



London Borough of Camden

Supporting People

Education Welfare Service Enforcement Policy

## **1. Introduction**

1.1 The purpose of this policy is to establish publicly the principles of enforcement used by the council to ensure compliance with Education Legislation and to incorporate new advice and guidance from the Department for Education issued in 2013, 2017 and 2018.

1.2 Enforcement will be carried out in an equitable and consistent manner.

## **2. Policy Statement**

2.1 The Pupil Attendance Service aims to regulate attendance in accordance with the Council's legal duties and the public interest and to support the maintenance and development of excellent attendance in the borough.

2.2 To meet this objective the Pupil Attendance Service will utilise its enforcement powers to ensure parents and carers comply with the legal requirements of the Education Act 1996 and the Anti-Social Behaviour Act 2003. It is recognised that most parents and carers want to comply with the law and the service will provide advice and assistance where possible to help parents / carers meet their legal obligations.

2.3 The Service is committed to carrying out its duties in a fair and consistent manner and ensuring enforcement action is proportional to the seriousness of failure to comply with statutory requirements.

2.4 The London Borough of Camden is a signatory to the Good Enforcement Concordat produced by the Government's Better Regulation Unit in association with the Local Government Association. This enforcement Policy confirms the Pupil Attendance Service's commitment to implementing Concordat principles in all enforcement.

2.5 Officers in the Pupil Attendance Service carry out the administration and enforcement of good attendance requirements under the delegated powers of the Executive Director of Supporting People.

### **3. Organisational Arrangements**

3.1. Officers work closely with schools, learning mentors, family support and social work, health and other professionals who are responsible for dealing with other activities associated with attendance. Enforcement activities may also require an inter-agency approach with the Metropolitan Police and other local authorities in relation to truancy patrols or sweeps.

### **4. Arrangements for monitoring compliance with good attendance**

4.1 The programme for monitoring good attendance includes the following:

- Identification of an attendance concern and a referral from a school or a self referral by the parent / carer
- Contact with the parent / carer by letter, telephone, home, office or school visits.
- Review of contact with parent / carer where progress is unsatisfactory.
- Convening a Court Panel Meeting where appropriate.
- A Penalty Notice or Court referral from the school.

### **5. Enforcement actions**

5.1 The decision to use enforcement action will depend on the severity of the non-compliance. Factors that will be taken into consideration include:

- The level of unauthorised absences – any attendance below 85%, with 10% or more unauthorised absence. Will currently be considered for a PA Penalty Notice
- Evidence that suggests that there was parental / carer collusion with the non-attendance.
- The alleged offence involves a failure to comply in full or in part with the requirements of a court / penalty warning letter. There is no legal requirement to issue a court / penalty warning prior to taking court action.
- There is a history of previous written warning/s or the commission of similar offences.
- Aggravated circumstance such as obstruction of an officer or aggressive / violent behaviour.
- Non-payment of a penalty notice.
- No contact from the parent / carer.
- Appointments not accepted, or failure to show at meetings offered at different times, on different days and in different locations.

\* Enforcement decisions and actions will be made with due regard to the provisions of:

- Equal rights and anti discriminatory legislation.

- In the public interest, matters concerning non-compliance will be shared where appropriate with other enforcement agencies. Where this takes place, due regard will be paid to the provisions of the Data Protection Act

## **6. Enforcement Options**

6.1 The service recognises the importance of ensuring that all enforcement decisions are consistent, proportionate to risk, clearly explained and relate to common standards to ensure the public is adequately protected.

6.2 Having considered all the relevant information the enforcement options are:

- No action because attendance has improved or action is not considered to be in the public interest. The latter may be of a result of a discussion with Camden Legal Services. The reason for this will be recorded in the case file.
- Parenting Contract as per the Anti-Social Behaviour Act 2003.
- To convene a Court Panel Meeting to monitor attendance that has improved but is still not at an acceptable level.
- Issue of Penalty Notice/s – maximum of two per parent in a rolling twelve month period before court action may be considered.
- Issue of a formal caution by Camden Legal Services where there is parental agreement and it is considered not in the public interest to pursue prosecution whilst concerns exist about the level of absence.
- Prosecution.

More than one course of action may be pursued at the same time and in no set order.

### **6.3 No action**

- This will be appropriate where attendance has significantly improved or it is felt that the case is not in the public interest and this will be following a discussion with Camden Legal Services. The reason for this will be recorded in the case file and communicated with the school. However it does not mean that this will be the case at a different period of time if the poor attendance continues.

### **6.4 Parenting Contract**

Parenting contracts are sometimes considered to be appropriate where attendance has improved but there are still some concerns about attendance.

### **6.5 Convene a further Court Panel Meeting**

Where attendance has improved but is still not at the level expected by the LA, and it may be felt that a further period of formal monitoring is required. A Court Panel Meeting may be held one month after the initial meeting to review

the attendance and make a decision to either take no further action or proceed to court.

## 6.6 Penalty Notices

Penalty Notices should be issued in accordance with the Penalty Notice protocol. A maximum of two penalty notices can be issued to any one parent with a twelve-month period.

Penalty Notices can only be issued when a child is of statutory school age

In the case of Reception pupils who will not all be of statutory school age at the same time, the following will need to apply to be considered of statutory school age.

A child is of compulsory school age at the beginning of the 1st term after their 5th birthday, so:

- Children who turn 5 between 1st January and 31st March will be of compulsory school age at the beginning of the school term after 1st April;
- Children who turn 5 between 1st April and 31st August will be of compulsory school age at the beginning of the school term after 1st September;
- Children who turn 5 between 1st September and 31st December will be of compulsory school age at the beginning of the school term after 1st January.

When each Penalty Notice referral is received consideration will be given to the most appropriate action (not in any order) this may include:

- A letter to the parent
- Invitation to a meeting to discuss the absence
- Issue of a penalty notice
- A direct prosecution

If a previous Penalty Notice has been issued, and paid / discharged, another, although not for the discharged period, can be issued at the discretion of the Pupil Attendance Service.

If a previous Penalty Notice was not paid and was prosecuted, consideration should be given to proceeding with another prosecution for any subsequent offence.

When a parent has been issued with a warning letter instead of a Penalty Notice and there is a further request for a Penalty Notice the Pupil Attendance Service will consider if they should be invited to a meeting or issued directly with a Penalty Notice.

If a parent has previously been invited to a meeting and there is a further request for a Penalty Notice the Pupil Attendance Service will consider issuing a Penalty Notice.

Where a parent has had previous letters and/or meetings with the Education Welfare Service and a further request for a Penalty Notice has been received a Penalty Notice should be a consideration

If the number of days of the referral makes up to be in excess of 11 days absence within a 13 month timeframe, the Pupil Attendance Service may issue a Penalty Notice or consider court action.

In the case of a parent having been issued with two Penalty Notices in a year consideration of any further referrals should be given to seeking a prosecution rather than the issue of a further Penalty Notice. The reason why a further Penalty Notice is issued, or a court prosecution is taken, must be recorded in the case file and will follow discussion with the court officer and Camden's legal services.

The Pupil Attendance Service is unable to accept late payments or payment by instalments for any Penalty Notice. Where a payment has been received after the expiration date set down in the Department for Education guidelines the Pupil Attendance Service will continue with court action and the money, if accepted in error by Camden's financial systems, would then be refunded.

#### 6.6.1 Covid-19 related absence

In respect of the 2020 Covid-19 Pandemic, upon DfE instruction issued in March, all Penalty Notice or Court action was immediately suspended,

No new referrals will be accepted until the DfE advises otherwise.

#### 6.7 Penalty Notices during the first five days of an exclusions

Section 103 of the Education and Inspections Act 2006 places a duty on parents in relation to an excluded pupil. A parent has to ensure that their child is not present in a public place during school hours without reasonable justification during the first five days of each and every fixed period or permanent exclusion. The requirement applies whether or not the pupil is in the company of a parent. Failure to comply with the requirement may result in a penalty notice being issued.

Where an excluded pupil is stopped the truancy patrol recording sheets will be passed to the Pupil Attendance Service Court Officer and the Head of the School Inclusion Team who will make a decision if a Penalty Notice or warning letter should be issued.

A Penalty Notice will only be issued if the school has warned the parent/s about the possibility of this in the initial letter which was sent informing the parent/s of the exclusion. If this warning was not included then the LA will issue a warning letter to the parent. If the pupil is stopped again the Pupil Attendance Service Court Officer and the head of the School Inclusion team will decide if a penalty notice should be issued to the parents.

## 6.8 Prosecutions

The decision to prosecute is very significant and is related to the seriousness of the offence. In general it is reserved for those persons who blatantly disregard the law or who refuse to adhere to basic legal requirements.

Court protocol dictates that cases can only be prosecuted within six months of the date of the last absence, referred to as the final day of the offence period.

6.8.1 The factors that are considered when initiating legal proceedings are:

- The seriousness of the offence
- Encouraging parents to improve their children's attendance
- The previous history of the person(s) concerned.
- The overall engagement of the family with the school and Pupil Attendance Service.
- The willingness of the parent(s) concerned to put matters right
- The probable public benefit
- Whether other action would be more appropriate.
- Any explanation offered by the accused.
- Any issues relating to Special Education Needs, Medical / Health or Transport issues which have not been addressed.

6.8.2 Where a decision to prosecute is made, this decision will be taken in accordance with the Code for Crown prosecutors, which details considerations to be taken in the public interest when bringing proceedings.

6.8.3 Where directed by Camden Legal Services a formal caution may be issued. This is where the parent accepts that an offence has occurred but acceptable reasons are put forward not to proceed to court. This will mean that should a further incidence of non attendance occur Camden may decide to take a court prosecution without notice. In the event of this happening the authority's legal representative may seek costs from the parent/s concerned.

## 7. Enforcement Principles

7.1 Advice from an officer will be put clearly and simply and confirmed in writing, explaining what is necessary and over what timescales. Letters will always make a clear distinction between legal requirement and best practice advice.

7.2 Before enforcement action is taken officers will attempt to resolve points of difference.

## **8. Authorisation of Officers**

8.1 Only officers who have completed training and or have experience will be authorised to take enforcement action. Officers will also have sufficient training and understanding of this enforcement policy to ensure a consistent approach to duties. Officers are required to show their authorisation on demand.

8.2 Enforcement services of the council are required to carry out their duties, including carrying out or escalating enforcement actions, in accordance with set procedures. These procedures vary depending on the service area involved in dealing with any non-compliance.

## **9. Status and review**

9.1. This policy was endorsed and adopted by the Supporting People directorate of Camden in 2019. It is subject to yearly review to reflect changes in practice and Department for Education guidance.

9.2 This is a public document and available via the Camden website. Further copies of this can be obtained from the Pupil Attendance Service, Camden Town Hall Judd Street, London WC1H 9JE, by telephoning 020 7974 7162 or via email from [ews@camden.gov.uk](mailto:ews@camden.gov.uk)

## **10. References**

- 10.1 Education Act 1996
- 10.2 Children Act 1989
- 10.3 Anti Social Behaviour Act 2003
- 10.4 Equal Rights and anti discriminatory legislation.
- 10.5 Camden Council Complaints Policy
- 10.6 Education (Penalty Notices) (England) Regulations 2007
- 10.7 Code for Crown Prosecutors – Crown Prosecution Service Jan 2013
- 10.8 Section 103 of the Education and Inspections Act 2006

Education Welfare Service



Stevie Bennett  
Court Officer  
Pupil Attendance Service  
Date: 20.03.20

A handwritten signature in black ink, appearing to read 'Ed Magee', with a stylized, cursive script.

Ed Magee  
Head of Service  
Pupil Attendance Service  
Date: 20.03.20

Martin Pratt  
Executive Director  
Supporting People  
Date: