

**AMENDED LOCAL CODE OF CONDUCT FOR ISSUING FIXED
PENALTY NOTICES IN RESPECT OF UNAUTHORISED ABSENCE**

**REPORT OF THE EXECUTIVE DIRECTOR OF CHILDREN'S
SERVICES**

**STRATEGIC PRIORITIES: Learning City
CORPORATE IMPROVEMENT: Delivering Customer Focused Services,
Efficient and Effective Council**

1. Purpose of the Report

- 1.1 The purpose of this report is to inform Members of the key points arising from the introduction of Fixed Penalty Notices as an additional enforcement provision available for use in cases of unauthorised absence from school.
- 1.2 To consult with Members on the attached amended Local Code of Conduct (Appendix 1).

2. Background

- 2.1 The Anti-Social Behaviour Act 2003 contains specific provisions regarding Fixed Penalty Notices relating to truancy. Their availability came into force on 27 February 2004 and Local Education Authorities (LEAs) are required by law to have regard to the guidance supporting the use of these measures.
- 2.2 Fixed Penalty Notices were introduced as an alternative to prosecution and can be used as an earlier intervention. They enable parents to discharge potential liability for conviction for that offence by paying a penalty. A Fixed Penalty Notice is a possible intervention in circumstances where the parent is judged capable of securing their child's regular attendance but is not willing to take responsibility for doing so.
- 2.3 In 2004 the LEA was required to consult and draw up a local Code of Conduct in respect of the issuing and administration of Fixed Penalty Notices. The purpose of the Code of Conduct was to ensure that powers are applied consistently and fairly, and that suitable arrangements are in place for the administration of the scheme. The amended Code of Conduct is attached as Appendix 1.
- 2.4 Whilst Headteachers and Police were at that time supportive of Fixed Penalty Notices, they preferred the Local Education Authority to administer the

scheme as an additional toolkit to tackle truancy problems within schools in Sunderland. Although the original Code of Conduct was ratified by members and Fixed Penalty Notices became a delegated responsibility within the Council's Constitution, the power has not as yet been utilised.

- 2.5 Penalties will range from £50 to £100 depending on payment within a prescribed period of time. If payment in full is not made within the time allowed, the LEA must either prosecute or, in very limited circumstances, withdraw the Fixed Penalty Notice. If a prosecution ensues, unlike other Fixed Penalty Notices, this would not be because of non-payment of fine; the parent would be prosecuted for failing to ensure the regular school attendance of their child (S444 Education Act 1996).

3. Reasons for Proposal

- 3.1 Links between poor attendance at school and low attainment and risk of involvement in crime has been clearly demonstrated in numerous studies. Attendance at school on a regular basis is viewed the key to improving life skills and achievement which in turn leads to employability
- 3.2 The LEA, through the Attendance Team, seeks to provide support to individual pupils and parents in overcoming barriers to education; However, for those parents who are not willing to secure their child's attendance or condone absence, Fixed Penalty Notices offer a prompt and potentially effective deterrent to unauthorised absence. They offer a means to emphasise to parents the need to take their child's attendance at school seriously, without the need to enforce this through prosecution.
- 3.3 The introduction of Fixed Penalty Notices will enable a swift response to unauthorised absence given the recent announced reduction of the Persistent Absence threshold from 20% to 15%, as this reduction has had a major impact on the City's attendance figures.

4. Operational Issues

- 4.1 The work in relation to issuing Fixed Penalty Notices will be supervised and co-ordinated by the Attendance Team Manager. This will ensure that procedures are consistently applied and that the action is interlinked with the current approach to court action. The code makes provision for Headteachers to request the issue of a Fixed Penalty Notice in relation to unauthorised absence. The final decision to issue will however be made by the LEA.
- 4.2 Parents will be alerted to the change of procedures on the regulations surrounding FPN issuance. An amendment to the school prospectus to include information about this provision will be agreed with schools.
- 4.3 In the first instance, costs of producing, issuing and monitoring Fixed Penalty Notices will be met within existing resources. Once the system is established,

it is expected that the process will be self financing, given that the Regulations covering the use of Fixed Penalty Notices for unauthorised absence allow the revenue collected to be used to offset any costs incurred. However, it should be noted that the average rate for payment of fine is thought to be no more than 40%. Fixed Penalty Notices will be used as a tool to encourage parents to ensure that their children attend school, and not as an initiative to raise funds.

5. Conclusion

- 5.1 Fixed Penalty Notices are welcomed as a potential intervention that offers speed and efficiency in dealing with emergent patterns of poor attendance and lack of engagement by parents. The proposed implementation of Fixed Penalty Notices will be an element of the Council's strategic approach to improving school attendance and reducing unauthorised absence.
- 5.2 The key consideration in deciding whether to issue a penalty notice will be whether it can be effective in helping to reduce unauthorised absence and get the pupil back to school.
- 5.3 A range of supportive measures are in place to assist parents/carers in ensuring that their child attends school regularly. This support is provided through a wide continuum of assessment and intervention strategies and sanctions of any nature are only used where parental co-operation is either absent or deemed to be insufficient.
- 5.4 Sanctions are not used as a punishment but as a means of enforcing attendance when there is a reasonable expectation that parents are able to exercise their responsibility more effectively. Fixed Penalty Notices will be used as a tool to encourage parents to ensure that their children attend school, and not as an initiative to raise funds.
- 5.5 In the wider community, the introduction of Fixed Penalty Notices provides the LEA with an opportunity to make clear its expectations on parents to secure their child's regular attendance at school. The immediacy offered by the Fixed Penalty Notice process is not provided by the current range of statutory proceedings.
- 5.6 Given that Fixed Penalty Notices have not been used in Sunderland so far, it is felt to be appropriate to take a report through the Council's Cabinet with a recommendation that this part of the legislation is enacted.
- 5.7 If Cabinet agree with the introduction of fixed penalty notices they would be reviewed annually, and would be subject to a further report in December 2012.

6. Recommendation

- 6.1 The Children, Young People and Learning Scrutiny Committee are asked to note the content of the report and Appendix 1, which will be presented to Cabinet for a decision in January 2012. Any comments on the content of this report will be gratefully received and where appropriate, incorporated into the final report.

7. Background Papers

Department for Education Guidance on Education-Related Parenting Contracts, Parenting Orders and Penalty Notices. Advice for local education authorities.

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