

16 October 2017

Agenda Item: 6

REPORT OF THE SERVICE DIRECTOR, YOUTH, FAMILIES AND SOCIAL WORK

EDUCATION PENALTY NOTICES FOR UNAUTHORISED ABSENCE FROM SCHOOL AND CHAPERONE LICENCES FOR CHILDREN IN ENTERTAINMENT

Purpose of the Report

1. To provide the Committee with an update on the impact of the amendment agreed in July 2015 to the threshold for issuing Penalty Notices to parents for their child's unauthorised absences from school.
2. The report also seeks approval to amend the Penalty Notice threshold for general unauthorised absence, as set out in **paragraph 3** of this report, and to write to schools with above average persistent absence to ask them to consider how they might improve their approach. It also seeks approval to amend the charges and increase the staff time available to manage licences for chaperones for children involved in entertainment.

Information and Advice

Education Penalty Notices

3. In July 2015 the Children and Young People's Committee voted to reduce the threshold at which fines could be issued to parents for their child's unauthorised absence from school. The Nottinghamshire Code of Conduct was amended to stipulate that parents could be issued with a:
 - Education Penalty Notice Fine if their child/children have in excess of 3 days (6 sessions) unauthorised absence during a 6 week period and there is evidence that the absence was for a family holiday
 - Education Penalty Notice Warning Letter if their child/children have in excess of 3 days (6 sessions) unauthorised absence during a 6 week period
 - Education Penalty Notice Fine if their child/children have in excess of 5 days (10 sessions) unauthorised absence during a 6 week period.

This change came into effect from September 2015 and was reviewed and maintained by Committee in October 2016.

4. To date for the 2016-17 academic year the Local Authority has issued 3,567 notices although more may yet be issued. This compares with 9 issued in 2011-12, 84 in 2012-13,

184 in 2013-14, 369 in 2014-15 and 2,240 in 2015-16. The percentage of sessions missed in all Nottinghamshire schools (primary, secondary and special schools) due to overall (authorised and unauthorised) absence has witnessed a slight fall from the last academic year. Figures for the year 2015/16 (the latest available) show 4.4% of sessions were missed, a fall of 0.1 percentage points from 2014/15. Nationally over the same period there has been no change with 4.6% of sessions missed and there is a similar picture amongst statistical neighbour averages with no change at 4.5%. The secondary school age group has witnessed a fall of 0.2 percentage points to 5.0% of sessions missed. All phases are below the equivalent national averages (4.0% for primary, 5.2% secondary and 9.1% for special). This appears to support the argument that a stronger stance on enforcement leads to improvements in overall attendance. With this in mind it is recommended that:

- the threshold for issuing an Education Penalty Notice Fine if there is unauthorised absence for a child/children and that the absence was for a family holiday is maintained
 - that the general threshold for a Education Penalty Notice Fine is aligned so that if a child has in excess of 3 days (6 sessions) unauthorised absence during a 6 week period a notice can be issued
 - the reference to County Council issued warning letters is removed.
5. In February 2017 the Supreme Court heard an appeal in the case of the Isle of Wight Council vs. Platt. This case was significant in that it defined unequivocally for the first time what is meant by “regular attendance” at school and therefore when a prosecution or discretionary alternatives, such as a Penalty Notice, can be used. The Supreme Court defines “regular attendance” as “attending according to the rules” and was clear that other issues, such as overall attendance, are not overriding factors. As matters progressed through the Court during the last academic year, it caused uncertainty which is likely to have reduced the requests by head teachers for action against schools. With this clarity it is expected that the number of Penalty Notices issued during the 2017-18 academic year will rise again.
 6. Due to the number of Penalty Notices which go unpaid and need prosecuting through the Courts, it currently costs the Council significantly more than is received in fines to provide the enforcement service. The Council will continue to provide clear information to parents about the issuing of fines and what constitutes a legal defence to limit the high number of challenges to Penalty Notices heard by the Courts which result in a finding of guilt. When possible the Council will also publicise successful prosecutions to build awareness of the consequences of not responding to Penalty Notices.
 7. School use of Penalty Notices varies considerably across the County with some head teachers and governing bodies making an active decision not to use them as part of their attendance strategy. The use of Penalty Notices by schools (excluding Special Schools) during the 2016/17 academic year and the percentage of their pupils who were persistently absent according to Department for Education data can be seen in the table below. Whilst there is not a consistent relationship between the use of Penalty Notices and persistent absence, which can also include sickness and other authorised absence, it is of some concern that nearly half of the twenty schools who had the highest persistent absence rate during 2015/16 were making no or very limited use of Penalty Notices during the 2016/17 academic year and seventy four schools who had 10% or more of their pupils

persistently absent during 2015/16 also made low or no use of Penalty Notices the following year.

Chaperone Licences

8. The issue of safeguarding children involved in entertainment has come to the fore in recent years particularly given the significant investigations into abuse that has occurred against children in that environment. The Local Authority is responsible for the licensing of chaperones for children involved in entertainment as well as licensing the children themselves. A chaperone is required for any child under 16 years who is performing in any of the following when a parent or teacher is not present:
 - theatre performances (professional or amateur)
 - music and dance festivals (including school dance shows)
 - modelling shoots
 - films and television
 - paid or professional sport.
9. The Local Authority is also responsible for carrying out checks at entertainment venues to ensure relevant licences are in place and for investigating complaints against chaperones and the suspension and revocation of licences when there are concerns about conduct or performance. Some chaperones are volunteers and some undertake paid work, for example for performing arts schools, sports clubs and entertainment companies. The process for registering as a chaperone involves a check of either any criminal history or concerns raised previously with the Disclosure and Barring Service (DBS). In the event of a positive disclosure the Local Authority must carry out additional checks and interviews before deciding whether or not to issue a licence. The applicant must also undertake an introduction to safeguarding children course, provided by the Nottinghamshire Safeguarding Children Board, which is provided online and attend a half day course, delivered jointly with the Nottingham City Council, on the responsibilities of a chaperone. Once issued a licence lasts up to three years.
10. The Local Authority currently processes approximately 250 chaperone applications each year and the number of applications and complaints requiring investigation has been rising. The Authority currently charges £50 for a professional chaperone and £25 for someone only intending to work on a voluntary basis. Some volunteer applicants go on to take paid work. Charges were last agreed under delegation prior to the commencement of the current Committee system. Provision of the licence service cost approximately £21,000 in 2016-17 and took £6,500 in fees. If the service is to continue to be delivered in a timely way as applications and complaints rise and more courses are to be offered in the north of the County limiting the number of applicants who need to travel to Nottingham City, then there is a need to raise fees if the gap between costs and income is not to rise, placing financial pressure on the Local Authority.
11. Committee is therefore asked to consider increasing the amount of Senior Professional Practitioner (Hay Band C) time on establishment involved in chaperone licensing by five hours each week at an annual cost of £6,860. This would be paid for by increasing the cost of a professional licence application to £80 and a volunteer licence to £45. Professional applicants would also continue to need to meet the cost of their DBS check

but it is provided free of charge for volunteers. Recruitment to the additional hours will be in line with current guidance.

Other Options Considered

12. Consideration was given to making a further amendment to the Code of Conduct to either move towards a zero tolerance approach to unauthorised absence or to be more tolerant of unauthorised absence.
13. There has also been consideration of whether charges for chaperone licences could be increased so that the full cost of provided the service is recovered and as to whether professional and volunteer chaperones should incur the same costs for licence applications.

Reason/s for Recommendation/s

14. The recommendation regarding the threshold for Education Penalty Notices has been made with consideration to the general evidence about the impact of enforcement on school attendance. It also recognises that travel plans for holidays may mean that a small amount of school time might be missed in relation to family holidays.
15. The costs of chaperone licences has been considered so that it remains affordable for applicants and recognises that those volunteering to support children and young people in their community should not be subject to the same charges as those who will profit financially from their licenced activities.

Statutory and Policy Implications

16. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

17. An increase in Senior Professional Practitioner time available for chaperone licensing by five hours each week will incur an annual cost of £6,860 including on-costs. This will be met through the increase in fees.
18. The lowering of the threshold for issuing Education Penalty Notices for general unauthorised absence may lead to a small increase in income from fines although these are likely to be negated through the additional Court work from non-payment of fines. The current analysis is that the additional work this generates can be dealt with within existing resources.

RECOMMENDATION/S

That the Committee:

- 1) amends the Nottinghamshire Code of Conduct for issuing Education Penalty Notices so that if a child has in excess of 3 days (6 sessions) unauthorised absence during a 6 week period a notice can be issued.
- 2) agrees that a letter be sent to all schools whose persistent absence is above the average for their phase (primary or secondary) and asks them to consider how their approach could be improved
- 3) amends the charges for applications for a chaperone licence to £80 plus the cost of a Disclose and Barring Service check for professional applicants and £45 for volunteers
- 4) increases the amount of Senior Professional Practitioner time available for chaperone licensing by five hours each week at an annual cost of £6,860.

Steve Edwards
Service Director, Youth, Families and Social Work

For any enquiries about this report please contact:

Laurence Jones
Group Manager, Early Help
T: 0115 9774363
E: laurence.jones@nottsc.gov.uk

Constitutional Comments (SLB 02/10/17)

19. Children and Young People's Committee is the appropriate body to consider the content of this report.

Financial Comments (SAS 05/10/17)

20. The financial implications of the report are contained within paragraphs 17 and 18 above.

Background Papers and Published Documents

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.

Nottinghamshire Code of Conduct for issuing fines for pupil absences – amendment to threshold – report to Children and Young People's Committee on 13 July 2015.

Nottinghamshire Code of Conduct for issuing fines for pupil absences – impact of amendment to threshold – report to Children and Young People's Committee on 17 October 2016.

Electoral Division(s) and Member(s) Affected

All.
C1029