

8 July 2013**Agenda Item: 6**

REPORT OF THE SERVICE DIRECTOR, YOUTH, FAMILIES AND CULTURE

ARRANGEMENTS FOR EDUCATIONAL ATTENDANCE

Purpose of the Report

1. This report informs the Committee of the current provision of education welfare services to meet the Council's statutory obligations in relation to attendance and the Council's wider approach to tackling poor attendance.
2. The report seeks approval for a new Code of Conduct in relation to Education Penalty Notices to be issued, which allows head teachers to exercise their legal power to issue notices if they wish, and approval for a new approach to cross-border educational welfare work be developed where the local authorities take responsibility for cases based on the residential address of the family rather than the location of the school.

Information and Advice

Background

3. Under the Education Act 1996 parents are responsible for making sure that school age children receive "efficient full-time education that is suitable to the child's age, ability and aptitude and to any special educational needs the child may have". The Act also requires Councils to make arrangements to establish the identities of those children residing in their area who are not in receipt of a suitable education. If it appears to a Council that a child is not receiving a suitable education, procedures for issuing a School Attendance Order must commence.
4. Schools are legally required to take an attendance register twice a day. The register must show whether any absence is authorised or unauthorised. There are two offences relating to parental responsibility for ensuring regular attendance at school or alternative provision: if a registered pupil is absent without authorisation from school or alternative provision, or if the parent knows that his/her child is failing to attend regularly, and fails to cause him/her to do so, they are guilty of an offence. It is the role of the Council to investigate and prosecute such offences. On conviction a parent may receive an Absolute or Conditional Discharge, Fine, Community Order, Parenting Order or a custodial sentence.
5. The Education Act 1996 introduced penalty notices as an alternative to prosecution. As such, parents may discharge potential liability for conviction for an offence by paying a penalty. There is no legal requirement for there first to have been a penalty notice before proceeding to prosecution.

6. Since April 2012 the functions of the Council, as described above, have moved from a discrete 'Attendance Team' to become integrated within the Targeted Support and Youth Justice Service.

General Approach to Matters of Attendance and the Risk of Exclusion

7. The Targeted Support Service is for young people aged 8-18 years who are vulnerable but who do not meet the threshold for social care intervention. Factors in young people needing targeted support include the following issues, although there may be other concerns. The most common are:
 - Problems with drugs or alcohol
 - Difficulties finding work, training or re-entering education having left school
 - Being at risk of getting involved in anti-social behaviour and crime
 - Going missing from home or problems with regular school attendance
 - Being homeless, or at risk of homelessness
 - Being a carer of a disabled parent
 - Being pregnant or a teenage parent.
8. It is through the Targeted Support Service that the Council discharges its statutory responsibilities for monitoring and enforcing school attendance. The Group Manager for the Service holds the delegated authority to issue School Attendance Orders and to issue penalty notices or instigate proceedings for the prosecution of parents. The threshold for school referrals for attendance is 85% or below, or an identifiable pattern of absence, for example every Friday or a sudden change in attendance without explanation.
9. Where schools have been unable to address issues of attendance through their interactions with a child's family, or where they are concerned that a child's behaviour makes exclusion likely, they may refer cases to the Service. As a minimum, in the six weeks prior to making a referral to Targeted Support for an attendance issue, the school should have:
 - Identified an issue with attendance and decided upon the need for intervention to improve attendance
 - Spoken to the child/young person and their parents/carers about the poor attendance, sharing and explaining the attendance record
 - Written to the parents/carers as a follow on from the conversations above outlining the attendance issues (if attendance has not improved following the conversation)
 - Invited the parents/carers into school to discuss the attendance issue (if the letter has not resolved the attendance issue)
 - Undertaken a home visit to discuss the continuing attendance issue (if it has not been resolved by a meeting at school).
10. A Targeted Support Case Manager is then appointed to carry out a structured assessment of the issues for the child and family through interviews and access to a range of records held by professional agencies. They will then agree a plan with the family to improve attendance or behaviour. This may include a formal Parenting Contract. Where a parent fails to engage in the assessment or planning, or fails to make sufficient efforts to improve the situation, then prosecution proceedings may commence.

11. Within the Targeted Support Service there are three full time posts of Senior Case Manager with a specific remit around Educational Welfare. These are supported by a number of Case Managers. Where children are of primary school age they will work in collaboration with early years services, through the local children's centre. There are also three full time Parenting Coordinator posts within Targeted Support who manage Parenting Contracts and Orders and who, with support staff, deliver interventions to improve parenting ability.

The Framework for Making Decisions on Enforcement and Prosecution

12. Prior to September 2012 decisions on prosecution were made by individual officers, based upon their individual interpretation of primary legislation. This has led to a risk of a lack of consistency in decisions around prosecution. To address this risk an Enforcement Procedure has been developed by the Service, and is currently being finalised in consultation with head teachers and the Courts. It is intended that the new procedure will formally come into effect in September 2013. In summary, officers must now consider four domains before deciding to prosecute. **Table 1** below sets out these respective domains.

Table 1 - Enforcement Procedure Domains

Culpability	Did the young person (or parent) have control over the circumstances that led to their non-compliance? Was the instruction reasonable taking into account belief, ability and disability?
Understanding	Are there factors related to special educational need, maturity or mental / emotional health that impact on the parent/child's ability to comply fully?
Patterns of behaviour	Is the behaviour part of a pattern of non engagement that the parent or child/young person seems unwilling to address (for example is the same excuse used many times)?
Available evidence	Is it possible for documentary evidence to be provided to support an excuse for non-compliance? If so has it been provided? Is there a person who can provide trustworthy testimony to support the child/parent's reason for non compliance?

The Use of Educational Penalty Notices

13. Section 23 of the Anti-Behaviour Act 2003 empowers designated officers, head teachers (deputy and assistant head teachers authorised by them) and the police to issue penalty notices in cases of unauthorised absence from school. In doing so, schools must abide by a Code of Conduct drawn up by the Council. The current Code of Conduct issued by the Council prevents head teachers from exercising their power in law, instead instructing them to refer to the Council to issue penalty notices. This position was taken in an effort to ensure consistency in the application of penalty notices, and to ensure that sufficient evidence was available if a subsequent prosecution was required in the event of non-payment.

14. In the light of this, the Code of Conduct has recently been reviewed. Therefore, from September 2013, it is proposed that a revised Code of Conduct be issued that will properly reflect the statutory powers of head teachers, within a clear framework of evidential standards and decision making. This will be co-terminus with the Enforcement Procedure described in paragraph 12 of this report.

Cross Border Issues

15. Parents increasingly have choice over where their child attends school. This sometimes means that a family's home address and the location of the school are not always within the boundaries of the same local authority. The current approach between councils has been to address attendance issues in relation to the location of the school. This has disadvantaged Nottinghamshire as it is a 'net importer', with more parents from other local authority areas choosing to send their children to Nottinghamshire schools than Nottinghamshire parents choosing to school children outside of the County. It has also meant that the Targeted Support Service has been unaware of Nottinghamshire children experiencing issues with attendance if they are not in a local school, and therefore being unable to assess whether intervention is needed within a family to deal with underlying issues.
16. It is therefore proposed to try to reach agreement with neighbouring authorities - and in particular with Nottingham City Council in the first instance - for the transfer of work to the Council area where the young person is resident. This should allow the assessment of the need for early intervention provision, and ensure the Council is not financially disadvantaged as a 'net importing' authority.

Other Options Considered

17. The option of maintaining the status quo with regard to the use of Penalty Notices and cross border work has been considered but is judged as inconsistent with the Council's Policy Statement for Schools and the Council's approach to the provision of early help services.

Reason/s for Recommendation/s

18. To ensure that educational welfare work is consistent with the Council's Policy Statement for Schools and the Council's approach to the provision of early help services.

Statutory and Policy Implications

19. This report has been compiled after consideration of implications in respect of finance, public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Implications for Service Users

20. It is assessed that the impact of these changes on service users will be positive as it will ensure that there is a more consistent application of enforcement and an offer of help when it is needed, regardless of the school that the child attends.

Financial Implications

21. There are no immediate financial implications arising from the recommendations.

Equalities Implications

22. Due regard has been given to the Public Sector Equality Duty.
23. An Equality Impact screening has been undertaken and there are no negative equality implications from the recommendations.

Crime and Disorder Implications

24. There are no crime and disorder implications resulting from these recommendations.

Safeguarding of Children Implications

25. This strategy has been formulated with a specific aim of safeguarding young people through early identification of problems and support to help them achieve their potential.

RECOMMENDATION/S

That:

- 1) the current provision of education welfare services to meet the Council's statutory obligations in relation to attendance and the Council's wider approach to tackling poor attendance be noted.
- 2) a new Code of Conduct in relation to Education Penalty Notices be issued, which allows head teachers to exercise their legal power to issue notices if they wish.
- 3) a new approach to cross-border educational welfare work be developed where the local authorities take responsibility for cases based on the residential address of the family rather than the location of the school.

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Constitutional Comments (LM 13/06/12)

26. The Children and Young People's Committee has delegated authority within the Constitution to approve the recommendations in the report.

Financial Comments (KLA 10/06/12)

27. There are no financial implications arising directly from this report.

Background Papers and Published Documents

Current Code of Conduct – Educational Penalty Notices

Policy Statement for Schools – report to Children & Young People's Committee on 3 December 2012

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Electoral Division(s) and Member(s) Affected

All.

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