

Parental Responsibility and Education Law

Who is a parent?

It's important that schools and local authorities are aware that parents may be recognised differently under education law, than under family law. Section 576 of the Education Act 1996 states that a 'parent', in relation to a child or young person, includes any person who is not a parent (from which can be inferred 'biological parent') but who has parental responsibility, or who has care of the child.

For the purposes of education law, the department considers a 'parent' to include:

- all biological parents, whether they are married or not
- any person who, although not a biological parent, has parental responsibility for a child or young person - this could be an adoptive parent, a step parent, guardian or other relative
- any person who, although not a biological parent and does not have parental responsibility, has care of a child or young person

A person typically has care of a child or young person if they are the person with whom the child lives, either full or part time and who looks after the child, irrespective of what their biological or legal relationship is with the child.

Therefore, all these people have the duty to ensure a child of compulsory school age receives a suitable education.

If a registered pupil of compulsory school age fails to attend school regularly, the parent could be guilty of an offence under S444 of the Education Act.

What is compulsory school age?

A child is of compulsory school age at the beginning of the 1st term after their 5th birthday, so:

- children who turn 5 between 1st January and 31st March will be of compulsory school age at the beginning of the school term after 31st March.
- children who turn 5 between 1st April and 31st August will be of compulsory school age at the beginning of the school term after 31st August.
- children who turn 5 between 1st September and 31st December will be of compulsory school age at the beginning of the school term after 31st December.

A child remains of compulsory school age until the last Friday in June in the school year that they turn 16. From September 2015 all 16-year-olds must remain in education or training until their 18th birthday.

Prosecution Measures

The Education Act 1996 states that parents must ensure their children of compulsory school age receive appropriate full-time education according to their age, ability and aptitude. This can be by

regular attendance at school, at alternative provision, or otherwise (e.g., the parent can choose to educate their child at home)

If a child of compulsory school age fails to attend regularly at a school at which they are registered, or at a place where alternative provision is provided for them, the parents may be guilty of an offence and can be prosecuted by the local authority.

Where parents do not register their child at a school and fail to provide evidence to prove their child is being educated otherwise (i.e., in an alternative provision or at home) Local Authorities may action a School Attendance Order.