Nottingham City Council

Education Welfare and CME Service

Enforcement Policy

October 2026



Introduction

Nottingham City Council is committed to ensuring pupils access and attend school regularly to maximise their life chances and opportunities. Attendance at school is viewed as a protective factor and the Local Authority takes a serious view of non-school attendance.

The Education Welfare and CME Service (EW & CME Service) is the investigation and enforcement team which carries out the Local Authority's statutory responsibility for the following:

- Parental responsibility measures with regards to school attendance and behaviour
- Children in Employment
- Children in Entertainment
- Children Missing Education
- Children who are not on roll at a school
- Children Home Educated

Nottingham City Council (the Local Authority) is committed to ensuring that every child has a right to education, their welfare is paramount, and they are protected from exploitation and abuse. This commitment underpins the role of the EW & CME Service in addressing the bulleted points above. Enforcement to ensure this is supported through both criminal and civil enforcement measures.

Any reference to Schools in this document will refer to Maintained Schools, Academies, Free Schools, Pupil Referral Units and Alternative Education providers.

1. Responsibilities

Parents

Section 7 of the Education Act 1996 states that it is the duty of the parent of every child of compulsory school age to ensure that their child receives an efficient full-time education that is suitable to his age, ability and aptitude, and to any special educational needs he may have, either by regular attendance at school or otherwise.

The definition of "parent" is clarified by Section 576, Education Act.

A parent can be:

- All natural parents, whether married or not,
- Any person who, although not a natural parent, has parental responsibility for a child or young person,
- Any person who, although not a natural parent, has care of a child or young person.

Schools

Schools are required to take an attendance register twice a day, at the start of the morning session and once during the afternoon session. The register must show whether any absence is authorised or unauthorised. It is the school and not the parent who authorises absences.

All Schools should have an attendance policy, which outlines effective systems for encouraging regular attendance, investigating underlying causes of poor attendance and using the referral pathway when attendance concerns remain. This Policy is approved and reviewed by the Governing Body

A Request for Service is made to the EW & CME Service when the school interventions have not resolved the attendance concerns having followed the Working Together to Improve School Attendance *and* the National Framework for Penalty Notices for school absence (the National Framework), DfE guidance.

Education Welfare and CME Service

The EW & CME Service is responsible for carrying out the Local Authority's functions for ensuring that a child is receiving suitable education either by regular attendance at school or otherwise and ensuring that parents meet their duties. (Sections 437-447 of Education Act 1996). In appropriate cases of irregular school attendance and the above responsibilities, the Education Welfare and CME Service has delegated powers to institute legal proceedings on behalf of the Local Authority.

Requests for Service

The trigger for a request for service will correlate to the service criteria in force at the time. There are two triggers for request for service

- 10 unauthorised absences over a rolling 10 school week period.
- Penalty Notices for unagreed leave of absence (including unagreed holidays)

Requests are normally accepted from:

- Head Teachers or their representatives.
- Local Authority Services and partner agencies
- Police Officers and Community Support Officers

The DfE's 'Working Together to Improve School Attendance', has replaced all previous guidance on school attendance for maintained schools, academies, independent schools and local authorities.

In line with Nottingham City Council's Target Operating Model (TOM), all Nottingham City Schools will be separated in two clusters – North and South. Each school will have a named point of contact (linked Education Welfare Officer) within the Service to

provide support and the core functions free of charge (regardless of type). These functions are as follows- communication and advice, multi-disciplinary support for families (TAF), Targeted Support Meetings and legal intervention as a last resort.

The purpose of the termly Targeted Support Meeting are to identify pupils that are persistently and severely absent from school, or those at risk of becoming so.

Where early intervention has been unsuccessful, schools are expected to discuss cases whereby a Request for Service may be appropriate, and formal support is considered such as parenting contracts, Education Supervision Orders, and legal intervention.

Year 11 requests for service must be submitted before the end of spring term. Year 11 requests for service after that date should be directed to Futures and appropriate support agencies. Year 11 pupils who have siblings with attendance concerns will be considered for legal intervention along with their siblings.

Response to Requests for Service

The response will be dependent on the evidence obtained from the school via a Targeted Support Meeting or school contact day. The evidence should be reviewed in line with the 'Working Together to Improve School Attendance' DfE guidance. There is a graduated but flexible response depending on the individual circumstances-

- Advisory Notice (AN)-where it has been established that the evidence indicates prosecution is not appropriate. An Advisory Notice is issued to the parent informing of the attendance concerns. The Advisory Notice is valid for six months. Schools can make requests for service if there are further unresolved unauthorised absence
- Penalty Notice
- Prosecution under 443 of the Education Act, 1996
- Prosecution under 444(1) of the Education Act, 1996
- Prosecution or under 444(1A) of the Education Act, 1996
- Application for Education Supervision Order

Case Reviews

Prior to undertaking any enforcement action, each individual case will be assessed to ensure the Local Authority is discharging its duty fairly, consistently and in the public interest. Evidence of Family Help interventions to support the family will be taken into consideration. An Education Supervision Order is considered on an individual basis and must be considered before legal proceedings are initiated. In determining the appropriate action, the EW & CME Service will consider issues arising from the case work or case review such as:

(a) Statutory defences
(b) The level of unauthorised absence
(c) Proportionality

(d) Previous convictions/Penalty Notices
(e) The child's special educational needs and disabilities, including any Education, Health and Care Plan (EHCP)
(f) The specified days of exclusion
(g) Level of engagement of parents

The Local Authority will have due regard to its duties under the Equality Act 2010 when determining enforcement action.

Penalty Notices

Penalty Notices are generally used as an alternative to prosecution where a parent has failed to secure their child's regular attendance at school. They should usually be considered for first offences involving unauthorised absence. Penalty Notices should not be issued unless there is a realistic prospect of securing a conviction, as any subsequent prosecution relates to the underlying unauthorised absence rather than the failure to pay the Penalty Notice.

All Penalty Notices will be issued in accordance with Nottingham City Council's Penalty Notice Code of Conduct, which should be read alongside this Enforcement Policy.

National Framework for Penalty Notices

The National Framework for Penalty Notices, introduced on 19 August 2024 and retained within the July 2026 statutory guidance, establishes a national threshold for when a Penalty Notice must be considered. This threshold is met when a child accumulates 10 sessions of unauthorised absence within a rolling 10 school week period. The unauthorised absences do not need to be consecutive and may comprise any combination of unauthorised absence codes. The 10-school-week period may span different terms or academic years.

Schools and local authorities should not operate a blanket approach to issuing Penalty Notices. Consideration should be given to the individual circumstances of each case, including whether support and intervention remain appropriate. A Notice to Improve may be issued where support is appropriate but has not been successful or sufficiently engaged with, providing parents with a final opportunity to improve attendance before legal action is taken.

A Notice to Improve will normally be considered where support and intervention have not secured improvements in attendance, but where there remains a reasonable prospect of parental engagement. The Local Authority may proceed directly to a Penalty Notice or prosecution where this is considered appropriate

Local authorities retain discretion to issue a Penalty Notice before the national threshold is met where there is evidence that parents are deliberately avoiding the threshold, for example through repeated occasions of term-time leave or other patterns of unauthorised absence.

Penalty Notice Escalation

For unauthorised absence:

- **First Penalty Notice**: £160 per parent, per child, reduced to £80 if paid within 21 days. Payment must be made within 28 days.
- **Second Penalty Notice** issued to the same parent for the same child within a rolling three-year period: £160, payable within 28 days, with no reduced payment option.
- **Third and subsequent offences** within the same three-year period: a Penalty Notice cannot be issued and alternative legal intervention should be considered, including prosecution under section 444 of the Education Act 1996.

The Local Authority retains the discretion to proceed directly to prosecution where a Penalty Notice is not considered appropriate.

Nottingham City Penalty Notice Triggers

The Local Authority issues Penalty Notices to ensure a fair, consistent and independent approach across all schools. Penalty Notices may be considered where:

- A child has accrued 10 sessions of unauthorised absence within a rolling 10 school week period; or
- A parent has failed to comply with a Notice to Improve; or
- Other attendance support and intervention have been exhausted and legal intervention is considered appropriate.

Leave of Absence

In cases of unauthorised leave of absence, a Penalty Notice may be considered where:

- The unauthorised leave results in the national threshold of 10 sessions of unauthorised absence within a rolling 10 school week period being met; or
- There is evidence that a parent is deliberately avoiding the national threshold through multiple periods of unauthorised leave; or
- The circumstances otherwise warrant legal intervention in accordance with the Local Authority's Code of Conduct.

Other Circumstances

Penalty Notices may also be issued in relation to:

- Children found in a public place during school hours whilst subject to suspension or permanent exclusion during the first five school days of the exclusion period.
- Requests made on behalf of neighbouring local authorities.

The National Framework does not apply to Penalty Notices issued in relation to children found in a public place during a suspension or exclusion.

Notification

Parents are advised of the use of Penalty Notices through the school's attendance policy and/or a formal notice from the EW & CME Service. Parents also receive a written notice as part of the exclusion notice issued to parents in respect of the specified days.

Period of Absence

The period of absence in relation to the issue of a Penalty Notice will correlate to the service referral criteria in force at the time of the referral and the Penalty Notice Code of Conduct. The dates of the Summons/Single Justice charge will relate to the dates of the Penalty Notice.

Withdrawal of Penalty Notices

A Penalty Notice may only be withdrawn in the following circumstances:

- Where it should not have been issued (e.g. no offence has been committed or it is outside the terms of the local code of conduct).
- Where it has been issued to the wrong person
- It contains material errors.
- Where the Local Authority will not take any further action

Administration, Retention of Receipts and Revenue Collection

The EW & CME Service administers the scheme for Nottingham City Council and revenue from the scheme will be retained to offset the costs of the administration of the scheme. Collection of PN receipts will be through the current City Council scheme.

Penalty Notices

Parents may discharge potential liability for an offence by paying a Penalty Notice. For a first Penalty Notice issued to a parent for a child within a rolling three-year period, the penalty is £160, reduced to £80 if paid within 21 days. The full amount of £160 is payable if payment is made after 21 days but within 28 days.

A second Penalty Notice issued to the same parent for the same child within the same rolling three-year period is charged at £160, payable within 28 days, with no opportunity to discharge the notice at the reduced rate.

A maximum of two Penalty Notices may be issued to a parent for the same child within a rolling three-year period. Where a third or subsequent offence occurs during that period, alternative legal interventions should be considered, including prosecution under Section 444 of the Education Act 1996. The three-year rolling period is calculated from the date of issue of the first Penalty Notice.

Penalty Notices must be paid in full; part-payments or payment by instalments are not permitted. There is no legal requirement for a Penalty Notice to be issued before other enforcement action is considered, and the Local Authority retains the discretion to pursue alternative legal interventions where appropriate.

Enforcement

If a Penalty Notice is not paid within the determined timescales the EW & CME Service will prosecute for the offence of failing to secure regular attendance under s444(1) Education Act 1996, not for the non-payment of the PN. Penalty Notice prosecutions will follow the Single Justice Procedure. Any information pertaining to the non-payment of a Penalty Notice may form part of the evidence in any subsequent prosecution.

Appeal

There is no right of appeal regarding the issuing of a Penalty Notice. Any queries regarding Penalty Notices will be directed to the referrer, who is usually the school the child is on roll at.

2. Legal Proceedings

Prosecutions can be initiated in relation to:

- Prosecutions under Section 443, Education Act 1996
- Prosecutions under Section 444(1), Education Act 1996
- Prosecutions under Section 444(1A), Education Act 1996
- Breach of a School Attendance Order
- Breach of an Education Supervision Order by a parent
- Breach of a Parenting Order by a parent
- Employer who continually breaks the law or is exploiting a child

Statutory Orders

Education Supervision Orders 447 Education Act 1996

The application of an Education Supervision Order (ESO) is subject to the rules of the Family Proceedings Court. An ESO must be considered as an option before prosecuting.

Breach proceedings in respect of an ESO by a parent may be subject to laying information in the Magistrates Court. Parents who “persistently fail to follow directions” under the order are guilty of an offence. Persistent failure will be established by a failure to comply with any particular direction or repeated failure to observe directions.

To establish persistent failure, the EW & CME Service will issue warning notices and non-compliance is sufficient to consider an application to the Magistrates Court in respect of criminal proceedings. In the absence of a defence the EW & CME Service will take proceedings in this respect.

Breach proceedings in respect of an ESO by a child may be subject to laying information in the Family Court and the matter would be referred to Social Care for consideration of support required or initiation of care proceedings.

The Supervising Officer for the ESO will be determined on a case-by-case basis.

School Attendance Orders s437 Education Act 1996 (SAOs)

SAOs are a statutory order enabling the LA to direct a parent to secure education of a child to a school where a child is not a registered pupil at any school. This order may be used where:

- A child is educated otherwise than at school and it has been decided that such education is inadequate
- Where children have moved into an area without being admitted to a school, or excluded
- Children who have reached the compulsory school age and have not been registered at a school, or the parents have not informed the LA of their intention to educate otherwise than at school.

The order becomes spent once a prosecution for non-compliance has been taken. Non-compliance constitutes an offence under s443 Education Act 1996 and proceedings are listed in the Magistrates Court.

Request for Parenting Order due to behaviour

The application of a Parenting Order to address behaviour is subject to the rules of the Family Proceedings Court. A potential outcome of the court for an offence under S444 Education Act 1996 is also a Parenting Order. An Education Welfare Specialist will act as the Responsible Officer and monitor progress and conformity of the order.

A member of school staff or another agency will act as the contact that will work closely with the family and report back to the Education Welfare Specialist where the requirements of the order are failing. The Education Welfare Specialist will be responsible for considerations of any further action where an order is failing. Schools inform parents on the use of parenting orders through their Behaviour and/or Attendance Policy. Where an order is not being complied with it may be used in evidence for future proceedings.

Child Employment and Entertainment

This section deals with the matters to be considered in applying for a Court Order/warrant to enter premises in respect of child employment and children in entertainment and securing evidence under Powers of Entry s28 Children and Young Persons Act 1933.

Policy in respect of Powers of Entry

Before applying for a Court Order to enter premises officers should obtain best evidence, which can be evaluated and considered by an objective third person. The officer must establish grounds of "reasonable suspicion" before exercising the Code.

The officer will take reasonable steps to check that the information is accurate, recent and not provided maliciously or irresponsibly. Any anonymous source must be corroborated.

The officer shall ascertain as specifically as possible the nature of the persons or articles concerned and their location including information about the occupier, the premises and if they have previously been searched.

An application for a Court Order will be supported by information in writing. If an application is refused no further application will be made unless supported by additional evidence.

Any searches of premises and evidence seized under the Court Order will be processed commensurate with the Rules of Evidence and the Police and Criminal Evidence Act 1984.

Statutory Notices

Statutory Notices under Section 559 of the Education Act 1996 can be issued on employers if a child's employment is prejudicial to this health or render him unfit to access the full benefit of the education provided or impose restrictions on the employer's employment of children.

Statutory Notices can be issued under section 559(1) if:

(a) The identity of the child is known
(b) The employment is illegal under the terms of the byelaws made under section 18(2) Children and Young Persons Act 1933
(c) No employment licence has been issued in respect of that child
(d) Non-compliance of the notice constitutes an immediate offence
(e) This notice is intended to be used to terminate the immediate employment of a child.

Statutory Notices can be issued under Section 559(2) may be issued if:

(a) it is suspected that a child is employed
(b) The identity of the child is not necessary
(c) A reply from the employer is required even if no children are employed
(d) Failure to reply within 14 days of the date of the notice constitutes an offence
(e) This notice is used to obtain details of children being employed
(f) Before bringing proceedings for a breach of this notice the identity of the children must be established.

Conditions for Service of section 559 Notices

Statutory Notices will only be used where effective action needs to be taken as quickly as possible to remedy a deteriorating situation. The notice may only be issued and signed by an authorised officer. Time limits are dictated by Statute, but an extension may be agreed with the employer where it is considered appropriate. Failure to reply to notices will be undertaken by an established prosecution procedure but officers shall have sufficient evidence available to justify the issue, be prepared to pursue non-compliance in the courts and be satisfied those proceedings are likely to succeed. Consideration shall be given to informing other agencies such as Trading Standards or the Health and Safety Executive.

The Decision to Prosecute

The referral criteria employed by the EW & CME Service at the time forms the basis upon which a referral will be accepted to support the initiation of proceedings in whichever form.

In all cases, the current trigger for issuing a Penalty Notice is decided on a case-by-case basis as outlined in the case review section.

Legal proceedings will be initiated if:

- the Penalty Notice has not been paid following the issuing of a court action letter
- the threshold set out within the National Framework for Penalty Notices or other evidential threshold for prosecution has been met, or
- there has been a breach of an Advisory Notice

When considering the use of Penalty Notices and prosecutions, the EW & CME Service must give regard to the Code for Crown Prosecutors. In all cases, consideration must be given to firstly the evidential test, namely is there sufficient evidence to provide a realistic prospect of conviction, consider what the defence case may be and how it is likely to affect the prospects of conviction. Secondly, the public interest test is applied where factors such as culpability of the parents, the impact on the community and whether the prosecution is proportionate to the offence are considered. The decision to prosecute is based on the evidence provided, the public interest, the interest of justice and not solely obtaining a conviction.

Where a breach of regulatory orders is established, it is important to evidence either a persistent failure to comply or that the nature of the breach is so serious that it warrants intervention, and the evidential and public interest test are met to prosecute.

Cases can be listed in Court by two different methods:

1. Single Justice Procedure Notices for 443 and 444(1) offences
2. Listed at Nottingham Magistrates for 444(1A) offences

Before bringing a prosecution, the prosecuting officer must be satisfied that the case is supported by sufficient relevant evidence and must be:

- Admissible in court
- Relevant to the case

- Substantial in form and content
- Reliable
- Good prospect of securing a conviction
- Supported by legislation
- It meets the evidential test and in the public interest to prosecute.

The Codes of Practice of Police and Criminal Evidence Act 1984 must be followed where applicable.

Investigations and the decision making process should not delay the due process of justice and witnesses should be advised as to the progress of the case. The availability of witnesses must be established along with their competence and co-operation with the prosecution. Once a decision to prosecute has been made it should be disposed of without delay. Legal Services will either lead or support on any case involving not guilty pleas by parents.

Enforcement Options

The EW & CME Service will achieve and maintain consistency concerning enforcement action and ensure all enforcement decisions are fair and balanced.

Enforcement responses to a Request for Service

- Take no action as there is insufficient evidence to support a prosecution
- Issue Advisory Notices when the evidence does not support a prosecution
- Issue a Notice to Improve
- Issue a Penalty Notice
- Apply for Statutory Orders
- Issue Statutory Notices
- Prosecute the parent/s
- Support or undertake joint investigations with other enforcement agencies

Any decision to initiate legal proceedings will be made in relation to the above document.

The Local Authority will monitor the use of enforcement powers to ensure they are applied consistently, proportionately and fairly across all schools and cohorts.

This policy will be reviewed annually and updated as necessary to reflect changes in Department for Education guidance, legislation, case law and local circumstances.

Reviewed on: October 2026
Next review date: October 2027

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