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## **THE CRIME AND DISORDER ACT**

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### **GUIDANCE DOCUMENT POWER FOR THE POLICE TO REMOVE TRUANTS**

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#### **SECTION 1: SCOPE AND STATUS OF GUIDANCE**

1.1 This guidance contains advice to the police and local education authorities (LEAs) on the provisions under section 16 of the Crime and Disorder Act 1998 which provide a power for the police to take truants back to school or to another place designated by the local education authority. The power is intended to operate within a joint local approach to tackling truancy.

1.2 The guidance has been drawn up jointly by the Home Office and DfEE in consultation with the Social Exclusion Unit; the Welsh Office; the Association of Chief Police Officers; The Police Superintendents' Association; The Police Federation; the Association of Police Authorities; the Local Government Association; local education authorities; and other education interests.

1.3 The guidance is non-statutory. It is for guidance only and should not be regarded as providing legal advice. Legal advice should be sought if there is any doubt as to the application or interpretation of the legislation.

1.4 A copy of [section 16 of the Crime and Disorder Act](#) is available from The Stationery Office Website.

#### **SECTION 2: BACKGROUND**

2.1 Truancy is a significant problem; figures based on schools registers show that at least 1 million children take at least one half day off a year without authority. Confidential surveys show much higher levels. According to one, nearly 1 in ten 15 year olds truant at least once a week. Truancy carries costs both for the children involved and for society more widely. Truants are more likely than others to leave school with few or no

qualifications, are more likely to be out of work and are more likely to become homeless. Truancy is also closely associated with crime. The Audit Commission found that a quarter of school age offenders have truanted significantly. A Metropolitan Police study found that 5% of offences were committed by children in school hours.

2.2 The Government has launched a package of measures worth £500 million over three years to tackle school exclusions and truancy with a national goal of reducing levels of both permanent exclusions<sup>1</sup> and truancy by a third by 2002. This will include computerised registration systems to improve monitoring of attendance, additional staff to help schools follow up non-attendance, truancy watch and pupil pass schemes, and in-school centres for children at risk of exclusion. There will also be local authority targets for reducing truancy and exclusions. Parenting orders introduced by section 8 of the Crime and Disorder Act 1998 will be available to the courts to impose on parents who fail to make sure that their children attend school if the court is satisfied that such an order would help ensure that the parent secures the child's attendance at school. The power for the police to remove truants forms another part of the Government's package to tackle truancy and schools exclusions.

2.3 Tackling truancy is not the responsibility of any one agency alone. The power provided by section 16 of the Crime and Disorder Act will be used in support of local multi-agency efforts to tackle truancy in which the police, schools and local education authorities identify and discuss local problems and draw up strategies to deal with them. The power will enable education services and the police more generally to build on the work already undertaken successfully in truancy initiatives in various parts of the country. It will deal with the lack of an explicit power for the police to pick up truants which has prevented the widespread adoption of truancy schemes.

### **SECTION 3: MAIN ELEMENTS OF THE POWER**

3.1 The main elements of the power set out in section 16 of the 1998 Act are as follows:

- the section empowers a police officer to take a child or young person, whom he or she has reasonable cause to believe is of compulsory school age<sup>2</sup> and is absent from school (including a Pupil Referral Unit and an independent school) without authority, back to school or to another place designated by the local education authority;
- the child or young person must be in a public place when the power is exercised. This includes private premises to which the public have access - for example, shops, shopping centres and arcades;
- the power may be used where a local authority has designated premises in a police area for the purpose of the provision and has notified the chief officer of police for the area;

- it will be for a police officer of at least superintendent rank to specify areas and time periods in which the power may be used;
- the power is not a power of arrest or detention nor does it make truancy a criminal offence for the child (however, it remains an offence for parents to allow their child to be absent from school without authority. If convicted, under section 433 or 444 of the Education Act 1996 they face a substantial fine and could be subject to a parenting order - see 4.2.
- the provision applies to England and Wales.

## **SECTION 4: HOW THE POWER WILL OPERATE**

### **The role of the Local Education Authority**

4.1 In law, parents of children of compulsory school age are required to ensure that they receive a full-time suitable education (see section 7 of the Education Act 1996). This can be by means of regular attendance at a school or by means other than school attendance. This latter option means that parents are legally entitled to educate their children outside the school system if that is their wish.

4.2 Where a child is registered at a school - as the vast majority are - the law requires regular attendance. Failure to ensure regular attendance can lead to the parents being prosecuted by the local education authority (LEA) in a magistrates' court. On conviction, parents face a fine of up to £1,000. The Crime and Disorder Act 1998 provides for new powers for courts to impose a parenting order which may require a parent to attend parent training classes or may include a requirement for an adult to escort the child to school each day. The parenting order is being piloted in nine areas from October 1998. The pilots will run for 18 months and, subject to the outcome of the evaluation, the parenting order will be brought into force across England and Wales in 2000-2001.

4.3 LEAs are responsible in law for enforcing regular school attendance on the part of registered pupils of compulsory school age and employ staff known as education welfare officers (EWOs, known in some areas as education social workers) to work closely with schools and families to resolve attendance problems. In some areas, EWOs have already played an active part in truancy watch schemes involving the police and other local interests.

### **Assessing the nature of the problem**

4.4 The impetus for using the new power may come from the local education authority, the police or both. It may also arise from local problems identified during the crime and disorder audit and involve the views of others such as the retail trade or the local community. In order to confirm whether use of the new police power is appropriate in a given area, the LEA will need to assess the nature and extent of unauthorised absence<sup>3</sup> in the locality in consultation with the police. The local youth offending team(s), which will include police and local education authority nominees, may also be able to inform this process. Wherever the impetus comes from to indicate that use of the power is appropriate, it is important that all interested parties agree about its use.

4.5 Much of this information will already be available to the LEA but particular regard should be paid to

- areas where schools have particularly high levels of unauthorised absence, including significant levels of post-registration truancy (children staying long enough for main registers, but avoiding lessons thereafter)
- areas where schools are experiencing difficulty with high levels of parentally-condoned unjustified absence.

4.6 The police for their part will wish to have regard to local "hot spots" for juvenile crime by children of school age in school hours. The crime and disorder audits required under section 6 of the Crime and Disorder Act will help identify such areas. All local authorities and police forces should have drawn up a crime and disorder reduction strategy agreed with other key agencies by April 1999 setting out how youth crime will be tackled. The police will also wish to be alert to areas where truants are thought to be at particular risk of becoming victims of crime or at risk of other serious harm, for example from the attentions of paedophiles, pimps or drug pushers.

### **Planning**

4.7 Once it has been decided that local circumstances warrant application of the new police power, the LEA should first hold preliminary discussions with schools in the area concerned (including independent schools) to agree a plan of action. LEA representatives should then meet the police to discuss the objectives and parameters of the truancy initiative and to agree operational guidelines for all concerned. It would be helpful if head teachers or their approved substitutes were also present. The local youth offending team(s) should be involved in these discussions. During this process particular attention should be paid to ensuring that:

- police officers are aware of categories of children who may have a justifiable cause to be out and about during school hours, especially home-educated children and excluded pupils: see further advice below;
- clear geographical boundaries are set for the exercise; these should be kept in confidence by the partners involved.
- information is shared about places where truants are known to gather (eg shopping precincts);
- the police are aware of other relevant information such as local school hours, school holidays, training days, and whether the area is frequented by children from other areas with different school holidays (e.g. is it a popular holiday destination)
- the police are given the names and known movement patterns of children known to be persistent non-attenders and, where appropriate, their names (see paragraph 4.8 below)

- the LEA provides a single reference point to cover cases where the police officers need to check the arrangements. This will need to be kept up-to-date with information not to hand at the planning meetings, for example, details of any child recently excluded from school. (see "Excluded Pupils")
- thought is given to how to deal with children in the company of adults. Parentally-condoned unjustified absence is a significant problem for some schools and many of these children will have no good reason to be out of school; there is also a potential child protection issue. The police officer and accompanying education representative should aim therefore to establish whether the child is a registered pupil and the reason for absence. Parents should be reminded that they are legally responsible for regular school attendance;
- local schools, including independent schools, are aware of what is going on, and in the event that they are designated premises have reception arrangements available for children who may be returned to them during the period of the truancy operation;
- the police are aware of the arrangements for receiving children;
- thought is given to the approach to be taken with truants identified late in the school day in case of difficulties with transport arrangements to their homes.
- While there may be benefit in giving publicity to a general focus on tackling truancy, as a preventive measure, care should be taken to ensure that any publicity of specific initiatives does not compromise operational aspects. In general it is likely that any local coverage should best be given after the event, or at least once the use of the power is well under way;
- guidelines are established for approaching young people. We recommend that police constables operating the new power do so in uniform (because of child protection concerns) and where practicable are accompanied by an education representative such as an EWO, who will be able to check the school status of the young person concerned;
- where appropriate, the British Transport Police are brought into the discussions, in respect of problems involving truants congregating on the rail network;
- where appropriate, other bodies - such as representatives of the retail trade and the local community - are encouraged to be partners in the approach.
- follow-up action is taken by the LEA in relation to the children intercepted. This could range from subsequent attendance checks

conducted in the immediate wake of the initiative to formal warnings to parents of possible prosecution;

- arrangements are established for monitoring and evaluating the effectiveness of the initiative, to inform future strategy and operational arrangements.

## **Exchange of personal information**

4.8 Section 115 of the Crime and Disorder Act ensures that education authorities have a legal power to disclose information - including for example the names of persistent truants - to the police for the purpose of the truancy provision. The requirements of the Data Protection legislation need to be taken into account in exercising this power, as will certain other requirements. The best way to ensure these requirements are satisfied is by using carefully drawn up protocols between the education authority and the police. Further advice on the drawing up of information sharing protocols, which has been prepared by the Home Office in co-operation with the Data Protection Register, is available on the Crime and Disorder Act website: <http://www.homeoffice.gov.uk/cdact/actgch5.htm>

## **Designated premises**

4.9 Before the new power is invoked, the LEA will have to designate premises to which young people of compulsory school age may be taken and formally notify the chief constable in writing. These may be schools and in most areas, it will be appropriate to return the young people direct to local schools (experience of truancy watch schemes suggests that, once intercepted, children are generally honest in identifying the school they should be attending). However, the LEA may also designate other premises which they will be responsible for staffing. These could include offices available to the education welfare service or offices within a shopping precinct maintained by the LEA for the duration of a truancy operation. The options should be discussed with the police at an early stage. The designated premises will not include police stations.

4.10 Truants should not be taken to police stations in exercise of the truancy powers. In this connection, as indicated above, it should be remembered that children who truant from school are not committing a crime; their parents are legally responsible for their non-attendance.

## **Authorisation of use of the power**

4.11 The power will only be exercisable with the authority of a police officer of superintendent rank or above. It will also be for that officer to authorise the area over which the power will be exercised and its duration. In coming to that judgement he or she will take account of the result of discussions with schools and the LEA. The superintendent should also make clear to his or her officers the location(s) to which truants should be taken, in line with arrangements made with the LEA. The authorisation should be recorded in writing and the record kept for a year.

## **Exercising the new power**

4.12 The power will be exercised on the basis that the constable has reasonable cause to believe that a child is a registered pupil absent from school without lawful authority. Police officers are experienced in reaching judgements of this nature in the light of the circumstances. The power is to be used in support of a multi-agency approach to the problem which would include sharing of information which will help officers make such judgements. The police will also be assisted in this respect if they are accompanied by an education representative such as an EWO.

4.13 In exercising discretion the constable will take account of the arrangements agreed between the police, schools and the LEA together with the individual circumstances of the case.

4.14 The section 16 power only applies to children of compulsory school age who are registered at school. Officers will need to be aware of valid reasons for registered pupils being out of school during school hours. These include:

- pupils en route to, or returning from, a medical or dental appointment which should have been notified to the school.
- field trips, educational visits or surveys (pupils engaged in such activities will normally be accompanied by school staff, so there should be no difficulty with these)
- religious observance (the law allows for non-attendance in the case of a day exclusively set aside for religious observance in the faith to which the parents belong, although normally schools would expect to agree this in advance)
- Traveller children with leave of absence granted for purposes of travelling
- children en route to off-site sports facilities or going to other school buildings in the case of split-site schools
- other special circumstances for which leave of absence has been granted, or truly unavoidable circumstances which may justify absence
- children taking part in performances under the provision of a licence granted in accordance with the Children and Young Persons Act 1963 and associated regulations;
- children on work experience placements arranged through the school;

4.15 For monitoring purposes, so as to provide feedback to inform the overall truancy reduction strategy, officers should try to establish from the child the reason for truanting.

4.16 As indicated above, experience of existing truancy watch schemes is that children generally do co-operate when approached by the police about their absence from school. However, there may be occasional cases in which suspected truants refuse to comply. In such cases, if the constable has reasonable grounds for believing that the child or young person is absent from

school without authority, the power under section 16 will enable the officer to use such reasonable force as is necessary in the circumstances. What reasonable force might be will depend on the circumstances. It must be proportionate to the nature of the power and the behaviour of the child or young person concerned. If the child or young person resists with violence, that in itself might be an offence of assault and other powers would come into play.

#### **Once the child is returned**

4.17 Once a child has been returned, it is important that there should be adequate reception arrangements. In the case of a school, (including a Pupil Referral Unit) this means ensuring that pastoral or other staff are ready to receive back into school registered pupils found outside school premises and return them to class or make other suitable arrangements for them. The school will also need to notify parents that their child has been picked up and returned to school. If children are being returned to other premises, the LEA needs to ensure that arrangements exist for notifying schools that their pupils are at a particular location and of the arrangements for their return. Whether truants are returned to a school or other location, formal recording procedures should be instituted.

4.18 The act of returning a child to school may be helpful in identifying and resolving factors contributing to non-attendance, eg bullying.

#### **Out of area pupils**

4.19 It is a common occurrence for a pupil living in one area to attend school in an adjacent area and truancy operations may encounter children truanting across LEA boundaries. The constable will have the discretion to take a truant back to school or to the designated place for the LEA area in which the child is picked up but there is no legal obligation on the police to take the child back to its own school if that school is out of the area. The LEA should therefore liaise with neighbouring LEAs about follow-up arrangements for children found out of area and ensure that an understanding is arrived at before an initiative is underway. Where a child's home area makes it impracticable for him or her to be collected by a representative of the home LEA, the LEA running the initiative should ensure that the child's details are passed to the home LEA's education welfare service or equivalent.

#### **Children being educated otherwise than at school**

4.20 In planning for, and operating, a truancy initiative using the new power it is important to remember that not all children aged 5-16 are registered at school. Children educated outside the school system altogether (see paragraph 4.1), for example, by home tuition, might be out and about during the daytime for wholly legitimate reasons, for example visiting a library.

4.21 Local procedures should take account of possible contact with such home-educated children and it should be emphasised that they are not the target group for the new power. The power can only be exercised in relation to registered pupils of compulsory school age absent from school without authority; it does not apply to children who are lawfully educated at home. No further action should be taken where children indicate that they are home-educated - unless the constable has reason to doubt that this is the case.

#### **Excluded pupils**

4.22 Pupils excluded from school for breaches of discipline fall into two basic categories:

- **fixed period exclusions:** a short term suspension, usually for a few days. Pupils on fixed period exclusions remain on roll and are absent from school with authority. If encountered during a truancy operation, the power does not apply to them and no further action should be taken, unless the police officer concerned has reasonable cause to suspect that they are not telling the truth.
- **permanent exclusions:** once confirmed, permanent exclusion leads to a pupil being struck off the school roll. If a pupil claims to have been permanently excluded the constable should establish whether the pupil has yet found a place at another school (including a Pupil Referral Unit) or taken up provision made by the LEA (eg home tuition). Where alternative educational provision has been made for them at a school/PRU and they are absent from it without authority the power applies. If a pupil indicates that a permanent exclusion appeal is in progress, the power does not apply to them and no further action should be taken, unless the officer has reasonable cause to believe that the child is not telling the truth.

Other steps are being taken by the Government in conjunction with LEAs and schools, to reduce the numbers involved and the length of exclusions.

#### **Pupil passes**

4.23 Some schools already operate systems whereby printed passes are issued to pupils to confirm that they have authority to be off-site during school hours, eg for a dental appointment. The issuing of passes by schools is strongly recommended as a permanent strategy, and it is, of course, particularly helpful in areas where truancy initiatives are operating. Arrangements should be made at the planning stage for police officers to see a sample of passes used locally. The local education authority should consider the issue of guidance to school governing bodies about pupil passes.

### **SECTION 5: IMPLEMENTATION**

5.1 The provision for the new power for the police to remove truants will come into force on 1 December 1998.

### **SECTION 6: FURTHER ENQUIRIES**

6.1 If anyone has any questions about the content of this guidance they can contact:

Patricia McFarlane [020 7 273 2503] or Judy Johnrose [020 7 273 3746] of the Operational Policing Policy Unit of the Home Office, 50 Queen Anne's Gate, London SW1H 9AT

or

Stephen Dance [020 7 925 5549] or Ian Thomson [020 7 925 5719] of the School Attendance Team, Department for

Education and Employment, Sanctuary Buildings, Great Smith  
Street, London SW1P

or

Alison Clash [029 20 826048] or Larry Nixon [029 20 826080]  
Schools Administration Division 3  
Welsh Office  
Cathays Park  
Cardiff CP1 3NQ

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<sup>1</sup>Permanent and fixed term exclusions of over 5 days

<sup>2</sup>Compulsory school age covers children in the age range 5-16. A child must remain in education until the last Friday in June in the school year in which he or she attains the age of 16. This applies to both the children registered at school and those subject to other arrangements (see also important note under "Children being educated otherwise than at school")

<sup>3</sup>Unauthorised absence for this purpose means absence from a school without permission from a teacher or other authorised representative of the school. This includes all unexplained or unjustified absences.

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PC/GP Nov 2002