



What Next for School Attendance?

Learning from lived experience:

The voices of families whose children experience attendance barriers and those working to support them

January 2024

Summary of our Recommendations

"Attendance is the lens through which all challenges may be seen, illustrating a nexus of stretched services, fractured policy, inequity and need. Underserved individual families and under-resourced services collide via attendance barriers and escalating difficulties for children and young people."

Ellie Costello, Executive Director, Square Peg

1. Develop a national Wellbeing & Inclusion Strategy
2. Provide clinical supervision support for every school
3. Ensure CAMHS funding is ring fenced
4. Develop a CAMHS Long Term Plan
5. Fund Mental Health Community Hubs
6. Review unintended consequences of attendance targets and monitoring
- 7. Introduce a Mental Health & Wellbeing school registration code (#3Asks)**
8. Ensure every school has a Mental Health Support Team
9. Develop Attendance Key Worker Service for every school
10. Introduce an Attendance Code of Practice (#3Asks)
11. Introduce a school registration code for those awaiting assessment or support for health or learning support needs
12. Abolish fines and prosecutions under truancy law (#3Asks)



School Attendance, Persistent & Severe Absence Challenges & Recommendations

Square Peg is a CIC (community interest company; social impact non-profit) established by and for those with lived experience of school attendance difficulties. We work in partnership with Not Fine In School CIC, who support the same families via a membership group of 53k parents & carers whose children are marked as persistently or severely absent from school. Square Peg has been active since 2018. We were the first organisation to raise the alarm with leading think-tanks such as the Education Policy Institute, Centre for Social Justice and the Children's Commissioner's Office in 2019, leading to the Government making school attendance a Cabinet Priority in 2021.

As Experts by Experience, we have a unique perspective of current culture and practice delivered by schools, local authorities, healthcare, social care, SEND and education welfare management services. Square Peg draws on a wide cross-sector network of professionals, school leaders, academics, clinicians, third sector organisations, specialist support services, innovation and social designers.

Factors influencing absence

Many children struggling with school attendance have special education needs, a disability, chronic illness, medical needs, experience mental ill health, are young carers, live in poverty, are from a black or ethnic minority, may be Armed Forces children, or are Looked After or Care Experienced. Some live in unsafe or insecure housing, are fleeing domestic violence or are displaced refugees. Some are bullied at school, feel psychologically unsafe at school or may be facing social or emotional challenges.

Attendance difficulties are indiscriminate and unpredictable and whilst it is paramount to hold at risk, vulnerable and disadvantaged groups in mind, an attendance difficulty can emerge in any child or young person, for a multitude of reasons.

This was a pre 2020 problem, with many Not Fine In School (NFIS) members and parent carers from across other social media and grassroots forums reporting escalating mental ill health in their child arising from high stakes testing, unsupported special education needs and / or disabilities (SEND) or medical needs, coercive school behaviour policies, zero tolerance sanctions or threat of sanctions (punishments) for very minor offences¹.

Absence rates were rising 15-20% per annum pre-pandemic, running at three-quarters of a million in the Autumn of 2018, rising to almost a million in the Autumn of 2019. Exclusion/suspension rates, off-rolling and de-registrations were also increasing. Combine this with toxic stress arising from lockdowns, complications from Covid, a hard and fast return to catch-up learning and examinations following 2 years existential threat and disruption, traumatic bereavements, social isolation, employment uncertainty and rising cost of living for families, it is no wonder children are struggling more than ever.

We know when schools build cultures of positive regard, secure attachments, safe, respectful relationships, wellbeing, restorative practice and implement trauma-informed, inclusive systems that are relationally responsive children thrive.² We also know from evidence-backed work such as that of the Attachment Research Community and National Association of Virtual School Heads that when these approaches are in place, attainment goes up, exclusions go down, as does persistent absence³. We should not shy away from prioritising and supporting the secure foundations of wellbeing and good mental health in every child and young person.

Ensuring children have safe, trusted adults who deliver attuned, reciprocal relationships is a foundation for positive child development.⁴ We know it helps build healthy brains, promotes independence, curiosity and engagement, creativity and innovative thinking. We also know increasing numbers of children and young people are struggling in school, with many reporting that they feel alone, stressed, misunderstood, blamed and punished.⁵

¹ SP NFIS Attendance Consultation 28/02/2022 Appendix 3 and Annex docs 1-5

² <https://www.youtube.com/watch?v=ATjcdmPaoE>

³ <https://the-arc.org.uk/calltoaction>

⁴ <https://developingchild.harvard.edu/science/key-concepts/resilience/>

⁵ <https://www.mind.org.uk/media/8860/not-making-the-grade-summary.pdf>

Not all children start from the same secure foundations, with increased disparity for those living in poverty and deprivation, those with additional learning or health needs, social care, emotional and welfare considerations, those from racialised and marginalised communities placing these children at greater disadvantage.

Maintaining good mental health is as fundamental as any public health imperative. We all know 5-fruit & veg a-day and 30 mins of exercise a day is good for us. But what about the benefits for our mental health and the mental health of our children? With so much pressure on families and children to attain and progress, what space is there for positive childhoods where time to talk, play, listen and notice each others' world is protected and valued each day? By prioritising the wellbeing and welfare of our children and families as a public health requirement and ensuring mental health in childhood is protected, we are actively preventing health inequalities and poor outcomes in later life.

Too often, education policy and local area policy or practice undermines our children's and families' resilience. 'Tough love' and rigid implementation of guidance and policy takes precedence over compassion-focussed, agile, helpful integrated systems.

The solutions required are as numerous and intersectional as the causes of attendance difficulties themselves. Persistent absence, barriers to attendance and access to educational entitlement intersect all areas of family life and public sector service delivery.



Attendance is the lens through which all challenges may be seen, illustrating a nexus of stretched services, fractured policy, inequity and need.

Underserved individual families and under-resourced services collide via attendance barriers and escalating difficulties for children and young people.

Early intervention, an effective nurturing, inclusive, pastoral whole-school framework which prioritises happiness and enjoyment at school, will result in better outcomes - including reduced need for high level CAMHS and Education, Health and [Social] Care Plan (EHCP) support.

Building and maintaining workforce wellbeing is vital, and by offering training and support to local government, teachers and leaders for their wellbeing and mental health, scaffolded with clinical supervision for professional support, guidance and practice, the entire wellbeing ecosystem flourishes.

Proposals in Part 3 of the now-shelved Schools Bill and new non-statutory guidance tightened existing policy and practice, particularly around the thresholds for attendance enforcement and judicial intervention through the single justice procedure via the criminal court.

We've seen a 70% increase in NFIS membership since schools began implementing the Government's non-statutory guidance on attendance in Sept 2022 (due to become statutory in Sept 2024). This equates to approx 16k families joining NFIS between August 2022 and August 2023. Thousands of families are seeking support and advice every day, with an average 60% engagement and participation rate for traffic across the closed group of 53k members.

We spoke to Contact a Family, whose Helpline for disabled families is swamped with calls about attendance difficulties and attendance policy they are facing. They said:

"A small sample from Contact's Education Helpline has shown that over 10% of the calls the helpline received about attendance were from parents concerned about being fined."

(Contact – unpublished from internal database 1/6/22 – 31/12/22).

Research has shown criminalising families harms them, increasing disadvantage, vulnerability and adversity.⁶ We know it doesn't improve outcomes on attendance, with criminal procedures being an unnecessarily blunt instrument with negligible merits:⁷

⁶ <https://www.crimeandjustice.org.uk/resources/prosecuting-parents-truancy-who-pays-price>

⁷ <https://ukaji.org/2019/01/28/cruel-and-discriminatory-new-research-on-prosecuting-parents-for-school-absence/>

"Too often the institutions of state, the bodies that make up administrative justice, use punitive measures to address what are fundamentally problems of that state. Benefit sanctions are one example, designed into a mechanism that more often punishes than support. Criminal sanctions such as fines and threats of imprisonment have no place in the state's duty to provide education. It is noteworthy that the punitive measures to criminalise persistent school absence in England are not used across the UK. In Scotland, for example, fines are not issued for persistent absence.

The researchers in the Prosecuting Parents project argue that it is wrong to criminalise school absence, and that a distinction should be made (as it is in some other European countries, such as Denmark) between social welfare and criminal justice. Truancy, the researchers say, should be a child welfare issue."

We spoke to Transform Justice, who'd written about the Epstein et al. research and concluded:

*"The Prosecuting Parents report suggests that threatening to, and prosecuting parents can be both pointless and damaging. 126 parents who had been pursued due to their child's absence responded to a survey circulated on social media. Most had children with behavioural, neurological or mental health difficulties and felt that placing the blame on parents was totally inappropriate. All wished they could get their children to school but they reported that their children were often anxious, often highly anxious."*⁸

Browne Jacobson, education lawyers, observed the measures proposed in the Bill [and in the new 2022 and 2023 Government guidance on attendance] "...strengthens the potential outcomes of a successful prosecution and extends the reach of the court to not only fine but to impose a custodial sentence."⁹

Government is due to enact secondary legislation for September 2024 on a new regulatory framework for fines and prosecutions which will include automatic issue of a fine for 10 missed sessions (5 days' absence). This is an alarmingly low threshold, and

⁸ <https://www.transformjustice.org.uk/prosecuting-parents-for-truancy-who-pays-the-price/>

⁹ <https://www.brownejacobson.com/education/training-and-resources/legal-updates/2022/05/school-attendance>

poses a risk for so many families but especially those requiring medical needs tuition under s.19 of the Education Act, which states a child missing 15 days cumulatively or consecutively due to illness (physical or mental ill health) is entitled to continuous education via medical needs specialist teaching services. If the regulations state an automatic fine after 5 sessions, how is this managed for any child with emerging needs which may carry protective characteristic entitlements and access to care responsibilities?

FFT Datalab analysed how many more children and their families are at risk of the new proposed thresholds for legal interventions on attendance, finding "...in the Spring term somewhere between 260,000 and 550,000 pupils met one of the three proposed new criteria for intervention due to absence."¹⁰

Schools Week reported "The DfE is also proposing a national limit of two fines issued to one parent for the same child in any school year. After this limit is reached, "prosecution should be considered at the next offence."¹¹

Whilst Square Peg is aware of the Government's desire to standardise process and ensure families access the right support at the right time, we know (and countless others evidence via the Independent Social Care Review, SEND Green Paper, Mental Health & Wellbeing Review) far too many families and children fall through gaps and are left with spiralling needs. Tightening measures will only increase harm and will not improve outcomes. Remember, criminalising the primary carers does not remove the school attendance barriers the child and family are facing.



¹⁰<https://ffteducationdatalab.org.uk/2022/06/how-many-pupils-fall-below-the-proposed-national-thresholds-for-legal-intervention-due-to-absence/>

¹¹ <https://schoolsweek.co.uk/electronic-registers-schools-absence-fines-attendance-education-zahawi/>

Safeguarding and child protection frameworks already exist to act where a child is at risk of serious harm. Parents hold primacy of authority to determine whether their child is fit and well enough to attend school, but too often this is ignored with schools unauthorising absences despite daily contact from parents. This highlights the impact of the government's new attendance guidance and 100% 'aspirational' attendance targets for all children, and conversely the pressure on school leaders to be seen to take a firm stance on absence whilst lacking resources, allied services and funding to provide support or provision for these children.

The 'backstop' route of redress (formal complaints, LGO, PHSO etc) are swamped - clear evidence of fractured and broken systems - these should not be upheld as necessary or viable options for families. It is not on the shoulders of vulnerable children and their families to hold broken systems to account or drive service improvement. Indeed, routes of redress should be exceptions rather than standard norms.

Our submission to the Government's Attendance Consultation (Feb '22) evidenced the need for a transformational approach to persistent absence and barriers to school attendance. We highlighted the devastating impact existing policy around behaviour and attendance has on children and families' mental health, wellbeing and resilience.¹² We detailed solutions, recommendations and considerations.¹³

¹² ibid pg 16

¹³ ibid pg 24

Government should develop a national Wellbeing & Inclusion Strategy for local authorities, healthcare and education providers to co-create and implement in partnership with vulnerable and marginalised groups and communities.

This strategy should draw on the Children's Act, Education Act, Equality Act, Children & Families Act and SEND Code of Practice and should dovetail with any work undertaken with regard to social care reform, SEND reforms, Child & Adolescent Mental Healthcare improvement and education reform.

A comprehensive integrated package of funding is required and should look to restore gaps the Treasury refused to fund for disabled children and those with additional needs aged 0-25yrs under the Children & Families Act.

The Wellbeing & Inclusion Strategy should prioritise babies, children and young people by ensuring childhood is at the top of all Government's policies and agenda, with disabled children and children with additional needs explicitly at the centre of those discussions by design: built in, not bolted on.

Government should consider clinical supervision frameworks to scaffold and support schools. Education is the only frontline key worker service without this professional support.¹⁴

We have evidenced attendance enforcement via the criminal justice system is not reasonable, proportionate or fair, with families denied the right to appeal due to peculiarity as a strict liability offence. Families are additionally denied participation in their defence due to the vagaries and blunt instrument of the single justice procedure.

¹⁴ <https://www.ticservicesltd.com/2024/01/07/why-clinical-supervision-in-education-is-essential/>

We received support in the House of Lords during the passage of the Schools' Bill for our recommendations of a compassion-focussed approach to all attendance difficulties, and the understanding that declining wellbeing or mental ill health can impact attendance and fuel persistent absence. We introduced our 3 Asks¹⁵, which offer an alternative approach to the barriers around school attendance.

Families' voices evidence the many complex and mitigating circumstances they experience, regarding the fitness of their child's ability to attend school, serious illness, following bereavement, or while on a waiting list for specialist assessment or support. Families also share challenges of insecure housing, poverty, domestic abuse, marriage breakdown, terminal illness, long covid, disability, unemployment, redundancy or zero hours contracts. We hear of discrimination, harassment, coercion, parent blame and a dismissal or disregard for invisible disability, chronic illness and mental ill health.

Families face significant delays to CAMHS services with many taking their child to A&E in a desperate attempt to access urgent support.¹⁶

Government should ensure all CAMHS funding is ring-fenced for local area investment and delivery in CAMH services. Government should also consider a CAMH Long Term Plan.

Government should fund mental health community hubs for children and families. Government should consider a mental health support team for every school which includes mental health support for staff wellbeing.

Government should pay regard to the Children & Young People's Mental Health Coalition report on behaviour policy in schools and impact on their mental health.

¹⁵ <https://notfineinschool.co.uk/3-asks>

¹⁶ <https://www.theguardian.com/society/2023/feb/09/children-mental-health-crisis-a-and-e-england>

It is important to note the metrics for persistent absence have changed from 15% of sessions missed in 2014/2015 to 10% today, and that the guidance specifies that at 31 minutes late a child is to be marked as absent for the session; and there are two marked sessions per day, one in the morning and one in the afternoon meaning 10 absences or late arrivals for 5 days cumulative or consecutive will mean the family must be referred for a fine. Combine this with the live attendance tracker and automated reporting we can see adverse consequences to an already challenging landscape.

Government should give careful consideration to the impact of live attendance monitoring on the health and wellbeing of children and families, and hypervigilant or risk-averse culture and practice with families whose child is deemed at risk of persistent absence or is struggling to attend, access or remain in school.



Government should determine whether retaining and freely sharing personally identifiable information of all school-age pupils' attendance data for 66 years after the age of 18 is in line with GDPR Principles.

Our most vulnerable families are at risk of these "cruel & discriminatory" punitive measures, with research showing current prosecutions are a "gendered offence" and mothers disproportionately affected.¹⁷

Proportionate, reasonable, pragmatic, supportive, caring, personalised, family centred, inclusive systems are required, underpinned by compassionate, co-designed, co-reviewed and co-produced legislation, regulation and guidance.

¹⁷ <https://www.crimeandjustice.org.uk/resources/prosecuting-parents-truancy-who-pays-price>

All families, particularly marginalised and isolated families should be supported, not sanctioned. The current system of Parent Contracts, Attendance Orders etc. is extremely intimidating and heavy handed.

It is important to consider and include children and families with unidentified and emerging needs, for example welfare related, social care, educational, mental health, physical, psychological, cultural needs. Often, anxiety and attendance difficulties are the top line behaviour seen by parents and schools. A mental ill health and wellbeing absence code will ensure families are protected from punitive pathways and permit schools to notice a child struggling with emerging mental ill health.

Government should introduce a Mental Health & Wellbeing registration code.

Our call for a Mental Health & Wellbeing registration code is supported by the Centre for Mental Health's Children & Young People's Mental Health Coalition, a coalition of over 200 organisations and charities working with children, young people, families and services to protect, prioritise and support every baby's, child's and young persons' mental health and wellbeing.

It was additionally supported by the charity MIND¹⁸ following our joint evidence session to the Education Select Committee's Inquiry on Attendance for Vulnerable & Disadvantaged Learners (May 2023).

Government should ensure every school has a Mental Health Support Team to deliver first responder, early mental health support for every child that needs it and seeks it. This could provide clinical supervision for school leadership and staff, providing the level of experience and qualification within the MHST held supervisor training and capacity.

¹⁸ <https://www.mind.org.uk/news-campaigns/news/mind-responds-to-education-select-committee-report/>

Government should implement a Pastoral Key Worker Service for every school which draws on MDT (multi-disciplinary team) frameworks incorporating school nursing, clinical psychology, early help, youth work, specialist SEND support (education psychology and specialist teachers), safeguarding and family support work, drawing best practice via the NHS & Council for Disabled Children Key Worker pilot.

We must ensure exclusions, truancy and persistent absenteeism are considered in the same context and with the same protections, considerations and compassion-focussed support in mind. In this way, intergenerational cycles can be broken leading to better outcomes for families and their children educationally, socially, emotionally and with regard to health, wellbeing, resilience, independence, agency and engagement.

Children at risk of exclusion, suspension, truancy or persistent absence are different sides of the same coin and we must be careful not to separate which children are deemed to meet a compassion focussed response and which are pushed out of their mainstream community schools leaving them at risk of county lines, criminality, risky behaviours and mental ill health. We are concerned about different pathways for different children - those deemed disruptive may end up excluded and on the streets.

The child for whom neither home nor school are safe may end up taken into care and moved out of area. The child in mental health crisis at risk of inpatient psychiatric treatment may be told they are too high needs to return to mainstream schooling. Of course the same child can move from being excluded to truanting to ending up inpatient psychiatric care and even youth justice. Any child struggling to attend, access or remain in education needs a pastoral-led, compassion-focussed, early support response rooted in a joined-up multidisciplinary approach coming alongside the family, not at them.

Government should implement an Attendance Code of Practice to assure due diligence, scrutiny and oversight in the development and implementation of robust, comprehensive attendance policy and practice and instil confidence and rigour across the systems, as achieved by the SEND Code of Practice (Children & Families Act 2014) and the Admissions Code of Practice (Education Act 2009).

Our call for an Attendance Code of Practice (Ask2 of our 3Asks campaign) is supported by the Council for Disabled Children's Special Education Consortium, a consensus-led coalition of 40 organisations including family, children & young peoples' charities, education unions and specialist providers.

Government should introduce a new school register code for those awaiting assessment and treatment or support via an education, LA or healthcare service. This is an expansion of the proposed new code by Government in July 2022 consultation.

Redress driving disengagement & despair

Government has given assurances of the right to appeal school attendance notices / order for families via the following routes:

Formal Complaints - the local complaints process with LAs is extremely lengthy (a minimum of a year to complete the process). It is cumbersome, distressing and divisive and should not be viewed as a 'solution'. No family ever wants to be in a position left with no option but to complain formally to the very organisation they are beholden to for support. How does the Government propose to centrally administer complaints and timeliness in 10 day appeals window?

SEND Tribunal - a considerable burden and adversarial process for families. In the SEND Green Paper, the Government wishes to reduce numbers going to SEND Tribunal. Why is Government recommending it as a viable solution for families with regard to attendance difficulties?



LGO - is already burdened and has a restricted scope and powers (in comparison to the PHSO). Is the Government proposing to extend the LGO's remit?

Subject Access Request / Information Commissioner's Office - another burdensome, lengthy and unsuitable solution.

Far too many families are forced down these routes.

The threat and use of Fixed Penalty Notices and formal prosecution of families without question increases harms and vulnerabilities. It widens inequalities, increases adversity and leaves deep wounds. Those working in criminal justice have shared the inadequacies of the Single Justice Procedure itself:

Prosecution of parents for non-attendance of their children at school

Evidence from charity Transform Justice www.transformjustice.org.uk

"Transform Justice is concerned by any change in legislation which may increase the number of parents prosecuted for the non-attendance of their children at school. Criminal prosecution, conviction and sanctions are very blunt instruments to address a complex situation and there is no evidence that criminal sanctions act as a deterrent. The parents who are accused are frequently vulnerable, as are their children. Many children refuse to go to school for complex psychological reasons. Schools should take many steps to understand and support children who are reluctant to go to school before turning to prosecution.

The prosecution of this offence is done through the single justice procedure, a process that is very difficult for defendants to deal with. They get no free legal advice since the offence is not

eligible for legal aid (unless the defendant has been convicted multiple times and is at risk of imprisonment). Defendants receive the criminal charge through the post and are expected to fill in a long form on paper or online. If they plead guilty in this form they get no court hearing. The offence is dealt with in a closed court by a single magistrate sitting alone. All those who plead or are found guilty are fined. One of the most troubling aspects of these prosecutions is that most of those accused do not engage with the system – they do not plead at all and are then automatically assumed to be guilty. No-one knows why defendants struggle to effectively participate but it is suspected that many letters go astray (they are sent via non-registered post), and that many defendants don't understand how to respond.

Before legislation allows for any increase in the prosecution of parents, we need to understand more about why children don't attend school and if we must prosecute, how best to do it while respecting fair trial rights."

Government should end outdated harmful truancy laws, relieving the burden on criminal courts and instilling focus on support, pastoral care, access to mental health care, social care, family support and safeguarding principles.

<https://notfineinschool.co.uk/3-asks>

Our call to end truancy laws is supported by Transform Justice, a charity advocating for a fair, open and compassionate justice system, working on behalf of all those who come into contact with youth and criminal justice.

It is also supported by tens of thousands of families and professionals who've signed either our or our parent partners' petitions, written to their MP or joined us during the petition delivery to Downing Street in March 2023.^{19 20}

Further enquiries to hello@teamsquarepeg.org

¹⁹ <https://you.38degrees.org.uk/petitions/create-a-new-absence-code-for-school-refusal>

²⁰

<https://www.change.org/p/updated-attendance-guidance-encourages-prosecution-and-fines-of-families-facing-barriers-to-attendance-undiagnosed-children-with-send-are-particularly-at-risk-please-don-t-criminalise-our-families>