

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

31ST JULY 2014

REPORT OF THE DIRECTOR OF EDUCATION AND LIFELONG LEARNING

**Authors: Chris Bradshaw, Director of Education and Lifelong Learning
Tel: 01443 744000 and Jessica Allen, Attendance and Wellbeing Service
Manager Tel: 01443 744152**

THE INTRODUCTION OF THE EDUCATION (PENALTY NOTICE) (WALES) REGULATIONS 2013 AND THE USE OF FIXED PENALTY NOTICES FOR NON SCHOOL ATTENDANCE

1. PURPOSE OF THE REPORT

To advise members:

- 1.1 On the introduction of The Education (Penalty Notice) (Wales) Regulations 2013 and the use of Fixed Penalty Notices (FPNs) for non-attendance at school;
- 1.2 Following a period of consultation with schools, governing bodies, South Wales Police and the Education & Lifelong Learning Scrutiny Committee, the Code of Conduct for issuing FPNs has been amended to incorporate changes for implementation from September 2014 (appendix 1).

2. RECOMMENDATIONS

Members are recommended to:

- 2.1 Note the contents of the report;
- 2.2 Agree the changes that have been made to the Code of Conduct following the responses received during the period of consultation;
- 2.3 Agree to implement the Code of Conduct, including the reasons for issuing of FPNs for non-attendance at school from September 2014 across Rhondda Cynon Taf;
- 2.4 Agree to implement a consistent application of un-authorising requests for holidays in term time across all RCT schools, with the exceptions as stated in the consultation process.

- 2.5 That a further progress report be presented to the Cabinet in six months time.

3. BACKGROUND

- 3.1 On 8th April 2014, Members were presented with an initial paper and draft Code of Conduct for the issuing of FPNs for non-attendance at school.
- 3.2 Upon Members' agreement, a consultation period was initiated to seek the views of schools, their Governing Bodies and South Wales Police. This was made available in both paper form and via an online questionnaire.
- 3.3 On 11th June 2014, a paper was presented to the Education & Lifelong Learning Scrutiny Committee on the Code of Conduct and the procedural developments of managing the scheme.
- 3.4 Education & Lifelong Learning officers collated the responses of both the paper and online questionnaires, together with the feedback from Scrutiny Members, and used the information to inform the amendments to the original Code of Conduct (amended version – appendix 1) and the supporting processes.

4. CONSULTATION RESPONSES

- 4.1 In total, 161 responses were received in the form of paper or online questionnaires from headteachers, School Governors, parents and South Wales Police (full breakdown can be found in appendix 2).
- 4.2 Of the 161 responses:
- 95% stated the Code of Conduct was clear;
 - 94% stated the circumstances for issuing an FPN were clear;
 - 94% stated the procedures for issuing an FPN were clear.
- 4.3 In general, comments supporting the above answers illustrated that there was a clear understanding of the Code; however, reference was made to the length of the document and the use of acronyms without full explanation.
- 4.4 Upon seeking clarity of circumstances for issuing FPNS, comments included the need for the approach in holidays to be standardised, with schools being given a clear 'steer' on how to manage holiday requests to ensure consistency across RCT. Several comments expressed concern that there appear to be circumstances where an FPN would not be issued which may lead to discrepancies in the way they are applied across the County.

- 4.5 Further responses included the need for strict adherence to the stated process across all schools, together with further clarity around the categorisation of authorised and unauthorised absences.
- 4.6 Suggestions were made to include a flow chart in the guidance for schools and parents to show the escalation of the process from the initial request for an FPN to be issued through to the official issuing of an FPN.
- 4.7 A number of suggestions were proposed during consultation to promote the introduction of FPNs including:
- Television and radio advertising, including Welsh medium;
 - Billboards and bus sides media;
 - Local media outputs;
 - Social media;
 - Posters in public places – supermarkets, GP surgeries etc.;
 - Council and school websites;
 - Discussions groups.
- 4.8 Education and Lifelong Learning Scrutiny Committee commented that the scheme may only be tackling the symptoms and not the cause of the absences, but were reassured that this was only part of the work of the Attendance and Wellbeing Service's provision to tackle absenteeism and so would be used as a tool in appropriate circumstances. Full minutes of the Education and Lifelong Learning Scrutiny Committee meeting on the 11th June can be found in appendix 3.
- 4.9 Further information was requested by the Education & Lifelong Learning Scrutiny Committee on the type of awareness raising methods that would be used and agreed with the response that the Central South Consortium's publicity campaign would form the basis of the marketing of the scheme.
- 4.10 The Committee also raised a query relating to the use of the revenue that was generated from payment of FPNs. Further advice was sought and in accordance with Section 21 (2) of the Education (Penalty Notices) (Wales) Regulations 2013, it has been confirmed with Welsh Government that RCTCBC will retain the revenue from the FPNs to the value of the costs of administering the scheme.
- 4.11 Education & Lifelong Learning Scrutiny Committee queried whether payment so of FPNs could be made in instalments to minimise the financial impact on families. Whilst Welsh Government guidance states that payments should be made in full, there is no reference to this in the Education (Penalty Notices) (Wales) Regulations 2013.
- 4.12 It should be noted that whilst the use of Fixed Penalty Notices will be introduced in September 2014 across RCT, the decision to request an

FPN will still remain at the discretion of the headteacher in the majority of instances.

Holidays in Term Time

4.13 In addition to seeking views on the Code of Conduct and reasons for issuing an FPN, responses were sought on a 'zero tolerance' approach to authorising holidays in term time. The responses were as follows:

- 51% stated that they would support a zero tolerance approach to holidays in term time;
- a further 11% stated that they did not know and would need further information to form an opinion;
- 36% of respondents stated that they would not support a zero tolerance approach.

**2% decided not to answer the question*

4.14 Comments linked to these responses highlighted concerns around the current 'grey' areas perceived over holidays in term times, leading to inconsistencies across schools, therefore requiring the introduction of a consistent approach.

4.15 Many comments received highlighted the need for this zero tolerance approach to be introduced to remove disparity between schools, to aid improvements in attendance at key times of a pupil's development (e.g. key stage 4), and make the issue clear for parents upon which they could make their decision to take a holiday during school terms.

4.16 In contrast, opposition to the unauthorisation of holidays was evident, with comments calling for consideration of parents work commitments and their financial circumstances; reference made to holidays being a learning experience in their own right; and a recognition that 'one size does not fit all.'

4.17 Common to most comments was the view that there needed to be a clear steer for schools on holidays in term time, suggesting that they would like the decision on this matter to be made at local authority level and implemented consistently across all schools.

4.18 Further to that, respondents were asked if they would support exceptions to the zero tolerance rule for the following groups:

- Families of serving armed forces personnel: 75% agreed to authorise these exceptions;
- Parent or child experiencing a life limiting illness: 91% agreed to authorise these exceptions;
- Families that had suffered an acute trauma: 83% agreed to authorise these exceptions.

- 4.19 There were mixed responses regarding the introduction of set exceptional circumstances for authorising holidays in term time, with more sympathy being shown for those families experiencing life limiting illnesses. It was stated that clear definitions would need to be introduced to support such exceptional circumstances to ensure a consistent application of these across RCT.
- 4.20 Education and Lifelong Learning Scrutiny Committee Members queried the legality of removing headteacher's discretion from the process of authorising of holidays in term time. It was felt that the introduction of a blanket approach to un-authorising all holiday requests would be a direct contravention of Section 7 (3 and 4) of The Education (Pupil Registration) (Wales) Regulations 2010. It must be noted that these sections of legislation state that 'a pupil **may** be granted leave from the school to enable the pupil to go away on holiday', not that it was a parent's entitlement to remove them for up to ten days per year.

5. SUMMARY OF CODE OF CONDUCT/PROCESS CHANGES

- 5.1 Section 7 of the Code of Conduct has been amended to state that only the revenue needed to cover the costs of administering the scheme will be retained by the local authority, with any surplus being returned to the Welsh Government.
- 5.2 Section 9 previously stated "once issued, an FPN may only be withdrawn where it is proven that..." and has since been amended to "once issued, an FPN will only be withdrawn..." at Members' request to illustrate that the withdrawal will only be in the most exceptional of circumstances.
- 5.3 The Education (Penalty Notices) (Wales) Regulations 2013, section 9, states that FPNs should be paid in full before the expiry of the period for paying it. Whilst it does not preclude the use of instalment payments, they would all have to have been received within the 28 (£60) or 42 (£120) days to ensure that the process complied with the legislation, limiting the usefulness of the instalment payment procedure. Furthermore, the other four local authorities in the Central South Consortium only intend to accept payment in one full sum. As the Code of Conduct has been developed as a single policy for implementation across the Consortium, RCT could be criticised for interpreting the Code differently and offering payment by instalment. To support the implementation of the joint policy, it is recommended that all five local authorities should adopt a consistent approach to the payment of the penalties, ensuring there is uniformity and transparency across the region, and not offer the facility of instalment payments.

6. APPROACH TO SCHOOL ABSENCE DUE TO HOLIDAYS

- 6.1 Of the five local authorities within the Central South Consortium, Cardiff and Merthyr Tydfil Councils have a zero tolerance approach in place to

tackle holidays in term time. It is believed as part of the introduction of the Fixed Penalty Notices, Bridgend and Vale Councils are also considering such an option. Furthermore, one of the other most deprived local authorities, Blaenau Gwent, have also adopted a zero tolerance approach in an attempt to further raise the profile of school attendance as a means of supporting improved attainment levels.

- 6.2 There is anecdotal evidence that measurable improvements in attendance rates of around 1% have been attributed to the adoption of a zero tolerance approach by other Welsh Local Authorities. It is also important to note that neither Cardiff nor Merthyr went to public consultation prior to introducing zero tolerance.
- 6.3 Therefore, it is proposed that RCT introduce a zero tolerance approach, where all holiday requests during term time would be unauthorised (unless they are categorised as one of the exceptional circumstances).

7. NEXT STEPS

- 7.1 For Cabinet to approve the amended Code of Conduct and the circumstances for which Fixed Penalty Notices are to be used.
- 7.2 For Cabinet to consider the findings of the consultation in addition to previous information relating to a zero tolerance approach to holidays in term time, and agree a whole Authority approach of un-authorising all absences resulting from holidays.
- 7.3 For Cabinet to agree that the Attendance and Wellbeing Service (AWS) is the most relevant and appropriate service area to manage the process and monitor the use and impact of FPNs.
- 7.4 For the AWS to ensure that all schools/PRUs are advised of their responsibilities for requesting Fixed Penalty Notices and for updating the relevant policies and procedural documents (School Attendance Policies) to reflect the circumstances of their use in preparation to issue the notices.
- 7.5 For the Central South Consortium Attendance Group to coordinate and manage an appropriate awareness raising campaign to notify pupils and parents/carers of the introduction of this new legislation and the potential implications of unauthorised absence from school.
- 7.6 To make suitable arrangements for methods of payment of penalty notices for non school attendance, including the option to request payment in two instalments.

7.7 To establish the necessary data capture and monitoring systems for reporting to Education and Lifelong Learning Scrutiny Committee and Welsh Government.

7.8 To review the Code of Conduct on an annual basis.

8. CONCLUSION

8.1 Cabinet and the Education Scrutiny Committee have made improving school attendance a priority for its schools and PRUs.

8.2 This report sets out how Rhondda Cynon Taf will introduce The Education (Penalty Notice) (Wales) Regulations 2013 which will contribute to further improvements in school attendance.

8.3 **Appendix 1**

Rhondda Cynon Taf County Borough Council

**Fixed Penalty Notice for
Non-Attendance at School**

Code of Conduct

September 2014

1. Legal basis and rationale

Regular and punctual attendance at school is a legal requirement and essential if children and young people are to have access to a range of educational opportunities enabling them to have the best chance to succeed in life and become active responsible participants in the communities in which they will live as adults. Children and young people have the right to an appropriate education which meets their needs and when they are in school are also at less risk of harm.

The majority of learners attend school regularly, arrive punctually and are fully engaged with the curriculum, but for some, attending school regularly is a challenge and this can be for a variety of reasons. A range of assessment and intervention strategies are available from schools and officers from the Local Authority to help families overcome barriers to regular attendance, with sanctions of any nature only used as a last resort.

In Wales, legislation (The Education (Penalty Notices) (Wales) Regulations 2013) has given local authorities new powers to issue Fixed Penalty Notices (FPNs) to the parents of children and young people who are persistently absent from school and/or pupil referral units (PRUs) without authority. It is recommended that in Rhondda Cynon Taf the Attendance and Wellbeing Service (AWS) within the Education and Lifelong Learning Directorate have sole responsibility for issuing FPNs in response to requests made by headteachers, their nominated deputies or the police.

An FPN is a fine of £60 which may be issued to a parent/carer as a result of their child's unauthorised absence from school. The Welsh Government has introduced them as an added means of addressing unauthorised absence from school particularly in circumstances where there is a reasonable expectation that its use will secure an improvement in the future. Parents/carers have a legal responsibility to ensure that once registered at a school their child attends regularly. An offence occurs when a parent/carer fails in that duty and cannot offer any justifiable reason for absences.

The legislation governing the implementation of FPNs is outlined in the following:

- Sections 444A and 444B of the Education Act 1996;
- The Education and Inspections Act 2006;
- The Education (Penalty Notices) (Wales) Regulations 2013;
- Rights of Children and Young Persons (Wales) Measure 2011;
- United Nations Convention on the Rights of a Child (the Right to an Education).

Head teachers are obliged to make judgements on the authorising of absence and subsequent coding (All Wales Attendance Codes 2010) to categorise the reason for absence. All schools have Attendance Policies which must clearly outline the day to day procedures in place to follow up pupil absence and how they will determine whether an absence is justified or not. Registration Regulations state that the statutory (lawfully acceptable) defences for school absence are that:-

- The absence is authorised;
- The pupil was prevented from attending due to illness or other unavoidable cause;
- The absence occurred on a day set aside for religious observance;
- The local authority has failed to make suitable travel arrangements to facilitate attendance (Learner Travel (Wales) Measure 2008);
- The child is excluded.

Following the introduction of FPNs all local authorities in Wales are required to have in place a Code of Conduct within which all partners will operate as part of the statutory duties for ensuring school attendance. In RCT it is recommended that the AWS be solely responsible for the operational functions of this Code of Conduct on behalf of the Local Authority which will ensure the process is managed consistently across the County Borough.

2. Who can issue a Fixed Penalty Notice?

The legislation allows headteachers and the police (including their nominated deputies) as well as designated local authority officers (AWS) the powers to issue FPNs. However, in order to ensure consistent practice and avoid the potential for issuing duplicate FPNs it is recommended that the management and processing arrangements in RCT will be the sole responsibility of the AWS.

The service will work in consultation and partnership with schools, PRUs, and local police officers to ensure that:

- FPNs are used consistently;
- FPNs are not issued when proceedings under section 444 (1) or (1A) are being contemplated or have commenced;
- Relationships between schools and families are not compromised;
- There is no conflict with any other intervention already in place.

3. Current RCT Practice in Response to Pupil Absence

RCT's AWS has developed an Attendance Toolkit, used by schools and PRUs to ensure that statutory obligations for registration processes and practices are managed effectively, with good attendance highlighted as a priority and closely linked to improved outcomes.

The Toolkit outlines the actions schools should take in following up absence and it is important that school staff intervene as early as possible when there are signs that a pupil may be disengaging from learning. Following school's initial interventions it may be appropriate to refer into AWS to instigate further investigation into cases of irregular attendance and only following a period of assessment and intervention to help resolve a concern will legal proceedings be considered and then only where parental cooperation is either absent or deemed insufficient to support the child's education.

It is not intended that the new legislation for FPNs be used as a response to entrenched non attendance or change the traditional AWS casework with families. FPNs are intended more as a means of swift intervention and they are thought to be most effective when issued for specific circumstances, over periods such as Key Stage 4 lead up to examinations or even with certain age groups of pupils. The FPN process will not be reactionary to immediate circumstances e.g. truancy operations and warning letters which are a required part of the process will in many cases be enough to raise parental awareness of the concerns and lead to an improvement.

This Code of Conduct defines how RCT will introduce and operate the FPN process outlining the circumstances and threshold criteria expected to be applied consistently and equitably across the County Borough and all persons authorised to request an FPN be issued i.e. head teachers and police and their nominated deputies must comply with the detail set out in this Code of Conduct.

4. Circumstances for Issuing a Fixed Penalty Notice

It will be the responsibility of schools/PRUs and/or police to **request** that the AWS issue an FPN and those requests will only be considered where there is proven evidence of unauthorised absence due to the following circumstances:

- Where there is a minimum of 10 unauthorised sessions (5 school days) in the current term (these do not need to be consecutive);
- Pupils are persistently arriving after the close of the registration period i.e. more than 10 sessions in the current term; (Recommended that registers be kept open for thirty minutes);
- Where parent/carers have failed to engage with the school and/or the AWS in attempts to improve attendance but where court sanctions have not been instigated;
- A period of absence from school due to a holiday that was not authorised by school;
- A pupil has regularly come to the attention of the police during school hours and is absent from school without an acceptable reason.

Once the circumstances are proven the AWS will then assess whether an FPN should be issued taking the following into account:

- The level of absence;
- Any Equalities considerations relating to the child or family (as listed in the Council's Equality Policy);
- Any statement of Special Educational Needs;
- History of the attendance issues and action taken;
- Welsh Government (WG) Guidance;
- The likely effectiveness of an FPN as a tool for obtaining compliance;
- The level of parent engagement/cooperation.
- Any adverse effect a fine will have on the welfare of the family.

5. Procedure for Issuing a Fixed Penalty Notice

The AWS will respond to all requests to issue an FPN within ten school days and where satisfied that all relevant criteria are met will:-

- Send a formal written warning to the parent/carer notifying them that they may receive a fixed penalty notice and why;
- Set a period of 15 days during which the pupil must not have any unauthorised absences from school;
- If at the end of the 15 days there has been no improvement a penalty notice will be issued via first class post;
- If there is an improvement and there are no unauthorised absences then the FPN will not be issued.

***Please note** that where a school requests that an FPN be issued as a response to a period of unauthorised holiday absence the formal warning letter and 15 day improvement period will not apply.*

6. Legal practicalities

An FPN is £60 if paid within 28 days of receipt of the notice, rising to £120 if paid after 28 days (but within 42 days of receipt). If the FPN is not paid in full by the end of the 42 days the local authority must either: -

- Prosecute parents/carers in the usual way using section 444(1) and (1A) of the Education Act 1996) or
- Withdraw the FPN (in limited circumstances as set out in this Code of Conduct).

Only one FPN will be issued to a parent in any one academic year but where there may be more than one poorly attending pupil in a family, FPNs may be issued on more than one child in that family. It will be at the discretion of the AWS whether to issue an FPN on one or both parents/carers.

Whilst there are no restrictions on the number of times a parent may receive a formal warning of an FPN it would not be acceptable to issue “warnings” repeatedly without making further investigations of the wider circumstances.

7. Payment of a Fixed Penalty Notice

Arrangements for payment will be detailed on the FPN.

Once paid the parent/carer’s liability for the period in question is discharged and they cannot then be subsequently prosecuted under other enforcement powers (section 444 (1)) for the same period covered by the FPN.

Subject to compliance with Section 21 of the Regulations, RCT will retain the value of revenue from FPNs needed to cover the enforcement costs associated with the issue, collection or in the event of non payment cases progressing to prosecution.

8. Non-payment of a Fixed Penalty Notice

Non-payment of an FPN will trigger prosecution procedures brought under section 444(1) of the Education Act 1996.

9. Withdrawal of a Fixed Penalty Notice

Once issued, an FPN will only be withdrawn where it is proven that:

- The notice has been issued to the wrong person/to the incorrect address;
- The notice did not conform to this Code of Conduct;
- Circumstances and evidence demonstrate that the FPN should not have been issued e.g. provision of medical evidence (parents/carers have the 15 day period to submit this evidence).

Notification of the withdrawal will be given to the parent/carer and any amount paid will be repaid to the person who paid it. No proceedings will continue or be instituted against the parent/carer for the offence in connection with which the withdrawn FPN was issued or for an offence under section 444(1 and 1A) of the Education Act 1996 arising out of the same circumstances.

There is no statutory right of appeal against the issuing of an FPN. Should a parent/carer wish to contest an FPN then they may submit complaints to the AWS and/or face proceedings in the Magistrates Court under section 444(1) of the Education Act 1996.

10. Policy and publicity

In order to ensure parents and carers are fully aware of the FPN legislation, it is required that all schools/PRUs with the support of their governing body/board of management clearly include information on the FPN legislation in their Attendance Policy.

11. Annual review and reporting

RCT's AWS will monitor the use of FPNs as part of the local monitoring quality assurance process with quantitative data being made available to Education and Lifelong Learning Scrutiny Committee, Senior Management and the Welsh Government on request.

This Code of Conduct will be reviewed on an annual basis and if necessary be amended depending on the impact of the previous year's operation.

12. How to get further information

Further information on the operation of this Code of Conduct and FPNs is available from:

Prosecution Lead,
Attendance and Wellbeing Service,
Ty Trevithick,
Abercynon,
CF45 4UQ (01443 744282) aws@rctcbc.gov.uk

Appendix 2

<u>Responses</u>	<u>TOTAL</u>	<u>Paper</u>	<u>Online</u>
Headteachers	22	17	5
School Governor	133	105	28
Parent/Carer	2	1	1
Police	1	1	0
Pupil	0	0	0
Other	2	0	2
Blank	1	0	1
<i>Total</i>	161	124	37

Is Code of Conduct clear?

Yes	153	118	35
No	8	6	2
Don't Know	0	0	0
Blank	0	0	0
<i>Total</i>	161	124	37

Are the circumstances for issuing an FPN clear?

Yes	152	117	35
No	7	6	1
Don't Know	2	1	1
Blank	0	0	0
<i>Total</i>	161	124	37

Are procedures for issuing FPNs clear?

Yes	151	117	34
No	8	5	3
Don't Know	1	1	0
Blank	1	1	0
<i>Total</i>	161	124	37

Would you support the introduction of consistent approach to holidays in term time across RCT (e.g. zero tolerance approach) and why?

Yes	82	64	18
No	58	45	13
Don't Know	17	11	6
Blank	4	4	0
<i>Total</i>	161	124	37

Would you support exception being given to a zero tolerance approach for the following reasons:

Armed Forces Personnel

Yes	120	96	24
No	23	17	6
Don't Know	16	9	7
Blank	2	2	0
<i>Total</i>	161	124	37

Families experiencing life limiting illnesses

Yes	146	112	34
No	6	6	0
Don't Know	7	4	3
Blank	2	2	0
<i>Total</i>	161	124	37

Families experiencing acute trauma

Yes	134	102	32
No	9	8	1
Don't Know	14	12	2
Blank	4	2	2
<i>Total</i>	161	124	37

Appendix 3

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

EDUCATION AND LIFELONG LEARNING SCRUTINY COMMITTEE

Minutes of the meeting of the Education and Lifelong Learning Services Scrutiny Committee held at the County Borough Council Offices, The Pavilions, Clydach Vale on Wednesday 11th June, 2014 at 5pm.

Present:

County Borough Councillor (Mrs) C Leyshon – in the Chair

County Borough Councillors:

M Adams	(Mrs) A Calvert	A L Davies (MBE)	J Elliott
P Jarman	(Mrs) S Jones	R Lewis	B Morgan
G Smith	B Stephens	G Thomas	C Williams

Co-Opted Members:-

Mr J Horton – Parent Governor
Mr J Fish – Parent Governor
Ms S Sevany – Parent Governor
Mrs C Jones – National Union of Teachers & Teachers panel
Mr M Cleverley – NASUWT and Teachers Panel

Officers in Attendance:

Mr C Bradshaw - Director, Education & Lifelong Learning
Ms J Allen – Education Partnership co-ordinator / Consortium Attendance Strategy Lead.
Mr P Nicholls – Principal Solicitor, Litigation

1 APOLOGIES

Apologies for absence were received from County Borough Councillors, (Mrs) J Bunnage, S Evans-Fear, M Griffiths, L Walker and co-opted Members Mr C Jones and Mr D Price.

2 DECLARATION OF INTERESTS

In accordance with the Code of Conduct, there were no personal declarations of interests made, pertaining to the agenda.

3 MINUTES

RESOLVED: - to approve as accurate records the minutes of the Education & Lifelong Learning Scrutiny Committees on the 2nd April, 2014 and 9th April, 2014.

4 CHAIRMAN'S REMARK

The Chairman advised the Committee that Mr A Minton, the NASUWT member on the Committee had recently retired and the Chairman took the opportunity to welcome Mr M Cleverley to the meeting, who would be taking over Mr Minton's role.

The Committee **RESOLVED** that a letter of thanks be sent to Mr Minton, to thank him for his contributions at Committee and Scrutiny Working group reviews and to wish him a happy retirement.

5 INTRODUCTION OF FIXED PENALTY NOTICES FOR NON-ATTENDANCE AT SCHOOL.

The Education Partnership co-ordinator presented Members with the report which advised of the introduction of the Education (Penalty Notice) (Wales) Regulation 2013 and the use of Fixed Penalty Notices (FPNs) for non attendance at school. The officer continued by advising of the consultation process being undertaken which sought views on the adoption of a consistent Local Authority approach to the un-authorisation of absence from school.

The Education Partnership Co-ordinator referred Members to the draft Code of Conduct for issuing FPNs within Rhondda Cynon Taf, which was contained within the report and advised that this had been produced in line with the Welsh Government requirements. The officer also advised that the Central South Consortium's 'Attendance Strategic Network Group's' key priority was to agree a regional approach to FPNs with an accompanying Code of Conduct to assist with the implementation of the legislation. It was added that subject to individual local authority approval, this would enable the legislation to be consistently applied across all five neighbouring local authorities.

Members of the Committee were provided with information in relation to the proposed use of FPNs within Rhondda Cynon Taf and further detail of the 'next steps' within the consultation process, with Members being informed that an amended Code of Conduct would be presented to Cabinet for approval following analysis of the consultation feedback.

The Chair thanked the officer for the report and opened the item for discussion.

One Member queried whether there was any evidence base to illustrate whether the issuing of FPNs for non school attendance was a successful mechanism to utilise. The Education Partnership Co-ordinator advised that this process had been implemented within England over the last 2 years and that there was evidence to illustrate its positive effects on school attendance. The Officer commented that it was the intention, that once implemented within Wales and following an embedding period a report would be produced to illustrate whether the FPN's were having an effect on school attendance, which could be presented to the Committee.

Following a query the officer also clarified the process with issuing the FPN's and the 15 day improvement period, which was felt to be a sufficient time period for a pupil to illustrate an improvement. It was confirmed that if there was no improvement then full payment of the FPN would be needed.

One member queried the awareness raising methods to be used to publicise the FPN to pupils, parents and guardians, questioning whether it was only to be published within each schools Attendance Policy. The Education Partnership Co-ordinator advised that details of the FPNs would be incorporated within School's Attendance policies and the Director, Education & Lifelong Learning advised that at Local Authority level, a publicity campaign would be taken forward across the 5 Authorities across the Consortia, to allow the introduction of FPNS to be fully publicised.

One member of the Committee spoke of his concerns with the introduction of FPNs, commenting that this type of address was treating the symptom but not the cause, commenting on the waste of financial resources introducing the scheme. The officer reiterated that this was a Welsh Government requirement on all local authorities, following the introduction of the Education (Penalty Notice) (Wales) Regulations 2013, commenting that a mechanism for FPN needed to be in place by September 2014. The Officer added that the intention was that the requirements would assist with inconsistent condoned absences by parents, such as Birthday day absences, long weekend absences, although it was not intended that the new legislation for FPNs would be used as a response to entrenched non attendance. The Member commented that although he understood the aims of the requirements, with improving attendance he felt that this method could potentially alienate pupils, and an incentive system would be a preferred method. The Director, Education & Lifelong Learning referred to the good work already taken forward in relation to Attendance and commented that the FPNs would simply be another tool to potentially use, although he commented that it was hoped that this would never be utilised. The Director added that the Code of Conduct document was a common sense approach and added that time would tell whether this was a successful tool.

Another member of the Committee disagreed with previous comments and commented that the FPNs would encourage responsible parenting and added that he felt the FPN fine was too low, and would not prevent parents from booking holidays during term time due to the lower holiday prices available during term time. The Member queried who would initiate the FPN and also queried the fine process, querying whether the payment could be paid in instalments and where the money for the fines were going.

The Education Partnership co-ordinator advised that the vast majority of FPNs would be taken forward through the schools request. It was also confirmed that paying fines through instalments was not an option that could be taken forward. Members of the Committee spoke of their concerns that this option was not available to parents commenting that RCT was not an affluent area in comparison to the other Authorities within the Consortia.

One Member spoke of the entrenched cases witnessed across the Authority in respect of poor attendance and questioned what systems were in place to assist such pupils, if FPNs were not to be utilised in this area. The Education Partnership co-ordinator advised that in respect of entrenched cases, ongoing work with the Attendance & Wellbeing Service (AWS) would help both the child and family to overcome barriers to help with re-engagement.

The member proceeded to comment on the 'review and reporting' section within the Code of Conduct and queried on the practicalities of the Education & Lifelong Learning Scrutiny committee receiving regular updates on a quarterly basis. The Director, Education & Lifelong Learning confirmed that this information could be incorporated within the Committees Quarterly Exception and Budget reporting arrangements.

Members of the committee continued to query the payment options available to parents who were unable to pay the fine and questioned the process when there were attendance problems for more than one child within the same family. The Officer advised that in such scenarios, the AWS would encourage schools to use other avenues of intervention to address the problem.

The Education Partnership Co-ordinator was queried on who was responsible for determining which parent the FPN should rest with, in respect of split parent families and the Committee were advised that this would rest with the school as they would know the most appropriate person, although it could be given to both parents.

Following a query regarding the issuing of FPN's for those children not attending school at the end of the summer term due to holidays, it was clarified that in such instances the formal warning letter and 15 day improvement period would not apply and the FPN would automatically be issued. Members commented that this message needed to be strengthened within the Code of Conduct.

Members of the Committee also questioned what the general responses received during the consultation process had been and the Education Partnership Co-ordinator advised that she was still in the process of collating the consultation responses, although the vast majority were happy with the code of conduct and understood its intention, with a positive 55% response to supporting a zero tolerance approach to authorising holidays in term time. The Committee were reminded that their comments from the day's meeting would also be utilised as part of the consultation process and would be fed back to Cabinet in July.

The action taken when a parent is unaware that their child is missing school was also queried, and the officer commented on the role of the AWS, who would work with the family in such situations.

One member of the Committee commented upon the number of exceptions included within the Code of Conduct before a FPN could be issued, and commented on potential problems with Head Teachers having the discretion

to decide whether an absence is authorised or not, problems with policing of 'sickness' and also commented that FPNs would affect less affluent families and questioned the potential outcomes for non payment of the fine. The Principal Solicitor provided clarification on non payment of fines and advised that it would be open to the Court to impose a custodial sentence. Members commented on those families in hardship which would not be able to pay the fines and some members commented that in their opinion the Local Authority or Head Teacher should have the discretion to withdraw the FPN once issued.

The Director, Education & Lifelong Learning commented that there were issues with FPNs that hadn't been overcome in England, commenting that some holiday companies within England were offering to pay the fines as an extra incentive for families booking holidays during term times. The Director continued that the proposed Code of Conduct was equitable across the 5 Authorities within the Consortium, capturing the essence of the regulations and commented that until the Code of Conduct was implemented there would be uncertainties with its practicality. The Director referred to the issues identified within section 4 of the Code of Conduct and queried whether there should be discretion for Head Teachers to decide whether absences are authorised or not, and welcomed the Committees view on this area.

One member of the Committee spoke of the positive work of the Authority in improving attendance and commented on the work of the Scrutiny Attendance Working Group and the resulting 32 recommendations, and the improved attendance noted over the last couple of years within the Authority. The Member spoke of her concerns with the implementation of FPNs and the lack of evidence to illustrate the improvement in attendance through the measure. The Member referred officers attention to The Education (Pupil Registration) (Wales) Regulations 2010, section 7(3) highlighting that a pupil may be granted leave of absence from the school to enable a pupil to go on holiday, although cannot be granted more than ten school days by an authorised person of the school, therefore questioning whether Head teachers discretion could be removed. The Member continued by querying where the money collected for the FPNs would go, commenting that scheme was meant to be self financing with any surplus to go back to the Welsh Government. The Member also addressed the issue of payments of fines and the need to evidence that the Council has taken into consideration the anti poverty strategy in conjunction with the Code of Conduct and the need for an easy pay scheme to be available on the basis of hardship.

Following queries in respect of revenue from FPNs The Director, Education & Lifelong Learning advised that further clarity would be sought on whether the revenue could be retained by the Local Authority to support the administration of the penalties or whether this would go directly back to the Welsh Government.

The Director also spoke of the evidence available within England to illustrate the positive increase in attendance since the introduction of the FPNs and advised the Committee that legal guidance would be sort in respect of s7(3), and clarification whether this was discretionary for the Head Teacher.

Members of the Committee spoke of the potential variation across schools with the view of authorised and unauthorised attendance due to Head Teachers discretion. One member commented that in his opinion the removal of headteacher's discretion would be a detrimental step.

In respect of HeadTeacher discretion one member of the Committee spoke of the mixed opinions he had received from Head Teachers regarding this aspect and commented that the exceptions to the rule identified within the code of conduct needed to be further developed and spoke of the need for a consistent and equitable approach.

A member of the group commented on the reasons why parents took children out of school for holidays during term time, not only because of lower holiday prices, but also spoke of the problems encountered by some working families, in trying to get leave from work during the school holidays, due to other working families similar leave requests.

The issue of Headteacher discretion was again referred to by committee members and its importance, and the Officers were queried as to how much funding had been allocated to the scheme? The Education Partnership Co-ordinator advised that he costs would be absorbed within the AWS, with the cost of the service being determined as the scheme is rolled out, although the officer commented that she did not expect there to be a short fall in funding. The officers were queried further whether any baseline analysis had been undertaken in advance of the implementation, and the Education Partnership Co-ordinator advised that no figures had been produced, as it was down to individual circumstances and Headteachers discretion.

Members again commented on the potential inconsistencies with attendance due to Headteacher discretion and the Director, Education & Lifelong Learning commented on the current inconsistency with attendance register coding, which would also need to be addressed to ensure a consistent picture across the Authority.

Other members took the opportunity to speak positively about the introduction of the FPNs, commenting that this was a further tool in the armoury that would assist with getting children back into school and improving attainment.

Following the discussions the Chairman thanked the Members for their detailed scrutiny of the FPNs and the Committee **RESOLVED:**

- a) To note the information contained within the report
- b) That the comments provided by the Committee form part of the consultation feedback to be reported at a future cabinet meeting
- c) That the Education & Lifelong Learning Scrutiny Committee receives updates on the issuing of FPNs on a quarterly basis.
- d) That the impact of the implementation of the FPNs be reviewed on an annual basis and the outcomes of the review to be reported to the Education & Lifelong Learning Scrutiny Committee

(Mrs) C Leyshon
Chairman

The meeting closed at 6.30pm

