

Advice and Guidance

Referring Unauthorised Absences to Herefordshire Council

JULY 2024

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Introduction

Enforcement Team (Education)

Lorraine Ralph - Enforcement Officer

Louise Price - Enforcement Officer

Team email – locality@herefordshire.gov.uk

Anycomms + – Trading Standards

This guidance should be read with Working Together to Improve School Attendance, the National Framework for issuing penalty notices.

In order for Herefordshire Council to pursue any action for a pupil's unauthorised absence from school, a referral form must be completed. Although most referrals will be dealt with without the need for prosecution, sometimes Herefordshire Council will pursue legal action.

When you disclose relevant personal data to Herefordshire Council, Schedule 2 Part 1 Paragraph 2 of the Data Protection Act 2018 allows exemption from the GDPR if the disclosure is for the detection and prevention of crime or the prosecution of offenders.

As the data controller, it is the responsibility of the school to make certain all information relating to parents/carers and pupils is accurate and up to date.

When corresponding with the parents/carers ensure the details on the letter match the details on the registration certificate.

You must inform us immediately if you become aware of any changes to the information you have provided on the original referral form. For example: address, email, telephone number, name etc.

The referral form and all accompanying documents must be sent by secure file transfer, **Anycomms +**, for the attention of Lorraine Ralph or Louise Price at Trading Standards. **Please only include one pupil per referral form.**

Referral Form

Complete one referral form per pupil. This applies to siblings and children living in the same household.

To complete the form:

Page one – fill in all of the details about the pupil and their parent/carers. This information needs to match the details on the registration certificate. Please remember the school is responsible for ensuring all details are correct.

The school and Herefordshire Council will need to decide who comes within the definition of “parent” in respect of a particular pupil. Generally, “parent” includes all those with day to day responsibility for a child. Section 576 of The Education Act 1996 states that this includes any person who is not a parent of the child but has legal “parental responsibility”, or any person who has care of the child. .

Page two – explain the reason for the referral including an overview of issues and details not provided on the front page. For example, are there parental language or literacy barriers?

Page three – complete the referrer details and date the form.

Remember to send copies of relevant documents and registration certificate with the completed referral form.

Upload each referral individually and upload each document separately using **Anycomms +**.

UNAUTHORISED ABSENCE REFERRAL FORM

S444 EDUCATION ACT 1996

**It is important the Information provided is accurate and up to date. It is your responsibility to keep us informed of any subsequent changes after the referral has been made.*

One pupil per referral form, please use a separate form for any siblings.

Name of pupil:	School:
D.O.B.	Year Group
First Language:	Name of sibling (if also being referred):
Child Protection Plan <input type="checkbox"/> Child in Need <input type="checkbox"/> LAC <input type="checkbox"/> Notice to Improve <input type="checkbox"/> Attendance Contract <input type="checkbox"/>	EHA <input type="checkbox"/> EHCP <input type="checkbox"/> OTHER (please state) Has the pupil come from an out of county school within the last 3 years? Y/N Date registered in Herefordshire and previous school address:

Parent/Carer details

Title (Mr/Mrs/Ms/Miss)		
Surname		
Forename (in full)		
Address		
Telephone number		
Email		
Relationship to pupil		

Pupil resides with:*		
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Please explain the reason for the referral and a chronology

Please ensure you include the registration certificate, letters and evidence of support when submitting your referral

Please note that if this evidence is not attached your referral may be returned with a request for further information resulting in a delay in the process of the referral.

***It is your responsibility to provide information in line with Data Protection Act 2018 and to keep us informed of any subsequent changes after the referral has been made.**

Signature Date

.....

Print name.....

Job title.....

Contact details.....

.....

.....

Send via Anycoms to: **Louise Price or Lorraine Ralph, Trading Standards**

Essential Documents to Include with a Referral

Some of the documents referred to are generated by SIMS. If your school does not use SIMS please produce an equivalent document from your system.

- **School Register** – this is a legal document. It is a vital piece of evidence and Herefordshire Council will not take action without a copy. Your school may have one of the following: SIMS – Registration Certificate; ScholarPack – Individual Session Summary; Arbor – Attendance Certificate; Bromcom – Attendance Certificate
- **Student marks** or other report documenting comments relating to the pupil's absence
- **Notice to Improve** – not required for unauthorised term time holiday
- **Letters** sent to parents/carers – a warning letter and a letter informing them of a referral to Herefordshire Council
- **Evidence of** contact from and to parents/carers. This might include letters, emails, transcripts of phone calls, text messages and minutes of meetings, a notice to improve and an attendance contract. See below for examples of support to consider (This is not an exhaustive list)
- **If** the referral is for reasons other than unauthorised term time leave evidence must be provided of the support offered to the child/family by the school, local authority and other agencies

IMPORTANT: We are unable to process any referrals without the documents listed above

Examples of Support and Evidence to Consider when making a Referral
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“Support is defined as any activity intended to improve the pupil’s attendance. . . .”
(Working Together to Improve School Attendance Feb 2024)

For the purpose of escalation if you are considering a referral to Herefordshire Council the list below offers suggestions of possible support and what evidence could be included in a referral.

This is NOT an exhaustive list and not all types of evidence or support are appropriate for each case. Support should be tailored to each individual student/family on a case by case basis.

1. Accurate chronology of support and communication
2. Notice to Improve
3. School Attendance Contract
4. Attendance certificate (including comments log)
5. Copies of dated letters, emails, text messages
6. Minutes of school meetings and actions shared
7. Records of home visits
8. Records of phone calls
9. Medical evidence/medical evidence request
10. School Attendance Policy
11. Internal school support
 - Curriculum/timetable changes
 - Buddy/mentor support
 - Change of tutor group
 - ELSA
 - Rewards & sanctions
 - SEND
 - Pupil Premium
 - Breakfast/after school club
 - EAL support – appropriate communication
 - PSP
12. Signposting/referral to other services (or evidence of this)

- CAPUK
- CAMHS/WEST/CLD/GP/school nurse
- EAL support – appropriate communication
- Early Help
- CHAT

Registration Certificate

The registration certificate is a legal document that records the daily attendance of each individual pupil. This document is a key piece of evidence and will be used in all actions taken by Herefordshire Council. A referral will not be considered without a registration certificate.

What is recorded on the registration certificate and how accurately it is recorded will be instrumental in any decision made by the Enforcement Officers, (Education).

Registration is taken twice a day, once for the morning session and once for the afternoon session and a code or mark is entered on each occasion.

Absences should be recorded using the correct registration codes. Although all codes create a picture, Herefordshire Council will only take action if **unauthorised** absence codes have been recorded.

Unauthorised codes:

G – Unauthorised family holiday

O – Unauthorised absence

U – Late after close of registration

N – No reason yet provided for absence (For the purpose of our legal action this code is not counted as an unauthorised absence and must be amended to show either a present or absent code)

Before making a referral please check that the information on the registration certificate is accurate and up to date. As well as the appropriate codes it is essential that the name and date of birth of the pupil, the name of the parent/carer and their current address and contact details are recorded correctly.

The Enforcement Team, (Education), must be informed if codes are changed after a referral has been made. Changes to the registration certificate may affect the action taken by Herefordshire Council.

Statement Writing

What is a statement?

A statement is a written, factual record of your actions, interventions and support in relation to a child's attendance at school. Personal opinions or hearsay should not be part of a statement.

All witnesses must write their own personal statements, they could be required to stand before the court under oath and confirm that they have written their statement and the facts are true and in their own words

Why do I have to write a statement?

A member of school staff will often be the main or only case holder/worker. There is an expectation that someone from the school will write a statement as they hold the evidence.

If more than one person from the school has worked with the family/pupil then more than one statement may be needed.

The head teacher will always be required to provide a statement.

Questions to ask yourself when writing a statement

- Who are you writing the statement about?
- When were the absences and over how long a period?
- Where has the 'action' taken place?
- Why was the child not in school? What reasons have been offered by the parents/carers?
- How did you contact, support the child and parents/carers?

Why are statements important?

- The majority of offences contrary to S444 of The Education Act 1996 are heard in Hereford Magistrates Court through the Single Justice Procedure (SJP)
- The SJP means a case is heard without the need for anyone to attend court. The cases are dealt with by the Court on the papers alone
- A person who has made a statement may never appear in court or be given the opportunity to give a full account of the work that has been undertaken
- The **only** way a magistrate is able to judge the facts is through written witness statements and exhibits

There are circumstances when a case may be heard in court and witnesses called to give evidence:

- If a parent/carer elects to have their case heard in court
- If a parent/carer pleads not guilty
- If the offence is aggravated, S444 (1A), as this may result in a custodial sentence

Statement Writing Tips and Guidance

Statements need to be presented in a consistent layout. Here are some tips and guidelines.

- You will be provided with a statement template. The first paragraph contains all the details that identify you, the parents/carers and the pupil. As it is a template you must fill in the appropriate details
- The body of the text should be in Arial 11pt, **double** line spacing with **no** paragraphs
- The statement must be signed in two places on the first page, (top and bottom). All subsequent pages should be signed once at the bottom of the page. The first page should also be dated
- If more than one page is required the following should be typed at the top of each new page:-
CONTINUATION OF STATEMENT OF INSERT YOUR NAME
- When using names for the first time in a statement use the full name and insert in brackets how you will refer to him/her throughout your statement. For example, Mrs Jane SMITH, ('Mrs SMITH')
- Always write the last name in capital letters
- Avoid abbreviations – many magistrates will not know them
If a full name or group has been used at an early stage in the statement then an abbreviated form may be used later if it has been referenced. For example, 'Early Help Assessment, (EHA)'
- An exhibit referred to in the statement, (a letter for example) needs to be referenced as follows, 'I produce the letter as exhibit LR/01' – use your initials and number accordingly, (initials/exhibit number). All exhibits must be signed and dated
- Recount the facts in chronological order
- A statement should be compiled from your own notes, not those of others
- Read the statement through carefully
- Correct any typographical and factual errors
- Check it is signed and dated
- Keep a copy of your statement

Remember, by signing the statement you are committing yourself to it being true. As such if it is later proved that information in the statement is untrue you may have broken the law.

STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 27.2;
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)*

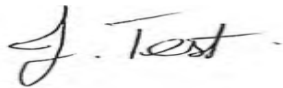
STATEMENT OF (name of witness): John TEST

Age of Witness (If over 18 enter "over 18"): Over 18

Occupation of witness: Head of House, City School

Dated the 22 day of March 2019

Signed (witness):



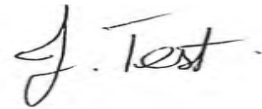
This statement (consisting of 1 page) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

I am the Head of Blue House at City School, City, XX1 1XX, ('the school'). This statement is made with reference to Thomas EXAMPLE, ('Tom'), (01/01/2007), who is currently a year 7 pupil at the school and is the son of Mr Don EXAMPLE, ('Mr EXAMPLE') and Mrs May EXAMPLE, ('Mrs EXAMPLE'), of 100 Toy Town Way, City, XX2 2XX. I have looked after Tom's pastoral care since September 2018. On 22 October 2018, Tom was absent from school. We received no explanation for his absence. First day calling procedures were followed as detailed in Tom's comments report. I produce a copy of the report as exhibit JT/01. On 22 October 2018, I received an email from Mrs EXAMPLE at 21:14, explaining that Tom was away on holiday and would not be in school that week. Mrs EXAMPLE stated that she had made a genuine mistake as the half term had fallen later than she had expected. I produce a copy of this email as exhibit JT/02. The school term dates for 2018/2019



CONTINUATION OF STATEMENT OF JOHN TEST

were provided to all year 6 students prior to their transfer to City School in the summer term 2018, if not before. The term dates are also listed on the schools website well in advance of the start of the academic year. I produce a copy of these dates as exhibit JT/03. The school attendance policy states parents contemplating a planned absence should discuss the implications with the school before making any commitments and if they wish to apply for a planned absence to do so not less than six weeks before the start of the absence. On 23 October 2018, I wrote to Mr and Mrs EXAMPLE advising that Tom's absences from 22 October 2018 to 26 October 2018 inclusive would be recorded as unauthorised. I produce a copy of this letter as exhibit JT/04.



STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 27.2;
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)*

STATEMENT OF (name of witness): Leonardo EXAM

Age of Witness (If over 18 enter "over 18"): Over 18

Occupation of witness: Senior House Leader


Dated the 22 day of March 2019

Signed (witness):



This statement (consisting of 1 page) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

I am the Senior House Leader at City School, City, XX1 1XX, ('the school'). I have responsibility for the pastoral care of students at the school. This statement is made with reference to Thomas EXAMPLE, ('Tom'), (01/01/2007), who is currently a year 7 pupil at the school and is the son of Mr Don EXAMPLE, ('Mr EXAMPLE') and Mrs May EXAMPLE, ('Mrs EXAMPLE'), of 100 Toy Town Way, City, XX2 2XX. On 06 February 2019, I was forwarded an email from Mrs EXAMPLE requesting that we reconsider changing Tom's period of unauthorised leave between 22 October 2018 and 26 October 2018, to authorised leave. On 13 February 2019, I responded to this email advising that the period of leave would remain unauthorised. I produce these emails as exhibit LE/01.



STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 27.2;
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)*

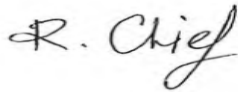
STATEMENT OF (name of witness): Romeo CHIEF

Age of Witness (If over 18 enter "over 18"): Over 18

Occupation of witness: Head Teacher

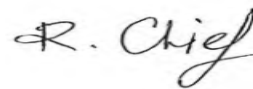
Dated the 22 day of March 2019

Signed (witness):



This statement (consisting of 1 page) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

I am the Head Teacher at City School, City, XX1 1XX, ('the school'). I have the ultimate responsibility at the school for deciding whether a pupil's absence should be authorised or unauthorised and these decisions are made in accordance with the school attendance policy. I produce the policy as exhibit RC/01. This statement is made with reference to Thomas EXAMPLE, ('Tom'), (01/01/2007), who is currently a year 7 pupil at the school and is the son of Mr Don EXAMPLE, ('Mr EXAMPLE') and Mrs May EXAMPLE, ('Mrs EXAMPLE'), of 100 Toy Town Way, City, XX2 2XX. On 06 February 2019, I received an email from Mrs EXAMPLE requesting that I authorise Tom's unauthorised absences between 22 October 2018 and 26 October 2018, as she had made a mistaken assumption about the half term dates. I sent a reply explaining attendance decisions are delegated to the pastoral team and I would forward her message to Mr Leonardo EXAM, ('Mr EXAM'), Senior House Leader at the school. I produce these emails as exhibit RC/02. I produce a true copy of the register which accurately shows the school attendance of Thomas EXAMPLE as exhibit RC/03.



FAQs

- **Can we refer year 11 students?**
It is unlikely we will accept referrals for year 11 students after the end of the autumn term. If you have a concern regarding the attendance of a year 11 student we request that you contact the team to discuss the individual case.
- **How many penalty notices will you issue to a parent in an academic year?**
A maximum of 2 penalty notices will be issued in a 3 year rolling period. If the national threshold is met for a third time Herefordshire Council may prosecute under S444(1) or (1A) of the Education Act 1996.
- **Can we refer when unauthorised term time leave has been taken but the days don't run concurrently?**
Yes. However there must be 10 unauthorised sessions within a 10 week period. The absences must be coded correctly ('G' on the register). For an immediate penalty notice, there must be 10 'G' codes. If in an individual case Herefordshire Council believes a penalty notice would be appropriate, they retain the discretion to issue one before the threshold is met.
- **Why do you prosecute some cases and not others?**
All prosecutions are considered in line with Herefordshire Council's prosecution and enforcement policy. Cases must reach the national threshold to be pursued. It is important that all communications with parents/carers are recorded as cases may not be prosecuted if there is not sufficient evidence of support.
- **What are the consequences for parents/carers when their case goes to court?**
If Herefordshire Council seeks to prosecute a parent/carer and if they are found guilty, they are guilty of an offence under section 444 of the Education Act 1996. The parent/carer is likely to face a fine up to £2500. In some cases this could also lead to up to 6 months imprisonment. In all cases, if found guilty, parents/carers will receive a criminal record. This should not deter you from referring but might act as a deterrent to parent/carers if this information is in your attendance policy.
- **At what point must we refer unauthorised absence to Herefordshire Council?**
When the national threshold is met, 10 unauthorised sessions in a 10 week period.
- **Can schools issue their own penalty notices?**
No. It is stated in Herefordshire Council's Penalty Notice Code of Conduct that they issue the penalty notices.