

SCHOOL ATTENDANCE (DUTIES OF LOCAL AUTHORITIES AND PROPRIETORS OF SCHOOLS) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the School Attendance (Duties of Local Authorities and Proprietors of Schools) Bill as brought from the House of Commons on 20 May 2024 (HL Bill 84).

- These Explanatory Notes have been prepared by the Department for Education, with the consent of Baroness Evans of Bowes Park, the Peer in charge of the Bill in the House of Lords, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 The Bill contains two main clauses: The first will introduce a new general duty on local authorities to exercise their functions with a view to promoting regular attendance and reducing absence in their areas. The second will require schools of all types to have and publicise a school attendance policy. Both clauses will require all schools and local authorities to have regard to guidance issued by the Secretary of State.
- 2 This would be achieved by inserting two sections into the Education Act 1996 under Chapter 2 of Part 6 on school attendance.

Policy background

- 3 The pandemic significantly disrupted school attendance levels, with 22% of pupils in England still missing the equivalent of half a day or more of lessons every week. That means over a million pupils are missing out on significant periods of their education which will impact not only their longer term life chances, but also the friendships and enrichment activities that are important to their wider wellbeing.
- 4 Increasing attendance to pre-pandemic levels and improving it is a national priority. Currently the support available to families varies significantly depending on the school a child attends and in which local authority area they live. The Bill and related guidance are intended to end this variability and introduce expectations that every school, trust and local authority will prioritise returning all children to the classroom.
- 5 The most recent full-year statistics on pupil absence, published in March 2024, cover the 2022/23 academic year. They showed an overall absence rate of 7.4%. 5.0% of which were authorised absences and 2.4% were unauthorised. Authorised illness was the main driver of absence at 3.7%.
- 6 In January 2022, the Department for Education launched a consultation seeking views on measures to improve the consistency of support available to families in England on school attendance. The majority of respondents agreed with the proposals for requiring schools to have an attendance policy (71%) and that there should be a minimum set of components for local authority attendance services (59%).
- 7 In May 2022, the Department published *Working together to improve school attendance* guidance which is widely supported by schools, multi-academy trusts and local authorities. It has also received support from the Children's Commissioner for England, the Centre for Social Justice and members of the Education Select Committee. In February 2024, the Department published an updated version of *Working together to improve school attendance* which is statutory guidance and applies from 19 August 2024.
- 8 The first provision in the Bill, inserts a new section 436ZA into the Education Act 1996. This is a general duty on local authorities to exercise their functions with a view to promoting attendance and reducing absence, while having regard to guidance in doing so. The Secretary of State has already published guidance on school attendance (*Working together to improve school attendance*) but will publish a revised version ahead of the new provision taking effect.
- 9 This clause requires local authorities to have regard to guidance when fulfilling their roles. That guidance includes:

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- providing all schools with a named point of contact to support with queries and advice;
 - meeting each school termly to discuss cases where multi-agency support is needed;
 - working with other agencies to provide that support where it is needed in cases of persistent or severe absence;
 - using their services and levers to remove common causes of absence in their area;
 - monitoring and improving the attendance of children with a social worker.
- 10 The second provision in the Bill, clause 2, inserts a new section 436ZB into the Education Act 1996, which would require every school (regardless of type) to have an attendance policy and have regard to guidance. The Secretary of State has already published a revised version of its guidance on school attendance (*Working together to improve school attendance*), which applies from 19 August 2024.
- 11 This section would require all schools to fulfil their roles as set out in the guidance. It would create an expectation that:
- schools have a senior attendance champion and have robust day to day processes for recording, monitoring and following up absences;
 - use their attendance data to prioritise the pupils and cohorts on which to focus their improvement efforts;
 - work jointly with their local authority and other agencies where the causes of persistent and severe absence go beyond the school’s remit.
- 12 The House of Commons Education Committee report: *Persistent absence and support for disadvantaged pupils* made a formal recommendation that the Department make statutory guidance:
- “The Department should implement statutory guidance to be applicable from September 2024.”
- 13 This was followed by a similar call from the Children’s Commissioner for England report: *Missing Children, Missing Grades*:
- ‘The Department for Education should make the ‘Working together to improve school attendance’ guidance statutory.*

Legal background

- 14 Section 7 and Chapter 2 of Part 6 of the Education Act 1996 contain provisions specifically related to attendance. This Bill inserts new provisions 436ZA and 436ZB into that Act under Chapter 2 of Part 6. Clause 1 inserts a new section 436ZA, which sets requirements in respect of attendance, for how local authorities exercise their existing powers. Clause 2 (1) inserts a new section 436ZB, which would require every school in England to have an attendance policy. Clause 2 (2) amends section 94 (1)(c) of the Education and Skills Act 2008 and provides for the Secretary of State to also prescribe by regulations standards for attendance in addition to “the welfare, health and safety of students at independent educational institutions”.

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Territorial extent and application

- 15 This Bill will extend to England and Wales and will apply to England only, omitting any need for regulation or similar clauses for Wales, Scotland, or Northern Ireland.
- 16 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

School Attendance by registered pupils

Clause 1: School attendance: general duties on local authorities

- 17 This clause inserts new section 436ZA into the Education Act 1996 which sets requirements, in respect of attendance, for how local authorities exercise their existing powers.
- 18 Subsection (1) of inserted section 436ZA places a new duty on local authorities to exercise their functions so as to try to secure good school attendance by pupils.
- 19 Subsection (2) of inserted section 436ZA requires a local authority to have regard to guidance from the Secretary of State about school attendance. The Secretary of State has already published a revised version of its guidance on school attendance (*Working together to improve school attendance*), which applies from 19 August 2024. This guidance sets out expectations of how local authorities should use their services to secure good attendance, including minimum components of attendance support they are expected to deliver to schools in their area based on the practice of the most effective.

Clause 2: School attendance policies

- 20 Clause 2 (1) inserts new section 436ZB into the Education Act 1996. This would require every school in England to have an attendance policy.
- 21 Subsection (1) of the inserted section 436ZB requires the proprietor of a school (normally, the governing body of a maintained school or the academy proprietor for an academy) to ensure that policies to promote regular attendance are pursued and set out in a written document (an “attendance policy”).
- 22 Subsection (2) sets out the components which must be included in a school’s attendance policy.
- 23 Subsection (3) requires the proprietor to make sure their policy is known within the school and to parents of registered pupils, bringing it to their attention at the beginning of each school year.
- 24 Subsection (4) requires the proprietor to have regard to any guidance issued by the Secretary of State on school attendance. The Secretary of State has already published a revised version of its guidance on attendance (*Working together to improve school attendance*) which applies from 19 August 2024. This guidance expects schools to have an attendance policy, a senior attendance champion and a robust day to day processes for recording, monitoring and following up absences.
- 25 Clause 2 (2) amends section 94 (1)(c) of the Education and Skills Act 2008. In subsection (1)(c) the words, “and attendance by” will be inserted after the word “of”. Section 94 (1) (c) provides

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for the Secretary of State to prescribe by regulations standards for “the welfare, health and safety of students at independent educational institutions”, and this amendment would require all independent educational institutions to also have regard to attendance.

Commencement

Clause 3: Extent, commencement and short title

- 26 The provisions come into force on such day as the Secretary of State may by regulations appoint. This will ensure adequate notice can be provided to allow schools and local authorities to prepare and to align commencement with the beginning of a school term.
- 27 Short title: School Attendance (Duties of Local Authorities and Proprietors of Schools) Bill.

Financial implications of the Bill

- 28 A comprehensive new burdens assessment was conducted ahead of the current guidance being published which found that the expectations could be implemented by local authorities without additional funding if they had the average number of full-time equivalent staff working on attendance. The Department for Education is confident that the original assessment remains accurate based on a growing body of evidence since publication. This shows that, amongst those local authorities which are delivering the guidance, staffing levels have remained within levels predicted in the initial assessment.

Parliamentary approval for financial costs or for charges imposed

- 29 The Bill does not require a money resolution or a ways and means resolution.

Compatibility with the European Convention on Human Rights

- 30 This is a Private Member’s Bill and the Government is not required to give a statement of compatibility with the European Convention of Human Rights (ECHR) in accordance with section 19(1)(a) of the Human Rights Act 1998. The Government has, nevertheless, considered the question of compatibility and has concluded that the Bill is compatible with the ECHR.
- 31 The Bill requires local authorities to exercise their functions with a view to promoting regular attendance and reducing absence. It also requires proprietors of schools to ensure that schools have and publish attendance policies and both local authorities and proprietors of schools to have regard to guidance issued by the Secretary of State. In the Government’s view, none of the provisions of the Bill interfere with any of the rights set out in the European Convention on Human Rights.

Environment Act 2021: section 20

- 32 Through Clause 1, local authorities will be expected to track school attendance data and have a School Attendance Support Team to target attendance and increase practical whole-family support. All tracking of school attendance data will be virtual, and this policy does not require the storing of any more data as it would use the Government's existing 'View Your Education Data' system. Local authorities will be expected to have termly meetings between the local authority and each of its schools. If these meetings take place in person, there could be the possibility of extra travel; additionally, if the meetings are conducted virtually there could be an additional use of energy. Many local authorities, however, already had or have such meetings and all local authorities routinely engage with schools, parents and pupils. The likely increase, therefore, would be relatively minimal and have no or negligible environmental impact. Any additional negative environmental outcome would be significantly lower than the benefits for pupils and families.
- 33 Clause 2 will require all schools to ensure all leaders, staff, pupils and parents understand the school's attendance policy. The expectation is that this will be communicated through the school's current procedures, such as emails, open evenings, assemblies and the school's websites. Therefore, there should be no negative environmental impact. Parents and pupils may have to travel to school(s) for attendance meetings. If the pupil was in regular attendance of the school, this would be the same journey. There is also the option for virtual meetings, which would require no transportation. Therefore, any additional attendance meetings resulting from the guidance would have negligible to no environmental impact.

Related documents

34 The following documents are relevant to the Bill and can be read at the stated locations:

- Guidance: Working together to improve school attendance.¹
- Government consultation response: School attendance improving the consistency of support.²
- School attendance, improving the consistency of support: new burdens assessment.³
- House of Commons Education Committee report: Persistent absence and support for disadvantaged pupils.⁴
- Childrens' Commissioners report: Missing Children, Missing Grades.⁵

1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1099677/Working_together_to_improve_school_attendance.pdf

2

https://assets.publishing.service.gov.uk/media/6273f40ed3bf7f5e33c833ca/School_attendance_consultation_government_response.pdf

³ <https://www.gov.uk/government/publications/school-attendance-improving-the-consistency-of-support-new-burdens-assessment/school-attendance-improving-the-consistency-of-support-new-burdens-assessment>

⁴ <https://committees.parliament.uk/publications/41590/documents/205047/default/>

⁵ <https://assets.childrenscommissioner.gov.uk/wpuploads/2023/11/CC-REPORT-Attendance-and-Attainment--Oct-23.pdf>

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Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	No	No	No	No	No	N/A
Clause 2	Yes	No	No	No	No	No	N/A

Subject matter and legislative competence of devolved legislatures

Not applicable.

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