

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

November 2020 (for the 2020/21 academic year only) (v2)

Education Legal Intervention Team (ELIT)
Alternative Provision, Attendance, Independent Education and Exclusions Service



CONTENT

	Page numbers
Introduction	2
The 'six month rule'	4
Step by Step Guide	
• Step One – Early Help	5
• <i>Covid - 19 concerns</i>	8
• Emotionally Based School Avoidance	9
• Step Two – The School Attendance Review Meeting	10
• Step Three – Initial Notification to ELIT/Court Section	12
• Step Four – The Formal Warning Notice	14
• Step Five – Email ELIT to Complete the Formal Referral	15
Parents with previous penalty notices/convictions in relation to pupil attendance	16
Quick Process Guide	17

Education Legal Intervention Team

Step by Step Guide

‘FAST-track to Attendance’ – The Five Step ‘Early Help’ Approach (for 2020/21)

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 (Penalty Notice) 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, only unauthorised absence accumulated since the 2nd November can be included. Due to staggered start times to manage Covid risk, it would not be appropriate to count U codes for the purposes of FAST-track at this time.

- This guidance has been updated for the 2020/21 academic year to ensure action taken to improve attendance is Covid appropriate and in line with the public interest.

[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. It is particularly crucial in the 2020/21 academic year because it updates parents in relation to school attendance and the coronavirus pandemic. 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*
- ✓ *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 pack can be downloaded via this link:

***<https://www.birmingham.gov.uk/school-attendance> Click on Option 2 for
'Legal Processes'***

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 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.

Before a referral is made to ELIT the school will have applied all school and Early Help responses without success. 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)*
- 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

IMPORTANT INFORMATION: Where there is already an allocated social worker/family support worker, there is no need to complete Section 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)

https://www.birmingham.gov.uk/downloads/file/9010/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 made 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 (not where the family states the child is absent due to Covid-19 symptoms). Before taking this step, make sure you raise this with the parents/carers during the informal meeting then follow up

the request in writing (there is a helpful letter for schools to use in the online FAST-track pack). A referral to the school nurse could be helpful at this point. If the parents choose not to engage with you, meet with you or discuss their children's illness absence consider sending the helpful letter and give them a few days to respond:

https://www.birmingham.gov.uk/downloads/file/9011/medical_absence_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/carer 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, 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 Social Care 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 Social Care disagree, 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

The Government has made a commitment that no family will be penalised where a child has been absent with Covid-19.

Where Early Help was offered prior to March 2020, even though this may not have resulted in attendance improvement or the family refused/didn't engage with the offer, schools should revisit that again. For many families, lockdown resulted in severe hardship, worry or bereavement. Even though the family may not have engaged with an Early Help offer previously, their circumstances may have changed and they may be willing to acknowledge the need for support at this stage.

Where a parent is refusing to send a child to school because a household member is clinically extremely vulnerable and was previously (or is currently) advised to shield by the government, evidence of this should be requested from the parent. Where evidence is provided FAST-track to Attendance should not be used (the evidence should be in the form of previous or current government notifications to shield for that family member). Instead the family should be referred to the School Nurse and the family GP so that the family can be fully advised of the risks involved with attending school.

Informal meetings with parents can take place online or by phone if needed.

Even where a child has poor attendance, if a parent informs the school that the child is self-isolating with symptoms of Covid-19, the child must be marked with X on the register and online education provided. The school should not ask for evidence that the child was too ill to attend school if the reason given relates to Covid-19. We do not want parents to take a child to see their GP with Covid symptoms.

Where the school has evidence that the child did not isolate at that time and was on leave, for example, the school should request sight of the test result and contact ELIT for advice.

If the school is not sure that FAST-track to Attendance would be appropriate in a particular case, please contact ELIT for advice:

Attendance@birmingham.gov.uk

IMPORTANT INFORMATION. Due to the complications linked to current staggered start times as part of Covid-19 risk management in schools, U codes (late after the close of registration) cannot be counted as unauthorised absence for the purposes of FAST-track for this academic year.

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.

<https://bwc.nhs.uk/youve-been-missed>

The #youvebeenmissed 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 (not including U codes) since 2nd November 2020. 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 the Covid regulations allow. If not, the SARM can take place by phone or virtually (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). https://www.birmingham.gov.uk/downloads/file/9008/invitation_to_sarm_letter
- If the DLP chooses not to use the helpful SARM invitation letter, it is important that you remind parents in your own letter that they must provide medical evidence for all illness absence from this point (except related to Covid-19).
- The DLP involved should also 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 https://www.birmingham.gov.uk/downloads/file/9007/fast-track_sarm_record_sheet

- 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 (or are unable to meet virtually or by phone on that date) 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 – Initial Notification to ELIT/Court Section

The pupil has had at least 2 further unauthorised absences (not including U codes) since the SARM.

The school should send the **Attendance Support Letter – ELIT** to each parent individually 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).

The school should also complete an ELIT FAST-track referral form online via the link below. This will enable the team to offer an attendance support intervention with the family before the school commences the final stage of FAST-track if attendance doesn't improve.

<https://www.birmingham.gov.uk/LITT-FT-FORM>

The referral form asks for information as to Early Help interventions the school have tried. The form *must* be completed accurately and all questions must be answered. If it is clear that the school have not offered Early Help, the referral will not be accepted.

The school will also need to provide the following attachments which should be scanned and attached as one PDF document:

- ✓ copy of either the SARM form **OR** the back page of the form if the parents didn't attend
- ✓ a copy of any letters sent to the family this academic year regarding the child's attendance (including the Attendance Support Letter – ELIT)
- ✓ copies of attendance printouts for the current and previous academic years
- ✓ 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 then contact the family to discuss the school's concerns and provide advice and guidance to the parents. If they cannot contact the family by phone, the advice will be in writing. They will also make an initial assessment as to whether possible legal action is appropriate in that case. Within two weeks of the notification the school will be

notified of the date of the contact which will be the date from which the child's attendance should be further monitored by the school.

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.

Step Four – The Formal Warning Notice

The pupil has further unauthorised absence (not including U codes) since the ELIT contact date. Since 2nd November 2020 there are now at least 10 sessions of unauthorised absence (G and/or O codes) in total.

The school should send out a **'Formal Warning Notice'**

https://www.birmingham.gov.uk/downloads/file/9006/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 Five unless, following the Formal Warning Notice, there are at least further 10 sessions of unauthorised absence (see criteria for Step Five for details).

Step Five – Email ELIT to Complete the Formal Referral

The pupil has a minimum of 10 further sessions of unauthorised absence (not including U or N codes) since the Formal Warning Notice was issued (in terms of being 'reasonable' include at least two days for postage). This could be within 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.*

The school can now complete the formal referral to ELIT by emailing the team:

Attendance@birmingham.gov.uk

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

- ✓ a direct 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
- ✓ an up to date attendance printout
- ✓ an up to date copy of the communications log
- ✓ any further medical evidence

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 sperate 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: 0121 464 8979

'FAST-Track to Attendance' 2020/21
Quick Process Guide
(Please refer to the full guidance)

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 from 2nd November 2020 (not including U codes)

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

The pupil has had at least 2 further unauthorised absences (not including U codes) since the SARM

Step Three – Send **Attendance Support Letter - ELIT** to parents and notify ELIT/Court Section by completing an online referral form with attachments (please see guidance). ELIT to contact the family and feed back to the school within two weeks

The pupil has further unauthorised absence (not including U codes) since the ELIT contact date. Since 2nd November 2020 there are now at least 10 sessions of unauthorised absence (G and/or O codes) in total.

Step Four – 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 (not U codes) 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 Five – Refer to ELIT via email
(do not delay - refer as soon as they reach 10 further sessions **but not before**)