



WOKINGHAM BOROUGH COUNCIL

Attendance Case Work Policy

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Executive Summary

Wokingham Borough Council has statutory oversight for children and young people's education, employment and training up to the age of 18. Not only is it children's right to receive a full-time education, but it is essential to children's educational prospects and wider life chances.

Responsibility for a child's education rests with the child's parents – meaning that parents are required by law to provide an efficient, full-time education to their children who are of compulsory school age.

Where a child is identified as having irregular school attendance and the reasons for this are not satisfactory, Wokingham Borough Council is legally permitted to exercise enforcement powers.

This policy aims to clearly set out fair and proportionate procedures which will be followed in response to a child's irregular school attendance – if the absence cannot be reasonably and satisfactorily explained.

At all times, Wokingham Borough Council is committed to working with children, young people and families to develop supportive and positive relationships – so that the right of all children to an effective, full-time education is realised.

Any questions or concerns about the contents of this policy should be raised with the Quality Assurance and Policy Team via email at: ImpactAndInspectionTeam@wokingham.gov.uk.

Policy Context

This policy is underpinned by national legislation and guidance:

- [*Children Act 1989 \(Sections 17 and 47\)*](#)
- [*Education Act 1996*](#)
- [*Education Act 2002*](#)
- [*European Convention on Human Rights \(Article 2 of Protocol 1\)*](#)
- [*Anti-Social Behaviour Act 2003*](#)
- [*Participation of Young People: Education, Employment and Training, Department for Education Statutory Guidance \(September 2016\)*](#)

It should be read in conjunction with other local procedures available on Wokingham's [practice guidance library](#) (all available under *All Children: Education*).

- [*Elective Home Education Policy*](#)
- [*Children Missing Education Policy*](#)
- [*Exclusions Guidance for Schools*](#)
- [*Flexi-schooling Guidance*](#)
- [*Part-Time Timetables Policy*](#)
- [*Fair Access Protocol*](#)
- [*Penalty Notice Code of Conduct*](#)

Systems affected and used to store information:

- CAPITA ONE
- MOSAIC
- Elective Home Education (EHE) Database
- Children Missing Education (CME) Database
- Penalty Notice Spreadsheet
- Children's Individual Files

This policy applies to all Wokingham Borough Council staff who have contact with children and young people of compulsory school age; parents/carers; schools; and external partner agencies (e.g. health and Police). The term 'parents' should be taken to mean those with parental responsibility for the child.

1. Introduction

Wokingham Borough Council is committed to working with children, young people and families to develop supportive and positive relationships – so that the right of all children to an effective, full-time education is realised.

Good school attendance is essential to children's educational prospects – and wider life chances. Responsibility for a child's education rests with the child's parents, however Wokingham Borough Council is legally permitted to exercise enforcement powers, where required. These are outlined in more detail later in this policy.

This policy aims to:

- Clearly set out fair and proportionate procedures regarding school attendance.
- Reaffirm Wokingham Borough Council's commitment to ensuring children's right to a full-time education is realised.

2. The Law

Wokingham Borough Council is committed to ensuring that the right of every child to education, is realised.

In England, compulsory school age starts at the beginning of the term after the child turns 5 and ends on the last Friday in June during the academic year in which the child turns 16.

As of September 2015, all 16-year-olds are legally required to continue in education or training until their 18th birthday. Any young person aged 16-18 found not to be participating in education or training will be referred to Wokingham Borough Council's NEET Prevention Team for support.

Parents are required by law to provide an efficient, full-time education which is suitable to the age, ability and aptitude of the child and any special educational needs the child may have (*Section 7 of the Education Act 1996*). Where a child of compulsory school age, who is a registered pupil at a school, fails to attend that school regularly their parents are guilty of an offence (*Section 444 of the Education Act 1996*).

Where the reasons given for a pupil's irregular school attendance are not satisfactory, Wokingham Borough Council may take legal action against parents for failing to comply with the Law. This may result in:

- Issuance of a Fixed Penalty Notice (payable up to £120 fine).
- Prosecution under Section 444(1) of the Education Act 1996 which, if convicted, may result in a fine of up to £1,000.
- Prosecution under Section 444(1A) of the Education Act 1996 which, if convicted, may result in a fine of up to £2,500 and/or 3 months of imprisonment.
- Prosecution under Section 443(1) of the Education Act 1996 which, if convicted, may result in a fine of up to £1,000.

Prosecution under Section 444(1) would occur where a parent fails to secure the child's regular attendance at school and prosecution under Section 444(1A) would occur where a parent knows the child is failing to attend school regularly – and fails to ensure the child does so.

Prosecution under Section 443(1) would occur where parents fail to comply with a School Attendance Order, unless they can prove that their child is in receipt of a suitable education otherwise than at school.

2.1. Safeguarding

In accordance with Section 175 of the Education Act 2002, Wokingham Borough Council is required to exercise education functions with a view to safeguarding and promoting the welfare of children.

Where there are grounds for concern over a child's welfare, Wokingham Borough Council staff will discuss this with the parents in the first instance. However, the Council is permitted to insist on seeing a child where there is cause for concern and will exercise its powers under safeguarding law (Sections 17 and 47 of the Children Act 1989), where this is deemed necessary to address a risk to a child's welfare (e.g. referral to Children's Social Care). This will be in line with Wokingham Borough Council's [Levels of Need and Threshold Guidance](#).

3. School Attendance

The responsibility for a child's education rests with their parents. Where a child of compulsory school age fails to attend their registered school, their parents are in breach of the Law and are deemed to have committed an offence. In such cases, Wokingham Borough Council can prosecute the parents.

However, there are certain exemptions where parents would not be considered to have committed an offence. These are:

- The pupil's absence was authorised by the school.
- The pupil was ill or prevented from attending by an unavoidable cause. *Case law has held that stress arising from bullying, behavioural or mental health difficulties or a 'chaotic lifestyle' should not be considered an 'unavoidable cause'. Unavoidable cause would require something in the nature of an emergency which prevented school attendance.*
- The absence was on a day exclusively set aside for religious observance by the religious body to which the parent belongs.
- The school is not within walking distance of the child's home and the local authority has not made suitable arrangements, thus failing to discharge its duty.

- The parents can show that their trade or business requires them to travel and the child has attended school as regularly as the nature of the trade or business allows – and the child has attended school for at least 200 sessions in the preceding 12 months.

4. Working with Families and Schools

As part of Wokingham Borough Council Education Welfare Service's commitment to working with families, prosecution will be used only as a last resort – in order to mitigate the potential negative impact of prosecution on families. The Education Welfare Service does not use prosecution of parents as a punishment, but as a tool to improve school attendance.

The Education Welfare Service (EWS) works with all Wokingham Borough schools to promote regular attendance through training, online information and direct consultation. Schools can make referrals to the EWS under the following criteria:

- Persistently Absent Pupil (under 90% attendance).
- Comprehensive evidence that the school has addressed the concerns and there has been a failure to improve attendance.
- The majority of absences are unauthorised.

The EWS will support and advise schools on best practice when working with their pupils and families in order to secure better outcomes for attendance. This could be in relation to providing letter templates, process flow charts, advice on outside agency referral forms, penalty notices and evidence needed to move to legal Fast Track proceedings.

Following receipt of a referral from a school, providing that all criteria has been met, the EWS will invite parent/s and child to attend a pre Fast Track meeting which will be held in school. The purpose of this meeting is to make parent/s and child aware of the Fast Track process (see 5.4) and to also put actions in place to further support the parent/s and child.

In addition, the EWS will always seek to gain the views and opinions of the child or young person – as part of the Service's commitment to valuing the voice of the child. It is recommended that pupils in Year 7 and above are invited to attend meetings, where this is deemed appropriate. Children of primary school age are not expected to attend meetings.

5. Alternatives to Prosecution

The Education Welfare Service will usually consider options as an alternative to prosecution of parents for failing to secure their child's regular attendance at school – where appropriate to do so.

5.1. Education Supervision Orders

The Education Welfare Service will usually consider the issuance of an Education Supervision Order prior to prosecution. The Order is placed on the pupil and the local authority is

appointed by the Court to supervise that child's education, either at a school or at home, for a specified period of time.

5.2. Parenting Contracts

The Education Welfare Service will offer parents the opportunity to enter into a Parenting Contract with the Council and the school. Parenting Contracts are agreed in a formal meeting and signed by all parties – they break down the responsibilities and actions identified to ensure sustained attendance improvement.

There are no penalties for failing to adhere to a Parenting Contract, however failure to adhere to one would be used as evidence if the Council were to pursue prosecution should attendance not improve.

5.3. Parenting Orders

Parenting Orders are imposed by the Court and parents' agreement is not required before a Parenting Order is made. Parenting Orders are available as an 'ancillary order' following successful prosecution by the local authority for irregular school attendance, or breach of a School Attendance Order.

If a parent has already entered into a Parenting Contract, an application for a Parenting Order can be made within 6 months of the date that contract was signed. Parenting Orders can only be made outside of this 6-month period where the Court rules that this is applicable (during prosecution).

Parenting Orders consist of two elements:

- A requirement for parents to attend counselling or guidance sessions (e.g. parenting education or parenting support classes) where they will receive help and support to enable them to improve their child's behaviour. This is the core of the Parenting Order and lasts for up to 3 months.
- A requirement for parents to comply with such requirement as specified in the Order. This element can last for up to 12 months.

All Parenting Orders must be supervised by a 'responsible officer' from the Council. The 'responsible officer' will be individually named in the Parenting Order.

Any breach of the Parenting Order by parents without a reasonable excuse could lead to a fine of up to £1,000. The Police may enforce any breach of a Parenting Order by a parent. Parents have the right to appeal a Parenting Order to the Crown Court.

5.4. Fast Track Intervention

The Fast Track Framework is a time-focussed model of best practice, which concentrates on early intervention in cases of persistent non-attendance. It aims to ensure a fast, effective approach to the implementation of strategies to tackle non-attendance and the underlying causes.

Fast Track involves engaging the parents and specifying what improvements need to be made over a fixed timeframe – usually 8 weeks. Where no improvement is made within the specified timeframe, legal proceedings are initiated in the Magistrates Court.

5.4.1. Fast Track Process

Schools will identify pupils with attendance below agreed criteria – *this is usually those with attendance of 90% or less over a 3 month period, with unauthorised absences of 10 sessions or more*. Schools will inform the Education Welfare Service of those identified pupils.

The Education Welfare Service will write to the parents of identified pupils, inviting them to attend a meeting in school between them, the main staff link at the school, the lead Education Welfare Officer, any other relevant agency and, where appropriate, the pupil. The letter will stipulate the legal responsibilities and implications of the pupil's absence from school. ***If parents do not attend the meeting, legal proceedings may be initiated without further warning.***

At the meeting, parents will be advised that legal action can be instigated at that time. However, if the pupil and parents agree to address the poor attendance immediately, **prosecution can be deferred for 8 weeks.**

During the meeting, the pupil and parents will have the opportunity to give reasons for poor school attendance – the school will attempt to resolve any school-based issues raised. ***The only statutory defences to the offence for a parent failing to secure their child's regular attendance at school (Section 444(1) of the Education Act 1996) are set out in the bullet points in Section 3 above.***

Before the meeting concludes, the pupil and parents will be informed that the pupil's attendance must be at least 95% during the 8 week period, with no unauthorised absence. The pupil and parents will then be required to sign an acknowledgement that they are participating in Fast Track.

After 4 weeks, a review meeting will be held and the pupil's attendance will be checked by the lead Education Welfare Officer. If this shows appropriate improvement, parent/s will be made aware of this and a date will be offered for a final review meeting. If there are more than 2 sessions of unauthorised absence, the Education Welfare Officer will either offer further advice by way of an action plan or, dependent on how many sessions have been missed and the engagement of the parent/s and child, could move straight to court proceedings.

After the 8 week period has passed a further review meeting will be held and the pupil's attendance will be checked again by the lead Education Welfare Officer. If this shows that attendance has improved to meet the Fast Track criteria of 95%, the Education Welfare Officer will inform the pupil's parents of this at the meeting and in writing. However, if there are 4 or more sessions of unauthorised absence during the 8 week period, the Education Welfare Officer will commence legal action.

Where a pupil's attendance improves and a decision is taken not to proceed to Court and the pupil's attendance subsequently deteriorates, the school will re-refer to the Education Welfare Service. After making relevant enquiries, the Education Welfare Service may instigate legal action.

6. Penalty Notices

Penalty Notices offer parents the opportunity to discharge any liability to conviction by payment of a penalty fine (Section 23 of the Anti-Social Behaviour Act 2003). The Education Welfare Service uses Penalty Notices for unauthorised holidays during school term-time; some cases of repeated unauthorised absence over a 4 week period; or where a pupil is persistently arriving at school after registers have closed.

In Wokingham Borough, Penalty Notices are administered and issued by the Education Welfare Service on behalf of all schools in the area – including academies and free schools. The use of Penalty Notices is in accordance Wokingham Borough Council's Penalty Notice Code of Conduct.

There is no right of appeal by parents against a Penalty Notice.

7. Part-Time Timetables

There is no legal basis upon which to implement a part-time timetable. However, in certain circumstances, Wokingham Borough Council recognises that this may be a necessary step in the process to a pupil returning to full-time education. The Education Welfare Service has a [Part-Time Timetables Policy](#), which sets out the agreed approach on the appropriate use of part-time timetables and the standard procedure to be followed.

8. School Attendance Orders

A School Attendance Order (SAO) is a notice which is served to parents, requiring them to register their child at a named school. A SAO will only be issued if, after all reasonable steps have been taken by Wokingham Borough Council and parents have been given reasonable time and opportunity to explain or improve education arrangements or the educational provision remains unsuitable.

The notice period given by Wokingham Borough Council for issuing a SAO shall not be less than 15 working days, beginning on the day that the notice is served.

Prior to the notice being issued, the Council will attempt to address the situation informally by telephone, email, letter, or a meeting. If none of these attempts address the situation, Wokingham Borough Council will send a written request for information about the education being provided to the parents with a 4 week notice period to respond. If no evidence is provided of a suitable education otherwise than at school, a SAO will be issued. A SAO is considered an instrument of last resort.

Parents may present evidence of a suitable education to Wokingham Borough Council at any point following the issue of the order and apply to have the order revoked. If the Council refuses to revoke the order, parents can follow the complaints procedure in the first instance and then refer the matter to the Secretary of State. If Wokingham Borough Council prosecutes parents for not complying with the School Attendance Order, the Court will decide whether or not the education being provided is both suitable and efficient.

9. Complaints

Wokingham Borough Council is committed to developing good working relationships with children, young people and families. However, where a complaint arises, contact should be made with the Education Officer in the first instance. If the response is considered unsatisfactory or the complaint relates to the Education Officer, contact should be made with the Principal Education Welfare Officer, who can also signpost to the Council's complaints process, where necessary.

Where parents have a concern relating to the child's school, teacher, or a particular issue with a school policy, this will be referred to the school's complaints procedure. It is extremely unlikely that the Education Welfare Service would have any involvement in these matters. Parents' legal responsibility to ensure that their child is in receipt of education remains whilst the school deals with the complaint.

10. Contacts

Key contacts are provided below:

Education Officer	Learning & Achievement Partnership Education Welfare Team Wokingham Council Offices Shute End RG40 1BN Tel: 0118 974 6000
Principal Education Welfare Officer	Learning & Achievement Partnership Education Welfare Team Wokingham Council Offices Shute End RG40 1BN Tel: 0118 974 6000
Special Educational Needs and Disabilities Team	Learning & Achievement Partnership Wokingham Council Offices Shute End RG40 1BN Tel: 0118 974 6000
NEET Prevention Team	Learning & Achievement Partnership Wokingham Council Offices Shute End RG40 1BN Tel: 07710 117650 Tel: 0118 974 6000
Admissions Team	Shute End Wokingham RG40 1BN Tel: 0118 974 6000
Children's Social Care	Shute End Wokingham RG40 1BN Tel: 0118 908 8002