

BRISTOL LEARNING CITY

Statutory Combined Guidance for Schools

Schools must comply with a range of statutory requirements in carrying out their everyday duties. This guide provides school staff and governing bodies with a brief summary of some of the key areas of statutory responsibility.

May 2017



In each section of this document you will find key information associated with your statutory duties along with signposting to legislation & government documents and Local Authority Information. However, this guide only highlights some of the key areas of statutory responsibility and more detailed reading of the government documentation is recommended, as this may differ depending on the setting. Documentation and resources regarding guidance from the local authority will often refer to how the statutory guidance from the Government has been interpreted at a local level.

A summary of statutory guidance can be found at:

www.gov.uk/government/collections/statutory-guidance-schools

Contents

1. Careers Guidance	3
2. Children in Care (CiC) (also referred to as Looked After Children or LAC)	6
3. Children Missing Education	10
4. Elective Home Education	14
5. Exclusions	17
6. School Admissions	22
7. Fair Access Protocol	25
8. Participation in Education, Employment and Training.....	29
9. Pupils Missing out on Education (PME)	31
10. Safeguarding.....	35
11. School Attendance	40
12. Special Educational Needs and Disabilities (SEND).....	47
13. Websites - What schools must publish online.....	52
ANNEX A - Education (Pupil Registration) (England) Regulations 2006	54

1. Careers Guidance

Legislation and Government Guidance

[Careers guidance and inspiration in schools - Statutory guidance for governing bodies, school leaders and school staff \(March 2015\)](#)

The **statutory duty** requires governing bodies to ensure that all registered pupils at the school are provided with independent careers guidance from year 8 (12-13 year olds) to year 13 (17-18 year olds).

The governing body must ensure that the independent careers guidance provided:

- Is presented in an impartial manner;
- Includes information on the range of education or training options, including apprenticeships and other vocational pathways;
- Is guidance that the person giving it considers will promote the best interests of the pupils to whom it is given.

All children should receive a rich provision of classroom and extra-curricular activities that develop a range of character attributes, such as resilience and grit, which underpin success in education and employment. High quality, independent careers guidance is also crucial in helping pupils emerge from school more fully rounded and ready for the world of work. Young people want and need to be well-informed when making subject and career decision.

The duty on schools, to secure **independent** careers guidance for all year 8-13 pupils, is intended to expand advice and guidance for young people so they are inspired and motivated to fulfil their potential. Schools should help every pupil develop high aspirations and consider a broad and ambitious range of careers. Inspiring every pupil through real-life contact with the world of work can help them understand where different choices can take them in the future.

Schools should have a strategy for the careers guidance they provide. The strategy should be embedded within a clear framework linked to outcomes for pupils:

- Provide access to a range of activities that inspire young people, including employer talks, careers fairs, motivational speakers, colleges and university visits, coaches and mentors.

- Build strong links with employers who can help to boost young people's attitudes and employability skills, inform pupils about the range of roles and opportunities available and help them understand how to make this a reality.
- Offer high quality work experience that properly reflects individuals' studies and strengths, and supports the academic curriculum.
- Widen access to advice on options available post-16, for example, apprenticeships, entrepreneurialism or other vocational routes alongside the more traditional A levels and university route. This should also include giving other post 16 providers opportunities to engage with pupils on school premises.
- Provide face-to-face advice and guidance to build confidence and motivation. This should include consideration of the role that careers professionals can play in supporting pupils as one element of a varied careers programme.
- Work with local authorities to identify vulnerable young people, including those with special educational needs and those at risk of not participating post-16, and the services that are available to support them.
- Provide information to students about the financial support that may be available to help them stay in education post 16.
- Work with Jobcentre Plus to develop a smooth pathway between education and work.
- Consciously work to prevent all forms of stereotyping in the advice and guidance they provide, to ensure that boys and girls from all backgrounds and diversity groups consider the widest possible range of careers, including those that are often portrayed as primarily for one or other of the sexes.

OFSTED has been giving careers guidance a higher priority in school inspections since September 2013, taking into account how well the school delivers advice and guidance to all pupils in judging its leadership and management.

Schools can measure the effectiveness of their careers and inspiration activity by considering both the attainment and the destinations of their pupils. Success will be reflected in higher numbers progressing to apprenticeships, universities – including selective universities, traineeships, and other positive destinations such as employment or a further education college. This will help to close the gap in destinations between young people from disadvantaged backgrounds and others.

Schools are required to share their Year 11 and Year 12 intended destinations with the Local Authority who reports these to the DfE as part of the September

Guarantee, which requires local authorities to find education and training places for 16- and 17-year-olds.

Local Authority Information

This is currently under review and will be published in due course.

2. Children in Care (CiC) (also referred to as Looked After Children or LAC)

Legislation and Government Guidance

[The role and responsibilities of the designated teacher for looked after children, DCSF November 2009](#)

[Promoting the Education of Looked After Children, DfE July 2014](#)

All maintained schools, academies and free schools are required under the Children and Young Persons Act 2008 to appoint a designated teacher to promote the educational achievement of looked after children who are on the school roll, including those aged between 16 and 18. Governing bodies must have regard to the statutory guidance *The role and responsibilities of the designated teacher for looked after children*.

The Designated Teacher (Looked After Pupils etc) (England) Regulations 2009 require that the person designated is:

- a qualified teacher who has completed the appropriate induction period (if required) and is working as a teacher at the school, or
- a headteacher or acting headteacher of the school, or
- a person who had responsibility for promoting the educational achievement of looked after pupils for at least six months immediately before the Regulations came into force.

The governing body must ensure that the designated teacher undertakes appropriate training.

Governing bodies and the school leadership team should make sure that the designated teacher role contributes to the deeper understanding of everyone in the school who is likely to be involved in supporting looked after children to achieve. The role should make a positive difference by promoting a whole school culture where the personalised learning needs of every looked after child matters and their personal, emotional and academic needs are prioritised.

The governing body should ensure that the designated teacher is a member of the teaching staff with appropriate seniority, professional experience and status to provide leadership, training, information and advice to others that will influence

decisions about the teaching and learning needs of looked after children. Where the designated teacher is not a member of the senior leadership team, a member of the team should be designated as a champion of looked after children issues to work closely with the designated teacher.

The governing body, in partnership with the head teacher, is responsible for monitoring how well the designated teacher role is working. As part of the arrangements for monitoring the effectiveness of the role, governing bodies should, as a minimum, receive an annual report from the designated teacher. The report should not identify individual CiC and should enable the governing body to make overall judgements about the role in the context of wider school planning in relation to:

- any workload issues arising as a result of the number of looked after children on roll at the school and the number of local authorities which are involved;
- progress made by looked after children who are currently or have been on roll within the past twelve months in relation to all children at the school (i.e. educational, social and emotional progress);
- whether the pattern of attendance and exclusions for looked after children is different to that of all children;
- any process or planning issues arising from personal education plans (PEPs);
- whether any are identified as gifted and talented and how those needs are being met;
- whether any have special educational needs and disabilities (SEND) and whether those needs are being met through statements, Education, Health and Care Plans or specific interventions;
- how the teaching and learning needs of looked after children are reflected in school development plans and are being met in relation to interventions and resources;
- training provided for the designated teacher in order to impart knowledge and understanding about the education and wellbeing of looked after children to colleagues;
- work with virtual school heads or their equivalents in local authorities;
- the impact of any of the school's policies, for example on charging for educational visits and extended school activities, on looked after children.

All looked after children must have a PEP as part of their overall care plan (to age 18). The designated teacher leads on how the PEP is used as a tool in school to

make sure the child's progress towards education targets is monitored. S/he makes sure that it is reviewed, updated and available in time for the local authority review of the child's wider care plan. For each statutory review of the care plan the PEP must include:

- any new information about progress towards education targets since the last PEP review;
- information about what has not been taken forward.

The designated teacher should:

- promote a culture of high expectations and aspirations for how looked after children learn;
- make sure the young person has a voice in setting learning targets;
- be a source of advice for staff about differentiated teaching strategies appropriate for individual children;
- make sure that looked after children are prioritised in one-to-one tuition arrangements and that carers understand the importance of supporting learning at home;
- have a key role in making sure there is a central point of initial contact within the school who can manage the process of how the school effectively co-operates and works in partnership with other professionals (e.g. carers, social workers, virtual school heads) in focusing on how everyone contributes to reviewing and developing the child's educational progress and promoting the child's educational achievement;
- make sure that the school does everything possible to maximise educational stability for the child, especially by finding ways of sharing information through the PEP and in providing advice to the local authority about the impact of disrupting education;
- make sure that school policies are communicated to social workers and carers.

Schools must have regard to the *School Admissions Code* for admission requirements for children in care. Children in care have been given the highest priority within school admission arrangements. The School Admissions Code applies to maintained schools and academies, including free schools. Fair Access Protocols do not apply to children in care.

Schools must have regard to the statutory guidance *Exclusions from maintained schools, academies and pupil referral units in England* (see exclusion chapter). In line with that guidance, headteachers should, as far as possible, avoid excluding any looked after child. The designated teacher should be involved in any discussions related to decisions about potential exclusions of looked after children and make sure that the authority which looks after the child and the child's carers are involved in such a decision.

Schools must ensure that the *SEND Code of Practice 0 to 25*, as it relates to looked after children, is followed.

Schools should work with the Virtual School Headteacher of the local authority to which the child is in care regarding LAC Pupil Premium arrangements. This applies to CiC from Year R to Y11.

Local Authority Information

This is available from The HOPE Virtual School for Children in Care (The HOPE) through a range of resources e.g.: [information online](#) – including specific information on [national and local guidance](#), [information for schools](#), [training](#) for designated teachers and named governors for CiC, [Personal Education Plans](#), [The HOPE's Expectations document](#), and termly [Briefings/Newsletters](#).

Contact information

The HOPE Virtual School for Children in Care

Telephone: 0117 90 36282 (for all HOPE staff)

3. Children Missing Education

Legislation and Government Guidance

[Children Missing Education - DfE Statutory Guidance for Local Authorities September 2016:](#)

[School Attendance - DfE Guidance for schools and Local Authorities November 2016:](#)

The Education (Pupil Registration) (Amendment) (England) Regulations 2016 came into force on 1 September 2016. DfE Children Missing Education Statutory Guidance was issued on 5 September 2016.

This new legislation and guidance applies to:

(a) all children of compulsory school age joining or leaving the school at NON-STANDARD transition points; and (b) all schools (including academies, free schools and independent schools).

The Admission and Attendance Registers

The law requires all schools including independent schools to have an admission register and, with the exception of schools where all pupils are boarders, an attendance register. All pupils (regardless of their age) must be placed on both registers. The proprietor of a school who fails to comply with these regulations is guilty of an offence under Section 434(6) of the Education Act 1996 and can be fined.

Contents of Admission Register

The admission register must contain the personal details of every pupil in the school, along with the date of admission or re-admission to the school, information regarding parents and carers and details of the school last attended.

Bristol City Council's New CME Process - Update and Interim Guidance

The Education Welfare Service (EWS), SIMS, Safeguarding in Education and School Admissions teams are working together in order to devise revised Bristol City Council Children Missing Education guidance which will be issued to schools as soon as possible. In the meantime schools should follow the interim guidance detailed next.

Expected First Day of Attendance and Notifying the Local Authority

- Schools must enter pupils on the admission register and attendance register from the beginning of the first day on which the school has agreed, or been notified, that the pupil will attend the school.
- If a pupil fails to attend on the agreed or notified date, the school must establish the reason for the absence and mark the attendance register accordingly.
- All schools must notify the local authority within five days of adding a pupil's name to the admission register, at NON-STANDARD transition points.

Interim Arrangements – placing pupils on roll at non-standard transition points

Schools that don't use SIMS should notify the Education Welfare Service Children Missing Education (CME) Officer via email of all children that are placed on roll at non-standard transition points: childrenmissingeducation@bristol.gov.uk . Schools will need to provide all the information held within the admission register about the pupil.

Schools that use SIMS are expected to complete SIMS in the normal way for all children joining the school at non-standard transition points, by completing all available SIMS fields.

Interim Arrangements – removing pupils from roll at non-standard transition points

Schools that don't use SIMS should notify the CME Officer via The Education (Pupil Registration) (Amendment) (England) Regulations 2016 email of all children that are removed from roll at non-standard transition points: childrenmissingeducation@bristol.gov.uk. The notification must include:

- a) the full name of the pupil,
- b) the full name and address of any parent with whom the pupil lives,
- c) at least one telephone number of the parent with whom the pupil lives,
- d) the full name and address of the parent who the pupil is going to live with, and the date the pupil is expected to start living there, if applicable;
- e) the name of the pupil's destination school and the pupil's expected start date there, if applicable; and

- f) the ground in regulation 8 under which the pupil's name is to be removed from the admission register (see Annex A).

Schools that use SIMS are expected to complete SIMS in the normal way for all children leaving the school at non-standard transition points, by completing all available SIMS fields.

Important note: For both SIMS and non- SIMS schools, additional actions are required in Pupil Tracking cases, see below.

Pupil Tracking - School Action

If a school is notified that a child has moved, but the child does not immediately start at a new school, the school should keep the child on roll and notify the CME Officer via a [Pupil Tracking referral form](#).

If a pupil stops attending a school and cannot be traced, the pupil can ONLY be deleted from the register with the written confirmation from the Education Welfare Service. The school must first make enquiries to try and establish the whereabouts of the pupil/family. This will include making contact with emergency contacts and if necessary visiting the family home to try and establish if the family have moved. If the pupil is found, and has not moved, the school must follow up the matter to ensure the child returns to the school. If the school fails to locate the pupil, despite reasonable enquiries, the school must keep the pupil on roll and make a [Pupil Tracking referral](#) to the Education Welfare Service.

Pupil Tracking – Education Welfare Service Action

The Education Welfare Service CME Officer will also make reasonable enquiries (investigate the case) and will advise the school in writing of the outcome. If appropriate, the CME Officer will confirm a date that the pupil can be removed from the school roll. If the CME Officer establishes that the pupil is still at their last known address, the case will be handed back to the school to follow up as appropriate.

Parental Enquiries – Notifying the Education Welfare Service of Bristol Children not on a School Roll

If a school is contacted by a parent enquiring about school places for a child living in Bristol, who is not already on a Bristol school roll, and the school is unable to offer a school place, or it offers a place that is not taken up, the school should

make a CME referral to the EWS. This can be done by completing the [CME referral form](#).

Amendments to the Admission Register and Attendance Register

Every amendment made to the admission register and the attendance register must include: the original entry; the amended entry; the reason for the amendment; the date on which the amendment was made; and the name and position of the person who made the amendment.

Preservation of the Admission Register and Attendance Register

Every entry in the admission register and attendance register must be preserved for a period of three years after the date on which the entry was made.

Local Authority Information

Further information, training support and advice is available from the Education Welfare Service.

Email: childrenmissingeducation@bristol.gov.uk

Telephone: 0117 352 1438

4. Elective Home Education

Background Information: Parent's Duty to Ensure a Child's Education

Parents have a duty to ensure their child receives a suitable education, however, under section 7 of the Education Act 1996, parents have a right to choose to educate their children at home:

"The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable - (a) to his age, ability and aptitude, and (b) to any special educational needs he may have, either by regular attendance at school or otherwise."

DfE Guidance states:

"The responsibility for a child's education rests with his or her parents. An "efficient" and "suitable" education is not defined in the Education Act 1996 but "efficient" has been broadly described in case law as an education that "achieves that which it sets out to achieve", and a "suitable" education is one that "primarily equips a child for life within the community of which he is a member, rather than the way of life in the country as a whole, as long as it does not foreclose the child's options in later years to adopt some other form of life if he wishes to do so"."

Definition and Explanation of Elective Home Education (EHE)

Elective Home Education is the term used by the DfE to describe parents' decisions to provide education for their children at home instead of sending them to school. This is different to home tuition provided by a local authority or education provided by a local authority other than at a school.

Children whose parents elect to educate them at home are not registered at any school. Some parents may choose to engage private tutors or other adults to assist them in providing a suitable education, but there is no requirement for them to do so. Learning may take place in a variety of locations, not just in the family home.

[Elective Home Education –
Guidelines for Local Authorities](#)

[Children Missing Education - DfE
Statutory Guidance for Local
Authorities September 2016](#)

[School Attendance - DfE
Guidance for schools and Local
Authorities November 2016](#)

Parents may choose home education for a variety of reasons. DfE guidance states that the local authority's primary interest should lie in the suitability of parents' education provision.

Notification and Information Sharing Process - School

If a parent notifies the school of their intention to home educate (EHE) their child, the school should contact the parent to establish the reason why and, where possible, explore alternative solutions.

EHE should be a positive decision for a parent and their child and not a response to a difficult situation such as a child's behaviour or attendance difficulties, or bullying.

If, after further exploration with the school, the parent still decides they want to home educate their child, they **MUST** notify the school in writing. Schools cannot remove children from the register on verbal notification only.

If a school receives written notification from a parent of their intention to home educate their child, the school must notify the Education Welfare Service by emailing: ehe@bristol.gov.uk , attaching a copy of the parent's letter, and remove the child from the school roll.

When the school notifies the Education Welfare Service that it has removed a child from school roll due to EHE the Education Welfare Service will ask the school to complete a form providing some background information about the child.

School concerns:

If a school has any concerns before removing a child from their roll for Elective Home Education, it should contact the Education Welfare Service for advice. Tel: 0117 352 1438.

However if a school is concerned about the well-being of a child it should contact the First Response Team on 0117 903 6444, or the Emergency Duty Team out of hours, on 01454 615 165.

If a child is at immediate risk the school should call the Police on 999.

Local Authority Oversight of EHE Children

On 1 December 2016, oversight of Elective Home Education within Bristol transferred to the Education Welfare Service. EWS holds a database of all children of whom the council is aware are home educated and live in Bristol. The EWS is able to provide some advice and guidance on EHE to families who choose this option for their child's education. The EWS liaises with EHE families to establish the education they are providing for the child, and this is reviewed. The review frequency depends on the level of need.

Where the EWS is not satisfied a child is receiving a suitable home education it takes follow up action, which could include encouraging parents to enrol their child at a school, or serving a School Attendance Order on the parent, which is a legal process designed to result in a child returning to school.

The EWS is available to respond to concerns or queries that may be raised by children, parents, or others, about the home education a child may be receiving.

Local Authority Information

Further information, training support and advice is available from the Education Welfare Service.

Email: ehe@bristol.gov.uk

Telephone: 0117 352 1438

5. Exclusions

Exclusion for maintained schools, Academies and pupil referral units in England (2012) provides guidance to the legislation that governs the exclusion of pupils from:

- Maintained schools;
- Academy schools / Free Schools;
- Alternative Provision Academies / Free Schools; and
- Pupil referral units

It also provides statutory guidance to which: head teachers; governing bodies; local authorities; Academy Trusts; independent review panel members; independent review panel clerks; and special educational needs experts must have regard when carrying out their functions in relation to exclusions.

Related legislation

The principal legislation to which this guidance relates is:

- The Education Act 2002, as amended by the Education Act 2011;
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- The Education and Inspections Act 2006; and
- The Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007 - This document highlights the guidance in regards to Fixed Term Exclusions, Permanent Exclusions and the Independent Review Panel.

Fixed Term Exclusions

Only the head teacher of a school can exclude a pupil and this must be on disciplinary grounds. A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed period exclusion does not have to be for a continuous period. In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to a permanent exclusion.

[Exclusion from maintained schools, Academies and pupil referral units in England \(2012\)](#)
[\(Please note that the DfE guidance issued in 2014 was rescinded, and it is the 2012 guidance that is currently in use\).](#)

Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. In such cases the legal requirements in relation to exclusion, such as the head teacher's duty to notify parents, still apply. Lunchtime exclusions are counted as half a school day for statistical purposes and in determining whether a governing body meeting is triggered.

'Informal' or 'unofficial' exclusions, such as sending pupils home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for short periods of time, must be formally recorded.

Permanent Exclusions

The governing body must consider the reinstatement of a permanently excluded pupil within 15 school days of receiving notice of the exclusion.

The DfE guidance states that:

“Permanent exclusion should only be used as a last resort, in response to a serious breach, or persistent breaches, of the school's behaviour policy; and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.”

The decision to exclude a pupil must be lawful, reasonable and fair. Schools have a statutory duty not to discriminate against pupils on the basis of protected characteristics, such as disability or race.

Disruptive behaviour can be an indication of unmet needs. Where a school has concerns about a pupil's behaviour it should try to identify whether there are any causal factors and intervene early in order to reduce the need for a subsequent exclusion. In this situation schools should give consideration to a multi-agency assessment that goes beyond the pupil's educational needs.

The head teacher may withdraw an exclusion that has not been reviewed by the governing body.

When establishing the facts in relation to an exclusion decision the head teacher must apply the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt'

A decision to exclude a pupil permanently should only be taken:

- in response to a serious breach, or persistent breaches, of the school's behaviour policy; and
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have. Head teachers should also consider the use of a multi-agency assessment for pupils who demonstrate persistent disruptive behaviour.

The exclusion rates for certain groups of pupils are consistently higher than average. This includes:

- pupils with SEN;
- pupils eligible for Free School Meals;
- looked after children ;
- and pupils from certain ethnic groups. The ethnic groups with the highest rates of exclusion are Gypsy / Roma, Travellers of Irish Heritage and Black Caribbean communities.

In addition to the approaches on early intervention set out above, head teachers should consider what extra support might be needed to identify and address the needs of pupils from these groups in order to reduce their risk of exclusion.

Head teachers should, as far as possible, avoid excluding permanently any pupil with a statement of SEN or a looked after child.

Where a school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with a statement of SEN or a looked after child it should, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This should involve assessing the suitability of provision for a pupil's SEN. Where a pupil has a statement of SEN, schools should consider requesting an early annual review or interim / emergency review.

In the light of their consideration, the governing body can either:

- uphold an exclusion; or
- direct reinstatement of the pupil immediately or on a particular date.

Independent Review Panel

Where parents dispute the decision of a governing body not to reinstate a permanently excluded pupil, they can ask for this decision to be reviewed by an independent review panel.

Where there is an allegation of discrimination (under the Equality Act 2010) in relation to a fixed-period or permanent exclusion, parents can also make a claim to the First-tier Tribunal (for disability discrimination) or a County Court (for other forms of discrimination).

The legal time frame for an application is within 15 school days of notice being given to the parents by the governing body of their decision to uphold a permanent exclusion.

Parents may request an independent review panel even if they did not make a case to, or attend the meeting at which the governing body considered the exclusion.

If requested by parents in their application for an independent review panel, the local authority/Academy Trust must appoint a SEN expert to attend the panel and cover the associated costs of this appointment. Where present, the panel must seek and have regard to the SEN expert's view of how SEN might be relevant to the pupil's exclusion.

The role of the panel is to review the governing body's decision not to reinstate a permanently excluded pupil. In reviewing the decision the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school.

The panel must apply the civil standard of proof, (i.e. 'on the balance of probabilities' it is more likely than not that a fact is true) rather than the criminal standard of 'beyond reasonable doubt'.

Following its review the panel can decide to:

- uphold the exclusion decision;
- recommend that the governing body reconsiders their decision, or
- quash the decision and direct that the governing body considers the exclusion again.

Local Authority Information

Bristol Learning City Partnership & Bristol City Council are running a pilot Bristol Inclusion Panel & Fair Access Protocol between 20th June 2016 and 21st July 2017. The aim of the pilot is to reduce the number of permanently excluded pupils from secondary schools in Bristol, whilst ensuring that young people are educated in a setting that best suits their needs.

In regards to Primary provision, 4 Primary Early Intervention Bases are being run as pilots over a 2 year period. These are revolving door provisions aimed at supporting continuance in or return to mainstream school.

Please contact Education Inclusion Officer Clare Dudley in regards to Permanent Exclusions:

Email - clare.dudley@bristol.gov.uk. Telephone - 0117 90 37299 / 07469413284,

In regards to the prevention of Primary Permanent Exclusions, please contact Commissioning & Inclusion Officer (Primary) Kassim Hanid:

Email - k.hanid@bristol.gov.uk Telephone - 0117 90 37352 / 07469 413285

6. School Admissions

Legislation and Government Guidance

[School Admissions Code \(2014\)](#)

[School Admissions Appeals Code \(2012\)](#)

In-Year Admissions

This refers to children in existing year groups.

Local Authority administers admissions for all maintained schools in Bristol. Own admission authority schools administer admissions, or buy admission services from Trading with Schools. For schools administering their own admissions, the Local Authority **must be** notified of application and outcome of application. (School Admissions Code 2.22)

If place is refused, the person with parental responsibility, (ie for Children in Care it is usually the social worker) who makes the school application **must be** advised of the outcome of their application **in writing**, including details of the waiting list and appeals procedure.

All schools must inform Local Authority of numbers on roll (School Admissions Code 2.21). Schools must admit children up to their admission number or PAN. If school cannot admit child within PAN a referral **must** be made to Fair Access Panel, unless they are Children in Care, where they are expected to go over Published Admissions Number (PAN) to admit the child. Schools are responsible for maintaining their own waiting list.

Once an application has been made to School Admissions, or Admission Authority, application must be processed in accordance with School Admissions Code. A child's details are not requested until after an offer has been made (School Admissions Code 2.4 and 2.9). Applications should be processed within 10 days and children admitted to school within 20 days. The Local Government Association has fined Local Authorities (LA's) where there has been a delay admitting children to school.

Negotiated Transfer is a separate process from making an application to School Admissions/School.

Children with Challenging Behaviour

Admission cannot be refused to a child thought to be potentially disruptive, likely to display challenging behaviour, or ahead of an assessed for special educational needs. (School Admissions Code 3.13) If Admission Authority does not wish to

admit a child with challenging behaviour, it **must** refer case to Fair Access Panel. (FAP) (School Admissions Code 3.12)

If a child has been permanently excluded from 2 or more schools, the preferred school does not have to comply with parental preference. This stipulation is in place for 2 years from the date of last exclusion but does not apply to children below compulsory school age, or with Statements of SEN/EHCP (School Admissions Code 3.8).

If a school does not wish to admit a child with challenging behaviour it **must** refer to Fair Access Panel. (School Admissions Code 3.12) This is only appropriate if a school has a high number of children with challenging behaviour/previously permanently excluded.

Fair Access Protocol (See Fair Access Protocol chapter)

All schools have agreed to participate in the Fair Access Protocol. Protocol was established to ensure unplaced children including vulnerable children are offered a suitable school place as quickly as possible.

Bristol City Council in partnership with other stakeholders has determined a set of criteria of children deemed suitable for referral to the fair access panel. Referrals are made by schools and other professionals with meetings held at least once a month (but the ambition is to increase meetings to once a fortnight).

Children in Care and Children with Statements of SEN/EHCP are outside of Fair Access Protocols.

Fair Access does not override right of appeal for preferred school. Governing Body **must** present evidence to appeals that demonstrating prejudice to the school if the child concerned is admitted where there are places within Published Admissions Number (School Appeals Code 3.23 and 3.24).

Local Authority Power of Direction

Local Authority can direct a maintained school to admit child above Published Admissions Number and can direct a school to admit a child in the Local Authority area if the child concerned has been refused admission from all suitable schools within a reasonable distance (School Admissions Code 3.16). Prior to making this direction the Local Authority must consult the Governing Body of the school and the parents/carers of the child. Local Authority **cannot** make direction until 15 days

has passed (School Admissions Code 3.16 to 3.18) and it cannot make a direction if it will breach statutory infant class size legislation. Once consultation ended prior to direction, Local Authority will inform the Governing Body and Head Teacher of the direction.

Governing Body can appeal by referring case to the Schools Adjudicator within 15 days. The Governing Body must inform the Local Authority of making any appeals it is making to the Schools Adjudicator. The Schools Adjudicator can uphold direction or determine another maintained school must admit child. The decision the Schools Adjudicator makes is binding.

Direction to admit a Child in Care

Local Authority has power to direct the admission authority for maintained schools to admit a child in care above the Published Admissions Number. Prior to giving this direction the Local Authority **must** consult the admission authority of the requested school. After the direction the admission authority **must** confirm within 7 days that they are admitting the child. The admission authority can appeal the direction to the Schools Adjudicator within 7 days consultation period. After the 7 days consultation period the child must be placed and the Head Teacher, Governing Body and Local Authority where school is based will be informed of the direction.

Secretary of State's Power of Direction (Academies)

Where the Local Authority considers a particular school will best meet a child's needs, it can ask the school to admit the child. If no agreement found with preferred school, admission of the child will be referred to the Secretary of State to direct under the power of the school's funding agreement and the direction will be made via the Education Funding Agency (EFA). The Secretary of State can seek advice from the Schools Adjudicator.

Local Authority Information School Admissions

Email: school.admissions@bristol.gov.uk

Telephone: 0117 903 7694

7. Fair Access Protocol

The School Admissions Code came into force on **19 December 2014**. It applies to admission arrangements determined in 2015 for admission in school year 2016/17 and any future years. The Code applies to admissions to all maintained schools in England. It should be read alongside the School Admission Appeals Code and other guidance and law that affect admissions and admission appeals in England. Fair Access Protocols are described in the Admissions Code and Departmental Advice. **Fair Access Protocols do not apply to children in care.**

[School Admissions Code: Statutory guidance for admission authorities, governing bodies, local authorities, schools adjudicators and admission appeals panels \(2014\)](#)

[Fair Access Protocols: Principles and Process DfE Departmental Advice \(2012\)](#)

[School Admission Appeals Code: Statutory guidance for school leaders, governing bodies and local authorities \(2012\)](#)

This Code imposes mandatory requirements and includes guidelines setting out aims, objectives and other matters in relation to the discharge of functions relating to admissions by the bodies listed below:

- a) Admission authorities of maintained schools as defined in Section 88(1) (a) and (b) of the SSFA 19982
- b) Governing bodies and local authorities (when not admission authorities)
- c) Schools Adjudicators
- d) Admission Appeal Panels.

These bodies have a statutory duty to act in accordance with the relevant provisions of the Code.

Academies, by which we mean Academy Schools, (including those that are Free Schools), University Technical Colleges and Studio Schools, are state-funded, non-fee-paying independent schools set up under a Funding Agreement between the Secretary of State and the proprietor of an Academy (most commonly, and hereafter, referred to as an Academy Trust). Academies are required by their funding agreements to comply with the Code and the law relating to admissions, although the Secretary of State has the power to vary this requirement where there is demonstrable need.

The purpose of Fair Access Protocols is to ensure that - outside the normal admissions round - unplaced children, especially the most vulnerable, are found and offered a place quickly, so that the amount of time any child is out of school is kept to the minimum. This is why every local authority is required to have in place a Fair Access Protocol, developed in partnership with local schools.

There are clear expectations on all parties to ensure Fair Access Protocols operate effectively at a local level. It is aimed at both admission authorities and schools. It is expected that readers are familiar with the School Admissions Code (the Code) – in particular paragraphs 3.9 to 3.23.

The Code gives local authorities and schools, including Academies, the freedom to develop and agree Protocols which best serve the needs of children in their area. Neither the Code, nor Departmental Advice, attempts to prescribe the structure or detailed content of Protocols. It is for participating schools to ensure that the local Protocol works for them and is reviewed as required with the local authority.

Every local authority must have a Fair Access Protocol, agreed with the majority of its schools, in which all schools (including Academies) must participate since it is binding on all schools.

Schools (including Academies) should work together collaboratively, taking into account the needs of the child and those of the school. There is no duty to comply with parental preference when allocating places through the Protocol but it is expected the wishes of the parents are taken into account.

When seeking to place a child under a Protocol, all schools should be treated in a fair, equitable and consistent manner.

Fair Access Protocols should not be used as a means to circumvent the normal in-year admissions process. A parent can apply for a place as an in-year admission at any point and is entitled to an appeal when a place is not offered.

An application to direct from the Secretary of State should only be requested as a last resort. The Secretary of State will base his or her decision having regard to whether due process, in line with the locally agreed provisions in the Fair Access Protocol, has been applied appropriately.

The Protocol should establish the education provision a child will receive whilst discussions to identify a school place are taking place. In the event that the majority of schools in an area can no longer support the principles and approach of

the local Protocol, all the school heads should initiate a review with the local authority. The existing Protocol however remains binding on all schools up until the point at which a new one is adopted.

It is expected that all parties will act with a sense of urgency to identify a school place for any child who has had difficulty securing one or who falls under the Fair Access Protocol. All schools, including Academies, are expected to respond to requests by local authorities to admit a child under Fair Access Protocols within seven calendar days.

Before deciding to issue a direction to a voluntary aided or foundation school, a local authority must consult the governing body of the school, the parent, and the child, if they are over compulsory school age. If following consultation the local authority decides to direct, it must inform the governing body and head teacher of the school. A local authority should do the same when considering requesting a direction for a child to be admitted at an Academy through the Fair Access Protocol.

The governing body of a maintained school can appeal by referring the case to the Schools Adjudicator within 15 calendar days. Similarly, it is expected that an Academy will agree a starting date for the child or set out its reasons for refusal in writing to the local authority within 15 calendar days (providing contact details to cover any approaching bank holiday or holiday periods).

If an Academy has not agreed a start date for the child within 15 calendar days, the local authority can apply for a direction from the Secretary of State via the Education Funding Agency who acts on his behalf in these cases. Local authorities and Academies are expected to mediate between themselves before a request is made to the Secretary of State to direct an Academy to admit a child. Where a local resolution cannot be found, it is the responsibility of the local authority and the Academy to document the case for and against admission.

When reviewing an Academy direction case, the Education Funding Agency will act on behalf of the Secretary of State to consider whether due process has been followed in applying the provisions of the Fair Access Protocol. In requesting a direction from the Secretary of State, the local authority must provide evidence that the provisions of the Fair Access Protocol have been applied in a fair and appropriate manner, the Academy's reasons for refusal and the local authority's response. The local authority should send the information using a given template to the Education Funding Agency. On receipt of a request to direct, the Education

Funding Agency will inform the school that it has received a request for a direction. The letter will request that the Academy provide any evidence other than that already received that the process has not been properly applied within seven calendar days.

Where the Secretary of State is asked to consider a direction he will make that decision on the basis of the papers provided, taking into account:

- whether the local Fair Access Protocol has been applied appropriately;
- the arguments of the Academy and local authority, whether the authority has considered the arguments for refusal and why it still considers the Academy to be the appropriate provision for the child;
- whether the Academy has been asked to accept a disproportionate number of children under the Fair Access Protocol compared to other schools.

Local Authority Information

This is available from the ALP Hub Team (Alternative Learning Provision) through a range of resources including: For Secondary Schools the Bristol Inclusion Panel Terms of Reference and Contract and associated supplementary guidance. For Primary Schools the current Bristol Primary Fair Access Protocol 2006 (Revised 2014) and Draft Bristol Primary Fair Access Protocol 2017 (Consultation Document).

ALP Hub Team

Email: alphub@bristol.gov.uk

8. Participation in Education, Employment and Training

Legislation and Government Guidance

[Participation of young people in education, employment or training Statutory guidance for local authorities \(September 2016\)](#)

Local authorities have broad duties to encourage, enable and assist young people to participate in education or training. Specifically these are:

- To secure sufficient suitable education and training provision for all young people in their area who are over compulsory school age but under 19 or aged 19 to 25 and for whom an Education, Health and Care (EHC) plan is maintained. This is a duty under the Education Act 1996 1. To fulfil this, local authorities need to have a strategic overview of the provision available in their area and to identify and resolve gaps in provision.
- To make available to all young people aged 13-19 and to those between 20 and 25 with special educational needs and disabilities (SEND), support that will encourage, enable or assist them to participate in education or training under Section 68 of ESA 20082.

Tracking young people's participation is a key element of these duties. Local authorities are required to collect information about young people so that those who are not participating, or are NEET, can be identified and given support to re-engage. Robust tracking also provides the local authority with information that will help to ensure that suitable education and training provision is available and that resources can be targeted effectively. To meet this requirement, local authorities need to have arrangements in place to confirm the current activity of these young people at regular intervals.

Schools duties

Section 72 of ESA 2008 places a duty on educational institutions to provide information to local authority services in order for them to deliver their duties under section 68, i.e. Post 16 Progression: Intended Destinations/Offers - Local authorities should work with schools to identify those young people eligible for an offer, understand their post-16 plans and any offers they have received.

All schools will be involved in arranging the annual reviews of EHC plans and statements of SEN, and support the aims of the review. Schools should support all pupils with SEND (both those with statements or EHC plans and those without) to make as successful a transition as possible into post-16 education or training. Schools should work with post-16 providers and pass on information about each young person's needs so that the post-16 provider can put appropriate support in place from the start. The right support will help the young person to remain in education or training.

Local Authority Information

This is currently under review and will be published in due course.

9. Pupils Missing out on Education (PME)

In very exceptional circumstances there may be a need for a temporary part-time timetable to meet a pupil's individual need. For example where a medical condition prevents a pupil from attending full-time education and part time package is considered as part of a reintegration package.

A part-time timetable must not be treated as a long-term solution. Any pastoral support programme or other agreement must have a time-limit by which point the pupil is expected to attend full-time or be provided with alternative provision. 'Informal' or 'unofficial' exclusions, such as sending pupils home 'to cool off', are unlawful, regardless of whether they occur with the agreement of parents or carers. Any exclusion of a pupil, even for short periods of time, must be formally recorded.

Reduced timetables are acceptable in the following circumstances:

- There are behavioural difficulties and the school is trying a part-time timetable as an intervention to try and avoid exclusion as part of a pastoral support plan or a planned reintegration package.
- A pupil has a short-term medical condition that prevents full time attendance for a time limited period.

Conditions of a reduced timetable

Schools should ensure the following points are discussed prior to putting a child on a reduced timetable.

- A reduced timetable must be agreed with the parent/carer and the school and the pupil should also be present in discussions concerning their timetable.
- The number of hours a pupil will be expected to attend school.
- How and when the reduced timetable will be reviewed – a reduced timetable should not exceed 6 weeks.

Legislation and Government Guidance

[Pupils Missing Out on Education Ofsted \(2013\)](#)

[Supporting Pupils at School with Medical Conditions \(2015\)](#)

[Exclusion from maintained schools, Academies and pupil referral units in England \(2012\)](#)

(Please note that the DfE guidance issued in 2014 was rescinded, and it is the 2012 guidance that is currently in use)

- How the absence will be coded in the register.

A parent/carer must consent to part-time timetable and confirm they are taking responsibility for the pupil when he/she is not in school and a guarantee that the pupil will be supervised off site.

Part-time timetables that **do not** have clearly defined objectives, a specified end date, a review process, and/or the consent of parents/carers may constitute an illegal exclusion.

Illegal exclusions

Occasions when a pupil is considered to have been illegally excluded are as follows:

- The school fails to follow correct procedures for recording an exclusion;
- Pupils being placed in inappropriate 'alternative provisions' or extended study leave as a way of removing them from school;
- Coercing parents into moving their child to a different school, educate at home or under threat of permanent exclusion;
- Encouraging parents to keep their child at home rather than attend school;
- Sending pupils home who have SEN if their teaching assistant is unavailable.

Coding the register

The code identified as being appropriate when a child is placed on a reduced timetable is:

'C' code – *Leave of absence authorised by the School*

If pupils attend whole session as part of their reduced timetable, attendance should be marked using a present code.

Pupils who are placed on a reduced timetable should be provided with sufficient and appropriately differentiated work to do for those hours they are not in school. Arrangements should be made to ensure that the work is regularly marked, assessed and constructive feedback is given to the pupil.

Pupils must not put in place a reduced timetable that exceeds a six week period. If the pupil is still on a reduced timetable as the time limit approaches, a review must be held to discuss the next steps. A maximum of one further period of six weeks

should only be agreed in exceptional circumstances with parental agreement and the plan revised to reflect why an extension was appropriate.

Schools should ensure that where pupils have a statement for special educational needs/EHCP, the Local Authority SEN team must be involved to ensure the statement is reviewed and amended where appropriate. The Local Authority SEN team must agree to the intervention and a reduced timetable must not interfere with additional support given to a student due to his/her educational needs.

A risk assessment should be conducted to assess the impact that a reduced timetable would have on the pupil. It is essential that the pupil's welfare during any absence from school is considered. Risk assessments should follow these five steps identified by the Health and Safety Executive.

Step 1: Identify possible hazards

Step 2: Decide who may be harmed and how

Step 3: Evaluate the risks and decide on precaution

Step 4: Record your findings and implement them

Step 5: Regularly review your assessment and update if necessary

The risk assessment should include the safety and wellbeing of the pupil as well as the risk of the pupil engaging in criminal activity, substance misuse or any other safeguarding concerns whilst not in receipt of education during the school day.

The attendance lead within the school must ensure that they keep a central record of all pupils on a reduced timetable.

All statutory school aged pupils should receive full time education consistent with their age and previous guidance from the DfE recommends the following:

- 21 hours at Key Stage 1 (Years 1 and 2)
- 23.5 hours at Key Stage 2 (Years 3 to 6)
- 24 hours at Key Stage 3 (Years 7 to 9)
- 25 hours at Key Stage 4 (Year 10 and 11)

It is illegal for schools to discriminate against pupils on the basis of their SEN and/or disability, including those with Behavioural Emotional and Social Difficulties (BESD).

Local Authority Contact Information

This is currently under review and will be published in due course.

10. Safeguarding

Legislation and Government Guidance

[Keeping Children Safe in Education \(2016\)](#)

[Working Together to Safeguard Children \(2015\)](#)

Schools and colleges must have regard to Keeping Children Safe in Education (KCSIE) (2016) when carrying out their duties to safeguard and promote the welfare of children. This means they should comply with it unless exceptional circumstances arise. All schools and colleges have a responsibility to provide a safe environment in which children learn.

Governing bodies and proprietors (including management committees) must ensure that they comply with their duties under legislation. They must have regard to KCSIE (2016) to ensure that the policies, procedures and training in their schools or colleges are effective and comply with the law at all times. The ultimate lead responsibility for safeguarding and child protection remains with the Designated Safeguarding Lead. Governing bodies of maintained schools and proprietors of academy schools must appoint a designated teacher to promote the educational achievement of children who are looked after and to ensure that this person has appropriate training.

If a teacher, in the course of their work in the profession, discovers that an act of Female Genital Mutilation appears to have been carried out on a girl under the age of 18 the teacher must report this to the police.

Procedures for Disclosure and Barring Service (DBS)

There must also be procedures in place to make a referral to the Disclosure and Barring Service (DBS) if a person in regulated activity has been dismissed or removed due to safeguarding concerns, or would have been had they not resigned. This is a legal duty and failure to refer when the criteria are met is a criminal offence. Governing bodies and proprietors must act reasonably in making decisions about the suitability of the prospective employee based on checks and evidence including: criminal record checks (DBS checks), barred list checks and prohibition checks together with references and interview information. For those engaged in management roles (in independent schools - including academies and free schools) an additional check is required to ensure they are not prohibited

under section 128 provisions. Applicants must show the original DBS certificate to their potential employer before they take up post or as soon as practicable afterwards.

Teacher prohibition orders prevent a person from carrying out teaching work in schools, sixth form colleges, 16 to 19 academies, relevant youth accommodation and children's homes in England. A person who is prohibited from teaching must not be appointed to work as a teacher in such a setting. A check of any prohibition can be carried out using the Teacher Services' system. Prohibition orders are described in the National College for Teaching and Leadership's (NCTL) publication - Teacher misconduct: the prohibition of teachers.

Any offer of appointment made to a successful candidate, including one who has lived or worked abroad, must be conditional on satisfactory completion of the necessary pre-employment checks. When appointing new staff, schools and colleges must:

- verify a candidate's identity;
- obtain via the candidate an enhanced DBS check;
- obtain a separate barred list check if an individual will start work in regulated activity before the DBS certificate is available;
- verify the candidate's mental and physical fitness to carry out their work responsibilities;
- verify the person's right to work in the UK;
- if the person has lived or worked outside the UK, make any further checks the school or college consider appropriate;
- verify professional qualifications;
- Independent schools, including academies and free schools, check that a person taking up a management position is not subject to a Section 128 direction made by the Secretary of State.

Where an enhanced DBS certificate is required, it must be obtained from the candidate before or as soon as practicable after, the person's appointment. If an individual has worked abroad but meets the criteria which means they do not require an enhanced DBS certificate or checks for events that have occurred outside the UK, all other pre-appointment checks must still be completed, including where the individual is engaging in regulated activity.

Before using the DBS Update Service schools/colleges must:

- obtain consent from the applicant to do so;
- confirm the certificate matches the individual's identity; and
- examine the original certificate to ensure that it is for the appropriate workforce and level of check, e.g. enhanced certificate/enhanced including barred list information

Individuals who have lived or worked outside the UK must undergo the same checks as all other staff in schools or colleges. In addition, schools and colleges must make any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered.

Schools and colleges must obtain written notification from any agency, or third-party organisation they use that the organisation has carried out the checks, on an individual who will be working at the school or college that the school or college would otherwise perform. Where the position requires a barred list check this must be obtained, by the agency or third-party prior to appointing that individual. The school must also check that the person presenting themselves for work is the same person on whom the checks have been made. Different setting must comply with the specific requirements for their own organisation.

Schools must also have regard to the following circumstances:

- Where applicants for initial teacher training are salaried by the school or college, the school or college must ensure that all necessary checks are carried out. As trainee teachers are likely to be engaging in regulated activity, an enhanced DBS certificate (including and barred list information) must be obtained.
- If a person working at the school or college moves from a post that was not regulated activity, into work which is regulated activity, the relevant checks for the regulated activity must be carried out.
- Where a teacher's employer, including an agency, dismisses or ceases to use the services of a teacher because of serious misconduct, or might have dismissed them or ceased to use their services had they not left first, they must consider whether to refer the case to the Secretary of State.
- If the volunteer is to be supervised while undertaking an activity, which would be regulated activity if it was unsupervised, the statutory guidance must be followed.
- Governors in maintained schools are required to have an enhanced criminal records certificate from the DBS.

Where the proprietor is a body of people, the chair must ensure that enhanced DBS checks are undertaken. The chair must also ensure that other members are not subject to a section 128 direction that would prevent them from taking part in the management of an independent school (including academy and free schools).

Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school or college or whether alternative arrangements can be put in place until the allegation or concern is resolved. If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. A referral to the DBS *must* be made, if the criteria are met.

A person should not be suspended automatically: the case manager must consider carefully whether the circumstances warrant suspension from contact with children at the school or college or until the allegation is resolved, and may wish to seek advice from their personnel adviser and the designated officer.

There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child.

Keeping Registers & Records

The law requires all schools to have an admission register and, with the exception of schools where all pupils are boarders, an attendance register. All pupils must be placed on both registers.

Schools and colleges must keep a Single Central Record (SCR) and include:

- all staff (including supply staff, and teacher trainees on salaried routes) who work at the school: in colleges, this means those providing education to children; and
- for independent schools, including academies and free schools, all members of the proprietor body.

See KCSIE (2016) for the details that must be included in the SCR.

Anti-Terrorism duties

From 1 July 2015 specified authorities, including all schools (and since 18 September 2015 all colleges) as defined in the summary of this guidance, are subject to a duty under section 26 of the Counter-Terrorism and Security Act 2015

("the CTSA 2015"), in the exercise of their functions, to have "due regard to the need to prevent people from being drawn into terrorism". This duty is known as the Prevent duty. It applies to a wide range of public-facing bodies. Bodies to which the duty applies must have regard to statutory guidance issued under section 29 of the CTSA 2015. Schools must ensure that children are safe from terrorist and extremist material when accessing the internet in schools.

Local Authority Information

This is available from the Safeguarding in Education Team (SET) through a range of resources including: briefing notes, training, Designated Safeguarding Lead (DSL) network meetings, model policies and newsletters.

Safeguarding in Education Team

Email: safeguardingineducationteam@bristol.gov.uk

Telephone: 0117 922 2710

11. School Attendance

Legislation and Government Guidance

Background Information: Duty to Ensure a Child's Regular School Attendance

Section 7 of the Education Act 1996 states:

*"The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable - (a) to his age, ability and aptitude, and (b) to any special educational needs he may have, either **by regular attendance at school** or otherwise."*

[School Attendance - DfE Guidance for schools and Local Authorities November 2016](#)

[Ofsted – School inspection handbook \(August 2016\)](#)

[Ofsted – School inspection handbook – Section 8 \(August 2016\)](#)

Section 444 (1) of the Education Act 1996 states:

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

Definition of Parent

Section 576 of the Education Act 1996 defines parent for the purpose of this Act to include:

"any person—(a) who is not a parent of his but who has parental responsibility for him, or (b) who has care of him,"

It is for Local Authorities and schools to decide who comes within the definition of parent in respect of a particular pupil when using the legal measures.

School Attendance

Pupils need to attend school regularly to benefit from their education. Missing out on lessons leaves children vulnerable to falling behind. The government expects schools and local authorities to: promote good attendance and reduce absence, including persistent absence; ensure every pupil has access to full-time education to which they are entitled; and act early to address patterns of absence

Statutory defences to the offence of failing to ensure regular attendance at school:

- Sickness or 'Unavoidable Cause' - *"...if the parent proves that at that time the child was prevented from attending by reason of sickness or any unavoidable cause."*
- 'With Leave' (absence agreed in advance by the head teacher) *"The child shall not be taken to have failed to attend regularly at the school by reason of his absence from school – with leave..."*
- Religious Observance *"...any day exclusively set apart for religious observance by the religious body to which his parent belongs."* (For example Eid)
- Transport to school not being provided where the child has a statutory entitlement, see DfE Home to school travel and transport guidance July 2014: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/575323/Home_to_school_travel_and_transport_guidance.pdf
- Traveller Children (if the child's absence is due to travelling for the purpose of the family business, and the child has attended school for at least 200 sessions during the previous 12 months)

Sickness

Schools should not apply blanket policies to illness, such as requiring medical evidence to authorise any illness absence once a child's attendance falls below a certain percentage.

Schools should advise parents to notify them on the first day the child is unable to attend due to illness and should authorise absences due to illness unless they have genuine cause for concern about the veracity of an illness. If the authenticity of illness is in doubt, schools can request parents to provide medical evidence to support illness. Schools can record the absence as unauthorised if not satisfied of the authenticity of the illness but should advise parents of their intention.

Schools are advised not to request medical evidence unnecessarily. Medical evidence can take the form of prescriptions, appointment cards, etc. rather than doctors' notes.

Leave of Absence Requests – 'Exceptional Circumstances'

It is for the headteacher to decide whether the circumstances are 'exceptional'. Headteachers should not fetter their discretion by issuing a 'blanket ban' on holidays.

Legal Interventions for Irregular School Attendance

Penalty Notices (s444A Education Act 1996) can be an appropriate sanction for low level irregular school attendance, such as: unauthorised term time holiday; regular unauthorised lateness (after the registers close) and/or sporadic unauthorised absences where casework with the family does not result in improvement.

In more serious cases of irregular school attendance, where school support and other agency involvement, if appropriate, has not brought about change, parental prosecution may be the most appropriate legal intervention. The Education Welfare Service is able to provide advice and guidance to schools on prosecution under s444 (1) and s444 (1A) Education Act 1996 and Education Supervision Orders under s36 Children Act 1989.

The Admission and Attendance Registers

The law requires all schools including independent schools to have an admission register and, with the exception of schools where all pupils are boarders, an attendance register. All pupils (regardless of their age) must be placed on both registers.

The proprietor of a school who fails to comply with these regulations is guilty of an offence under Section 434(6) of the Education Act 1996 and can be fined.

Schools must enter pupils on the admission register and attendance register from the beginning of the first day on which the school has agreed, or been notified, that the pupil will attend the school. If a pupil fails to attend on the agreed or notified date, the school must establish the reason for the absence and mark the attendance register accordingly.

Every amendment made to the admission register and the attendance register must include: the original entry; the amended entry; the reason for the amendment; the date on which the amendment was made; and the name and position of the person who made the amendment.

Every entry in the admission register and attendance register must be preserved for a period of three years after the date on which the entry was made.

Schools must take the attendance register at the start of the first session of each school day and once during the afternoon session. On each occasion they must record whether every pupil is: present; attending an approved educational activity; absent; or unable to attend due to exceptional circumstances.

School Action – following up absences

The school should follow up any absences to:

- ascertain the reason;
- ensure appropriate safeguarding action is taken where needed;
- identify whether the absence is approved or not; and,
- identify the correct code to use before entering it on to the school's electronic register, or management information system which is used to download data to the School Census. The DfE's November 2016 School Attendance Guidance gives full details on attendance codes and how these should be used.

This DfE coding guidance should be a key reference document for any school staff with responsibility for marking registers with attendance codes.

School Attendance Policy

The school should have an attendance policy which is readily available to parents and is a working document for the relevant members of school staff. The policy should set out the registration period, and the arrival time after which children will be marked as 'U' – which counts as an unauthorised absence.

The policy should set out any expectations for parents such as:

- how a parent should notify the school if their child cannot attend due to illness or any unavoidable cause;
- the school's expectation of how parents should request leave of absence in exceptional circumstances;
- possible consequences of unauthorised absence, for example, that the school may refer the matter to the Local Authority (LA) to issue a Penalty Notice, or that the LA may instigate another legal sanction such as a prosecution.

The school should regularly review its attendance policy to ensure it best meets the needs of the pupils in the school.

The school should ensure that attendance has a high profile in the life of the school, for example by including regular items in the school newsletter and including references to attendance on the school's website. It is recommended that the school's attendance policy is available on the school's website.

Attendance and Ofsted Inspections

Attendance forms part of Ofsted's judgements on the personal development, behaviour and welfare of pupils at school. Ofsted will focus on attendance during its inspections of schools. It will examine the school's strategies for promoting good attendance, analysing attendance across a range of vulnerable groups within the school, whether school attendance figures match that observed within lessons, and how schools support pupils with long term absence.

The School Inspection Handbook (Section 5 - August 2016) states the lead inspector will prepare for the inspection by gaining an overview of the school's recent performance and any changes since the last inspection. The lead inspector will use all available evidence to develop an initial picture of the school's performance. The planning will be informed by analysis of several sources of information including attendance data from RAISEonline, and the inspection dashboard.

Inspectors will request that information is available at the start of the inspection, including records and analysis of pupils taken off roll and up-to-date attendance analysis for all groups of pupils.

Inspectors will consider:

- overall absence and persistent absence rates for all pupils, and for different groups in relation to national figures for all pupils;
- the extent to which low attenders are improving their attendance over time and whether attendance is consistently low (in the lowest 10%);
- punctuality in arriving at school and at lessons.

Inspectors evaluate the experience of particular individuals and groups, such as pupils for whom referrals have been made to the local authority (checking how the referral was made and the thoroughness of the follow-up), pupils who have special educational needs and/or disabilities, children looked after, those with medical

needs and those with mental health needs. Inspectors must look at a small sample of case studies about the experience of these pupils.

If the school runs (on its own or in partnership with other schools) an off-site unit for pupils whose behaviour is poor or with low attendance, an inspector must visit the unit. Inspectors will assess safeguarding procedures, the quality of teaching and how effectively the unit helps to improve pupils' behaviour, learning and attendance.

Grade descriptors for personal development, behaviour and welfare:

- **Outstanding (1)** - Pupils value their education and rarely miss a day at school. No groups of pupils are disadvantaged by low attendance. The attendance of pupils who have previously had exceptionally high rates of absence is rising quickly towards the national average.
- **Good (2)** - Pupils are punctual and prepared for lessons. They bring the right equipment and are ready to learn.
- Pupils value their education. Few are absent or persistently absent. No groups of pupils are disadvantaged by low attendance. The attendance of pupils who have previously had exceptionally high rates of absence is showing marked and sustained improvement.
- **Inadequate (4)** - Personal development, behaviour and welfare are likely to be inadequate if any one of the following applies: ...Attendance is consistently low for all pupils or groups of pupils and shows little sign of sustained improvement.

The School Inspection Handbook - section 8 (August 2016) states before the inspection, the HMI/Lead Inspector will evaluate a range of available contextual and performance information: ... data in the inspection dashboard... published data for attendance and exclusions. (N.B. This information will include attendance data on groups.)

The HMI will request that the following information is available at the start of the inspection including:

- records and analysis of exclusions, pupils taken off roll and incidents of poor behaviour; any use of internal isolation
- up-to-date attendance analysis for all groups of pupils
- On the inspection day, where relevant, inspectors will look at aspects of the personal development, behaviour and welfare of pupils (with particular reference to pupils' attitudes and conduct).

Local Authority Information

Further information, training support and advice is available from the Education Welfare Service.

Email: welfare.north@bristol.gov.uk

Telephone: 011793521438

12. Special Educational Needs and Disabilities (SEND)

Legislation and Government Guidance

[Special Educational Needs and Disability Code of Practice \(2015\)](#)

[Special Educational Needs and Disability Regulations 2014](#)

In 2014 government introduced changes to the legislation governing practice around special educational needs and disability in schools. These reforms cover children and young people from birth to 25 years old. Some of the changes included:

- Categories of School Action and School Action Plus being replaced with **SEN Support**.
- The move from Statements of Education to **Education, Health and Care plans**
- Introduction of **Personal Budgets**
- The **Local Offer** duties
- **SEN Information Reports**
- Introduction of the **Preparing for Adulthood Outcomes**.
- Promotion of **co-production** between parents, carers, young people and services.

A pupil has SEN where their learning difficulty or disability calls for special educational provision, namely provision different from or additional to that normally available to pupils of the same age.

The SEND Code of Practice sets out expectations over how schools should identify children and young people with SEND. This involves the delivery of high quality teaching and using a graduated approach of assess, plan, do and review, including the use of additional resources available within and to the school. Advice from outside agencies such as the Inclusion Service should be used to support this process.

The needs of children and young people should be identified under the broad areas of:

- communication and interaction;
- cognition and learning;

- social, emotional and mental health difficulties,
- sensory and/or physical needs.

When a young person reaches 14 the preparing for adulthood outcomes should be looked at when considering the outcomes for a young person.

Education, Health and Care needs (EHC needs assessment)

In circumstances where the graduated response approach is deemed to not be meeting the needs of a young person, a request for a statutory needs assessment may be made. This should be considered appropriate in cases in which despite appropriate assessment leading to evidence informed intervention, the young person is not making expected progress (section 9.14 CoP) **and** may require special educational provision as outlined in a care plan going forwards (section 36 (8) Children and families act 2014. A needs assessment will be completed within statutory guidelines (see below) and may lead to an EHC plan or to a non-statutory plan.

Education, Health and Care Plans (EHCP)

From 2014 Education, Health and Care plans were introduced and have gradually been replacing Statements of Education and Learning Difficulty Assessments.

“The purpose of an EHC plan is to make special educational provision to meet the special educational needs of the child or young person, to secure the best possible outcomes for them across education, health and social care and, as they get older, prepare them for adulthood.” 9.2. DfE (2015) Special Educational Needs and Disability Code of Practice

Education, Health and Care plans are for children and young people who are in education, up to age 25 years old who have significant special educational needs that affects their learning. The plans help coordinate the support available to the child or young person and their families across their education, health and social care needs. From the age of 14 Education, Health and Care plans include the Preparing for Adulthood outcomes.

If an Education, Health and Care plan is needed it takes 20 weeks to issue. The decision on whether an Education, Health and Care plan is appropriate is decided through a needs assessment involving the setting, involved professionals, parent/carers and young people, Once an Education, Health and Care plan is issued it is reviewed annually (usually by the setting the child attends). The

outcomes in an Education, Health and Care plan must be SMART and consider the aspirations of the child/young person and their carer(s).

Personal Budgets

An EHCP/SEN personal budget is a specified amount of money made available to deliver elements of an Education, Health and Care plan in a flexible way. Personal Budgets are available for support which is individual to the child or young person and are available for goods and services to meet EHCP outcomes that are additional to or different from those normally available in schools. Personal budgets cannot be used to purchase educational places, and monies cannot be removed from core provision of a school to provide this.

Local Offer Duties

The SEND Reforms required Local Authorities to provide information, in one place, on the services it expected to be available in its area to children and young people with SEND and their families. This information must be accessible, relevant and up-to-date and used to support young people and families in think about whether the services available met their needs and aspirations.

“The Local Offer has two key purposes:

- To provide clear, comprehensive, accessible and up-to-date information about the provision available and how to access it, and*
- To make provision more responsive to local needs and aspirations by directly involving disabled children and those with SEN and their parents, and disabled young people and those with SEN, and service providers in its development and review SEND Code of Practice 2015.”*

SEN Information Reports

Schools are required to write SEN Information Reports, which offer information on what schools offer children and young people with SEND and their families. Like the Local Authority school are required to make sure their information is accessible, relevant and up-to-date. Combined with the schools' Access Plan (from the Equality Act 2010) and their SEN policy this makes the school's Local Offer. School's also have a duty to signpost to the Local Authorities Local Offer (Findability) and make sure young people and parent carers are aware of it.

Preparing for Adulthood Outcomes

The SEND Reforms emphasised the importance of thinking about what outcomes a young person will need to meet in order to achieve their aspirations for the future, beyond school. These outcomes are summarised in the Preparing for Adulthood Outcomes

“Preparing for adulthood means preparing for:

- *higher education and/or employment – this includes exploring different employment options, such as support for becoming self-employed and help from supported employment agencies*
- *independent living – this means young people having choice, control and freedom over their lives and the support they have, their accommodation and living arrangements, including supported living*
- *participating in society, including having friends and supportive relationships, and participating in, and contributing to, the local community*
- *being as healthy as possible in adult life” 7.38 SEND Code of Practice 2015*

The preparing for adulthood outcomes should be looked at from the earliest age (14 at the latest). Any provision, planned for a young person 14+, whether they are on SEN Support or have an Education, Health and Care plan, should consider how provision will support that young person to meet the Preparing for Adulthood outcomes.

Participation and Co-Production

Integral to the SEND Reforms is the principle that children, young people and parent/carers views, needs and aspirations should be considered when developing services or making provision. This means any plans or support should be decided with young people and parents.

“Local Authorities must ensure that children, their parents and young people are involved in discussions and decisions about their individual support and about local provision.

Early years providers, schools and colleges should also take steps to ensure that young people and parents are actively supported in contributing to needs assessments, developing and reviewing Education, Health and Care plans.” 1.3 & 1.4 SEND Code of Practice 2015

Local Authority Information

The SEND Vision describes the outcomes that we want to see children and young people with SEND achieve.

www.findabilitybristol.org.uk/pages/home/about-findability/bristol-s-send-vision

Information on SEN Support can be found in The Bristol Toolkit: SEND in Education.

www.findabilitybristol.org.uk/pages/primary-school-age/education/the-bristol-toolkit-send-in-education

Information on Education, Health and Care plans and the needs assessments can be found in The Bristol Toolkit: SEND in Education

www.findabilitybristol.org.uk/pages/primary-school-age/education/the-bristol-toolkit-send-in-education

Information on Personal Budgets can be found in The Bristol Toolkit: SEND in Education

<http://www.findabilitybristol.org.uk/pages/primary-school-age/education/the-bristol-toolkit-send-in-education/education-health-and-care-plans/personal-budgets>

Bristol's Local Offer information is available on www.findabilitybristol.org.uk. Information on what Local Offer information schools' should provide is available from <http://www.findabilitybristol.org.uk/pages/home/information-for-professionals>.

Findability has a section dedicated to information around the preparing for adulthood outcomes.

www.findabilitybristol.org.uk/sections/preparing-for-adulthood

We are promoting co-production through the EHCP process and in the way we deliver services.

<http://www.findabilitybristol.org.uk/pages/home/about-findability/get-involved-our-co-production>

Contact Information

Trading with Schools Helpline: 0117 922 2444

Email: tradingwithschools@bristol.gov.uk

www.twstradingwithschools.org

[The School Information \(England\) \(Amendment\) Regulations 2016.](#)

[What maintained schools must publish online](#)

[What academies, free schools and colleges should publish online](#)

[The Education \(Independent School Standards\) Regulations 2014](#)

13. Websites - What schools must publish online

The requirement of what a school should publish online varies depending on their status and therefore guidance needs to be checked carefully.

Your school website should include:

- School or college contact details
- Admission Arrangements
- Exclusion Arrangements (academies, free schools and colleges)
- Ofsted Reports (maintained, academies, free schools and colleges)
- Reports of any inspection carried out under sections 108 or 109 of the 2008 Act or section 87(1) of the 1989 Act (independent schools)
- Any decision of the Secretary of State to remove the school from the register, any decision of the Secretary of State to impose a relevant restriction on the proprietor or any order of a justice of the peace (2008 Act) (independent schools)
- Exam and Assessment Results (where applicable)
- Key stage 2 (end of primary school) results
- Key stage 4 (end of secondary school) results
- Key stage 5 (16 to 19) results
- Performance Tables
- Curriculum
- Behaviour Policy
- Pupil Premium
- Year 7 literacy and numeracy catch-up premium (if applicable)
- PE and Sports premium for primary schools (if applicable)
- Special Educational Needs and Disabilities (SEND)
- Special Educational Needs (SEN) report
- Accessibility plan for disabled pupils.
- Equality Objectives
- Complaints Policy
- Annual Reports and Accounts (academies, free schools and colleges)

- Governors' Information and Duties
- Charging and Remissions Policies
- Values and Ethos
- Request for Copies If a parent requests a paper copy of the information on your website, you must provide this free of charge.

Local Authority Information

Governor Development Service has produced an information pack to support schools in maintaining the statutory website content. Copies are available on request.

Governor Development Service

gds@bristol.gov.uk

Tel 0117 9036900

ANNEX A - Education (Pupil Registration) (England)

Reason 1: School Attendance Order pupils

Legislation: 8(1)(a) - where the pupil is registered at the school in accordance with the requirements of a school attendance order, that another school is substituted by the local authority for that named in the order or the order is revoked by the local authority on the ground that arrangements have been made for the child to receive efficient full-time education suitable to his age, ability and aptitude otherwise than at school.

Reason 2: Immediate transfer to another school

Legislation: 8(1)(b) - except where it has been agreed by the proprietor that the pupil should be registered at more than one school, in a case not falling within sub-paragraph (a) or regulation 9, that he has been registered as a pupil at another school.

Reason 3: Dual Registered pupils

Legislation: 8(1)(c) - where a pupil is registered at more than one school, and in a case not falling within sub-paragraph (j) or (m) or regulation 9, that he has ceased to attend the school **and the proprietor of any other school at which he is registered has given consent to the deletion.**

Reason 4: Elective Home Education

Legislation: 8(1)(d) - in a case not falling within sub-paragraph (a) of this paragraph, that he has ceased to attend the school **and the proprietor has received written notification from the parent that the pupil is receiving education otherwise than at school.**

Reason 5: Pupils who move out of the area

Legislation: 8(1)(e) - except in the case of a boarder, that he has ceased to attend the school **and no longer ordinarily resides at a place which is a reasonable distance from the school at which he is registered.**

Reason 6: Pupils who fail to return from planned leave of absence and cannot be traced

Legislation: 8(1)(f) - in the case of a pupil granted leave of absence in accordance with regulation 7(1A), that —

(i) the pupil has failed to attend the school within the ten school days immediately following the expiry of the period for which such leave was granted;

(ii) the proprietor does not have reasonable grounds to believe that the pupil is unable to attend the school by reason of sickness or any unavoidable cause; **and**

(iii) the proprietor and the local authority have failed, after jointly making reasonable enquiries, to ascertain where the pupil is.

Reason 7: Certified unlikely to be fit to return to school before the end of Year 11

Legislation: 8(1)(g) - that he is **certified by the school medical officer** as unlikely to be in a fit state of health to attend school before ceasing to be of compulsory school age, **and neither he nor his parent has indicated to the school the intention to continue to attend the school after ceasing to be of compulsory school age.**

Reason 8: Pupil has been continuously absent for 20 school days and cannot be traced

Legislation: 8(1)(h) - that he has been continuously absent from the school for a period of not less than twenty school days and —

(i) at no time was his absence during that period authorised by the proprietor in accordance with regulation 6(2);

(ii) the proprietor does not have reasonable grounds to believe that the pupil is unable to attend the school by reason of sickness or any unavoidable cause; **and**

(iii) the proprietor of the school and the local authority have failed, after jointly making reasonable enquiries, to ascertain where the pupil is.

Reason 9: Pupil has been detained in custody for four months or more

Legislation: 8(1)(i) - that he is detained in pursuance of a final order made by a court or of an order of recall made by a court or the Secretary of State, that order being for a period of not less than four months, **and the proprietor does not have reasonable grounds to believe that the pupil will return to the school at the end of that period.**

Reason 10: Pupil's death

Legislation: 8(1)(j) - that the pupil has died.

Reason 11: Pupil is above statutory school age (has completed Year 11)

Legislation: 8(1)(k) - that the pupil will cease to be of compulsory school age before the school next meets and—

(i) the relevant person has indicated that the pupil will cease to attend the school;
or

(ii) the pupil does not meet the academic entry requirements for admission to the school's sixth form.

Reason 12: Applies to Independent Schools ONLY

Legislation: 8(1)(l) - in the case of a pupil at a school other than a maintained school, an Academy, a city technology college or a city college for the technology of the arts, that he has ceased to be a pupil of the school.

Reason 13: Permanent Exclusion

Legislation: 8(1)(m) - that he has been permanently excluded from the school.

Reason 14: Nursery pupil not transferring to a higher class at the same school

Legislation: 8(1)(n) - where the pupil has been admitted to the school to receive nursery education, that s/he has not on completing such education transferred to a reception, or higher, class at the school.

Reason 15: Unpaid fees for a boarder at a maintained school or academy

Legislation: 8(1)(o) where—

(i) the pupil is a boarder at a maintained school or an Academy;

(ii) charges for board and lodging are payable by the parent of the pupil; and

(iii) those charges remain unpaid by the pupil's parent at the end of the school term to which they relate.