

Educational Neglect Policy

August 2023

1 Introduction and Background

Torbay Local Authority over the years has prosecuted many families under the offence of Section 444 Education Act 1996 multiple times due to continued poor school attendance for either the same pupil or siblings and/or involving the same parents. This is alongside Torbay Local Authority having had below national average attendance highlighting that there are behaviours for some of these pupils/families which are not changing over time.

Many reports over the years have found links between neglect and poor school attendance. The Department of Education in 2012 accepted a recommendation that 'persistent failure to send children to school is a clear sign of neglect and that children's social care services should work with schools to address underlying difficulties' (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/180772/DFE-00036-2012_improving_attendance_at_school.pdf).

The NSPCC in 2013 cited that 'failure to ensure regular attendance that prevents the child reaching their full potential academically' as one of their six forms of neglect.

Neglect is "the ongoing failure to meet a child's basic physical and psychological needs" (Department for Education, 2018; Department of Health, 2017; Scottish Government, 2014; Wales Safeguarding Procedures Project Board, 2019).

Educational neglect – involves a carer failing to provide a stimulating environment, show an interest in the child's education at school, support their learning, or respond to any special needs, as well as failing to comply with state requirements regarding school attendance. (Howarth (2007)).

It was recognised that it would be most useful to develop a policy to highlight the term educational neglect. The term 'educational neglect' was considered as being the most helpful, in that it could both support the narrative from professionals as well as simply convey to our school communities the level of concern the issue should invoke. For it to be used in our local context, the group hoped it could be a descriptor that, on a continuum of need, demonstrates a critical state beyond the 'persistent absence' definition currently used across the country and also to include those who are not deemed to be receiving suitable education through being electively home schooled.

The policy builds on research developed by Knowsley Council where they had previously considered 'safeguarding and long-term' absence and compiled Educational Neglect definitions and statutory pathways.

By highlighting the term educational neglect, it is not intended to necessarily increase the traffic of social care referrals. It has been acknowledged that several young people that had failed to attend school regularly and where there have been multiple prosecutions through the magistrate's courts by the local authority and a limited number of electively home-schooled cases were already and/or previously on the caseload of Social Care.

2 Educational Neglect Definitions

Certain risk factors, as defined in 'Keeping Children Safe in Education' necessitate immediate referral to the Multi Agency Safeguarding Hub (MASH).

The definitions for Educational Neglect are detailed below, however it must be noted that where irregular school attendance or not receiving suitable education through elective home schooling (EHE) are the only presenting or significant issues, evidence must be collated over a twelve-month period or in the case of EHE pupils during the period that the local authority officers have taken all reasonable steps to establish whether suitable education is being received and has also resulted in statutory action.

A chronology of all offered support, interventions, evidenced observations and actions will have ordinarily taken place.

'Working together to safeguard children' provides a neglect description, 'The **persistent failure** to meet a child's basic physical and/or psychological needs, likely to result in the **serious impairment** of the child's health or **development**', and this forms the basis of the following definitions.

3 Definition of Educational Neglect (Omission by Parent)

Educational threshold for 'persistent failure' requires all the following to be met over a twelve-month period:

- Parent failing or inadequately maintaining schooling or identifying provision for their child;
- Parent failing to attend most school and LA meetings and/or engage with support offered;
- Parent unable to provide substantiated reasons for most absences from school; and
- At least one court intervention which fails to improve attendance i.e. Section 444/4441A prosecution or School Attendance Order or Education Supervision Order.

Educational threshold for 'serious impairment of development'

- Primary aged children where school attendance is 75% or less over an academic year (three terms), as this halves the possibility of achieving Level 4, the recognised average level for a child at the end of KS2 (2013/14 national research).
- Secondary aged young people where school attendance is 75% or less over an academic year (three terms), as this means the young person is five times less likely to achieve 5 GCSE's including English and Mathematics, the recognised average level for a young person at the end of KS4 (2013/14 national research).

Torbay definition of Educational Neglect (omission by parent) has been met if there is evidence of both thresholds.

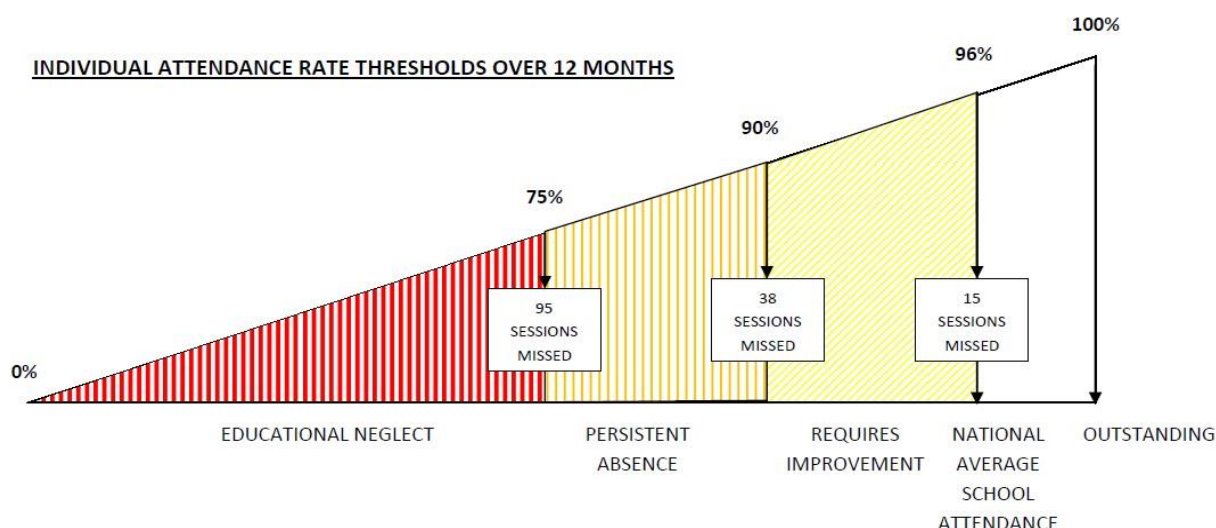
4 Definition of Educational Neglect (Omission by the Young Person)

This definition is appropriate when pupils are old enough to determine their own actions and independently travel to school and where:

- parental co-operation is clearly demonstrated.
- current educational provision is appropriate for the young person's needs; and
- attendance levels are as identified above (threshold for serious impairment of development).

Should these thresholds be met, the Vulnerable Pupils Team will consider applying to the Family Court for an Education Supervision Order. If the young person or parent persistently fails to follow any directions made in the course of an Education Supervision Order, there is an expectation in guidance for an early help/social care assessment of the child's circumstances with consent.

5 Individual Attendance Rate Thresholds Over 12 Months



6 Statutory Pathways

Education Penalty Notices (Administered by Local Authority)

These are used as an early intervention where there is irregular attendance, unauthorised absence and a reasonable expectation that this may change; discharges the parent's liability for conviction of an offence by paying under the Education (Penalty Notices) (England) Regulation 2007.

Prosecution – Absolute Offence (Magistrates Court – Referred by the LA on Non Payment of a Penalty Notice)

Prosecution of a parent, under Section 444(1) of the Education Act 1996, for irregular attendance of child with unauthorised absence; this is a strict liability offence with limited defences.

Prosecution – Aggravated Offence (Magistrates Court - Referred by the LA on Repeat Offences)

Prosecution of a parent, under Section 444(1A) of the Education Act 1996, for irregular attendance of child with unauthorised absence; parent knows about the irregular attendance and fails without reasonable justification to change this; potential of custodial sentence.

School Attendance Order (Issued via the Local Authority - Magistrates Court if not resolved)

Requires parent(S), under Education Act 1997 to register a child of compulsory school age at a named school when not receiving a suitable education.

Education Supervision Order (Issued via the Local Authority - Family Court)

12-month Order under Section 36 of the Children Act 1989 on the grounds that the child is not being suitably educated; Supervising Officer to, 'assist, advise and befriend'.

These orders are the DfE's preferred route within the guidance but are generally most effective with a consenting parent.

7 Summary

This policy has been written to support in the protecting of all of Torbay's children and young people from Educational Neglect which is often described as an understudied phenomenon that is difficult to define and to address.

Here in Torbay our aim is to address educational neglect by having a policy that clearly defines how all services such as education, social care, health and all other professionals respond to allegations of educational neglect.

Torbay Local Authority wish to acknowledge the document by Oldham LA and Knowsley Council from which this policy has evolved

PATHWAYS

