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## Who is a Parent?

(Education Penalty Notices  
and Prosecutions)

## Advice for Parents/Carers

*Education Welfare Service*



If your child's school attendance is considered to be irregular, or if they have had 8 or more sessions (4 days) of unauthorised absence within a 10 week period the Local Authority may be considering taking legal action against you, as the parent of the child. This could be by way of a prosecution, or Penalty Notice.

There is often confusion as to who can be considered to be a 'parent' in relation to education matters and this leaflet is intended to provide clarity.

### EDUCATIONAL PROVISION

Section 7 of The Education Act 1996 states that:-

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

- to their age, ability and aptitude, and
- to any special educational needs they may have,
- either by regular attendance at school or otherwise.

### WHO IS A "PARENT"?

Section 576 of the Education Act 1996 defines "parent" as:

- All natural (biological) parents, whether they are married or not;
- Any person who, although not a natural parent, has parental responsibility for a child or young person;
- Any person who, although not a natural parent, has care of a child or young person.

### WHO HAS PARENTAL RESPONSIBILITY?

#### The Children Act 1989

Having parental responsibility means assuming all the rights, duties, powers, responsibilities and authority that a parent of a child has by law.

People other than a child's natural parents can acquire parental responsibility through:

- Being granted a residence order;
- Being appointed a guardian;
- Being named in an emergency protection order (although parental responsibility in such case is limited to taking reasonable steps to safeguard or promote the child's welfare);
- Adopting a child.

#### WHAT DOES "HAVING CARE OF A CHILD" MEAN?

Having *care* of a child or young person means that a person who the child lives with and who looks after the child, irrespective of what their relationship is with the child, is considered to be a parent in education law.

This could be shown by:

- Interaction with the school – attending meetings, making phone calls, being on the School's record as being involved (in whatever capacity) etc;
- Residence with the child where, for all intents and purposes, the person is part of the family;
- A man or woman married to a parent of a child

It is therefore those adults who are having significant input to a child's life who can be classified as, "parent", having "parental responsibility" or who have "care of a child" who we can take action against if they are failing in their duties to ensure the child is receiving their educational entitlement and the school can evidence that they have actively engaged them in efforts to improve the poor attendance.