

**AGENDA ITEM**

**REPORT TO CABINET**

**27 JUNE 2019**

**REPORT OF SENIOR  
MANAGEMENT TEAM**

**CABINET DECISION**

**Cabinet Member for Children and Young People – Councillor Lisa Evans**

**LOCAL AUTHORITY ATTENDANCE POLICY AND PENALTY NOTICE CODE OF CONDUCT**

**SUMMARY**

At the Cabinet meeting in February 2019 it was agreed that schools would be consulted on the proposed changes to the Local Authority Attendance policy and Penalty Notice code of Conduct, together with proposed guidance on the exceptional circumstances in which a headteacher may decide to authorise pupil absence in term time. It is the responsibility of the headteacher to make this decision, not the Local Authority. Following the consultation to headteachers and governors feedback was positive. Some comments regarding exceptional circumstances guidelines and the referral criteria were received and have been reflected in the proposed policy and guidance.

These proposed changes ensure a consistency in referral processes to support decision making; enable a more timely response and assist schools in managing recent unauthorised absence to prevent entrenched patterns of behaviour developing.

**REASONS FOR RECOMMENDATIONS**

To streamline and increase the impact of the work of the Council and support for schools in addressing unauthorised school absence.

**RECOMMENDATIONS**

Cabinet is asked to:

1. Agree to the revised proposals following local authority consultation of head teachers and chairs of governing bodies on the proposed changes to the attendance policy and penalty notice code of conduct ready for implementation from September 2019 as follows:
  - Retitle the local authority Attendance policy (**Appendix 1**) as Stockton Council Pupil Attendance and Absence Management procedure.
  - The criteria for referral to change from 'less than 80% attendance during the school year' to '10 unauthorised sessions of absence in the previous eight school weeks'.
  - The penalty notice code of conduct (**Appendix 2**) to change from a three week monitoring period to a four week period.
  - The head teacher to be required to state in writing why a request for leave of absence in term time is not deemed as an exceptional circumstance.
  - The attendance team to issue a 'notice of prosecution' to parents who, after 28 days, have failed to pay the penalty notice.
2. To note the following responses to the consultation:

3. Four schools responded (one secondary and three primary schools). All agreed to the following key changes previously presented to Cabinet:

- Retitle the local authority Attendance policy as Stockton Council Pupil Attendance and Absence Management procedure.
- The criteria for referral to change from 'less than 80% attendance during the school year' to '10 unauthorised sessions of absence in the previous eight school weeks'.
- The penalty notice code of conduct to change from a three week monitoring period to a four week period.
- The head teacher to be required to state in writing why a request for leave of absence in term time is not deemed as an exceptional circumstance.
- The attendance team to issue a 'notice of prosecution' to parents who, after 28 days, have failed to pay the penalty notice.

Two of the responding schools did not agree that all pupils should be automatically referred to Early Help before an Attendance support plan is put in place; rather such a referral should be made only if the school felt this were appropriate.

Two of the responding schools commented on the proposed guidance for exceptional circumstances for authorised absence in term time (**Appendix 3**) as follows:

- Schools may wish to devise their own more comprehensive list to support their families in understanding what is and is not exceptional in their context.
- Concerns that it is very difficult to monitor a pupil's attendance at a close relative's funeral in some circumstances and could lead to a pupil missing education for an extended period of time to visit relatives abroad. The school would not want to include this as a standard exceptional circumstance.

It is therefore proposed that:

- 'To attend a close relative's funeral'
- 'To visit a close relative suffering from a terminal illness'

are removed from the guidance for exceptional circumstances as attached (**Appendix 4** – revised guidance for exceptional circumstances for authorised absence in term time).

4. Cabinet is recommended to support these amendments to the original proposals and the policy and procedure be implemented from September 2019.

## **DETAIL**

As previously presented to Cabinet in February 2019:

1. This report seeks approval for a number of proposed changes to the Council's attendance and absence policies and procedures.

### **Attendance policy**

2. It is imperative that children have excellent school attendance so that they can participate in a full education and make the best possible progress; conversely, the negative impact of school absence upon a child's learning and progress due to lost education time is also clear. The local authority has a statutory duty to enforce the law relating to school attendance Section 444 Education Act 1996. The attendance team carry out this duty on behalf of the local authority. Local authorities must have a policy that sets out how it will carry out its statutory duty. Section 7 of the Education Act 1996 places a duty on parents to ensure that their child of compulsory school age receives a suitable education either by regular attendance at school or otherwise.

3. The policy sets out the expectations on schools and the actions they should take prior to a referral for statutory intervention. This ensures children and parents have access to early intervention and support to address issues and barriers that prevent children attending school. As a result, it is an effort to prevent legal intervention being initiated by the local authority.
4. The policy outlines clear roles, responsibilities and actions for schools, parents and the local authority.
5. The local authority policy proposal will focus on both absence and attendance as overall % attendance does not distinguish between absence that is authorised by the school (acceptable and justified) and absence that is unauthorised (unacceptable reason for absence, no evidence provided). Resources will be targeted where the need for statutory intervention is clearly evident.

### **Penalty notice code of conduct**

6. Education related penalty notices were introduced by the Anti-Social Behaviour Act 2003 and allow for parents to be issued with a penalty where they fail to ensure their statutory school age child does not regularly attend the school at which they are on roll. Parents who do not ensure their child is in regular attendance are committing an offence under section 444 of the Education Act 1996.
7. Every local authority must have in place a code of conduct for the issuing of education related penalty notices. The code of conduct sets out the procedure for the issuing of penalty notices, who will be issued with a penalty notice, the criteria for issue of a penalty notice, the payment terms, and what will happen if the penalty notice remains unpaid.
8. The code of conduct for the issue of penalty notices should be read in conjunction with the local authority absence procedures. (*Local authority pupil absence procedure page 2 paragraph 5 (B)*).
9. Currently, penalty notices are issued for 10 unauthorised sessions of absence where a leave of absence application has not been authorised by the head teacher, (previously known as holiday absence). Penalty notices are issued to tackle 10 sessions of unauthorised absence in the previous 6 school weeks and are used as a swift intervention as an early measure to prevent non-attendance becoming entrenched.
10. It is proposed that penalty notices issued on truancy patrols are omitted from the code of conduct as truancy patrols have not operated for a number of years.

### **Alignment of policies**

11. The penalty notice and pupil absence policy will address unauthorised absences from school in a timely manner with the change in referral criteria for pupils' absence from school. This is expected to have a greater impact in preventing absence from school developing into an entrenched behaviour by the pupil that can only be tackled currently by the local authority at an absence level of 20%.
12. A single referral criteria for unauthorised absence will ensure absence is tackled at the same trigger point for each intervention making it comprehensive and simple for all stakeholders.
13. It is anticipated the proposed changes will have a positive impact on local authority overall absence and persistent absence levels as resources will be targeted more effectively.

**AUTUMN TERM 2017/SPRING TERM18  
2 TERM DATA  
Tees Valley Comparison**

	Primary Overall Absence	Primary Persistent Absence	Secondary Overall Absence	Secondary Persistent Absence
<b>National Average</b>	<b>4.1%</b>	<b>9.6%</b>	<b>5.36%</b>	<b>13.5%</b>
North East Average	4.1%	9.8%	5.7%	15.1%
Tees Valley Average	4.2%	10.3%	6.6%	18.5%
<b>Stockton on Tees</b>	<b>4.1%</b>	<b>9.4%</b>	<b>5.9%</b>	<b>16.4%</b>
Darlington	4.3%	10.5%	5.6%	15.9%
Durham	4.1%	9.6	5.4%	13.4%
Hartlepool	4.4%	10.3%	7.4%	21.6%
Middlesbrough	4.5%	12.1%	7.4%	19.5%
Redcar & Cleveland	4.1%	9.6%	6.9%	19.2%

Published 18<sup>th</sup> October 2018 by Department for Education

### Proposed changes

14. The proposed changes are:

- 1) To rename the current local authority attendance policy as **Stockton Council Pupil Attendance and Absence Management procedure** to reinforce the focus on absence.
- 2) **Reinforce and clarify school level intervention** that is expected to take place prior to a referral to the local authority including consideration of an early help assessment. The focus on early intervention at school level should result in more support for families at an earlier stage thus reducing referrals to the team.
- 3) **The criteria for referral to change from less than 80% attendance to 10 unauthorised sessions of absence in the previous 8 school weeks (equivalent to 87% attendance).** This places a more precise focus upon unauthorised absence and upon recent absence as opposed to absence across the academic year. The percentage of attendance figure reflects both unauthorised and authorised absence. It is proposed that the focus is placed upon unauthorised absence so that pupils' individual needs and vulnerabilities due to unauthorised absence can be taken into consideration. Overall percentage attendance does not give a comprehensive picture of a pupil's absence pattern. Those referred towards the end of the academic year have accumulated a significant amount of absence in comparison to those children referred earlier in the academic year. Stockton's current criteria of 80% for a referral to the local authority is lower than only one other North East local authority (ie the current criteria are more lenient than in the majority of other areas). The proposed change is therefore providing more scope to address absence than is currently the case. (See **Appendix 5** - Absence referral criteria in other local authorities in the North East).
- 4) **Outline supporting evidence needed from schools to make a referral.** This is to ensure the local authority is satisfied school level intervention has taken place and attempts to resolve issues at an early stage, have been unsuccessful. Supporting evidence will satisfy the local authority that the school have made all attempts to support pupils and parents at an early stage of absence to prevent a referral to the local authority. There may be a minority of cases where parents persistently refuse to engage with school and the evidence is limited. In these cases, all correspondence should be provided to the local authority with the referral.
- 5) **The local authority will decide on receipt of a referral whether to issue a penalty notice warning letter or arrange an attendance case conference.** This will allow the local authority to look at the accompanying information and decide on the most appropriate actions. It is anticipated that any referral where the parent has not previously been prosecuted, the local authority will issue a penalty notice warning letter (found in the code of

conduct for the issue of penalty notices). Penalty notices are a swifter and earlier form of intervention. Referrals in cases where the local authority have prosecuted parents previously (for any other children) or where there appears to be, from the information provided, other agencies involved, result in an attendance case conference. This will allow for an attendance case conference plan to take account of other agency involvement and support working together with other agencies to bring about change for the pupil.

- 6) **Update of Stockton Council's penalty notice code of conduct from a three week monitoring period to a four week period.** This allows pupils an additional week to re-engage with school. The increase in timescale will further encourage pupils to re-integrate into full school attendance through the extended the period of monitoring. It is anticipated schools will overwhelmingly support this.
- 7) **Update to the referral form which requests the head teacher explains why the request for leave of absence in term time is not deemed as an exceptional circumstance.** This provides the attendance team with the reason it is not deemed as exceptional and assists with enquiries the team receive from parents following the issue of the penalty notice. It also sets out clearly to the parent the reason the leave is not exceptional.
- 8) **Attendance team to issue a 'notice of prosecution' to parents who have failed to pay the penalty notice within 28 days.** This letter advises parents that no payment has been received and sets out the next steps.
- 9) **Removal of 'penalty notices issued by truancy patrols'.** Truancy patrols no longer take place nationally and have not done so for more than 5 years.
- 10) **Timescales for payment.** Payments must be made in full by the date set out on the penalty notice. If paid within 21 days from the issue date the fine is £60; from 21 – 28 days the fine increases to £120. Families can be signposted to financial management support, such as from Tees Credit Union who offer savings schemes regulated by the financial conduct authority.

## COMMUNITY IMPACT IMPLICATIONS

15. This proposal seeks to amend a current policy and is based on national guidance. It is anticipated that it will enable schools to respond in a more timely way to recent absence patterns and therefore reduce the impact of non-attendance.
16. Detailed information on absence will continue to be collected in order to be able to assess impact and trends, especially in relation to vulnerable pupils.

## CORPORATE PARENTING IMPLICATIONS

17. There are no implications for corporate parents as the local authority will not be in a position to take out a case under section 444 of the education act against itself as the "parent".

## FINANCIAL IMPLICATIONS

18. It is not anticipated there will be any major financial implications for the council. The proposals could initially see more penalty notices being issued, but this is expected to be temporary, and would be balanced by a reduction in the numbers of attendance case conferences.

## LEGAL IMPLICATIONS

19. The proposed amendments to the absence policy and penalty notice code of conduct are consistent with the requirements of the Education Act 1996.

## **RISK ASSESSMENT**

20. It is estimated that the proposed changes will have a positive impact upon school attendance; whilst the level of fixed penalty notices would be forecast to increase the level of attendance case conferences would be forecast to decrease and the net demands on staffing would be forecast to be neutral.

## **CONSULTATION INCLUDING WARD/COUNCILLORS**

21. The Cabinet Member for Children and Young people has been consulted. Informal consultation has also take place with schools on these proposals.

## **BACKGROUND PAPERS**

22. None.

**Name of Contact Officer: Martin Gray**

**Post Title: Director of Children's Services**

**Telephone No. 01642 527043**

**Email Address: [martin.gray@stockton.gov.uk](mailto:martin.gray@stockton.gov.uk)**