

Meeting of the Cabinet – 19th July 2017

Report of the Strategic Director People

Parental Responsibility Measures and Absence from school

Purpose of Report

1. The purpose of this report is to advise Cabinet of the code of conduct for the issue of penalty fines in relation to promoting improved school attendance and behaviour. The code of conduct has been consulted upon with head teachers ready for implementation from the 1st September, 2017.
2. For Cabinet to be aware that it is the responsibility of the Local Authority to consult with schools and maintain a code of conduct on the issue of penalty fines.
3. To advise Cabinet that the code sets out the criteria that will be used to trigger the use of a penalty fine.

Background

4. The penalty notice policy for dealing with unauthorised absence from school and when a child who should be in school is identified in a public place, including when excluded from school, has been in operation across Dudley schools for a number of years. However there have been differing levels of implementation since 2016 as a result of the legal challenges to the legislation outlined below.
5. In 2015 a parent was found not guilty in relation to a penalty for a leave of absence in term time (holiday) after a refusal to pay a fine. The decision was not binding on other magistrates courts and thus the code of conduct in Dudley Metropolitan Borough Council (DMBC) did not change
6. In 2016 the local authority in the Isle of Wight (IOW) appealed to the High Court but their appeal was refused which was binding on the lower courts. As a result penalty fines for a leave of absence in term time was dropped from the code in DMBC.
7. On 6th May 2017 the Supreme Court allowed the IOW appeal and held that the parent was guilty of an offence, the decision binding on all lower courts. The parent was remitted back to the magistrate's court that imposed a conditional discharge and costs of £2000.
8. As a result of this judgment, providing the circumstances of the judgment in relation to a penalty fine for a leave of absence are met, it has allowed for a reintroduction of the penalty fines for a leave of absence. This is overwhelmingly supported by head teachers across the borough.

Finance

9. Any revenue generated as a result of the payment of fines may only be used to cover legal costs of the administration of the scheme or pursuing a prosecution. Any surplus monies will be surrendered to the consolidated fund, and there is to be no profit margin in the use of such fines and may not be used as a revenue making exercise. They are set amounts either £60 (if paid within 21 days) or £120. If the cases go to court, legal costs remain with legal services.
10. The 2017/18 Budget for the Education Investigation Service includes £4k for income from fines.

Law

11. The Education Act 1996
12. The Anti Social Behaviour Act 2003
13. The Education and Inspections Act 2006
14. The Education (Penalty Notice) (England) (Amendment) Regulations 2013
15. The Education (Pupil Registration) (England) (Amendment) Regulations 2013

Equality Impact

16. Within the code of conduct local authorities have to have due regard to the Equality Act 2010 and this has been reflected within the code and service procedures for the issuing of any penalty fines since its inception and is continually reviewed. Each individual circumstance is reviewed before the issue of a penalty fine.
17. Service procedures in relation to enforcement are informed by good practice guidance issued by the college of policing and Education Investigation Officers must have due regard to the principals and ethics of investigative practice ensuring equality.
18. Across the Metropolitan Borough of Dudley penalty fines have contributed to continued enhanced levels of attendance of 95% or more. Providing the interventions can be maintained this means more children are attending school on a regular basis, enhancing their life opportunities, improving community cohesion, supporting the reduction of crime and Anti Social Behaviour (ASB), and safeguarding children from exploitation and abuse.
19. The penalty notice scheme does not discriminate against any disadvantaged or vulnerable pupils.

Recommendation

20. It is recommended that:-

- Cabinet approve the code of conduct



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Tony Oakman
Strategic Director People

Contact Officer: Keith Bates
Head of Service – Education Investigation Service
Telephone: 01384 814310
Email: keith.bates@dudley.gov.uk

Appendices

A. Code of Conduct Fixed Penalty Notices Education Investigation Service

List of Background Papers

Isle of Wight Council (Appellant) –v- Platt (Respondent) Hilary Term [2017] UKSC 28