Act 1996).*

A Penalty Notice enables the parent to pay a fine as a way of discharging liability for the offence of failing to ensure that their child is not present in a public place on the days specified in the notice given to them by the school. The parent must have been notified of their duty by the school at the time of the exclusion and the days to which it relates.

To issue a Penalty Notice evidence would be required, either through eye witness testimony in the form of a Witness Statement, or proven evidence from a CCTV system.

The following documentation needs to be submitted to the LA:

- **Proof of notification** to parent/carer(s) and the means of delivery as above
- **Witness Statement** including evidence of where the child was seen and the parent/carer(s) having no reasonable justification for their child being in a public place

7. Procedure for withdrawing Penalty Notices

Once issued, a Penalty Notice will be withdrawn only in the following circumstances:

- Proof has been established that the Penalty Notice was issued to the wrong person
- The use of the Penalty Notice did not conform to the terms of this Code of Conduct for the use of Penalty Notices

8. Payment of Penalty Notices

Penalty Notices are issued per child per family. Arrangements for payment will be detailed on the Penalty Notice. Payment of a Penalty Notice discharges the parent's liability for the period in question and he/she cannot subsequently be prosecuted for the period covered by the Penalty Notice.

Payment of a Penalty Notice within 21 days is £60 and payment after 21 days but within 28 days is £120. Part payments will not be accepted. A letter will be sent to the parent/carer(s) when the LA intends to pursue legal action following non-payment of the fine within the required time scale.

The LA retains any revenue from Penalty Notices to cover enforcement costs i.e. administration, collection or prosecution in the event of non-payment.

9. Non-payment of Penalty Notices

Non-payment of a Penalty Notice will trigger the prosecution process under the provisions of the Education Act 1996 s444 (1).

10. Policy and Publicity

The utilisation of Penalty Notices as a sanction will be included in the LA's School Attendance - Advice and Requirements of all schools for consideration of Legal Enforcement by the Local Authority. All School Attendance Policies will need to include information on the utilisation of Penalty Notices and this will be brought to the attention of all parent/carer(s).

11. Reporting and Review

The LA will review the use of Penalty Notices at regular intervals. An annual monitoring report will be made to the Executive Members.

Contacts:

Julie Parrish (Attendance and Enforcement Officer)

Tel: 01609 798013/ 07772096982 or e-mail: julie.parrish@northyorks.gov.uk

Kate Flinton (Attendance and Enforcement Officer – Scarborough, Filey, Whitby and Ryedale areas only)

Tel: 01609 797232/07794072363 or e-mail: kate.flinton@northyorks.gov.uk

All documentation for Penalty Notices regarding Holiday in Term Time should be forwarded by e-mail to safeguardingunit@northyorks.gov.uk or by post to Rm SB114, Safeguarding Unit, County Hall, Racecourse Lane, Northallerton, DL7 8AD

For all other advice please contact your local Area Prevention Manager from the Prevention Service

April 2016