LEGAL NOTICE TO PARENTS

This notice advises parents of their rights and responsibilities in respect of the collection of information that might lead to legal action to enforce school attendance.

The Local Education Authority may consider you to be in default of **Section 7 of the Education Act 1996** which states: -

"The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable: -

(a)   to his age, ability and aptitude and
(b)   to any special educational needs he may have, either by regular attendance at school or otherwise.

When the Local Education Authority believes this to be the case, an officer of the Education Welfare Team raises this with the parents. If the Local Authority believes an offence has been committed in respect of non-attendance at school, Section 444 of the Education Act 1996 applies.

Section 444 of the Education Act 1996 states: -

(1)   If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, his parent is guilty of an offence.
(1A)   If in the circumstances mentioned in subsection (1) the parent knows that his child is failing to attend regularly at the school and fails without reasonable justification to cause him to do so, he is guilty of an offence

The defences to the legal duty imposed on you by the above Act under Section 444(3) are:-

"The child shall not be taken to have failed to attend regularly at the school by reason of his absences from the school: -
(a)   with leave
(b)   at any time when he was prevented from attending by reason of sickness or any unavoidable cause
(c)   on any day exclusively set aside for religious observance by the religious body to which his parent belongs."

On conviction:
(8)   A person guilty of an offence under subsection 1 is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently a maximum of £1000.

(8A)   A person guilty of an offence under subsection (1A) is liable on summary conviction:
    a) to a fine not exceeding level 4 on the standard scale, (currently a maximum of £2,500), or
    b) to imprisonment for a term not exceeding three months,
or both.

(8B)   If, on trial of an offence under subsection (1A), the court finds the defendant not guilty of that offence but is satisfied that he is guilty of an offence under subsection (1), the court may find him guilty of that offence.

Other legal action.

Fixed-penalty Notices
Under the Education (Penalty Notices) (England) Regulations 2007, as amended, the Local Education Authority has the power to issue Fixed-penalty Notices of £80, (rising to £160 if not paid within 21 days), where parents

- fail to ensure school attendance,
- take children on holiday without authorisation from the head teacher
- fail to supervise a child in public when the child is excluded from school
- do not ensure their child arrives punctually and there are six unauthorised lates in any four-week period
- keep a child off school for trivial reasons such as birthdays

Parents who fail to pay a Fixed-penalty Notice will face prosecution for the original offence of failure to ensure school attendance, (see Section 444 of the Education Act 1996, above).

Education Supervision Orders

The Local Education Authority may seek an Education Supervision Order from the Family Court in respect of a child whose parents fail to ensure his or her school attendance. Such an order has no financial penalty, but gives decision-making power in respect of a child's education to the Local Education Authority, subject to review by the court.

School Attendance Orders

School Attendance Orders, under Sections 437 to 443 of the Education Act 1996, are used when parents fail to ensure their child is being educated either by enrolling him in a school or educating him themselves, as required by Section 7 of the same Act.

Parents failing to respond to a School Attendance Order naming a school are prosecuted under Section 443 of the Education Act 1996 in the same way as parents whose children's attendance is dealt with.