

TORBAY COUNCIL

Report No: **Chi/5/04**

Title: **Penalty Notices For Dealing With Cases Of Non-Attendance**

To: Executive on 11th January 2005

1. **Purpose**

- 1.1 This report seeks approval to the Council exercising powers provided in the Anti-Social Behaviour Act 2003. This Act, which came into force on 1 March 2004, allows Local Education Authorities to issue penalty notices to the parents of children whose absence from school is unauthorised.

2. **Relationship to Corporate Priorities**

- 2.1 Securing high levels of attendance underpins the Council's priority of securing an inclusive and high performing reputation for all Torbay schools. This power will support the achievement of the Council's Local Public Service Agreement attendance targets.

3. **Recommendation(s)**

- 3.1 That the Council take up the power to issue penalty notices to the parents of children whose absence from school is unauthorised.
- 3.2 That the Code of Conduct and the local policy on the circumstances when penalty notices be issued, as set out in Appendices 1 and 2 to this report, be approved.
- 3.3 That the Director of Social Inclusion and the Principal Education Welfare Officer be authorised to issue penalty notices in accordance with the Code of Conduct.

4. **Reason for Recommendation(s)**

- 4.1 This will provide the Council with a further measure which it may use when dealing with cases of unauthorised absence.

5. **Key Risks associated with the Recommendation(s)**

- 5.1 A decision not to include this power in range of measures available to combat unauthorised absence, might be perceived as the Council giving insufficient priority to improving attendance levels in Torbay's schools

Likelihood	6	6	12	18	24
	5	5	10	15	20
	4	4	8	12	X
	3	3	6	9	12
	2	2	4	6	8
	1	1	2	3	4
		1	2	3	4
		Impact			

 Low risk  Intermediate risk  High risk

The "x" in the above matrix denotes where the author has assessed the level of final risk to fall

6. Alternative Options (if any)

- 6.1 The Council could decide not to use this power when dealing with cases of non-attendance.

7. Background

- 7.1 Torbay Council has in place effective and efficient support to schools to raise attendance. An integral part of this support is a robust prosecution policy, with over 100 parents likely to have been prosecuted by the end of the academic year. The new legislation does not replace the existing legislation for dealing with cases of poor or non-attendance (Education Act 1996). However, it is an additional means of enforcing the law and will enable the Education Welfare Service to respond promptly to cases of persistent non-attendance. It is therefore envisaged that this will drastically reduce the number of parents who will have to face court proceedings.
- 7.2 Under this legislation, once a penalty notice has been issued, the parent is required to pay a fine of £50. If, after 28 days of the penalty notice being issued, the fine remains unpaid, the amount due becomes £100. If, after a total of 42 days from the date of issue the fine remains unpaid, the Local Education Authority is required to initiate court proceedings.
- 7.3 The Code of Conduct ensures that the use of penalty notices will be consistent and proportionate. In particular, with the exception of unauthorised holidays in term time, a penalty notice will only be issued to a parent if the pupil has at least ten unauthorised absences recorded against their name within the previous six months. The current system of sending a warning letter to parents prior to taking action (including the issuing of a penalty notice) will continue in cases of persistent truancy.
- 7.4 In accordance with the regulations, The Code of Conduct has been drawn up following consultation with head teachers and governors. It also takes full account of advice and model guidance published by the DfES. An example penalty notice is attached as Appendix 3 and a draft leaflet explaining the process to parents is attached as Appendix 4.
- 7.5 Six responses to the draft Code of Conduct were received:
- All six agreed with the draft code
 - One respondent enquired about what happens to the money collected (the regulations require the revenue to be used solely for the purpose of supporting the prosecution process)
 - Two respondents were concerned that the Education Welfare Service would need to offer support to schools in terms of the provision of evidence.
- 7.6 Devon & Cornwall Constabulary have been consulted about the draft Code of Conduct but have not commented on it. However, the police are fully aware of the new legislation and have been involved in earlier discussions at a senior level.

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IMPLICATIONS, CONSULTATION AND OTHER INFORMATION

Part 1

These sections may have been completed by the Report author but must have been agreed by the named officers in the Legal, Finance, Human Resources and Property Divisions.

Does the proposal have implications for the following issues? If "Yes" - give details. <i>delete as appropriate</i>		Name of responsible officer
Legal	In approving this report's recommendations, the Council will have exercised provisions in the Anti-Social Behaviour Act 2003. Legal Services will not be directly involved in the issue of any penalty notices.	Lorna Lee
Financial – Revenue	Arrangements will need to be put in place for the collection of fines.	Lisa Finn
Financial – Capital Plan	No	
Human resources	No	
Property	No	

Part 2

The author of the report must complete these sections.

Could this proposal realistically be achieved in a manner that would more effectively: <i>delete as appropriate</i>		
(i)	promote environmental sustainability?	No
(ii)	reduce crime and disorder?	No
(iii)	promote good community relations?	No
(iv)	promote equality of opportunity on grounds of race, gender, disability, age, sexual orientation, religion or belief?	No
(v)	reduce (or eliminate) unlawful discrimination (including indirect discrimination)?	No

If the answer to any of the above questions is "Yes" the author must have addressed the relevant issue/s in the main report and have included a full justification and, where appropriate, an impact assessment.

Part 3

The author of the report must complete this section.

	<i>delete as appropriate</i>	If "Yes", give details
Does the proposal have implications for any other Directorates?	Yes	Arrangements will need to be put in place for the collection of fines. Such monies will be used by the Education Welfare Service to support the prosecution process.

Part 4

Is this proposal in accordance with (i.e. not contrary to) the Council's budget or its Policy Framework?		<i>delete as appropriate</i>
		Yes
1.	If "No" - give details of the nature and extent of consultation with stakeholders and the relevant overview and scrutiny body.	
2.	If "Yes" - details and outcome of consultation, if appropriate.	
Details of the consultation undertaken are detailed in paragraphs 7.4, 7.5 and 7.6 of this report.		

Part 5

Is the proposal a Key Decision in relation to an Executive function?	<i>delete as appropriate</i>	If "Yes" - give Reference Number
	No	

Part 6

Wards

All

Appendices

Appendix 1	Code of Conduct
Appendix 2	Circumstances where a penalty notice will be issued
Appendix 3	Example penalty notice
Appendix 4	Draft leaflet explaining the process to parents

Documents available in Members' Room

Background Papers:

The following documents/files were used to compile this report:

The Anti-Social Behaviour Act 2003
DfES Guidance - Effective Attendance Practice in Schools An Overview