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SEPTEMBER 2025**

**Solihull Metropolitan
Borough Council
(SMBC)**

**Attendance Enforcement
Handbook for Solihull Schools**

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SMBC

Attendance Enforcement – Handbook for Solihull Schools

Section 1 - Introduction

This document has been designed as a handbook for all Solihull schools, to give more detail and provide template forms/letters to support referrals for legal intervention for unauthorised absences and school non-attendance. This handbook MUST be read in conjunction with the SMBC Code of Conduct for Enforcement September 2025 and with oversight of the statutory guidance - [Working together to improve school attendance - GOV.UK](#)

The Education Participation Advisory Service (EPAS) Attendance Teams can support schools with advice and guidance before any referrals are made.

An overview of the processes can be found in at [Attendance Enforcement Process Flow.pdf](#)

Whilst schools may commission external agencies to carry out attendance functions on their behalf, SMBC will communicate directly with the school regarding their decision to commence legal action and to inform schools whether penalty notices are paid, withdrawn or lead to prosecution.

1.1 The use of unauthorised absence codes.

The register is a legal document and should be an accurate reflection of a pupil's attendance. The decision on whether or not to authorise a particular absence rest with the head teacher. Legal action can only be initiated on unauthorised absences set out in the table below:

| | |
|---|--|
| G | Holiday not granted by the school |
| O | Absent in other or unknown circumstances |
| U | Arrived in school late after registration closed |

1.2 Rationale for Statutory Intervention

Why should we do it?

- To improve attendance and attainment
- To bring in line with national framework for Penalty Notices (PN) under 'Working together to improve school attendance' guidance (Aug 24) - [Working together to improve school attendance - GOV.UK](#)
- Shows the level of importance schools place on the education they are providing.
- To have a fair and consistent approach for families in carrying out statutory interventions.

What schools should do?

- Follow the new working together guidance on the PN framework
- Read SMBC code of conduct for enforcement.
- Regularly reinforce that Leave of Absence (LOA) in term time will not be authorised unless in exceptional circumstances, and ensure parents clearly understand what to expect if they choose to take leave.
- Ensure the response to ALL parents is consistent and clear.
- Ensure processes and policies are in place which are consistent and accessible for every parent. Attendance policies should be annually reviewed

1.3 Referrals for child on a CIN/CP or are LAC

It would be expected that attendance concerns are addressed initially through any CIN or CP. It may be an outcome of the child's plan to initiate legal proceedings. Schools need to confirm that the social worker involved with the family is aware of referrals made to the AET and support this. This needs to be evidenced on referrals.

On receipt of a referral the AET will contact the social worker for any child that is open to Children's Services to discuss the case with them.

As SMBC are the corporate parent for children that are looked after by the local authority, legal action would not be considered for LAC. Advice and support can be given in these cases by the AET.

A referral to initiate formal legal procedures can ultimately result in the issue of a Penalty Notice, or prosecution in the Magistrate's Court. This formal intervention should only be used when schools have exhausted all other strategies but have failed to improve the pupil's attendance. However, formal or legal action can be an effective deterrent preventing a pattern of school non-attendance.

Section 2 - Notice to Improve (NTI) Referrals

2.1 SMBC arrangements for the use of a NTI

A NTI is a final opportunity for a parent to engage in support and improve attendance before a PN is issued. If the national threshold has been met, and support is appropriate, but offers of support have not been engaged with by the parent, or have not worked, schools may refer to EPAS' Attendance Enforcement Team (AET) for a NTI to be sent.

Schools can discuss cases with EPAS' Attendance & EHE Advisory Team or the AET if they are considering making a referral for a NTI.

Schools can choose not to use a NTI in any individual case, including cases where support is not appropriate or where they expect that it would have no impact on a parent's behaviour (e.g. because the parent has already received one for a similar offence). In these circumstances a school may refer for a penalty notice or prosecution.

2.2 Process for Solihull schools to refer for a NTI to SMBC

A NTI may be issued once the threshold of 10 sessions of unauthorised absence across a rolling 10 school weeks¹ period has been met, and there have been specific attempts to engage with parents to improve their child's attendance. NTIs are bespoke to each child and will detail what sufficient improvement will look like.

¹ A school week means any week (Monday to Sunday) in which there is at least one school session. The 10 school-week period when the national threshold applies may span different terms or school years (e.g. 2 sessions of unauthorised absence in the Summer Term and a further 8 within the Autumn Term).

To make a referral you will need to submit:

- A completed NTI referral form - (Appendix A)
- A registration certificate signed by the headteacher showing unauthorised absences for 10 or more sessions, in rolling period of 10 school weeks.
- Evidence of phone calls to parents/carers
- Evidence of letters to parents/carers
- Evidence of an invitation to parents to an attendance support meeting
- Any other relevant evidence/ documents e.g. an attendance contract

2.3 When a NTI has been referred to the AET

Once a NTI referral is submitted by a school, the AET will check to ensure the correct documentation is enclosed. If the correct paperwork is not included or the work that has been undertaken is not sufficient the referral will be rejected.

A memo will be sent to school detailing the reasons for the rejection. It is important that all dates, names and evidence are correct as the case may proceed to a PN or court if further legal action is taken after a NTI is issued.

When referral has been accepted the AET will issue a NTI letter to all parents/carers requested. The NTI gives the parents/carers a 6 week period (30 school days) to improve attendance and list the attempts of support which have been made by the school to resolve the absence concerns. A copy of the NTI will be sent to school.

A NTI will include:

- Details of the pupil's attendance record and details of the offences.
- The benefits of regular attendance and parents' duty under Education Act 1996 (legislation.gov.uk)
- Details of the support provided so far and offers of further support appropriate.
- A 6-week improvement period (30 school days).
- What sufficient improvement looks like, so that a PN is not issued.
- A clear warning that a PN may be issued, or prosecution considered, if attendance improvement is not secured within the improvement period.

During the improvement period school must continue to monitor the child's attendance. Following the 6 week period, school and the AET will decide:

- If sufficient improvement during the NTI improvement period has been made – which may include evidence of no further unauthorised absences or sufficient amount of improvement tailored to the specific family circumstances **or**:
- If there is no improvement in attendance following the NTI 6 week period or conditions of the NTI have not been met, in discussion with the school, a penalty notice may be issued.

Schools are not required to wait until the 6 week period has passed before considering a PN, decisions will be taken on a case-by-case basis, based on the level of parental/pupil engagement and/or the level of attendance improvement noted.

In some circumstances a PN may be issued after the improvement period has ended if there are further unauthorised absences and another NTI is not appropriate. In exceptional circumstances the AET may decide to start prosecution as alternative to a PN being issued.

Section 3 – Penalty Notice Referrals

3.1 Key considerations prior to the issue of a PN for school absence.

The AET will assess any referrals or requests for the issuing of a penalty notice received from schools, police or other local authorities. The issue of PNs will only be administered by Solihull MBC, to fully comply with current legislation and ensure a fair and consistent approach and to also ensure that a PN is the best available tool to improve attendance and change parental behaviour.

In cases where support is not appropriate (for example, for holidays in term time), these will be considered upon referral from the school on a case-by-case basis.

Consideration will be given to whether it is in the public interest to issue a PN in each case given the local authority would be accepting responsibility for any resulting prosecution for the original offence in cases of non-payment.

Where pupils move between local authority areas, SMBC can be contacted at cross.border@solihull.gov.uk to find out if penalty notices have been issued previously. Where a pupil attends a school in Solihull but lives in a different local authority, the AET will contact the pupil's previous local authority, to establish if any previous PNs have been issued in the previous 3 years.

Parental Responsibility and who to consider when making a referral for legal intervention:

Schools need to consider where the guidance states that PNs should only usually be issued to the parent or parents who have allowed the absence (regardless of which parent has applied for the leave of absence). For example;

- Where there are two parents in the family home, both should be accepting day-day care/care and control. This includes step-parents.
- If parents are separated: consider whether the school has information to suggest the parent that the child does not live with has care and control and/or decision making in the absence. If this is not clear, the school need to decide if that parent is liable for the offence and should be fined.

PN charges:

A penalty notice is £160 if paid within 28 days of receipt of the notice. This will be reduced to £80 if paid within 21 days.

If the same offence is carried out within 3 years of the first, a second penalty notice issued to the same parent in respect of the same pupil but is charged at a flat rate of £160 if paid within 28 days.

A third penalty notice cannot be issued to the same parent in respect of the same child within 3 years of date of issue of the first. In a case where the national threshold is met for a third time (or subsequent times) within those 3 years, alternative action should be taken instead; this may include prosecution.

3.2 What is Leave of Absence (LOA)?

The Education (Pupil Registration) (England) Regulations 2006 [The Education \(Pupil Registration\) \(England\) Regulations 2006 \(legislation.gov.uk\)](#) prohibits the proprietor of a maintained school from granting leave of absence to a pupil, except where an application has been made in advance and the proprietor is satisfied that there are exceptional circumstances for agreeing to that application. *(Note: Department for Education guidance confirms that such requests should only be authorised in exceptional*

circumstances, which will not normally include family holidays. The issue of unauthorised leave of absence was also considered by the Supreme Court in the case of Isle of Wight Council (Appellant) v Platt (Respondent) - The Supreme Court

Only the head teacher at the school or, in certain circumstances, a member of staff delegated by the head teacher, can determine whether a LOA is classed as exceptional and therefore authorised.

A school cannot grant a Leave of absence retrospectively. If the parent did not apply in advance, the leave should not be granted.

3.3 Process to refer for a PN for a LOA.

Referrals for a PN LOA should be made as soon as possible but **within 20 school days of the leave being taken**. Requests received outside the period will not be accepted.

To make a referral you will require access to the Extranet. The online referral form can be found on the EPAS Extranet homepage – [Education participation advisory service \(EPAS\)](#)

Before completing a referral, please use the school's checklist (appendix F1) and the further information below. If there are material errors or the incorrect evidence is submitted, referrals will be rejected.

When completing a referral ensure that:

1. The pupil is of statutory school age (term after 5th birthday). A child reaches compulsory school age on or after their fifth birthday.
 - If they turn 5 between 1st January and 31st March they are of compulsory school age on 31st March;
 - if they turn 5 between 1st April and 31st August they are of compulsory school age on 31st August.
 - If they turn 5 between 1st September and 31st December, then they are of compulsory school age on 31st December.

A child continues to be of compulsory school age until the last Friday of June in the school year that they reach sixteen.

2. There are at least 10 sessions of unauthorised absences within a 10-week rolling period. In some circumstances this may be an accumulation of G and other O codes that relate to unauthorised leave of absences.
3. Parent/carers full names have been used in all letters i.e. Mr A Brown is not acceptable, the full forename must be used e.g. Mr Anthony Brown. The parent/carers date of birth should be entered on the referral if known.
4. If parent applied via a request form, this request form/notification must be date stamped by the school to show when it was received in school.
5. Letters from school must also be dated and have been sent **per parent per child**.

• Template letters in response to request for a LOA:

Appendix B, letters B1-B5 are example letters that can be sent to parents/carers in response to request for a LOA. Each individual school should state in their policy how they will respond to parents. We advise that school request a minimum of 4 school weeks notification prior to the leave being taken to give them time to respond.

If a leave of absence request form (appendix B) was received from the parent/carer within timescales set in the school's attendance policy and the request is **not being authorised**, letters B1 and B2 should be used (B1 for parent who applied and B2 for the other parent if you are considering a fine for them).

If the absence request form was received with insufficient time to respond as per the school's attendance policy and the request is **not being authorised**, letters B3 and B4 should be used.

B5 is to be used when the head teacher **approves/ authorises** the leave of absence.

• **Template letter in response to a LOA taken but no request made:**

If the parents/carers did not apply for leave but the school became aware via other means, template letter in Appendix B, B6 should be used, including evidence of how the school found out about the leave. **This letter needs to be sent ONCE THE CHILD HAS RETURNED TO SCHOOL.**

This can include:

- A transcript of a telephone conversation with a parent, signed and dated by the person who had the conversation.
- Evidence of the result of a phone call on the first day, or an international dialling tone being received.
- Transcript of a discussion in school with a parent or pupil signed and dated by the person who had the discussion.
- Evidence of a home visit by a member of school staff, where information may have been collected
- Copy of an email that the parent sent regarding the absence and reason why.

There may be cases where the parent has not requested leave of absence, but the school finds out about it by other means. This might be for example where a child says 'I'm going on holiday next week' then the school needs to make every effort to notify the parent before they go on the leave that permission has not been sought and the absence will be unauthorised unless the school decides it is a case of exceptional circumstances.

It is crucial that all information is accurate as errors will not be accepted. This is because evidence on the letters will be used in court if parents fail to pay the PN.

If a parent does not pay a fine and is taken to court, the onus is on the parent to prove why the child was unable to attend school including providing any medical evidence.

Family Emergencies:

If a parent notifies the school that their child's leave was taken due to a family emergency, it is the head teacher who needs to decide whether this absence should be authorised or unauthorised.

To help you in your decision to authorise or unauthorise the absence, schools should investigate further.

Some suggestions are;

- request details of flights if the emergency was abroad to establish when the flights were booked.
- obtain medical proof if for example they were on a holiday during school holidays but then child became unwell whilst on the leave.

Remember when submitting a referral to check for these common errors

- Address on registration certificate incorrect or not matching other documents
- Parent/carers first names not on letters and the referral. (we cannot send a penalty notice without a first name)
- Fine only requested for the mother but requests states 'only time dad can take off': should be requesting for both parents.
- Absent parent/carer has been included when they are not liable for the unauthorised leave
- Dates missing or incorrect dates on letters from school to parent/carers
- Incorrect sessions used
- Missing registration marks
- Child not of statutory school age

3.4 - Process to refer for a PN for Irregular School attendance

A PN for irregular school attendance will usually be sent following a NTI being issued (see section 2). Once the 6 week improvement period has ended, if there has not been sufficient improvement, schools need to contact the AET to discuss whether to proceed to a PN. In this case, an updated registration certificate signed by the head teacher will be required. A PN referral is not required in this instance.

There may be instances where schools want to apply directly for a PN (eg if parent has previously been issued a NTI and therefore another NTI may not change behaviour) or wish to apply for a PN before the end of the 6 week monitoring period. In this instance, to make a referral you will require access to the Extranet. The online referral form can be found on the EPAS Extranet homepage – [Education participation advisory service \(EPAS\)](#)

There may be circumstances where a referral is made by the school for a PN but the AET are aware that there have been previous legal interventions. A PN may not be an appropriate course of action and the AET will need to decide what further legal intervention is appropriate and will discuss with school.

Before completing a referral, please use the school's checklist (appendix F2) and the further information below. If there are material errors or incorrect evidence is submitted, referrals will be rejected.

When completing an online referral ensure that:

1. You have a registration certificate signed by the head teacher ready to upload. This must show 10 sessions of unauthorised absence within a 10 week rolling period. In some circumstances this may be an accumulation of G, O and U codes. It must be the legal registration certificate.
2. The address on the registration certificate and all other details must correspond with the information on letters and the information you enter on the referral.
3. All evidence has been obtained and is ready to attach to the online referral - eg letters, details of contacts, home visits/phone calls/meetings/attendance contracts.

Once the referral has been submitted the AET will assess all the evidence which will be checked against the details entered on the referral. If the referral is rejected the school will receive a memo detailing the reasons for rejection.

Remember when submitting a referral to check for these common errors

- Address on registration certificate incorrect or not matching other documents
- Parents' first names missing on application form (we cannot send a Penalty notice without a first name)
- should both parents be included in process. If so need we evidence of contact with both parents
- School's information not up to date with status of parents ie mom and dad on registration certificate but only applying for on parent to receive letter
- Incorrect sessions used
- Missing registration marks
- Child not of statutory school age
- Lack of evidence of contact with parent
- Too much of a gap between sending PWN and applying for PN (*term*)???
- **It is crucial that all information is accurate as errors will not be accepted.**

3.5 Issuing PNs for LOA and Irregular School attendance

When a referral for a LOA or irregular school attendance has been accepted a PN will be issued by the AET. The school will receive a memo stating the date the PN was sent.

When the PN has been issued the parent/carer must pay within 28 days. If paid, school will receive a memo confirming this.

3.6 Non-payment of PNs for LOA

Once the 28 days has passed, if payment has not been received the AET will write to the parent to notify them that SMBC is considering prosecution. In exceptional circumstances late payment might be accepted and this will be at the rate of £160. If further payment is not made a court file will be prepared by the AET, to initiate prosecution in the magistrate's court under the Single Justice Process (SJP).

The AET will notify school that the file has been prepared and sent to SMBC legal services. We will also notify school when a court date has been set and the outcome of the prosecution.

3.7 Non-payment of PNs for Irregular School attendance

Once the 28 days has passed, if payment has not been received the AET will write to the parent to notify them that SMBC is considering prosecution. In exceptional circumstances late payment might be accepted and this will be at the rate of £160.

If further payment is not made the AET will contact school to request the following documents to support the court file:

- a section 9 statement (appendix D statement example)
- signed registration certificate
- head teachers confirmation document of where registration certificate was produced (appendix E)

The above documents must be completed and returned to AET within 2 school weeks of the request and is required for SMBC to proceed with prosecution. The AET will then prepare the court file and send it to SMBC legal services to initiate prosecution in the magistrates court under the Single Justice Process (SJP).

Guidance and support will be given by the AET for any school that requires additional support in completing the required documentation for court files.

It is paramount that school notify us of any changes between the time the PN is issued and the court date (for example if the child has left the area) so that we can discuss whether to continue with the prosecution.

The AET will notify school once there is a court outcome. Please note it can be a few months before the case is heard.

3.8 Excluded Child in a Public Place

This is when the child in question is present in a public place during school hours without reasonable justification during the first five days of each and every period of exclusion. The parent/carer must have been notified by the school at the time of the exclusion of their duty and the dates it relates to.

3.9 Process to refer for a PN for an Excluded Child in a Public Place

If school becomes aware of a child that is in a public place during the first 5 days of their exclusion, the school must contact the parent to understand the reasons for them being in a public place during school hours. If they are not satisfied that the reason given is reasonable then they should contact the AET to discuss further.

The AET will decide on next steps and may decide that a PN is appropriate. When an Exclusion PN is imposed, a fee of £60 per parent per child is payable within 21 days of issue of the notice; and £120 if paid between 21 and 28 days of issue of the PN.

Section 4 – Prosecution Referrals

4.1 School Actions Prior to the Referral for Prosecution

Schools are expected to have taken all reasonable steps to identify parents/carers and have included them in all attendance concerns.

For a referral to be made to the AET for prosecution, evidence of intervention must be provided and should include the following:

- A signed registration certificate clearly showing unauthorised absence.
- Evidence of text messages or telephone contact logs
- Copies of any letters sent to all parents/carers including a letter offering a meeting to discuss support to improve attendance that must be within the 10 week rolling period
- Details of any home visits completed, times and dates and whether parents were spoken to.
- A copy of any medical evidence that has been provided by parent to school.
- Details of parental/carer engagement or lack of engagement should be recorded.
- Copy of any attendance contracts sent to all parents

- If the child is subject to a Child in Need or Child Protection plan, evidence that the social worker involved with the family is aware of the referral being made and supports this.
- Whether there are any SEND/Mental health or other circumstances that have been considered before applying for prosecution.

4.2 Referral process for Prosecution

Schools should complete the Prosecution referral form (Appendix C) and provide the supporting documents as outlined above. Once all the evidence has been gathered the referral should be emailed directly from the school to: attendanceenforcement@solihull.gov.uk

4.3 What happens when a Prosecution referral has been submitted to AET

Once the AET receive the request for prosecution, the evidence schools have attached will be checked against the details completed on the referral form.

If further clarification or information is required or the referral is likely to be rejected, an officer from the AET will contact the school to discuss further. If the referral is subsequently rejected, school will receive a memo confirming the reasons why.

If the referral is accepted school will receive a memo to confirm this.

There are 2 types of prosecution the AET will consider;

1. s4441 of the 1996 Education Act – Single Justice Procedure (SJP)

The SJP route will be initiated when there has been a previous conviction for non-payment of a PN or where there have been 2 previous fines within a 3 year period.

The AET will contact school to request the following documents to support the court file:

- a section 9 statement (appendix D1 statement template and D2 statement example)
- signed registration certificate
- head teachers confirmation document of where registration certificate was produced (appendix E)

The above documents must be completed and returned to AET within 2 school weeks of the request as they are required for SMBC to proceed with prosecution. The AET will then prepare the court file and send it to SMBC legal services to initiate prosecution in the magistrate's court under the SJP.

Guidance and support will be given by the AET for any school that requires additional support in completing the required documentation for court files.

It is paramount that school notify us of any changes between the time the PN is issued and the court date (for example if the child has left the area) so that we can discuss whether to continue with the prosecution.

The AET will notify school once there is a court outcome. Please note it can be a few months before the case is heard.

2. s4441(a) of the 1996 Education Act – aggravated offence

If there has been previous convictions for the s4441 offence the AET may consider prosecuting a parent under the aggravated offence.

A letter will be sent to parents advising them of the possibility of prosecution. The letter has a Police and Criminal Evidence (PACE) caution and the caution is also verbally delivered to parents during the process.

An Education Network Meeting takes place where an action plan is drawn up to avoid prosecution. This is reviewed over a period of agreed time with agencies, parent and child (if secondary school age they are invited to attend the meeting). There is usually at least one further review meeting arranged to review the action plan agreed.

If there is no improvement the AET will send a court warning letter to parent to advise them that SMBC will be starting legal proceedings. School will need to provide the following documents to the AET, to support the court file:

- a section 9 statement (appendix D1 statement template and D2 statement example)
- signed registration certificate
- headteacher's confirmation document of where registration certificate was produced (appendix E)

These documents must be returned to the AET within 2 school weeks of the request as they are required for SMBC to proceed with prosecution. The court file will then be completed by the AET and submitted to the SMBC legal services team. A memo will then be sent to school confirming the court file has been submitted.

The AET will keep the school updated throughout the process and once the court have heard the case the AET will send a memo to school with the outcome.

Section 5 – School Attendance Order (SAO)

TBC

Section 6 – Education Supervision Order (ESO)

The Children Act of 1989 allows SMBC to apply for an Education Supervision Order (ESO) on any child of compulsory school age, who, it is felt, is not being properly educated. A local authority may apply for an ESO instead of, or as well as, prosecuting the parents. A local authority is under a duty to consider applying for an ESO before starting legal proceedings against a parent.

Section 7 - Contact details

For further information and advice please contact the EPAS Attendance Teams on:

Attendance and EHE Advisory Team:

- Telephone number: 0121 704 6191
- Email: attendanceenquiries@solihull.gov.uk

Attendance Enforcement Team:

- Telephone number: 0121 704 6131
- Email: attendanceenforcement@solihull.gov.uk

APPENDICES

Forms to be linked to Extranet

draft