FAST-track to Attendance

(Covid appropriate)

An Early Help approach to improving pupil attendance
(includes the process for taking legal action for ongoing unauthorised absence)

Step by Step Guide

April 2022

Education Legal Intervention Team (ELIT)

Birmingham City Council
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Introduction

- ‘FAST-track to Attendance’ is an Early Help approach to improving pupil attendance which also seeks to act quickly where there is unauthorised absence. It is for all schools, academies and alternative providers. There are no specific timelines to follow, the process can be used at a time which is right for the individual pupil and schools have only one formal letter they will need to send to each parent/carer.

- The process aligns the thresholds for taking legal action for ongoing unauthorised absence with the Local Authority Education Penalty Notice ‘Code of Conduct’ and the Leave in Term Time (legal) process.

- We know from Department for Education studies into the effects of absence on pupils’ progress and attainment levels that absence has a statistically significant negative link to attainment – i.e. every extra day missed was associated with a lower attainment outcome. It’s clear from the data that being absent from school for any reason has an impact on a child’s progress in school.

- Where schools are concerned about a child/young person’s absence levels, whether absence is authorised or unauthorised, it is important that the school act to improve attendance levels.

- In terms of legal action, the Local Authority can only prosecute where there is unauthorised absence. In Birmingham this duty is delegated to the Education Legal Intervention Team (ELIT).

- The Birmingham Penalty Notice Code of Conduct states that there must be at least 20 sessions of unauthorised absence within a rolling 12 month calendar period for legal action to be taken. Because schools were closed for a prolonged period at the end of the 2019/20 academic year, and due to the rate of Covid infection during the Autumn term of the 2020/21 academic year, only unauthorised absence from the 19th April 2021 can be used.
Schools do not have to attend training to use this process, but training is strongly recommended. Details of the training available can be obtained from the Education Legal Intervention Team by emailing Attendance@birmingham.gov.uk

**IMPORTANT INFORMATION.** Only unauthorised absence can be used in evidence. This process can only be used for children of compulsory school age.

**Please note:** Definition of Parent:
A ‘parent’ in relation to any child or young person, includes any person:
- who is not a parent but who has parental responsibility for the child, or
- who has care of the child

This also includes absent parents who must have regular contact and an ability to influence the child including his/her attendance. Parental partners can be included (whether or not they are married or the natural parent of the child) as they have ‘care of’ the child. If a pupil lives with a grandparent or older sibling as their main carer they can also be included.

Education Act 1996

**Before you begin:**

✓ Ensure your registers are being completed accurately

✓ Inform all parents/carers of their legal responsibilities regarding school attendance by using the whole school ‘School Attendance’ letter – this will boost your attendance. This letter only needs to be sent once per academic year. It is good practice to have this letter as part of your prospectus and induction packs, on your website and school notice board. It is particularly crucial in the 2021/22 academic year because it updates parents in relation to school attendance and the coronavirus pandemic.

✓ Ensure the children you are concerned about regarding attendance are placed on the “Children with a Safeguarding vulnerability list” held by the Designated Safeguarding Lead (DSL)

✓ Ensure there is a staff member trained in ‘Early Help’ processes – this is generally the DSL

✓ Appoint a member of staff in the school to complete the process from Step Two onwards. In most schools this person would usually be an Attendance Officer, Learning Mentor, Assistant Head teacher etc. For the purposes of this guidance the staff member will be known as the Designated Liaison Person (DLP).

For further clarification you may find the case examples section of the FAST-track online pack useful.
The FAST-track online pack can be downloaded via this link:

**FAST-track to Attendance online pack** Click on Option 2 for ‘Legal Processes’

**Compulsory (statutory) school age**

- If a child becomes 5 years old between 1\(^{st}\) September and 31\(^{st}\) December, they are of compulsory school age on 1\(^{st}\) January
- If a child becomes 5 years old between 1\(^{st}\) January and 31\(^{st}\) March, they are of compulsory school age on 1\(^{st}\) April
- If a child becomes 5 years old between 1\(^{st}\) April and 31\(^{st}\) August, they are of compulsory school age on 1\(^{st}\) September

A child ceases to be of compulsory school age on the last Friday in June in the academic year in which the child turns 16.

**The ‘Six Month Rule’**

Schools are advised to ensure that any legal intervention relating to pupil attendance is not allowed to drift, and that referrals are timely. The Local Authority is limited by the ‘six month rule’ which states that the Magistrates’ court must be informed of an offence by issuing a charge, summons, postal requisition or a complaint within 6 months of it being committed. Any referrals should be made as soon the threshold of 10 sessions after the Formal Warning Notice has been reached, taking into account postage time, etc. Late referrals may be rejected.

**General rule s.127 Magistrates’ Court 1980**

‘(1)... a magistrates’ court shall not try an information or hear a complaint unless the information was laid, or the complaint made, within 6 months from the time when the offence was committed, or the matter of complaint arose.’
**Step One – Early Help**

**Action the school must take before a referral to ELIT can be made**
Concerning levels of absence since 19th April 2021 either authorised or unauthorised –
(once a year schools should send the ‘School Attendance’ whole school letter to parents/carers by pupil post, email, or by placing it on their website/in their prospectus)

**IMPORTANT INFORMATION.** This is the Early Help stage of the process and should be used for all pupils with concerning levels of absence as it is for other pupils with safeguarding vulnerabilities. It does not mean that a formal Early Help Assessment form must be completed at this stage. The staff member with operational responsibility for attendance (who we call the ‘Designated Liaison Person’ or DLP) should work together with the DSP/DSL in determining the correct Early Help response.

For assistance with any Early Help cases, schools can contact their community locality lead and ‘team around the school’. For more details please click on the link: Local Offer and Team around the school

Before a referral is made to ELIT the school will have applied all school and Early Help responses without significant attendance improvement. These must include:

- Reviewing pupils with EHC plans and attendance concerns within a six month period prior to starting FAST-track to ensure that the provision is suitable to meet their needs

- Placing the child/young person on the ‘Children with a safeguarding vulnerability’ list

- **Completing Section 6 of the Early Help Assessment form with the child/young person** – this ensures that the voice of the child/young person is heard and should be completed by someone trained in Early Help. It must also be revisited if the referral to ELIT is made more than 6 months after the conversation with the child/young person took place.  *(If the child/young person hasn’t attended for several weeks and you cannot complete this stage please indicate on the referral form. However, if the child/young person is attending sporadically all attempts should be made to complete this at the earliest opportunity)*

- Offering an informal meeting to the parent/carer to discuss your concerns where Section 7 of the Early Help Assessment form should be completed. To ensure meetings are Covid secure, meetings can be held online or by phone if needed.
• Using the information from Sections 6 and 7 of the Early Help Assessment form to initiate one of the Early Help outcomes (please see # on page 7)

• Advising parents/carers that they can apply for travel assistance if the home to school distance is more than 2 miles for children up to 8 years, 3 miles for children aged 8 and over (though they are unlikely to receive assistance if they chose the school despite nearer school places)

• Undertaking a home visit where parents/carers fail to respond to phone calls, letters or the offer of an informal meeting

• Seeking consent from the parents/carers for a school nurse referral if the reasons given for frequent instances of illness absence are illness related.

**IMPORTANT INFORMATION:** Where there is already an allocated social worker/family support worker, there is no need to complete Sections 7 of the Early Help Assessment form but it is important that an informal meeting with the parents/carers is held to discuss any obstacles to improving attendance. The social worker/family support worker should be invited to any meeting but if they can’t attend, don’t let this stop your meeting from taking place.

The school may also wish to:

• send a letter to the parents/carers expressing concern about the absences (there is a helpful letter Head teachers can use in the online FAST-track pack)

[Head teacher concern letter](#)

**Illness Absence**

If you have concerns about a child/young person’s excessive illness absence discuss this with the parents during the informal meeting (If you are already aware that the child/young person has a serious underlying medical condition which explains the absence, the family should be offered Early Help as a matter of course). During the informal meeting which can take place by phone or virtually, the following should be explored using Section 7 of the Early Help Assessment form or with the parent/carer and allocated social worker/family support worker:

- Is there an underlying medical condition; are there any health practitioners involved; has the child/young person been taken to see the GP?
If there is evidence of a known medical condition – have you asked for consent to write to the child’s Consultant to establish their fitness to attend school?

Has the school asked the parent for consent for a referral to the School Nurse?

If there is no evidence of a medical condition, but there is significant illness absence, the school can ask for medical evidence in order to authorise further illness absence. **Before taking this step make sure you seek consent for a referral to the school nurse.** If the parents refuse consent or choose not to engage with you, meet with you or discuss their children’s illness absence consider sending the helpful letter on the link below, and give them a few days to respond: [Medical evidence and no authorisation letter](#).

**IMPORTANT INFORMATION. Where a child has an ongoing medical condition and there is medical evidence from a Consultant or Forward Thinking Birmingham mental health practitioner that the child has not been fit enough to attend school for at least 15 school days or more (these do not have to be continuous days), FAST-track should not be used. The school should support the child with education provided at home and a referral to James Brindley Academy should be made.**

### Early Help Outcomes

Where there is no allocated social worker or family support worker, once Sections 6 and 7 have been completed, upload these onto the school’s safeguarding recording system (for example, ‘cpoms’, ‘MyConcern’ etc.,) and ask the DSL to review if the DSL was not involved at this stage. In terms of Early Help, there should be one of the following outcomes:

1. initiate simple reasonable adjustments to address the child/young person’s unmet safeguarding needs
2. develop a school focused action plan with child/young person, parent/carers as appropriate
3. initiate a multiagency Early Help Assessment (EHA) & Our Family Plan (OFP)

If the conversation with the child or parent/carer indicates a serious safeguarding concern under ‘Right Help, Right Time’, schools must follow their child protection procedures.

**IMPORTANT INFORMATION. If the family do require Early Help either from the school or via support services such as Think Family or Social Care and consent to support, you need to give that support time to make a difference - a minimum of six weeks from the start of the intervention at least.**
If Birmingham Children’s Trust (BCT) is already involved with the family; after six weeks it has not resulted in attendance improvement; and there is unauthorised absence, you can move straight to Step Two after informing the allocated worker of the intention. If you are not sure, or the allocated BCT officer disagrees, please contact the ELIT/Court team for advice (464 8979 or Attendance@birmingham.gov.uk). If the family fail to engage, respond to letters, phone calls, home visits and then do not attend an informal meeting, move to Step 2.
Covid-19 Concerns

In line with the transition to living with COVID-19, schools should no longer use Code X to record pupils who do not attend for reasons related to COVID-19. Pupils with symptoms of COVID-19 are no longer advised to get a test, and most of the scenarios that this category was brought in to record no longer apply.

Pupils who have symptoms of COVID-19 should follow the latest government guidance about when they should stay at home.

Where a pupil is not attending because they have symptoms of COVID-19 or have had a positive test, schools should record this using Code I (illness) unless another more appropriate code applies.

Schools may continue to use the sub-code (I02) to record illness due to suspected COVID-19 although they are not required to.

Schools should refer to the Department for Education’s emergency planning guidance and the latest UKHSA guidance for further information.

Emergency planning and response for education, childcare, and children’s social care settings - GOV.UK (www.gov.uk)

DfE Health Protection in schools
Emotionally Based School Avoidance

Where parents are engaging with the school, but the child appears reluctant to attend, FAST-track to Attendance is not the appropriate process to use. The threat of legal action can cause further distress and anxiety for both parent and child. It should only be used in this scenario where the parent fails to engage appropriately with efforts to improve the child’s attendance.

In order to prevent the child being completely out of education, the school should use the resources provided as part of #you'vebeenmissed.

#you'vebeenmissed

The #you'vebeenmissed campaign is led by Forward Thinking Birmingham, Birmingham City Council and Birmingham Education Partnership supporting pupils, parents, carers and professionals to aid our children and young people manage their mental wellbeing in school.

As part of the project, clear guidance for schools and primary care professionals have been developed to support children and young people to remain in school. A range of resources, videos and webinars have also been created for children, young people, parents/carers and professionals to support the mental wellbeing of children and young people in Birmingham.

You can find themed resources and videos to support children and young people return to school on the following:

Anxiety and worry

Challenging thoughts

Emotions

Self-care
**Step Two – The School Attendance Review Meeting**

The pupil has at least one session of unauthorised absence - Early Help has been refused (this includes ‘no response’ to attempts by the school to engage the family); Early Help/Social Care strategies have not resulted in sustained attendance improvement.

**IMPORTANT INFORMATION. If it has been at least six months since Section 6 of the Early Help Assessment (the voice of the child) was completed, you will need to revisit this before arranging a SARM**

- The DLP should call a formal ‘School Attendance Review Meeting’ (SARM) at the school if Covid regulations allow. If concerns are expressed either by the school or parents about meeting in person, you can conduct the meeting online or by phone if needed. There is a helpful SARM invitation letter in the online pack you can use or the school can use their own letter if they wish – though previous convictions or penalty notices MUST NOT be mentioned or the letter cannot be used in evidence. The letter shouldn’t make reference to the meeting being informal as the SARM is a serious/formal meeting designed to add gravitas to the situation). Invitation to SARM letter

- The DLP involved should be the member of staff to conduct the meeting, agree an action plan and send the ‘Formal Warning Notice’ (Step Four) if needed.

- Preferably, the parents/carers should be invited to the meeting by the DLP separately, in writing, and with at least 7 days’ notice, using the same process as indicated in Step Four for the Formal Warning Notice, with the letters signed then copied, then the copies retained as evidence. Include the names of all the children in the family attending your school on each letter (no need to send separate letters for each child) but only those who meet the absence threshold (make sure the children included are of compulsory school age).

- If the parents/carers live apart from each other and there are concerns about domestic abuse or animosity between them, invite them to separate meetings.

- If the parents/carers are unable to attend a meeting at the school, due, for example, to disability, the meeting can be held at the parents’ home address.

- Complete the templated SARM form with the parents/carers. This is the only form which can be used FAST-track School attendance review form
• Complete the parents/carers’ details on the form with them, in case any of the details you have in school are incorrect or out of date. Follow the form through and give them a photocopy of the action plan agreed at the end or as soon as possible after the meeting.

• If the parents/carers do not attend but request a new date, please rearrange the meeting. However, don’t rearrange more than twice. If they still don’t attend, complete the sheet at the end of the SARM form and keep for future reference.

• If the parents/carers do not attend, and do not contact you to say they cannot attend, you do not have to rearrange or complete the whole form – just complete the sheet at the end of the SARM form and keep for evidence.

• The SARM includes an offer of an Early Help Assessment. If the offer is accepted, please stop the process at this stage, and arrange for the assessment to be completed. If the parents/carers then refuse to attend the assessment continue with FAST-track. If they work with the school to complete the assessment give the family plan at least 6 weeks to enable the family to make the relevant changes and for attendance to significantly improve. **Do not move onto Step Three of FAST-track until the assessment is completed and parents have had the chance to improve their child’s attendance as a result of the intervention.**

**IMPORTANT INFORMATION. You will need to demonstrate that you have given reasonable notice for the SARM, preferably at least 7 days’ written notice. If the school uses its own invitation letter it **MUST NOT** refer to any previous convictions or penalty notices the parents may have received for similar offences. The letter may be used in evidence.**
**Step Three – The Formal Warning Notice**

The pupil has further unauthorised absence since the SARM. Since 19th April 2021 and including the recent absences there are now at least 10 sessions of unauthorised absence in total (O and G codes from 19th April 2021 and/or U codes from September 2021 only)

The school should send out a ‘**Formal Warning Notice**’ [FAST-track formal warning notice](#)

The school must use this letter and the wording must not be changed under any circumstances. There should be a separate letter sent to each parent in a separate envelope.

- Address letters using parents’/carers’ full names only, not to the ‘parent/carer of’ or Mr and Mrs. The names of all the children of **compulsory school age** in the family attending your school (whose level of attendance hits the threshold) and included during the process can go on each letter (i.e. do not send separate letters re. each individual child). The letter must be signed by the DLP – **do not use electronic signatures and letters must not be signed by others on behalf of the DLP** (p.p.).

- Enclose an up to date attendance printout and a copy of the ‘School Attendance (Legal Action) - Information for Parents’ leaflet.

- The DLP should copy the signed letters and any enclosures such as the attendance printout before placing in the envelope and retain the copies - this will be their evidence.

- A record of the date the letters were posted, and the precise details of names and address the letters were posted to should also be kept.

- Letters must be sent by first class post. **DO NOT SEND LETTERS VIA RECORDED DELIVERY** – parents/carers can refuse to accept them!

**IMPORTANT INFORMATION. The school should now monitor the child’s attendance. **DO NOT move to Step Four unless, following the Formal Warning Notice, there are at least further 10 sessions of unauthorised absence (see criteria for Step Four for details).**
Step Four – Refer to ELIT

The pupil has a minimum of 10 further sessions of unauthorised absence (not including N codes) since the Formal Warning Notice was issued (in terms of being ‘reasonable’ include at least two days for postage). This could be just after a 10 day period but no longer than 10 school weeks. Please note: referrals will not be accepted if this criteria has not been met. Referrals where the cases were concluded but not submitted to ELIT in a timely manner may also not be accepted.

Schools should complete an ELIT FAST-track referral form online via the link:

Leave in term time/FAST-track referral form

The referral form asks for information as to:

- The date the informal meeting was offered.
- Has the Signs of Safety and Well-being (3 houses) form been completed with the child? Please ensure that you provide the date that this was captured. If this has not been completed please ensure that an explanation is given.
- Early Help interventions the school have tried.
- Referrals to other agencies made and if accepted or not,
- Any bullying allegations, however old and whether they were upheld or not.

**IMPORTANT INFORMATION:** Please DO NOT attach the Early Help Assessment (if applicable) or Sections 6 and 7 of the EHA to the referral. They are not required and under GDPR should not be shared without consent.

**IMPORTANT INFORMATION:** If it is clear that the school have not offered Early Help, the FAST-track referral will not be accepted.

**IMPORTANT INFORMATION:** The FAST-track referral form must be completed accurately, and all questions must be answered fully and in detail or it may not be accepted

Attached to the email should be a single PDF document containing:

- ✓ copy of either the SARM form OR the back page of the form if the parents didn’t attend
✓ a copy of the Formal Warning Notice which would have been sent to the parents and included a copy of the child’s attendance printout, and the ‘School Attendance (Legal Action) - Information for Parents’ leaflet

✓ copies of attendance printouts for the current and previous academic years (with session comments if your system allows)

✓ copies of communication logs with parents covering the current academic year if available

✓ any relevant medical evidence provided by the parent to the school

✓ explanations for when registration codes B, C, D & E were used from the start of process (this information can be inputted directly onto the online referral form)

ELIT/Court Section will consider court proceedings under Section 444 of the 1996 Education Act. In most cases, for a first or second offence, ELIT will consider issuing a penalty notice to the parents as a way of discharging the offence. In cases where two penalty notice have already been issued to the parent for separate offences, Court proceedings will be initiated via the ‘Single Justice’ procedure.
Parents with previous penalty notices/convictions in relation to pupil attendance

Once the ELIT has closed the period of evidence for a prior case, any further unauthorised absence could constitute a new case. This means that the process can be started again. However, schools are reminded that if it has been six months or more since Early Help was explored, this step will need to be revisited before an invitation to a SARM is sent. As Early Help is included in the SARM document, if the parents/carers attended the SARM previously there is no need to repeat Step One except to ensure the voice of the child is heard again.

If you are working with a family in this scenario, please contact the Education Legal Intervention Team/Court Section for advice via:

Email: Attendance@birmingham.gov.uk

Phone: 464 8979
Concerning levels of pupil absence either authorised or unauthorised

**Step One** – Early help including completion of Section 6 of the Early Help Assessment form with the child and Section 7 with the parents/carers in an informal meeting (if there is engagement). (If a social worker/family support worker is already involved there is no need to offer Early Help to parents/carers)

At least one session of unauthorised absence

**Step Two** – Invite parents/carers to a School Attendance Review Meeting (SARM) and hold the SARM

The pupil has further unauthorised absence since the SARM. Including the recent absences, there are now at least 10 sessions of unauthorised absence in total since 19th April 2021

**Step Three** – Send ‘Formal Warning Notice’ to each parent/carer individually with an up to date attendance printout and the ‘School Attendance (Legal Action) - Information for Parents/Carers’ leaflet. This will be your evidence

The pupil has a minimum of 10 further sessions of unauthorised absence since the Formal Warning Notice was issued (in terms of being ‘reasonable’ include a couple of days for postage). This could be within a 10 day period but no longer than 10 school weeks

**Step Four** – Refer to ELIT

(do not delay - refer as soon as just after they reach 10 further sessions but not before or on the day of the 10th session)