

Briefing Note

Context

Hyper Link to School attendance and parental measures – Updated Jan 2017

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/581539/School_attendance_parental_responsibility_measures_statutory_guidance.pdf

Bromley LA

The EWS undertake legal action on behalf of the LA. In doing so will adhere to The Code for Crown Prosecutors.

This is formed of two stages:

1. Evidential
 - Can the evidence be used in court
 - Is the evidence reliable
 - Is the evidence credible

2. Public interest
 - How serious
 - Level of culpability
 - Impact on community
 - Is prosecution proportionate response

As you are aware, education welfare officers (EWO) no longer have a presence in all of the Bromley Schools.

Schools refer into the service for legal disposal of their poor attenders. Therefore on receipt of a referral, the evidence relied upon to prosecute, needs to be rigorously challenged, in line with CPIA Act (Criminal Procedures and Investigation Act)

For schools that have bought into EWS service and early intervention work has been unsuccessful, the case will then be handed to a team member who will commence the process with a visit to the family. This ensures an equitable service in terms of impartiality.

Process:

Referral will be allocated to an Officer who will undertake the following process in sequence:

- Acknowledge referral and advise Parent of referral
- Confirm visit to the school (in order to obtain full background; statements from staff and secure exhibits)
- Home visit to parent – to establish that there are no unmet needs, unidentified safeguarding concerns, and parents view of situation
- Evaluation of evidence and whether there are any other leads to follow
- Parent invited for interview under caution (securing admissible evidence) PACE Regulations 1984
- Further evaluation of case with SEWO, where a decision will be made on level of disposal – (placed before CORE panel to ensure there is no additional information or circumstances that should prevent prosecution.)
- File completed, with Officer's investigation statement and handed to senior education welfare officer(SEWO) for compiling and court action

Court Action Process

There is now a two tier process for education cases in terms of prosecution disposals.

S444 (1) Education Act – Bromley Magistrates Court is now running the Single Justice Procedure – This means that all documentation required to prove the case is sent to the court and parent. The parent then has the ability to plead guilty by post or indicate a not guilty plea.

If they have pleaded guilty or not responded, the case is heard before the magistrates, without the need for representation from the LA – Outcomes are then notified to the LA

For cases where the parent has indicated a not guilty plea – court will issue a summons for an effective hearing.

S 443 of the Education Act 1996 – Failure to adhere to a School Attendance Order – Process as above

S44(1a) Education Act 1996 Aggravated level

SEWO will submit application for summons to court with supporting documentation.

Summons and supporting documentation served on parent

SEWO attends court to present case and any subsequent adjournments or trials.

If a not guilty plea is entered, and the defence is reliant on a legal technical defence the SEWO will liaise with Legal Services for advice, guidance and support.

Other legal disposals

Penalty Notices

Simple cautions

Parenting Orders

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Parenting Orders

Parenting orders are imposed by the court and the parents' agreement is not required before an order is made.

Parenting orders are available as an 'ancillary order' following a successful prosecution by the local authority for irregular attendance or breach of a school attendance order.

They are also available as a 'free-standing order' by direct application by the governing body of a school, or local authority to the Magistrates' Court, in cases either where exclusion has taken place or where there has been serious misbehaviour. **An application for a parenting order for misbehaviour must be made within 40 school days of the date upon which the latest instance of serious misbehaviour occurred or, if applicable, the date on which the exclusion review process ends.** If a parent has already entered into a parenting contract, an application can be made within 6 months of the date the contract was signed.

Parenting orders consist of 2 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; and,
- A requirement for parents to comply with such requirements as is specified in the order. This element can last up to 12 months.

All parenting orders must be supervised by a 'responsible officer' from the school (behaviour orders only) or local authority. They are individually named in the parenting order.

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

Bromley Children's Project – is an early intervention service, who are able to offer parenting courses on a voluntary basis. These courses are varied and address the needs within specific age/gender groups.

Schools have been encouraged to use the Common Assessment Framework, in identifying needs of the young person other than educational. Within this process, identification of services able to support would be identified , including BCP and Parenting courses. Thus negating the need for formal applications to the court for "behaviour parenting orders"

Prosecution data to follow as a separate excel document.