



Supporting schools to improve attendance

A graduated approach to intervention

September 2023

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Introduction

Key documentation that supports this guidance:

[Emotionally based school avoidance: Guidance for schools and support services](#)

[Hackney Wellbeing Framework](#)

[Working together to improve school attendance](#)

[Keeping children safe in education 2022 - GOV.UK](#)

Regular school attendance is a protective factor for children. We know that the positive relationships children have with their teachers and their peers helps them to continue to build a secure attachment, which in turn helps them to live happy lives filled with positive and nourishing social relationships. A child who attends school regularly and feels happy and safe is free to achieve their potential. We know that children who do not have regular school attendance are less able to achieve well and are often unable to make up for missed learning. The dislocation from the experience of their peers can leave children feeling further isolated and can become its own barrier to attending school, thereby compounding existing attendance challenges.

There is evidence that the earlier we intervene in a decline in attendance, the more likely we are to be able to support a child and family to improve attendance and return to a pattern of good attendance. We know that promoting good attendance is a priority for all of our schools in Hackney; we know our school staff care deeply about our children (and their families) and want the best for them, and good attendance is key to achieving this aim.

Local authority and school policies, procedures and practice can all have a substantial impact on rates of attendance in school. Good overall attendance can be secured when there is a focus on encouraging and motivating children to attend, a curious approach to understanding the context around declining attendance and an empathetic approach to identifying and overcoming barriers.

These efforts are most likely to be successful when attendance is seen as part of the whole school approach to managing children's emotional wellbeing and welfare. School attendance policies should reflect a sensitive awareness of children's home backgrounds and community values, underpinned by positive communication with parents/carers and high expectations that all children will make academic progress to fulfil their potential. Successful attendance practice is also characterised by close links with other key school policies - including those linked to pastoral care and special educational needs.

The following guidelines reflect the new Department for Education (DfE) guidance '[Working Together To Improve School Attendance](#)' and will support schools to promote good school attendance and to effectively use a multi-agency approach, including utilising targeted early help services. The guidelines will provide a consistent framework for support and promote an inclusive school ethos, valuing positive, respectful relationships between schools, children and their parents.

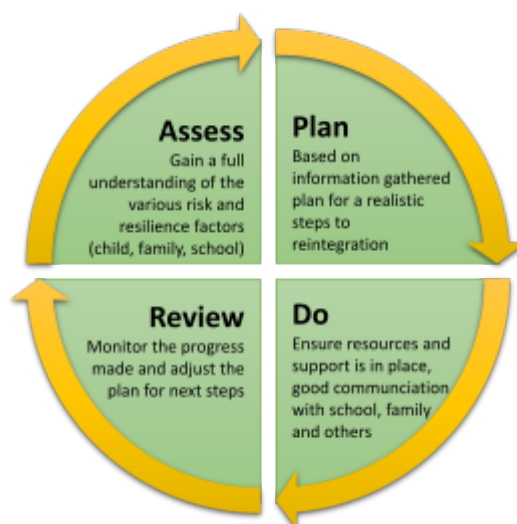
An overview of the guidance

This guidance covers:

- A. Actions to be undertaken by schools and Hackney Education to promote regular attendance and the interventions undertaken to support parents/carers when their children's attendance becomes a concern.**
- B. The legal measures available to the Local Authority when parents fail to ensure their child's regular attendance at school. This includes guidance on fixed penalty notices and prosecutions, noted under sections 444(1) or 444(1A) of the Education Act 1996.**

Our approach to supporting good attendance for all our children

Hackney Education has adopted a graduated approach to addressing poor school attendance, using the assess-plan-do-review cycle.



Within the graduated approach, Hackney Education uses the following three stages which are described later in more detail. This links to the Hackney Wellbeing framework of prevention, early help and acute and complex needs:

Stage 1 - UNIVERSAL

Stage 2 - EARLY HELP

Stage 3 - STATUTORY INTERVENTION

By working with the child and family, we can identify both risk and protective factors and devise a plan of action which is implemented and regularly reviewed. Legal enforcement measures will only be instigated as a last resort when evidence exists that demonstrates that the child's parent/carer has not engaged with interventions put in place to support them to improve their child's attendance.

Safeguarding and Attendance

Poor school attendance is very often a symptom of other issues in a child's life. This may require reasonable adjustments to be made in school or a response from wider support service in order to identify and address underlying issues and secure an improvement in attendance.

In the first instance, information needs to be gathered to support an understanding of the child's needs. Consideration of the Continuum of Needs indicators found in the [Hackney Wellbeing Framework](#) will support this information gathering.

The Hackney Wellbeing Framework gives examples that should be considered indicative of the appropriate level for support for the concern. These are:

1. **Universal - Low level attendance concerns**
Identified challenges or barriers to regular attendance can be managed by school staff
2. **Early Help - Emerging patterns of low attendance**
School staff should consider using the [Hackney Wellbeing Framework](#) and the [Emotionally Based School Avoidance: Guidance for schools and support services](#) to support their information gathering and action planning. They may also request support services from the Team Around the School. The outcome of these steps may indicate that the child and their family need some targeted support, which might be requested via an Early Help Hub referral (with the family's consent). It may also be the case that a child that is unwell would benefit from tuition via the Medical Needs Tuition Service for an agreed period of time. Children's lives are complex and we must remain curious about this when planning.
3. **Complex - A high level of persistent non-attendance**
A child avoids school in order to stay safe or escape a stressful situation. Further information gathering and planning is required alongside input from support agencies.
4. **Acute risk of harm** - The child is at risk of significant harm.

If, during the work to improve attendance, a child is identified as being at an acute risk of harm, or has experienced significant harm, a referral should be made to MASH so that the risk can be assessed.

The MASH consultation line can be contacted on 020 8356 5500 (9am-5pm Monday-Friday). Out of hours the Emergency Duty Team (EDT) can be contacted by phoning 020 8356 2710.

Parents/carers must be made aware of a referral prior to making the referral, unless informing them would place the child at greater risk of immediate harm. Where possible, parents should consent to

the referral being made to MASH, and aided to understand this as a supportive measure intended to ensure they have access to the right support, from the right service and at the right time.

Designated Safeguarding Leads can obtain safeguarding advice prior to making a referral by phoning MASH (via the consultation telephone number above) and asking for a consultation. This does not require parental consent.

If the child is at immediate risk of significant harm the police should be called via 999. Action in these circumstances overrides staged approaches to improving attendance as the priority is to protect the child.

Where there are no other known safeguarding concerns or support that can be provided at an early help level then schools should follow the steps in this guidance and the [Emotionally Based School Avoidance: Guidance for schools and support services](#) to bring about an improvement in attendance.

How Hackney Education will work with schools

Good school attendance for all of our children remains a key priority for Hackney Education as we know it is both a protective factor and an indicator that a child is happy and has developed positive relationships with adults and peers in their school setting. We will work in partnership with schools to improve attendance by offering support and challenge both in respect to individual children of concern, and schools where persistent and/or overall absence is a concern. We will also support relationships between schools and other support agencies, working in synthesis together for our shared aim of enabling all our children to be happy, safe and achieve their potential.

It is important for schools and the local authority to achieve the right balance between providing parents/carers with effective support to improve their child's attendance at school and the use of legal enforcement measures against parents.

Hackney Education's School Attendance Support Team has two strands:

1. A traded service that provides specialist support and expertise to schools at Stages 1 and 2 in their response to persistent and overall absence; and
2. A core service that tracks attendance data, meets regularly with schools to discuss and plan for overcoming barriers to attendance, supports the sharing of best practice in the borough and manages court proceedings.

This guidance will provide schools and the School Attendance Support Team (SAST) with a framework within which to work as part of the overall staged approach for improving poor attendance at school.

School Attendance Support Team (SAST)

SAST has a traded offer that supports schools with interventions at Stages 1 and 2. They work in partnership with schools on improving attendance. This can include providing advice and guidance; engaging with parents/carers around attendance, investigating the reasons for absence and

undertaking reasonable enquiries, issuing penalty notice warning letters and undertaking casework to improve attendance on behalf of schools.

A dedicated officer will lead on all statutory parental responsibility and enforcement measures (including fixed penalty notices and prosecutions) and is available to advise schools on the use of enforcement measures against parents in relation to absence from school.

Under the staged intervention process, schools (or their commissioned SAST officer if they have bought into our traded offer) are responsible for all interventions at Stages 1 and 2; including any casework to improve attendance. This includes being responsible for submitting, as part of a referral for statutory attendance responses, all the necessary witness statements; attendance certificates; warning letters; meeting notes and any other supporting evidence.

A Graduated Approach to improving attendance

The stages below describe the types of action that a school may take, summarised in a flowchart in Appendix A.

Stage 1: Universal (attendance needs met by universal services)

Lead service: Schools

Children with stages of attendance between 93% and 100% will primarily receive support from their school through whole-school approaches to promoting good attendance, emotional wellbeing and via in- house steps such as telephone calls; texts; letters and meetings with parents.

The expectation is that schools will:

1. Have a whole school approach that is underpinned by a school attendance policy which promotes good attendance and punctuality, with clear roles and responsibilities throughout the school. This will be overseen by the member of the senior leadership team with responsibility for attendance.
2. Have in place a first day parent/carer contact system for children who are absent from school - to establish why the child is absent, and when the child is expected to return.
3. Actively monitor school attendance and initiate in house interventions when appropriate, such as:
 - a. Talking to, and being curious with children about what is making them feel unsafe or anxious
 - b. Mentoring/tracking of children whose attendance starts to decline
 - c. Initiating conversations with parents to advise them of their child's falling attendance and to help identify any barriers to attending

- d. Requesting medical evidence if absences continue to occur due to illness or medical reasons
 - e. Holding attendance clinics with parents/carers to identify underlying reasons for absence and to develop and agree a plan to remove barriers to regular attendance
 - f. Maintaining accurate records of any meetings/interventions and evaluations of interventions.
4. Escalate in a timely manner to Stage 2 if a child is in need of greater support/intervention in order to improve attendance.
 5. Have a praise/reward system in place for children who exceed the school's attendance target and/or improve their attendance following support and intervention

Intervention at Stage 1 is complete when the systems in schools for supporting good attendance have been successful.

If they are unsuccessful at either maintaining attendance at an acceptable level or preventing a decline in attendance, schools should transition to Stage 2, which provides a more focused child and family intervention to support the child to return to good attendance.

Hackney Education has a range of Early Help and [SEND services](#) and [WAMHS](#) that can support schools with developing good whole school practice and implementing interventions at Stage 1.

Stage 2: Early Help (needs met by universal support and one additional, non statutory agency)

Lead service: Schools with support from external agencies/services

Each school has access to a termly Multi Agency Planning (MAP) meeting and can use this meeting to discuss this child with your Team Around the School - you can either use the meeting to coordinate a plan for the child, share and review the progress and impact of a plan you have created outside of the meeting or to ensure a plan - and the related actions - remain relevant and purposeful. [The flowchart on page 25 of the guidance will assist you in your planning.](#)

When a child's attendance continues to decline over a period of time and is at risk of falling below 90% schools should investigate to see if there are any unidentified underlying reasons for the absences. Absence from school is rarely an issue in isolation and is often a symptom of issues elsewhere that need addressing.

A really useful starting point when unpicking and understanding a child's context and how it is impacting their attendance is our [Emotionally Based School Avoidance guidance for schools and support services](#). The reasons for poor attendance are generally complex, and this guidance helps to look at the facts around the child's experience and to use this to help unblock the barriers to good attendance. This guidance can help us identify a child's unmet needs, and make the required reasonable adjustments and/or more purposeful referrals to meet those needs - ensuring a consistent

and effective plan going forward is communicated to the child, their family and the professionals involved.

Casework addressing persistent and severe absence - working with families and external agencies

Children whose attendance has moved beyond a Stage 1 response are vulnerable to becoming persistent or severely absent. The [Emotionally Based School Avoidance guidance for schools and support services](#) will assist schools in determining how they will engage with a child's parents/carers and the child to identify the reasons for absence, establish whether there are any additional needs and ensure the necessary support is put in place to improve attendance.

Meetings to discuss attendance may have a variety of different names such as a Team Around the Child (TAC), an Attendance Clinic or an Attendance Improvement Meeting. The name of the meeting is secondary, the importance is that the school meets with the child's parents/carers.

The primary purpose of the attendance meeting is to listen to the parents/carers (and the child if it is appropriate to do so) in order to understand and explore the barriers to regular school attendance that exist and then identify, with the parents/carers and child, the appropriate support needed to overcome these.

Sensitivity and curiosity should be used when meeting with families and children. It might be helpful, in particular circumstances, for professionals to meet separately first and to draw the family together for the second part of the meeting. This isn't to exclude a family from information, but rather to ensure that all professionals are clear on the information and the circumstances so that they are able to manage the meeting in an effective and appropriately empathetic manner.

The meeting outcome should be a plan that sets out what the school, the parents/carers, the child and any agencies involved will do to overcome the identified barriers to regular attendance. The plan should not be limited to just improving school attendance but also consider what further additional support - if any - is needed by the child or their family. The plan is not a static document, it should be reviewed regularly and updated as necessary. If the interventions are not having the expected impact they should be changed in consultation with the child and their family, as part of a graduated response to developing a bespoke inclusion plan for the child.

You may wish to refer to the [Hackney Graduated Response](#) document to support you in this. Low attendance is often a symptom of an unmet or unidentified need. It is important to remain open to understanding what a child's behaviour might be telling us.

If not already involved, schools should also consider drawing upon the support of the Team Around the School. The termly Multi Agency Planning meeting is an opportunity to obtain support with vulnerable children who are causing concern.

Depending on your level of commissioning, your SAST officer can signpost to appropriate agencies for additional support, make that referral for you and even take the role of lead professional in the support plan for the child and family. A full description of our traded offer can be found in Appendix B.

Parents/carers should be invited to any meeting in writing. This letter must advise parents of their legal obligations in relation to regular attendance at school.

Interventions and support should be tailored to the issues identified at the meeting with parents. Possible interventions may include, for example, additional in-school pastoral support and intervention or referring the child and/or the family to external support services.

If the plan identifies a need for holistic family support, or coordinated multidisciplinary intervention, schools should consider, as part of the plan, completing a '[Request for Support](#)' via the Local Authority Early Help Hub: <https://hackney.gov.uk/child-protection>. If Early Help support is deemed appropriate, parents/carers must give consent to a referral and agree to work collaboratively with support offered. At the point of referral, schools must also have carefully considered what support/intervention they are seeking, the steps they have already taken and their impact, and the views expressed by the pupil and their parents - both in terms of the referral and the support being requested. It is also important to be mindful that Early Help support is entirely voluntary and parents/families are able to withdraw at any time.

The plan should include timescales for actions and when improvement in attendance is anticipated to be seen, together with dates for reviewing the plan.

Schools may wish to consider formalising the improvement plan in the form of a Parenting Contract. This would set out the agreed actions that will be taken by the parent/carer, the school and any other services involved. An example can be found in Appendix C.

Further information about what to do if a parent/carer feels unable to attend a meeting, and steps by schools and others to address this have not been successful, can be found in Appendix D.

At the meeting it may be useful to use the following [framework](#) for a team around the child meeting for a child experiencing attendance difficulties and/or school refusal. This is also included in Appendix E.

Where a child has recurring time off with illness, advice should be sought from appropriate medical practitioners (e.g. family GP, school nursing service and any medical specialists the child is seeing). The advice given should inform whether the time off is consistent with the medical condition cited and assist with identifying what additional support or interventions may be needed. Children who are too unwell to attend school are entitled to an alternatively delivered education that they are able to access, which would usually be delivered by the [Medical Needs Tuition Service](#).

At the initial meeting a review date should be set, bringing together all the professionals involved in the network. This date should allow sufficient time for any support or interventions to be both put in place and have an impact.

At the review meeting, depending on progress, one of three things could be decided.

These are:

1. The intervention is closed as sufficient improvement has been achieved and the child can be supported at Stage 1 or no longer needs support;
2. Further targets are set, with appropriate support identified and a new review date set; or

3. The intervention has not been successful and/or the parent/carer has not engaged with the support. The meeting may decide to refer the parent to Hackney Education for a Stage 3 consideration of statutory intervention. This step is unlikely to be taken until the school and the professional network feel that they have taken all reasonable steps to secure good support for the child and the family, both in and out of school.

The balance around the extent of support undertaken and when it is appropriate to initiate a referral to Stage 3 for consideration of legal intervention should be judged on a case by case basis. Such judgements will depend on the complexity of the child or parents' circumstances and the support needed versus the level of parental engagement with the agreed plan.

Severely absent children

Children who have attendance below 50% are classified as being severely absent. These children are at significant risk of educational underachievement and given the implications for their long term life prospects, should be the highest priority for support and intervention by schools and associated education, social care and health services.

For these children a curious approach is vital as there are likely to be many contextual factors that are intersecting. Poor attendance may be a by-product of these factors, and a multi agency safeguarding first approach is key.

Schools should also notify Hackney Education of all severely absent children during our termly meetings, or outside of these times where necessary. We can work together to ensure a multi-agency plan, responding to the child and family's needs in a purposeful way, and ensuring progress is being measured and next steps are planned.

Stage 3: Statutory Intervention

Lead service: Hackney Council

Statutory intervention by Hackney Council can take the form of either:

- Statutory children's social care involvement; or
- Attendance legal intervention (e.g. a fixed penalty notice or prosecution)

It's important to remember that children and families receiving Stage 3 support are still likely to benefit from purposeful support from typically Stage 1 and 2 interventions (such as the Re-engagement Unit, or an in-school mentor), the only difference being that these interventions will form part of the targeted support plan.

Statutory Children's Social Care Involvement

Where there are safeguarding concerns and an Education Supervision Order (ESO) is not appropriate or has not been successful the case should be considered for statutory social care involvement.

Schools should discuss this with the network around the child and the family to agree on proportionate and purposeful next steps.

DSLs can obtain advice on potential referrals from the MASH Consultation Line on 0208 356 5500

Referrals for statutory children's social care intervention can be made to Hackney's MASH. Schools should complete the online [MASH referral form](#).

Schools should refer to the Hackney Wellbeing Framework when considering whether there are sufficient grounds for a referral to Children's Social Care.

Parents/carers must be notified of the referral to ensure they are aware of it prior to it being made. The only exception to this is when informing the parent/carer of the referral would place the child at increased risk of significant harm.

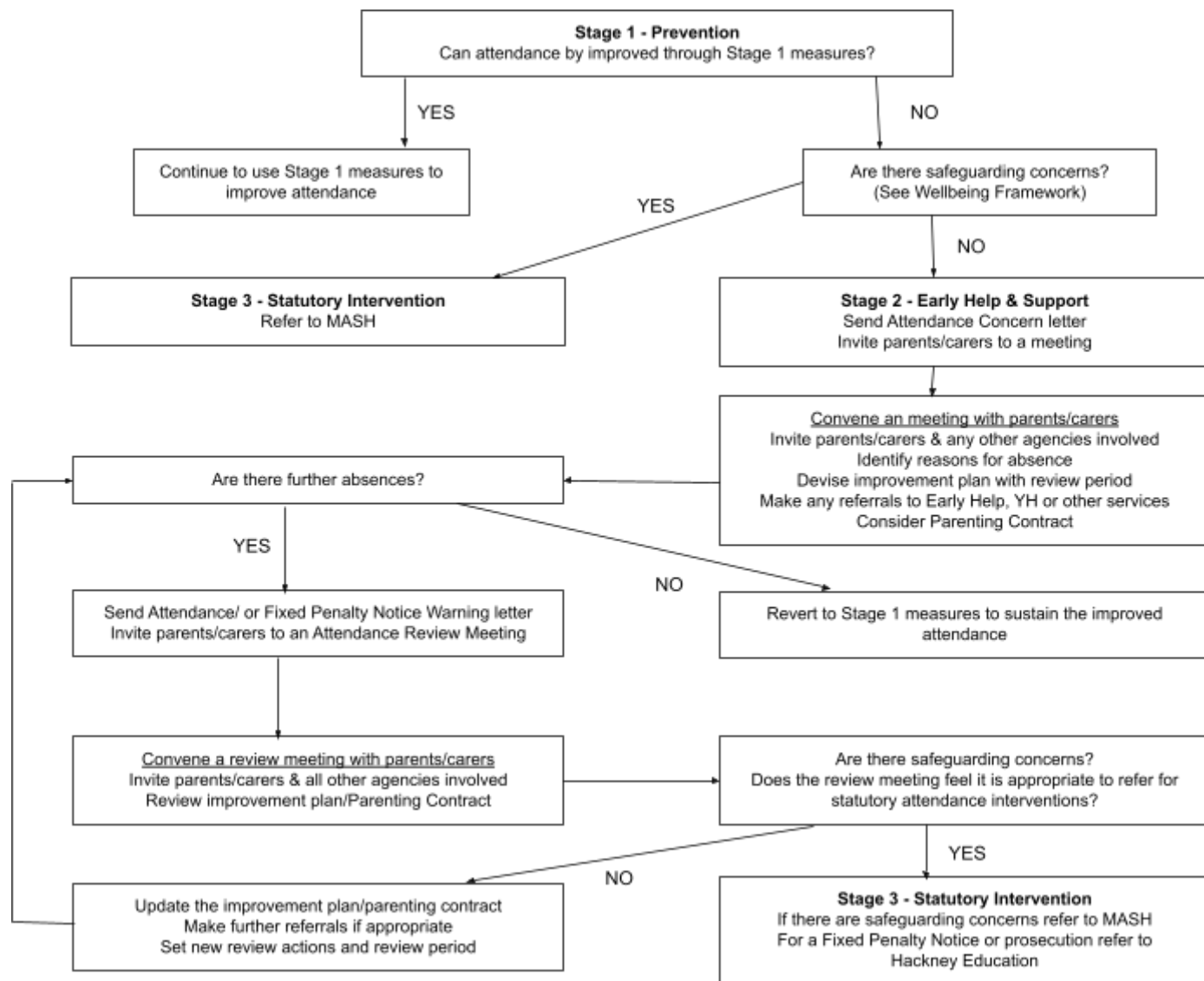
Statutory attendance measures

Statutory attendance measures should - in most cases - be a last resort and usually as part of a multi agency decision making process. Parents should be informed of the plan to proceed to statutory intervention in good time.

All fixed penalty notices must be issued in accordance with [Hackney's Penalty Notice Code of Conduct](#). Prior to referring to Hackney Education for a fixed penalty notice parents must be issued with a warning letter. This may be issued by the school or delivered within their commissioned service from Hackney Education. Further information around this process can be found in Appendix F.

Education Supervision Orders (ESO) must be considered prior to any prosecution. Further information around the education supervision order process and the possible shift to prosecution can be found in Appendix G.

Appendix A - Graduated approach flowchart



Appendix B - School Attendance Support Team (traded offer) 2023/24

Hackney's Education School Attendance Support Team will work with you to identify the underlying reasons for absence and implement strategies to support children to have regular attendance. As well as supporting effective whole school practice to reduce overall and persistent absence, we work directly with individual children and parents to bring about an improvement in attendance. All our packages can be tailored to your school's priorities.

These packages will be reviewed for 2023/24 to reflect the new guidance.

Attendance service packages

Hackney Education has revised its attendance service packages in order to provide a clearer improvement offer to schools. Our packages build on the service's expertise in engaging families through outreach work, targeted in-school interventions, developing effective whole school practice and undertaking statutory intervention casework in relation to fixed penalty notices and prosecutions.

Our packages are:

Full attendance service (this is equivalent to the enhanced attendance package 22/23):

This package delivers all school-led work on behalf of commissioning schools, namely:

School focused prevention

Early help and support - casework on behalf of the school

Statutory intervention - school led, pre court work

Management support

Secondary school - £11900

Primary 1 form entry - £4000

Primary 2 form plus entry - £5950

Reduced secondary school service (this is equivalent to the standard attendance package 22/23):

This package can include all aspects of school-led work, however it is time bound and our officers will deliver approximately 3 days of work across each half term, priorities for each school would need to be set in a planning meeting (either in September or before). Any adjustments to this schedule are possible throughout the year but would need to be agreed.

£5950

Special schools - please contact directly for a bespoke price based on needs, pupil roll and school requirements.

Training

Bespoke training on how to improve attendance is included within the Full Attendance Service, and can also be commissioned at the standard Hackney Education rates.

Appendix C - Parenting Contract Template

Attendance Improvement Parent Contract

Meeting date/time:	
Location:	

Child's name	
Date of birth	
Home address:	
School:	

Present at the meeting:	
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Agreed actions:
<p><i>Examples of possible agreed actions:</i></p> <ul style="list-style-type: none"> ● <i>Pupil will arrive at school by 8.30 every day</i> ● <i>Parent will inform the school on the first day of a sickness absence and provide a note on the child's return</i> ● <i>Child has a quiet, safe space available to them at lunch time</i> ● <i>School will provide the child with a mentor who they should meet with weekly</i> ● <i>School will refer to Early Help services to support the parent</i> <p><i>Please adapt these for each situation</i></p>

Attendance target:	
Timescale for improvement:	
Date of review meeting:	

I confirm that this Attendance Parent Contract was agreed by all present. Signed:

Parent/carer:

Pupil:

School:

Other agency:

Appendix D - How to move forward when a parent is unable to engage

If the parent/carer does not attend the meeting and no communication has been received declining this meeting, all reasonable attempts to contact and (re)build a relationship with them should be undertaken. This may include a letter being sent notifying them either of further meetings in school, a telephone call, working with another professional or agency they trust or a home visit. These avenues can all be used to draw up a plan to improve the child's attendance at school.

If school/agencies cannot successfully support a parent to engage with them, the monitoring period should be set as if the plan had been agreed. The meeting should occur irrespective of the engagement of the parent/carer.

Parents/carers must be sent copies of the minutes and agreed actions taken at meetings and any subsequent review meetings whether they were present or not.

The school should also discuss the matter with their designated safeguarding lead, as well as any professional network around the child and family, and consider whether a referral to MASH is necessary. In considering this school should consider the Hackney Wellbeing Framework thresholds and make use of the Hackney MASH Consultation Line for professionals (information around Hackney's MASH generally, as well as the consultation line can be found [here](#)).

Appendix E - TAC framework

A Framework for the Team Around the Child (TAC) Meeting

The following framework is offered to help explore the reasons and context behind the attendance or school refusal concern in the initial TAC meeting. There should be an intention to open 'dialogue and support' for the family and not to enter into cycles of blame. Questions and prompts below should be broached sensitively as part of a collaborative and solutions focused TAC group.

School

- Has the young person (YP) experienced or reported bullying (school-based and/or cyber bullying)?
- Has the YP recently experienced a transition or any school related changes?
- Does the YP have special educational needs which may require further investigation or support?
- What is the YP's level of self-esteem in school?
- Is the YP making expected progress in school?
- Are there any stressors or pressures that exist as a result of school structures and expectations which may have an impact upon the YP and his/her family?
- Does the YP have a sense of 'connectedness' to the school?

Child

- How is the YP feeling?
- Does the YP experience difficulties interacting with peers or have there been recent tensions?
- Are there any concerns that the YP may have undiagnosed needs (anxiety, medical needs, SEN, etc)?
- Has there been any marked changes in their presentation in school?
- Have you noticed any ill-health or have there been reports of ill-health from the YP? Is there a clear understanding of the YP's health needs/medical condition?
- Is there anything going on for the child at school or at home that could be perceived as a threat to their safety?

Home and Family

- Are there any family events such as moving house, homelessness, divorce, loss or birth, etc?
- Are there any mental/physical health or well-being concerns in the immediate or wider family?
- Is the YP helping to care for someone outside of school?
- Does the YP (or parent) show any separation anxiety?
- Is there anything happening at home that might be impacting upon the YP?
- Has anything happened within the family in the last few years that might continue to cause the YP to worry?

- Is there a history of frequent changes of school?
- What is the current, or historical, attendance pattern of siblings?

This Framework has been drawn together from the following research:

Nuttall, C. and Woods, K. (2013) Effective intervention for school refusal behaviour. *Educational Psychology in Practice*, 29:4, 347-366, DOI: 10.1080/02667363.2013.846848

Toplis, R (2004) Parent's views on emotionally based school refusal. Work at a policy level. In west Sussex County Council EPS (Eds.), *Emotionally based school refusal, guidance for schools and support agencies* (pp. 54-73). Chichester: West Sussex County Council EPS.

Appendix F - Submitting a referral for a fixed penalty notice

Referrers wanting to submit a referral for a fixed penalty notice should submit a referral form along with the required supporting documentation to Hackney Education SAST

All referrals should consist of:

- A completed referral form, which includes details of the support offered;
- A copy of the penalty notice warning letter; and
- An attendance certificate signed by the head showing the unauthorised absences for the period under consideration.
- For unauthorised absences, evidence that the school has attempted to provide support, but this has not worked or been engaged with.
- For unauthorised holidays/leave of absence a copy of leave request and letter from the school declining the leave should be submitted. Where leave has been taken that has not been requested in advance the school should write to the parents explaining that they believe they have been on an unauthorised holiday in term time and that they will be referred for a penalty notice. This allows the parent to make representation to the school prior to referral.

Upon receipt we will:

1. check to ensure the referral is in line with the Penalty Notice Code of Conduct; and
2. determine whether it is in the public interest to issue.

If both of those apply then a fixed penalty notice will be issued. Once issued parents/carers then have 28 days to pay. If the penalty notice is paid within the first 21 days the amount to be paid is £60. If it is paid between the 21st and 28th day it is £120.

A penalty notice should only be withdrawn after issue for one of the following reasons:

- It was issued outside the terms of the local code of conduct;
- It ought not have been issued to the person named as recipient;
- It appeared the notice contained material errors; or
- After 28 days the penalty was unpaid and the Local Authority did not wish to bring legal proceedings.

If a penalty notice remains unpaid at the end of the 28 day period Hackney Education will consider bringing a prosecution under Section 444(1) of the Education Act 1996. Following non-payment of a penalty notice we will send parents a PACE Court Warning Letter/Questionnaire. The purpose of PACE Court Warning questionnaire is to establish whether any of the statutory defences apply and consider any other factors as set out in 'The Decision to Prosecute'. Following this Hackney Education will decide whether or not to pursue a prosecution or withdraw the fixed penalty notice.

The penalty notice will normally only be withdrawn if it is not considered to be in the public interest to pursue a prosecution. In most cases this will be when new information has come to light since the penalty notice was issued. The decision to withdraw a Penalty Notice after issue must be agreed with the Principal Officer, Pupils Out of School.

Appendix G - Considering a case for an Education Supervision order or for prosecution

In order for a case to be considered by the Local Authority for prosecution, there should be evidence that, at a minimum, the school has undertaken the following at Stage 2:

1. Identified and sought to address any underlying reasons for absence;
2. Written to the parent/carer to advise them that their child was not attending school regularly and that they could face legal intervention if there is not an improvement.
3. Convened an initial meeting (involving the parents/carers and any professionals involved with the family);
4. Devised and implemented a plan and/or parenting contract;
5. Discussed the issues with the Team Around the School;
6. Offered parents/carers a referral to the MASH Early Help Hub for additional support;
7. Held a review meeting following an implementation and monitoring period;
8. Sent the parents/carers copies of all correspondence and any plan/decisions following meetings in their school or at their home address if they did not attend or engage with the process at the school.

Only once Stage 2 interventions have been exhausted should a decision be made by the professional network whether to refer to Local Authority for possible legal intervention.

In the event of a disagreement within the professional network the school will make the final decision on whether or not to refer but any objections by other agencies should be noted on the referral to Hackney Education, so that this can be taken into account before making a decision on how to proceed.

Staged intervention is a continuing process, and is designed to cross over the academic year. For example if a child whose attendance was declining in July but was still at Stage 1 interventions and then, following the summer break, their attendance continues to decline then an early move to Stage 2 interventions in September would be warranted.

Stage 2 does not end when the decision is made to refer to Hackney Education for a Stage 3 statutory intervention. Following a referral for Stage 3, schools, the Education Attendance Service and other agencies should continue to work with parents/carers to secure an improvement in attendance using the plan-do-review approach as set out in this stage.

Hackney Education's traded offer to schools can support them with child level casework necessary to support them and/or their parents/carers at Stage 2 to improve attendance. This could involve issuing penalty notice warning letters; co-coordinating multi-agency meetings with parents/carers; making referrals to other agencies; and devising plans to improve a child's attendance.

Where schools do not commission Hackney Education's attendance service, schools will be responsible for undertaking these actions themselves or commissioning others to undertake this work on their behalf.

Prior to deciding whether or not to proceed with a prosecution Hackney Education must first consider whether it would be more appropriate for an Education Supervision Order to be applied for.

We may require additional information from the school regarding the support offered to improve attendance prior to making a decision.

If it is decided to proceed with a prosecution the Courts Officer will prepare:

- A witness statement; and
- A pack containing all the supporting evidence ready to submit to the magistrates' court.

These will be considered by the Director of Inclusion and Education who will decide whether or not to authorise the prosecution.

Prosecutions will follow the Single Justice Process.

Referral to the local authority for prosecution

Following completion of casework to improve attendance (either carried out by the school or Education Attendance Service) should the professional network around the family decide to refer to Hackney Education for a Stage 3, legal intervention the Courts Officer will first review the referral. This is to ensure all the required paperwork has been submitted and that none of the statutory defences apply.

The referrer should submit the following to Hackney Education:

- Referral form
- Summary of evidence
- A witness statement covering their work
- Exhibits list
- A certificate of attendance signed by the head teacher
- Copies of exhibits (i.e. minutes of meetings, letters, plans, etc)
- Tracker form for stage 1
- Material relevant to the offence that has not been submitted as an exhibit as part of the prosecution. This material needs to be assessed by the prosecution to see if any items undermine the prosecution case or can assist the defence case.

Hackney Education will quality assure the papers to ensure that they are of a suitable standard to be presented in court, that the required work has been undertaken at Stages 1 and 2 and that they are compliant with the rules of evidence. In some cases the school may be invited to attend an Attendance Legal Planning Meeting with Hackney Education to discuss the referral and supporting evidence.

Once satisfied the SAST co-ordinator will send the parents/carers a PACE Court Warning Letter/Questionnaire. The letter/questionnaire will ensure parents are aware of the criminal offences they face, know their rights as set out in the Police & Criminal Evidence Act 1984 and provide information to enable Hackney Education to assess whether any of the statutory defences apply.

Interviews under caution will only be carried out in exceptional circumstances and require the presence of two officers from Hackney Education.

Assuming the referral is in order and none of the statutory defences apply the SAST co-ordinator will then consider whether or not to recommend to the Director of Inclusion and Education that the case proceeds to a prosecution in the magistrates' court (see section on The Decision to Prosecute).

As part of this process we will consider whether it is more appropriate to apply for an Education Supervision Order as an alternative recommending a prosecution.

If it is recommended that the case proceed to prosecution, the SAST co-ordinator will finalise case papers for the Director's authorisation. Once authorisation has been obtained they will book a court date and refer the case to the Local Authority's legal department who will present the case in the Magistrates Court. Prosecutions will follow the Single Justice Process.

Decisions on prosecutions will be discussed with the Principal Officer, Pupils Out of School, who will quality assure cases prior to seeking authorisation from the Director of Inclusion and Education. .

Witnesses will be expected to attend the Magistrates Court to give live evidence where defendants plead **not guilty** to the offence.

The SAST co-ordinator is available to discuss possible referrals prior to referrers making the actual referral.

The decision to prosecute

The Local Authority has the authority to prosecute parents/carers who fail to ensure their child attends school regularly. It does not have a duty to prosecute every case that is referred to it.

When considering a case for prosecution the SAST co-ordinator has to consider a number of factors as set out in the Code for Crown Prosecutors before deciding to proceed. These are:

1. A duty to be fair, independent and objective, not letting any personal views about ethnic or national origin, sex, religious beliefs, political views or the sexual orientation influence decisions and not being affected by improper or undue pressure from any source.
2. Obligation to act in the interest of justice and not solely for the purpose of obtaining a conviction.
3. Duty to review, advise on and prosecute cases, ensuring that the law is properly applied, that all relevant evidence is put before the court and that obligations of disclosure are complied with.
4. Duty to act in accordance with the Human Rights Act 1998.
5. Application of the evidential test – is the evidence sufficient to provide a realistic prospect of conviction?
6. Application of the public interest test – is it in the public interest to proceed with a prosecution?

If the Local Authority decides not to prosecute it could decide to:

- Take no further action
- Administer a Simple Caution
- Apply for an Education Supervision Order or a Parenting Order

The decision on whether to recommend whether a case is prosecuted will be made by the SAST co-ordinator in consultation with the Principal Officer, Pupils Out of School.

All prosecutions will be authorised by the Director of Inclusion and Education (or other senior officers with delegated authority from the Director to do so on their behalf as set out in the scheme of delegation).

If the decision is taken to not proceed with a prosecution then the SAST co-ordinator will meet with the Attendance Lead at the referring school to explain why this decision has been taken.

The offences

If the Local Authority decides to proceed with a prosecution, parents could be charged with one of two offences under the Education Act 1996.

Section 444 (1) 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.

Section 444 (1A) states:

If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school and the parent knows that his child is failing to attend regularly at the school and fails without reasonable justification to cause him to do so, he is guilty of an offence.

The decision as to whether to prosecute under 444(1) or 444(1A) will be made on a case by case basis at the time, based on the available evidence and circumstances of the case.

Possible outcomes following a prosecution

If found guilty in the magistrates court parents/carers could face the following possible outcomes

- a. Absolute discharge – no conditions attached, case dismissed.
- b. Conditional discharge – parent/carer receives no punishment on the condition that, in a period set by the court (not more than three year), no offence is committed. If any offence is committed during the period, the offender may also be re-sentenced for the original offence for which the conditional discharge was given.
- c. Fines – amount of fine is determined by the courts but up to £1000 for convictions under section 444(1) and up to £2500 for convictions under section 444(1A).
- d. Imprisonment – custodial sentences of up to three months for convictions under section 444(1A).
- e. Parenting Order – courts can issue a parenting order, which requires the parent/carer to attend a parenting programme as determined by the Local Authority.

The SAST co-ordinator will report back to the school the outcome of any prosecution.

If after a referral has been made to the Local Authority for a Stage 3 intervention and attendance continues to fall schools should decide on whether to refer to the Local Authority for a further prosecution for a new period of absence.