



*Local Government Association*

# school attendance and the prosecution of parents: effects and effectiveness

Final report

by Sally Kendall, Richard White, Kay Kinder, Karen Halsey and  
Nicola Bedford

National Foundation for Educational Research

LGA educational research programme



**LGAresearch** • Report 2/04

# school attendance and the prosecution of parents: effects and effectiveness

Final report

Sally Kendall  
Richard White  
Kay Kinder  
Karen Halsey  
Nicola Bedford



*Local Government Association*



INVESTOR IN PEOPLE



Published in February 2004  
by the National Foundation for Educational Research,  
The Mere, Upton Park, Slough, Berkshire SL1 2DQ

© National Foundation for Educational Research 2004  
Registered Charity No. 313392  
ISBN 1 903880 65 3

# Contents

Acknowledgements	v
Executive summary	vi
<b>Introduction</b>	<b>1</b>
<b>1 Criteria for prosecution and legislative issues</b>	<b>4</b>
1.1 Introduction	4
1.2 Criteria for prosecution	4
1.3 Issues of consistency and professional judgement	6
1.3.1 Consistency	6
1.3.2 Professional judgement	8
1.4 Legislative issues	8
1.4.1 The impact of the Human Rights Act 1998	8
1.4.2 The use of the aggravated offence Section 444.1a	9
1.4.3 Use of PACE cautioning	12
<b>2 Processes leading to prosecution</b>	<b>20</b>
2.1 Introduction	20
2.2 The components of the prosecution process	20
2.3 Supervision meetings and warning letters: involvement limited to EWS	21
2.4 Parent 'office' interviews: involvement limited to EWS and the family	23
2.5 Wider meetings and consultation: education welfare-based or orientated meetings and multi-agency meetings	24
2.5.1 Education welfare-based/orientated meetings	24
2.6 Series of stages	31
2.7 Perspectives on the effectiveness of the prosecution process	32
<b>3 The court experience</b>	<b>36</b>
3.1 Introduction	36
3.2 Timing	37
3.2.1 Timescale between summons and court date	37
3.2.2 Times allocated for school non-attendance cases	38
3.2.3 Adjournments	40
3.3 Presentation of cases in court	42
3.3.1 Presentation by Legal Services	42
3.3.2 Presentation by EWS staff	44
3.3.3 Parental representation	47
3.4 Relations with court personnel and other court issues	47
3.4.1 General court-related issues	47
3.4.2 Opportunities for EWS–court dialogue	49
3.5 Family accounts of the court experience	50
3.5.1 Attendance at court	50
3.5.2 Feelings at the time	50
3.5.3 Plea entered	51



3.5.4	Representation	51
3.5.5	Dialogue with the magistrate	51
3.5.6	Reaction to disposal	52
3.5.7	Children's reaction	52
<b>4</b>	<b>The disposals arising from prosecution</b>	<b>54</b>
4.1	Introduction	54
4.2	Views on disposals	54
4.2.1	Fines	55
4.2.2	Conditional discharge	57
4.2.3	Parenting Orders	59
4.3	Effectiveness of disposals	62
4.3.1	Fines	62
4.3.2	Conditional discharge	63
4.3.3	Parenting Orders	63
<b>5</b>	<b>The effects and wider outcomes of prosecution</b>	<b>65</b>
5.1	Introduction	65
5.2	Main effects of prosecuting parents	66
5.2.1	Effects on parents	66
5.2.2	Effects on children	68
5.2.3	Effects on schools	69
5.3	Wider outcomes including indirect/unexpected outcomes	71
5.3.1	Involvement of other agencies and support for pupils	72
5.3.2	Impact on other parents and pupils in school/community	73
5.3.3	Impact of publicity/high profile cases	74
<b>6</b>	<b>Effectiveness</b>	<b>77</b>
6.1	Introduction	77
6.2	Views on effectiveness	77
6.2.1	Views on the principle of prosecution	78
6.2.2	Views on the effectiveness of prosecution	81
6.2.3	Alternatives to prosecution	88
6.3	LEA data	89
6.3.1	LEA 1	89
6.3.2	LEA 2	91
6.4	Family illustrations	92
6.4.1	Parental attitudes and cooperation	95
6.4.2	Young person's cooperation	98
6.4.3	Family relationships and behavioural issues	99
6.4.4	Comments	102
<b>7</b>	<b>Concluding comments</b>	<b>103</b>
	<b>Appendix: Summary of family prosecutions</b>	<b>105</b>
	<b>References</b>	<b>111</b>

## Acknowledgements

The authors would like to thank all the Education Welfare Management personnel and other professionals and families who gave up their time to take part in the interviews. Their willingness to be involved in the research provided invaluable insights into the prosecution process within LEAs.

We are also particularly grateful to the advisory group comprising Ade Bonjoko (ACE), Anita Bratherton (NCB), John

Broadhead (NASWE), Ian Mearns (LGA), Jacqui Newvell (NCB) and Jenny Price (AEWM) for all their help and assistance throughout the research process.

We would also like to thank our colleagues at NFER: Ann Black and Julie Thompson for providing secretarial support and the staff of Communications, Marketing and Information Services for publishing and disseminating the report.

## Executive summary

### Background

The research documented in this report set out to examine the effects and effectiveness of the prosecution of parents in relation to non-attendance at school. It was commissioned by the Local Government Association (LGA) research programme and was conducted between May 2002 and October 2003.

The study was divided into three phases.

- *Phase one:* an initial audit of the prosecution process within LEAs via telephone interviews with 122 Principal Education Welfare Officers (PEWOs) or their equivalents in other services, and the completion of a proforma in order to gather quantitative data on prosecutions within LEAs.
- *Phase two:* site visits to 12 LEAs to speak to Education Welfare Service (EWS) staff, local authority officers involved in prosecutions and magistrates and clerks to the court, in order to provide a more detailed analysis of the prosecution process and to obtain operational and strategic insights.
- *Phase three:* interviews with 20 families who had been prosecuted, in order to gain their insights into the process and its impact.

Findings from phase one of the study were presented in the report *School attendance and the prosecution of parents: perspectives from education welfare service management* (Kendall *et al.*, 2003). Some of the main findings from this phase revolved around the variability in practices and Education Welfare Officers' (EWOs) viewpoints:

- The vast majority of PEWO interviewees were supportive of the general principle of prosecution, although a few adamantly were not. Considerably fewer

(though more than two-thirds) also felt that it *could* be an effective strategy and this perhaps intimated that some discrepancy between principle and current practice existed in the minds of senior EWS staff.

- Variations emerged in opinion about the viability and appropriateness of different disposals, uses of the aggravated offence (Section 444.1a), as well as in the decision-making process and who was responsible for presenting cases in court. The role of elected members in prosecution decision-making varied also.
- From the survey data, variability between LEAs emerged: different degrees of prosecutions per pupil population were evident (from nil to 7.4 prosecutions per 1000 pupils).

This present report includes further analysis using the perspectives of other key stakeholders in prosecution – EWOs, court officials and prosecuted parents. It covers *criteria for prosecution* and *legislative issues*, the *processes* leading to prosecution, the *court experience*, interviewees' views on the *disposals* arising from prosecution and the *perceived effects and effectiveness* of prosecution.

### Criteria for prosecution and legislative issues

- The overwhelming criteria underlying the decision when to prosecute was the non-cooperation of parents. EWS staff were mostly reluctant to use attendance thresholds for prosecution and preferred to consider prosecutions on a case-by-case basis.
- Issues of consistency, in terms of decision-making, were raised by

interviewees and a number of EWS had introduced prosecution checklists as a way of addressing possible inconsistencies in their approach. Checklists highlighted conditions that should be met or explored prior to considering a case for prosecution, including for example, the involvement of other agencies, health issues and parental attitudes to education and control of the child.

- The Human Rights Act 1998 had resulted in some EWS reviewing existing prosecution procedures and introducing additional monitoring systems. A small number of EWS had had prosecutions challenged in court under the Human Rights Act.
- In relation to EWS use of the aggravated offence, Section 444.1a, different views were given by solicitors and Senior Education Welfare Officers (SEWOs) as to how the LEA proved that parents knew their children were not attending school. Interviewees expressed frustration that the maximum penalties available under this offence were not often imposed. It was felt that alternative penalties, for example, community rehabilitation orders (which still highlighted the severity of the offence) for parents on low incomes would be useful.
- Interviewees highlighted a desire for guidelines on cautioning under the Police and Criminal Evidence Act 1984 (PACE), including clarification on the legal requirements for using PACE and the type of prosecution (Section 444.1 and 444.1a, or just Section 444.1a) where PACE cautions were necessary. Other areas where interviewees sought clarification included when PACE cautions should be conducted, who should be delivering them, how interviews should be recorded and how the caution should be explained to parents.

- More than three-quarters of the PEWOs interviewed (94 out of 122 PEWOs) said that they had withdrawn cases from prosecution, most commonly because new evidence had come to light. LEA data presented in the first report found that 14 per cent of cases were withdrawn prior to a disposal being made.

### **Processes leading to prosecution**

- A great deal of variation was apparent in the ways in which prosecution procedures operated in different LEAs. The processes leading to the issue of a summons could end at the point of supervision meetings (involving EWS staff only) and the issue of warning letters (22 per cent of LEAs) or at parent 'office' interviews (13 per cent of LEAs) (involving EWS staff and parents) or at larger-scale, wider meetings and consultations (65 per cent of LEAs). These could involve a range of agencies and professionals e.g. schools, Social Services and Youth Offending Teams.
- The majority of prosecution processes thus culminated in opportunities for final dialogue and discussion between parents and EWS, suggesting they were interactive and inclusive in nature.
- The process of prosecution was often seen to be more effective in improving attendance than the court-related disposal or outcome.

### **The court experience**

- The duration between a summons being issued and a court date varied between LEAs. Over a third of LEAs reported a timescale between five weeks and eight weeks and, for over a quarter of LEAs, the process took place within a month. The majority of interviewees, who chose to comment, were not satisfied with the timescale and would have preferred a quicker turnaround. A lengthy waiting



period was said to have repercussions for the potential positive impact of prosecution and relevance of the evidence.

- In over a quarter of LEAs, interviewees reported that school non-attendance cases were allocated specific dates/times in court, whilst in a larger proportion (nearly two-fifths of LEAs), dates were booked when required. The prevailing view was that the allocation of specific court time was advantageous to the prosecution process because it made more efficient use of staff time, signified the seriousness of school non-attendance, improved consistency, assisted EWS planning and improved magistrates' understanding of the issues.
- When interviewees commented on the matter of adjournments they made the following observations: legal representation resulted in more adjournments, cases lost their momentum as a result of adjournments, EWO time was also wasted in the process and children remained out of school for prolonged periods of time.
- Where LEAs used Legal Services to present cases, the following rationales were cited: guaranteed legal expertise, the saving of EWO time and that Legal Services were sufficiently detached from families. Meanwhile, EWS presentation was preferred by some LEAs because of EWOs' detailed knowledge of the families and the work which took place prior to the case reaching court. Some interviewees also felt that EWOs were better informed about education law and that, by presenting cases in court, their image and credibility would benefit.
- The main issues raised in terms of the court process and relations with magistrates were: the perceived inconsistency of disposals, some magistrates' lack of understanding of educational issues and background in

educational matters, variability in the level of engagement magistrates had with defendants (whether they spoke to them about the importance of school attendance) and the need for more liaison with, and training for, court personnel.

### The disposals arising from prosecution

- All groups of interviewees levelled some criticisms towards fines. They felt that low levels and inconsistencies of fines contributed to their ineffectiveness. Hence, the appropriateness of this disposal, in certain instances, was questioned.
- PEWOs, EWOs and presenting officers (SEWOs or Legal Services representative responsible for presenting cases in court) were generally supportive of conditional discharges, suggesting that they were effective in improving attendance because of the pressure that was sustained on parents. The magistrates interviewed were less supportive of conditional discharges, questioning whether such a disposal made parents think that they had '*got away with it*'.
- A large proportion of interviewees did not offer views on Parenting Orders and Education Supervision Orders (ESOs), suggesting that these disposals were implemented relatively infrequently. Those who did respond presented mixed opinions. Both Parenting Orders and ESOs were believed to be beneficial because they gave parents access to support. However, interviewees noted that the resources necessary to implement them effectively were not always available.
- Overall, interviewees appeared to view fines as the least effective disposal and conditional discharges and Parenting Orders as potentially the most effective disposals.

## The effects and wider outcomes of prosecution

- The most common positive impact of prosecution noted by PEWOs was that prosecution made parents aware of their responsibilities and also made them realise the importance of school attendance. The most common negative effect of prosecution identified by PEWOs was that some parents experienced financial difficulties after they were issued with fines.
- Of the 18 EWOs interviewed, 14 stated that, following prosecution, their relations with parents had remained positive. This was largely due to the fact that parents did not associate their prosecution with their EWO because of the strong relationships they had with EWOs and because, in some instances, EWOs distanced themselves from the actual prosecution by saying the decision to prosecute was taken by a higher authority.
- PEWOs believed that prosecution was more successful with primary than secondary-aged children, mainly because parents were perceived to have more control over younger children. Despite this belief, findings from the first report showed that the actual number of prosecutions taken in LEAs increased in line with age, peaking at year 10.
- As a result of prosecutions, LEAs were seen to be doing their job and their credibility amongst other services increased.
- Half of the 110 PEWOs, who offered opinions on the wider outcomes of prosecution, reported that, following parents' prosecution, the involvement of other agencies or the offer of additional support, was uncommon.
- Four-fifths (82 out of 103) of the PEWOs who responded when questioned about the impact of a prosecution on other

families, felt that prosecutions in their LEAs had impacted on other parents and pupils in the school or local community. They felt that other families, particularly those who had already been warned about potential prosecution, became more focused on the issue and engagement with the EWS improved, because parents realised that prosecution could happen to them.

- The majority (85 out of 89) of PEWOs who offered their opinions on the impact of publicity, reported that publicity surrounding high profile prosecution cases had had a positive impact on attendance levels in their LEA.
- The majority (87 out of 96) of PEWOs who responded when asked their opinion on publicising prosecutions relating to non-attendance were in favour of this. Over half of these interviewees stressed that the local press should not identify families.

## Effectiveness

- Professionals interviewed during phases two and three of the research were largely supportive of the principle of prosecution, which reflected the views given by PEWOs in phase one. Across all phases of the research, the most common reason given for supporting the principle of prosecution was the compulsory nature of education. Again reiterating PEWOs' views, nearly three-quarters of professional interviewees spoken to during phases two and three of the research felt that prosecution could, at times, be an effective strategy.
- Nearly two-thirds (15 out of 23) of parents interviewed also agreed with the principle of prosecution, but were likely to qualify their response by saying that prosecution was only right in certain circumstances. The most common reason why parents were opposed to prosecution was a belief that

they should not be held responsible for their child's behaviour.

- Over half (13 out of 23) of the parents interviewed felt that prosecution did not work because it did not lead to an increase in attendance and did nothing to address the reasons *why* children were not attending school.
- Of the 30 children for whom data was received, nearly half (13) of the prosecutions could be classed as effective in that post-prosecution attendance levels had risen, and just over a third (11) were not effective as there had not been any significant improvements. In six cases, prosecution had mixed effectiveness, this included sporadic or intermittent increases in attendance, followed by decline. Although only small in number, none of the four cases where multiple prosecutions had taken place had resulted in effective outcomes.
- Variation in the cooperation and attitudes of parents and young people, as well as family relationships and behavioural issues, were identified as key components in the relative effectiveness of these prosecutions.

### Concluding comments

- Education, school attendance and prosecution for non-attendance cannot be considered in isolation from wider social, economic and cultural contexts. Throughout the course of this research, interviewees have stressed the need to address issues of curriculum modification and the relevance and impact of education when considering the issues surrounding non-attendance. However, whilst the law regarding school attendance stands, interviewees recognised a system of enforcement is required.

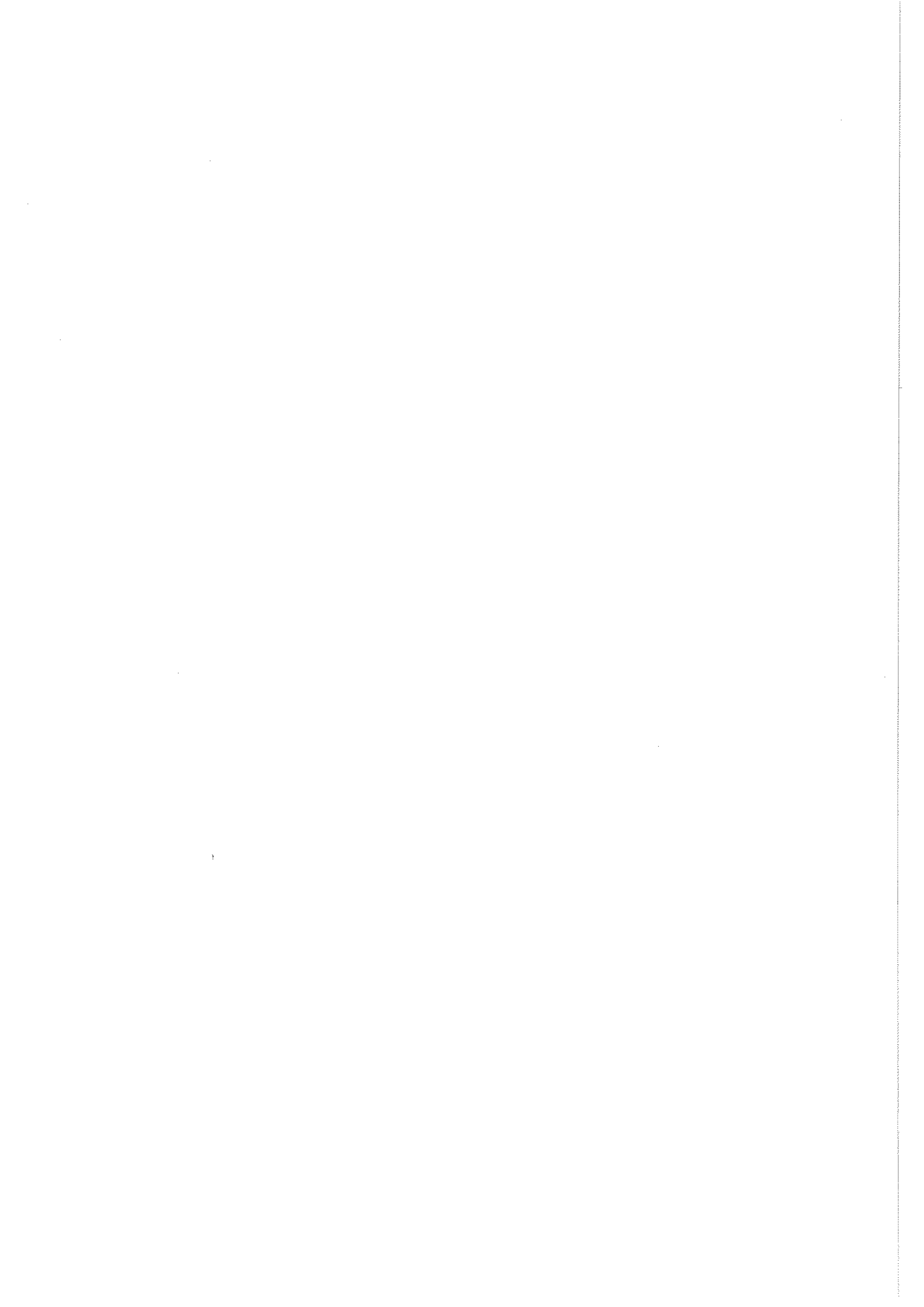
- As noted earlier, one of the key issues identified in this research is that of variability (including the criteria on which the processes by which prosecutions are brought, the nature of offences pursued, the range of personnel presenting the cases and the range of disposals imposed by magistrates). The research would suggest variability can be seen as both a positive and negative influence within non-attendance prosecutions. It may be necessary to allow for sufficient flexibility of approach, for example, to allow the judgement of EWS professionals to inform approaches and decisions as to when a prosecution might be most appropriate to effect change in a young person's attendance. However, variability may also be associated with inconsistency and unequal treatment in law, in terms of the issuing of cautions under PACE, and the pursuit of prosecutions under Section 444.1 or Section 444.1a, for example.
- There is a need to ensure that systems are in place to maximise flexibility and appropriateness, but to minimise the effects of inconsistencies. This could involve increased liaison between the EWS and magistrates and systems to strengthen and improve relationships and mutual understanding. Consequently, a greater connection between, or integration of, the prosecution process (EWS) and the court process (magistrates), may lead to overall improvements in effectiveness.
- The processes and procedures involved in the lead-up to court proceedings were often regarded as having a greater potential for effectiveness than the court-related outcomes themselves. It was reported that the processes towards prosecution can be effective, acting as a means of reinforcing the seriousness of non-attendance in relation to its legal

status. Furthermore, the process towards prosecution was felt to act as a vehicle for collective engagement and opportunities for dialogue and engagement between families and all other involved agencies (reinforced by the legal element). This appears to be a significant factor in the overall effectiveness of a prosecution. Ensuring that strategies are in place to encourage and increase the involvement of parents and young people in the process has been highlighted.

- Issues of the exclusivity of parental responsibility for a child's non-attendance surround the effectiveness of prosecution. Many interviewees – EWS staff, as well as parents and young

people themselves – suggested that prosecutions could be both inappropriate and ineffective when the underlying cause and resolution of non-attendance issues lay beyond the immediate and direct control of the parent. Within the principle of prosecution, there may be value in considering the issue of increasing young people's responsibility and accountability, jointly with parents where appropriate. This could involve strategies to expand and support earlier identification and intervention, especially in relation to resolving issues arising from family dynamics that are manifested by, and can compound, attendance difficulties.





# Introduction

The research documented in this report set out to examine the effects and effectiveness of the prosecution of parents in relation to non-attendance at school. It was commissioned by the Local Government Association (LGA) research programme and was conducted between May 2002 and October 2003.

The aims of the research were:

- to undertake an analysis of prosecution cases and their outcomes
- to gain the views of parents, young people and professionals on the process
- to assess what measures LEAs use to ensure that assessment and decision making with regard to legal action is consistent
- to explore the possible relationship between successful outcomes and the age of the child at the time of prosecution.

The study was divided into three phases.

- *Phase one:* an initial audit of the prosecution process within LEAs via telephone interviews with Principal Education Welfare Officers (PEWOs) or their equivalents in other services, and the completion of a proforma in order to gather quantitative data on prosecutions within LEAs.
- *Phase two:* site visits to 12 LEAs to speak to Education Welfare Service (EWS) staff, local authority officers involved in prosecutions and magistrates and clerks to the court, in order to provide a more detailed analysis of the prosecution process and to obtain operational and strategic insights.
- *Phase three:* interviews with 20 families who had been prosecuted, in order to gain their insights into the process and its impact.

Findings from phase one of the study were presented in the report *School attendance and the prosecution of parents: perspectives from education welfare service management* (Kendall *et al.*, 2003). This report provided both quantitative and qualitative data on prosecutions supplied by LEA EWS (or equivalent) personnel. Staff from 97 LEAs completed proformas, which gathered quantitative data on prosecutions for the academic year September 2001 to July 2002. It also contained an analysis of qualitative information derived from interviews with 122 PEWO-level professionals from EWS and Education Social Work (ESW) departments in 119 LEAs. This covered interviewees' thoughts and perceptions on the following issues and areas: background and contexts of prosecutions, the nature of offences pursued in relation to school non-attendance, the disposals resulting from court appearances, the relative effectiveness of different disposals and the perceived purpose and effectiveness of prosecuting parents for non-attendance.

Following on from the first report, this second report also presents the views and perspectives of the individuals interviewed during phases two and three of the study.

In phase two, the following face-to-face interviews were conducted in 12 LEAs:

- 12 follow-up interviews with PEWOs or equivalent
- 14 EWS or local authority staff who had responsibility for presenting cases in court, e.g. SEWO, solicitor
- EWOs or Education Social Workers (ESWs)
- nine magistrates/clerks to the court.

PEWO follow-up interviews focused on developments in prosecution procedure and legislative issues, such as the use of cautions

under the Police and Criminal Evidence Act (PACE) 1984, and possible implications of the Human Rights Act 1998, since the phase one interviews were completed. The remaining interviewees were asked for their views on issues similar to those provided by PEWOs in phase one, with a focus also on the nature and implications of the prosecution process and the issues surrounding court procedures and appearances.

Phase three comprised interviews with parents who had been prosecuted, EWOs who worked with the families, young people and school representatives. The following face-to-face interviews were conducted:

- 20 families (23 individual parents)
- 13 EWOs
- 8 young people
- 6 school representatives.

Interviewees in this phase of the research were asked to give their accounts of the experience of prosecution, including their thoughts on the prosecution process, relationships between families and EWS, court experiences and outcomes, and post-court experiences and views on effectiveness. Findings from the first report also highlighted a range of possible definitions of effectiveness, which are also explored in this report.

Prosecution was perceived to be effective because:

- it resulted in an improvement in a young person's attendance at school. This raised further questions in terms of what level of improvement in attendance was deemed to be effective.
- it highlighted and reflected the seriousness of school attendance and the role and power of the EWS.
- it had potential for wider impact, for example in terms of raising the profile and importance of education within the local community, as well as a possible deterrent effect.

- it was evidence of the LEA's commitment to addressing non-attendance and concomitant loss of life-opportunity for young people.

The above definitions highlight the multi-dimensional nature of effectiveness which this research focuses on. It involves a presentation of the perspectives of a range of people involved in the prosecution process and as such may be seen to contain evidence suggesting both the effectiveness, or otherwise, of non-attendance prosecutions. The research has been approached and written from a neutral stance and is an exploration of the issues via analysis of participants' insights and experiences as a means of furthering the debate on school attendance and the role played by prosecution.

This report presents research findings within the following structure:

## **1 Criteria for prosecution and legislative issues**

This chapter considers the issues involved in decision making, including criteria for prosecution, issues of consistency and professional judgement and circumstances where prosecutions may be withdrawn. It also explores some of the legislative issues surrounding prosecution, specifically the impact of the Human Rights Act, use of Section 444.1a and PACE cautioning.

## **2 Processes leading to prosecution**

Chapter Two considers the mechanisms and processes through which prosecutions were brought, i.e. the ways in which different LEAs approached prosecution, including the role of supervision and use of warning letters, meetings and panels. This chapter presents an audit of the different prosecution procedures evident in the sample, followed by a presentation of interviewees' perspectives on the effectiveness of these.

### **3 The court experience**

This chapter examines the court stage of the prosecution process, including issues of timing: the duration between a summons and court date, whether non-attendance cases were allocated specific times/dates in court and interviewees' views on adjournments. The chapter then reports on different arrangements for presenting cases in court (e.g. EWS and/or Legal Services), as well as their relative effectiveness. Finally, the relations and dialogue that exist between the EWS and magistrates are discussed. After relaying the accounts of professionals involved in the court process, the chapter concludes by looking at families and their personal experiences of attending court.

### **4 The disposals arising from prosecution**

Chapter Four continues the chronological exploration of the prosecution process and explores court outcomes arising from prosecution. It presents interviewees' views on these disposals and outcomes, including perspectives on effectiveness.

### **5 The effects and wider outcomes of prosecution**

This chapter presents interviewees' thoughts on the effects and wider outcomes of prosecuting parents. It explores possible effects on parents, children, schools, LEAs and the community, as well as examining the possible impact of publicising prosecution cases.

### **6 Effectiveness**

This chapter presents an amalgamation of perceptions of effectiveness, including views on effectiveness and the principle of prosecution. It goes on to present quantitative data from two LEAs and provides an overview of the prosecutions of the families who participated in the research.

It should be noted that, in order to preserve confidentiality, pseudonyms have been used for the parents and young people who took part in the study.



# 1 Criteria for prosecution and legislative issues

## Key findings

- The overwhelming criteria underlying the decision when to prosecute was the non-cooperation of parents. EWSs were mostly reluctant to use attendance thresholds for prosecution and preferred to consider prosecutions on a case-by-case basis.
- Issues of consistency in terms of decision-making were raised by interviewees and a number of EWSs had introduced prosecution checklists as a way of addressing possible inconsistencies in their approach.
- The Human Rights Act 1998 had resulted in some EWSs reviewing existing prosecution procedures and introducing additional monitoring systems. A small number of EWSs had had prosecutions challenged in court under the Human Rights Act.
- In relation to EWS use of the aggravated offence Section 444.1a, different views were given by solicitors and SEWOs as to how the LEA proves that parents *knew* their children were not attending school. Interviewees expressed frustration that the maximum penalties available under this offence were not often imposed and they felt that alternative penalties (which still highlighted the severity of the offence) for parents on low incomes would be useful.
- Interviewees highlighted a desire for guidelines on cautioning under PACE, including clarification on the legal requirements for using PACE and the type of prosecution (Section 444.1 and 444.1a, or just Section 444.1a)

where PACE cautions were necessary. Other areas where interviewees sought clarification included when PACE cautions should be conducted, who should be delivering them, how interviews should be recorded and how the caution should be explained to parents.

- More than three-quarters of the PEWOs interviewed (94 out of 122) said that they had withdrawn cases from prosecution. The most common reason for doing this was that new evidence had come to light. LEA data presented in the first report found that 14 per cent of cases were withdrawn prior to a disposal being made.

## 1.1 Introduction

This chapter examines how the EWS decides which cases proceed to prosecution and what criteria are used. It also explores issues of consistency and professional judgement and the legislative issues associated with taking cases to court, including the impact of the Human Rights Act, the use of the aggravated offence Section 444.1a and the use of PACE cautioning.

## 1.2 Criteria for prosecution

PEWOs and EWOs interviewed during the course of the study were asked to detail the main criteria for prosecuting parents for non-attendance. Apart from the child's non-attendance at school, the overwhelming criteria for prosecution was the non-cooperation of parents. If parents were unwilling to cooperate and/or engage with the EWS and there were no mitigating

circumstances, then parents were likely to be prosecuted. Mitigating circumstances highlighted by interviewees included:

- medical grounds, including the mental health of the parent and/or the child
- bullying
- racism
- domestic violence
- special educational needs (SEN)
- substance misuse.

How do EWS staff decide if a parent is not cooperating? Examples given by interviewees included parents who did not attend meetings, did not keep pre-arranged appointments, did not comply with set targets, were obstructive, or did not take up offers of support:

*If we have got blatant non-cooperation then that would be an obvious reason for us to go down the court route.*

(PEWO)

Conversely, cooperative parents were less likely to end up in court.

*If it's clear that parents are obviously struggling and trying to support the LEA and school, prosecution isn't an option as far as we're concerned.*

(PEWO)

EWS staff also took into account whether the young person, as well as their parent, was working with them and cooperating with other agencies they had been referred to. Some interviewees also said that they would prosecute cooperative parents if they felt they were in a position to effect change in their child's attendance, but had failed to do so. Seven PEWOs referred to those parents who were perceived to be unwilling rather than unable to cooperate and were merely paying lip service and not 'putting their actions where their mouths are' as those who were more likely to be prosecuted.

EWS staff tried to influence and support parents and young people with regard to external factors that might be influencing

their non-attendance, for example by referring them to specialist support agencies. Interviewees also highlighted a number of other considerations when exploring possible cases for prosecution, including the following:

- Will it effect change?
- Is it in the child's best interest?
- Will it be legally successful?
- Is it in the public interest?
- Is it in the LEA's interest (e.g. to prevent possible future litigation being taken against the LEA)?

Five PEWOs indicated that their LEAs had used attendance thresholds for prosecution in the past but that these had been largely ineffective because it meant that some cases of non-attendance were not targeted when they should have been and that each should be considered on a case-by-case basis. However, some interviewees did mention using attendance thresholds as an indicator of possible cases for prosecution, for example, where attendance was less than 65 or 50 per cent. In one LEA, an EWO observed that: 'If attendance falls below 70 per cent everybody gets considered for court action'. In another LEA the threshold related to a specific percentage of unauthorised absence, where at least 50 per cent of the absences had to be unauthorised which 'some schools hate' (PEWO) because it meant an increase in their unauthorised attendance figures. Interviewees also raised the issue of schools authorising absence, which effectively meant that they were unable to prosecute cases:

*A lot more prosecutions would go through if schools didn't do this. It is a major issue.*

(EWO)

A small number of PEWOs, all from low-prosecuting authorities, were against what might be termed the 'tick box' approach to prosecution, with a belief that it might help some parents but could miss others. One interviewee said that it was not desirable to set criteria for prosecution because 'every case is judged on its own merit' (PEWO). Another PEWO said that they had no set criteria and all

cases were considered on an individual basis. Another had tried to avoid setting specific criteria, although admitted that there was pressure both from his staff and central government to introduce these.

### 1.3 Issues of consistency and professional judgement

The following section examines issues of consistency in the decision-making process and the concept of 'professional judgement'.

#### 1.3.1 Consistency

How does the EWS ensure that the prosecution process and the way that parents are brought before the courts is a fair and equal process? Issues were raised by interviewees regarding consistency in the criteria for prosecution and also in the decision-making process. In relation to consistency, the following issues were raised: the variation in the concept of 'cooperative parent' between EWOs and the variation in EWS structures and roles in different services. A total of 11 PEWOs raised specific concerns regarding issues of consistency in their LEAs, for example, in relation to varying rates of prosecution between EWOs:

*There is evidence ... that we aren't consistent in how legal proceedings are applied across the county. We suspect sometimes it is too much down to the individual caseworker's decision as to whether legal proceedings are taken. We don't have a role in making sure that cases that are appropriate for prosecution actually get to the panel.*

(PEWO)

Do EWOs who take more prosecutions than other officers do so because they have children with more problematic attendance or does it reflect their own views on the suitability and effectiveness of prosecution as a strategy? It was felt that the flexibility within the decision-making system that allowed EWOs to use their professional judgement could also lead to inconsistency.

One PEWO interviewee also felt that there was likely to be less consistency in the prosecution process where EWOs were devolved to schools because it was felt that their greater autonomy could lead to variability in practice. Interviewees were not only concerned about inconsistencies in approach across their own LEAs, but also nationally:

*It concerns me greatly the lack of consistency across the country ... in the way EWS operate. Because we are distinctly separate services we all have a different way of working, we all do things very differently. I meet in a court officers' group locally and there are huge differences in the way we all operate.*

(PEWO)

How did the EWS try and ensure consistency in their approach? It was apparent that a number of strategies and techniques were employed, including:

- checklists
- clear, transparent decision-making structures, including written guidelines and criteria
- implementing time frames for action and review
- regular review and monitoring
- decision-making panels
- area meetings to discuss prosecutions.

In a bid to address possible inconsistencies in approach, 17 interviewees said they used *checklists*, which highlighted conditions that should be met or explored prior to considering a case for prosecution. These included levels of parental cooperation, parental control of the child, parental attitude to education, health issues and the involvement of other agencies, as illustrated by the following quote:

*What are the circumstances of this family? Does it warrant prosecution and will prosecution make a difference? If the answer to that is yes, or if the parents are*

*not cooperating with us at all and there is absolutely no movement or any sign of improvement in their child's attendance, it then moves into the legalistic phase of work.*

(PESW)

The answers to the checklist questions, for example, parents' support for school, their attitudes towards education and family contexts and relationships, determined whether the EWS opted for prosecution. This approach was also seen as providing consistency across cases, because services were reviewing them using the same criteria and officers could see that all possible avenues, for example, the presence of mitigating circumstances and alternative strategies, such as other agency support and Education Supervision Orders (ESOs), were explored. Checklists were also seen as a way of monitoring the decision-making process and providing a record of how the decision was reached:

*We have put that [checklist] in over the last two years since the Human Rights Act so that we can actually prove to anybody why we made that decision. So you can pick up this sheet and look to see in any file that the decision has been made fairly.*

(PEWO)

EWS had also developed, or were in the process of developing, *clear, transparent decision-making structures, including written guidelines and criteria* to try and ensure greater consistency in their decision-making process, for example, by establishing the minimum number of visits to be conducted prior to considering prosecution: 'In 30 days you're expected to have done so many visits' (EWO). Written prosecution guidelines had been implemented to counter inconsistency and to ensure that prosecutions were only carried out against set guidelines and criteria:

*It's a stage-by-stage case work process really, where an assessment is made, there is a limit on the number of home visits and where mitigation is very clearly identified.*

(PEWO)

Some EWS were still in the process of developing these procedures and guidelines. A clear, transparent, staged, decision-making process meant that everyone (EWS, schools and parents) knew how the process worked and what the stages were, which was felt to result in a more consistent approach:

*So we have recently streamlined the approach to prosecutions because there was a lot of inconsistency between officers as in how and when they prosecuted. So there is much more clear guidance to staff now about when it is the appropriate time to approach prosecution.*

(PEWO)

One service was setting up a dedicated court team 'to ensure consistency so that people have a much clearer follow through' (PEWO). EWS had also *implemented time frames for action and review* in their decision-making process in order to ensure a more consistent approach, including time-focused interventions based on a staged process. This step-by-step approach was felt to ensure consistency. Implementing time frames for action and review was seen as a useful strategy to ensure that cases did not become unnecessarily protracted, as had sometimes happened in the past.

*Regular review and monitoring* of cases was also seen as a way of increasing consistency of approach, including detailing reasons for prosecution and equally, reasons for not prosecuting parents. One EWO highlighted that if, for instance, a child's attendance had fallen below 50 per cent (for whatever reason) s/he would have to 'justify why we are not going through the legal process' (EWO). Similarly EWOs in other authorities had to record why they decided not to take cases to court. Close supervision of officers' cases was also seen as a way of minimising differences in practice, as well as swapping the management of cases between SEWOs.

The use of *decision-making panels* was also seen as a way of ensuring consistency and a more equitable approach to prosecution.



Whilst in other authorities, particularly in the larger county authorities, cases were reviewed by the PEWO (or equivalent) in discussion with team leaders and Legal Services, increasingly the decision to prosecute was seen as one that should not be made in isolation.

On a wider scale, the use of *area/regional meetings* to review practice was also seen as a way of highlighting examples of good practice and also provided opportunities to highlight and review consistencies and inconsistencies in approach:

*We discuss trying to get more consistent ways of working between ourselves ... one of the difficulties for the government with our service has been the inconsistencies between services in different areas. We all recognise the value of some consistency ...we've got to come to some consensus at some point.*

(PEWO)

One interviewee felt that the creation of a 'national EWS' would improve the support that services could offer and would lead to a more consistent approach.

### 1.3.2 Professional judgement

The concept of 'professional judgement' was explored throughout the study. How do EWS ensure consistency whilst allowing officers to utilise their professional judgement in the decision-making process? The following quotes highlight both managers' and practitioners' views on the concept of professional judgement:

*It's about knowing and judging and forming an opinion about the capacity to change and the resilience of families.*

(PEWO)

*It is down to our professional judgement. It is when we believe the situation is no longer satisfactory and sustainable without taking that action [prosecution].*

(PEWO)

[How do you decide to prosecute?] *It is difficult because every case is different, but*

*it comes with experience, knowledge of the family, confidence in your EWO that they've done everything they should have done.*

(SEWO)

*I suppose it comes with experience, of knowing your families.*

(EWO)

Information collected during the prosecution process assisted practitioners and managers in making a professional judgement on how to proceed with a case, which then, in many authorities, would also be presented to a wider meeting or panel, so that a collective decision to prosecute would be made. Hence, the prosecution process and the panels acted as monitoring mechanisms on professional judgement.

## 1.4 Legislative issues

The following section examines some of the legislative issues surrounding prosecutions for school non-attendance, including the introduction of the Human Rights Act, the use of the aggravated offence Section 444.1a, cautioning under PACE and circumstances where the EWS might withdraw from a prosecution.

### 1.4.1 The impact of the Human Rights Act 1998

Interviewees said that the Human Rights Act 1998 had impacted on their prosecution procedures and decision-making processes. The Act had resulted in a number of LEAs reviewing their existing procedures and introducing additional monitoring systems, such as checklists and panels, in the decision-making process. This reflected a realisation that LEAs may be called upon in the future to justify the decision they had made in relation to prosecution and a need to ensure that this had been clearly recorded. The introduction of additional monitoring systems with a number of 'checks and balances' also meant that LEAs could show that their decision-making procedures were fair, equitable and consistent. One LEA had handed over

responsibility for presenting prosecutions to their Legal Services department as a result of the implementation of the Act and others were increasingly asking Legal Services for advice, or to take cases on their behalf, where issues of human rights might be raised.

Some interviewees noted that their services had had prosecutions challenged in court by parents on the basis of the Human Rights Act. This seemed to be most prevalent in London Boroughs. The implications for the process were that such challenges led to adjournments and delays:

*With the Human Rights Act there were a lot of cases, for example, where bullying was cited as a non-attendance issue. They all went to trial and everyone was represented by barristers and it all got very heavy, but none of the cases were proved. That was a delay of ten months – very expensive and very time consuming.*

(PEWO)

Prosecutions had been challenged on the grounds that parents with older children were not always able to enforce their child's attendance at school or where one parent alone had been called to account for their responsibility in ensuring their child's attendance. Prosecutions had also been challenged when cases had been heard in parents' absence and defence solicitors had argued that parents were not duly represented or able to make due representation (despite being offered numerous opportunities over timescales lasting several months). Conversely, the EWS argued that they were looking at the right of the child to an education and that parents were denying them this right and were not fulfilling their legal responsibility to ensure their child attended school. Services were also aware of possible legal action that may be taken against them in the future by pupils who had not attended school:

*If we can't justify NOT going to court, then we do, in case someone at a later date comes back to us. We haven't a case if we haven't tried to prosecute.*

(SESW)

#### 1.4.2 The use of the aggravated offence Section 444.1a

The following section explores developments in LEAs' use of the aggravated offence, Section 444.1a of the 1996 Education Act. PEWOs' initial views on the introduction of this higher-order offence were explored in the first report (Kendall et al., 2003). This report explored the nature of offences LEAs pursued in relation to school non-attendance and the distribution of offences taken under Section 444.1 (Level 3) and Section 444.1a (Level 4). Section 444.1a carries higher penalties, including the possibility of a maximum of £2,500 fine per parent per offence and up to three months' imprisonment. Prosecutions taken under Section 444.1a are not an absolute offence (as they are under Section 444.1) and thus the EWS has to prove that parents 'knowingly' did not send their child(ren) to school.

##### *Developments in the use of Section 444.1a*

PEWOs' views on the use of Section 444.1a (as documented in the first report) were largely supportive, although a number expressed some concerns and reservations. Since the publication of the first report, the EWS use of Section 444.1a had increased. However, when interviews were conducted during phase two of the research there was still considerable variation in its use across the 12 LEAs visited:

- two LEAs were taking the vast majority of their prosecutions under Section 444.1a
- six LEAs (four of which had just started using the higher-order offence) were using Section 444.1a for repeat offenders and/or non-cooperative parents
- four had not used Section 444.1a, although three were about to and one of these LEAs was opposed to its use, whilst another said they did not need to use it.

Other developments raised by PEWOs in relation to the use of Section 444.1a during phase two of the research included:

- the EWS being questioned in court by magistrates as to why they were not taking cases under Section 444.1a (two LEAs)
- where parents had not attended court, warrants issued for their arrest had led to delays/difficulties in tracking parents (three LEAs)
- the increasing involvement of the Probation Service in the prosecution process because they were being asked to produce pre-sentence reports (one LEA)
- resource issues regarding using the aggravated offence in terms of officer time (two LEAs)
- philosophical concerns regarding its use (two LEAs)
- non-attendance cases were increasingly becoming more complex and more likely to be contested because of the stiffer penalties that could be imposed under Section 444.1a (one LEA). In this LEA, which had just started using Section 444.1a, and took very few prosecutions, this had resulted in the employment of barristers to take these cases on their behalf. This approach was in distinct contrast to another case-study LEA where virtually all the EWS prosecutions were taken under Section 444.1a and were taken by the EWS.

#### **Support for the use of Section 444.1a**

During phase two of the research the following personnel were interviewed (although some were joint interviews):

- fourteen presenting officers (ten EWS staff and four solicitors from the local authority's Legal Services department)
- eighteen EWOs/ESWs
- nine magistrates/clerks to the court.

Not all of these interviewees commented on the use of Section 444.1a.

To what extent did the views of presenting officers, EWOs and magistrates/clerks to the

court reflect and/or diverge from the views expressed by PEWOs? Presenting officers, EWOs and magistrates reflected the views of PEWOs and were largely supportive of the use of Section 444.1a. It was seen as reflecting and symbolising the seriousness of the offence and raising the profile of attendance generally. Like PEWOs, they felt that the higher-order offence and stiffer penalties associated with it made parents appreciate the seriousness of the offence:

*If it's a warrant with bail, they'll [parents] take it more seriously.*

(SEWO)

*I think if we have the resource, we should use it because school non-attendance isn't taken seriously enough and obviously it should be, because repercussions are so far-reaching.*

(EWO)

*I think that it [Section 444.1a] is a good idea where parents knowingly [do not send their children to school] ...that makes it much more serious and that is why they have introduced the penalty of custody.*

(magistrate)

Presenting officers, EWOs and magistrates also grounded their support for the use of Section 444.1a in terms of its value as a mechanism for increasing court attendance. It was seen as a useful tool because, as a warrantable offence, parents could be compelled to attend court:

*That benefits us [taking 444.1a] because, if parents are not turning up, we can warrant them to ensure that they actually come to court.*

(SEWO)

*The fact that they have to turn up in court, that they are not just sitting at home getting a letter saying this is what you have to pay. That is the potential of 444.1a because they can bail them to appear.*

(EWO)

*Under the 444.1 you can't require attendance of the parents but you can under the 1a and that is very important, I think, to make sure they attend court.*

(magistrate)

Mirroring the views of PEWOs, both presenting officers and EWOs felt that the higher tariffs associated with Section 444.1a were useful when dealing with repeat offenders and non-cooperative parents, those parents who were described by one EWO as the 'hard core'. They also felt that the use of Section 444.1a sent out a wider message to the general public about the seriousness of the offence: 'It's a good message to send out to other parents and children – this is the penalty for not being a responsible parent' (EWO).

#### **Concerns relating to the use of Section 444.1a**

Despite their general support for use of the higher offence, presenting officers (all SEWOs), EWOs and magistrates highlighted some reservations and concerns about the use of Section 444.1a. One SEWO and one EWO said that they felt uncomfortable with the fact that they might be responsible for sending a parent to prison, although both justified the need for such a penalty:

*But, having said that [feeling uncomfortable about sending a parent to prison] they have made themselves responsible for not sending their children to school and making sure the children don't get an education.*

(SEWO)

One magistrate felt that there would have to be some 'very clear aggravating factors' for a case to go under Section 444.1a. Only one SEWO and three EWOs were not supportive of using Section 444.1a and no solicitors were opposed to its use. The SEWO was from an LEA where the PEWO was opposed to the use of Section 444.1a and s/he felt that the existing Section 444.1 Level 3 offence had adequate penalties. The EWOs were from LEAs where Section 444.1a was and was not being used. The reservations they had regarding the use of Section 444.1a focused on the inappropriateness and ineffectiveness of the stiffer penalties and the detrimental impact on the young people involved. Issues raised in relation to the use of Section 444.1a

also focused on:

- difficulties with the administration and enforcement of warrants
- the onus placed on the EWS to prove that parents *knew* their children were not attending school
- the increased likelihood of parents seeking legal representation
- magistrates were not using the maximum penalties available to them under Section 444.1a.

SEWOs in two LEAs (and three PEWOs in phase two interviews) *highlighted difficulties with the administration and enforcement of warrants*. In one LEA, this related to the need for the parents' dates of birth on the warrant and existing procedures did not collect this information. This issue had been resolved in another LEA by asking for parents' dates of birth at the PACE interview (see section 1.4.3 for discussion of PACE). The other LEA had experienced difficulties with the enforcement of warrants, that is, parents were still not attending court:

*The warrants officer seems to be less effective than they could be in tracking parents.*

(SEWO)

In LEAs where the issue was raised about the onus *placed on the EWS to prove that parents knew their children were not attending school* there was a divergence in opinion. In one LEA, where the vast majority of cases were taken under Section 444.1a, proving this point did not appear to be an issue:

*I've never known a situation where anyone can ... turn round in defence and say, 'Well, I didn't know he wasn't attending, or she wasn't attending school'. I just don't accept that. Our officers go to the ends of the earth to inform these parents.*

(SEWO)

In other LEAs it was seen as far more problematic and difficult to prove, especially if parents had failed to attend meetings with the EWS:

*We have to prove they [parents] know the child isn't attending school and those cases where they've never attended a meeting can be more difficult.*

(solicitor)

*It's very difficult to be able to prove that a parent knew they [their children] were truanting.*

(EWO)

Solicitors from two LEAs and clerks to the court from a further two LEAs commented on the fact that *parents were more likely to seek legal representation* as a result of the introduction of Section 444.1a because of the stiffer penalties associated with the offence and because legal aid was available as it was an imprisonable offence. There was some divergence in one LEA where the presenting officer (a solicitor) said that parents were entitled to legal aid and the clerk to the court said they were not, unless they were considering custody. Increasing parental representation meant that adjournments and trials were more likely, which had implications for the court process:

*Adjournments are becoming more of an issue, partly due to the 1a offence. More parents are seeking legal advice, but don't tend to do it till the last minute and don't give solicitors all the papers anyway, or see the duty solicitor at court. If the solicitor hasn't seen all papers, they immediately ask for an adjournment.*

(solicitor)

Both presenting officers and EWOs expressed frustration that *magistrates were not using the maximum penalties available to them under Section 444.1a*:

*The problem we have is that they [magistrates] just don't treat it [Section 444.1a] any differently. They don't impose any greater fine, or haven't as yet and they don't consider imprisonment as an option.*

(solicitor)

As has already been highlighted, for many presenting officers and EWOs the benefits associated with the use of Section 444.1a lay in the stiffer penalties available under this

offence. However, if these penalties were not being imposed, they felt that the higher-order offence was virtually ineffective. Describing a family that had been prosecuted a number of times, an ESW observed:

*The magistrates said they would be imprisoned next time – and they won't. It's a hollow threat. We have to have one that carries the prison sentence for it to go into the press so everyone realises that it can happen. We go round and tell parents, but no one has ever been [imprisoned].*

(ESW)

Officers expressed frustration that the disposals given under Section 444.1a did not always reflect the seriousness of the offence: 'Even under 1a they are still getting £50 fines'. Although they acknowledged that, in many circumstances, parents would not be in a position to pay higher fines because of low incomes they felt that alternative disposals, for example, community rehabilitation orders, which still reflected the seriousness of the offence, should be imposed:

*It's all well and good having the £2,500 fine, but in reality, nobody gets that because everyone's on benefits or not earning enough money.*

(SEWO)

*To be honest, to fine them £1,000, you might as well make them fly to the moon because they can't pay it. It's as simple as that.*

(SEWO)

### 1.4.3 Use of PACE cautioning

As highlighted in the first report, prosecuting parents under the higher-order offence – Section 444.1a of the 1996 Education Act also raised issues relating to EWS administration of formal cautions to parents under PACE. As already highlighted, prosecutions taken under Section 444.1a are not an absolute offence and the EWS has to prove that parents 'knowingly' did not send their children to school. Thus, evidence from interviews with parents might be used by the EWS to try and prove the higher-order offence and, for that evidence to be

admissible in court, parents should be cautioned and warned that the evidence they give might be used against them. During the course of the research, EWS use of cautioning was becoming more of an issue, as LEAs became concerned that they might be challenged in court about the evidence they were presenting:

*My concern was that eventually a solicitor would jump on this and [say] 'When did you give my client the opportunity to be interviewed?' We were starting to get letters from the solicitors saying: 'Can we see the record of interview?'*

(SEWO)

PEWO and EWO interviewees from 32 LEAs referred to the use of PACE cautioning. Half were already using it, whilst half were not. Interviewees highlighted variability in the use and implementation of PACE cautioning across LEAs:

- interviewees from at least three LEAs said that they were cautioning all parents who were prosecuted (whether this was under Section 444.1 or 444.1a) under PACE:

*When the aggravated offence came out, we decided to use PACE cautions for all our cases.*

(PEWO)

- others were just cautioning under PACE when they took the higher-order offence (444.1a) because they might use this evidence in court:

*With 1a we had to comply with PACE requirements because we were going to use evidence that people give us when they talk to us.*

(PEWO)

*[We] caution under PACE for the aggravated offence ... This was not necessary for the less serious offence as it was an absolute offence.*

(solicitor)

- interviewees from at least four LEAs were cautioning parents but not using PACE:

*Some authorities have been for 1a prosecutions but they have not used the PACE cautioning because their view*

*is, unless it is evidence that you rely on in court, you do not have to do it.*

(PEWO)

One LEA said parents were issued with a 'soft caution' (PESW), whilst in another, the child and parents signed a contract, which was noted as evidence for court and parents were aware of that.

In the 16 LEAs which did not use PACE cautioning, over half were exploring its possible implementation or were already in the process of implementing it. Five said they were not using it and interviewees from two LEAs were opposed to its use. An LEA that was in the process of implementing PACE had experienced opposition from council members against its use – the involvement of council members in the prosecution process was a particular issue in this authority. Interviewees raised a number of issues about the use of PACE as well as highlighting some positive aspects of its use.

#### **Positive aspects of PACE**

The positive aspects of cautioning under PACE raised by interviewees focused on:

- parents' realisation of the seriousness of the offence (six interviewees): 'They do realise now that it's a serious thing' (EWO).

- formalisation of the prosecution process (four interviewees). Parents usually had to sign a copy of a transcript of the interview and were told that it might be used as evidence against them in court. This was seen as a fairer process because it made parents aware of what might happen:

*It's not fair that parents are not made aware from the beginning that cases can and may proceed through legal channels. You should be aware that what you're saying to me may be used in evidence.*

(SEWO)

- a reduction in the number of prosecutions because the nature of the PACE interview prevented cases going to court (five interviewees)

*Mainly because we introduced caution under PACE ... That proved to be more successful than actually carrying on to court. It diverted people from the court ... I was pleased when the formal caution actually began to produce more results than the actual prosecution process itself.* (PEWO)

- parents being charged with the less serious offence (under Section 444.1 rather than 444.1a), for example, because new information came to light at the PACE interview:

*The people who've attended PACE interviews have not been charged with the aggravated offence ... it's extracted information that's allowed us to process the case in a different way – they've gone to court but not on the aggravated offence.*

(PEWO)

Despite being generally supportive of its use, a number of issues and concerns were raised by interviewees around the use of PACE cautioning generally. There appeared to be confusion in relation to the use of cautions under PACE and interviewees said they would welcome clarification nationally. There was also variability in practice, which might raise issues regarding equality and consistency in approach.

### ***Issues relating to PACE***

The main issues and concerns raised by interviewees focused on:

- the impact on officers' relationships with families (10)
- recording interviews (9)
- training issues (5)
- resource implications (5)
- general uncertainties about the use of PACE (5).

The most commonly raised concern regarding the use of PACE focused on the *impact it might have on officers' relationships with families*. This was an issue raised by both

managers and practitioners, who felt that issuing a formal caution under PACE was likely to have a detrimental impact on their relationship with families:

*I think that [the use of PACE] coloured the relationship between the EWO and the family right from the beginning. It made the job more difficult ... If they are using PACE, an EWO is using these formal words: 'You don't have to say anything ...' which sets the tone of the relationship and then you might be going again in a supportive way but you have to say to parents 'I must remind you you're still under caution'. [Use of PACE] made parents more hostile and more likely to fight the prosecution.*

(PEWO)

Some LEAs had resolved this issue by using senior members of staff to deliver the caution under PACE thus distancing practitioners (EWOs) from the process. Nevertheless, the use of PACE changed the officer's role from one of 'welfare' to 'enforcement' and a number of practitioners were uncomfortable with this role:

*It [delivering a caution under PACE] gets the hair up on people's backs because you are taking on a different role, you are enforcing the law.*

(SEWO)

The style of the PACE interview was very different to the EWS usual therapeutic approach and there was some uneasiness about its use: 'it doesn't sit very easily with the type of work we do' (PEWO). Even those interviewees who were supportive of using PACE highlighted the conflicting style they needed to adopt in a PACE interview. They also pointed out the importance of thinking about *when* in the process parents were cautioned because, if it was used too early, it could possibly sour relationships with families (see the discussion on variability).

Interviewees also raised concerns about *how PACE interviews should be recorded*. There was debate over whether and, if so, how the EWS should be recording interviews and

cautions issued/conducted under PACE. Some LEAs saw the tape-recording of parent interviews as 'excessive':

*We will probably go down the lines of actually reading from a card, telling a parent 'anything they say could be used as evidence blah, blah, blah' and at the end of the meeting we will give them a sort of a transcript of what they have said.*

(PEWO)

Whereas others felt that tape-recorded interviews were a much better approach because:

*Contemporaneous notes require a great deal of care. Recording the interview is much safer. We find it much more effective, though we are not required to record.*

(PEWO)

Of the nine interviewees who raised this as an issue, three said their services tape-recorded interviews, five took notes and one did not comment. Parents were usually asked to sign a copy of the notes to say they agreed that it was an accurate transcript. In one LEA, because of the difficulties of getting parents in for formal interviews, EWOs were 'trained to take more of a note of what was said, rather than formally interview' (solicitor). However, it might be questioned whether this evidence would be admissible in court.

*Training issues* related mainly to the time involved and the cost of implementing PACE: 'You can't just do this off the back of a fag packet' (PEWO). Most EWS had used Legal Services to deliver the training, although at least one LEA had accessed external training, which was described as 'fairly expensive' (PEWO). In contrast, in another LEA, PACE training 'was delivered on the job' and was described as 'patchy' (PEWO).

*Resource implications* included staff time, facilities and training, as one PEWO observed: 'We've committed a lot of resources to this process'. In a number of LEAs only senior members of staff/managers delivered cautions under PACE, which was extremely

resource intensive in terms of their time. In addition, EWOs might be expected to sit in on interviews where the caution was delivered which meant that two officers' time would be taken up. One EWS was not using PACE because it was too officer-intensive and two other LEAs commented on the time-consuming nature of issuing cautions under PACE. The structured nature of a PACE interview also needed to fit into a structured prosecution process and as one PEWO pointed out: 'I don't think people have appreciated what it takes to provide a structured system' (PEWO). Thus, for some LEAs the use of PACE cautioning might have implications for how their whole prosecution process was conducted. Resource commitments associated with PACE included the provision of rooms in which to conduct the interviews, tape-recording equipment and staff to transcribe/write up the interviews.

In addition, *general uncertainties about the use of PACE* were highlighted by practitioners:

*We were given advice, if we're interviewing somebody, if an offence is being committed, we can caution them, but ... I don't think the procedure is followed as it would be in a police interview room. We deal with people over such a long amount of time that the offence could have been committed a year before and you're not going to record every conversation with that person for a year. So I think it's very difficult for PACE to be implemented in our job.*

(EWO)

In contrast, other services had been informed by their Legal Services that they had to formally caution parents under PACE otherwise, if the case was challenged in court, it could be thrown out:

*If we didn't interview in line with PACE then we could only get the Section 444.1 offence, so we would be missing out a whole section of legislation that government have given us to work with.*

(PEWO)



A solicitor who was responsible for presenting cases in an LEA that did not use PACE said this was because:

*Cautioning demands an offence has been committed. It's difficult in education cases to say exactly when the offence has been committed, although technically it's every time a child misses school.*

(solicitor)

This solicitor also felt that it was impractical to use PACE in education cases because, once a parent was cautioned: 'If you look at the PACE Code of Practice, you're not supposed to discuss it with them any further, except for clarification or interview about the offence' but in the case of non-attendance at school, EWOs usually had to continue working with families, so she/he felt that this was problematic. One parent referred to being cautioned but appeared confused about the process:

*We had to go ... for a formal caution and I wasn't very keen on the idea of being cautioned with the police authorities. How can it be a caution if no police are present?*

(Mr Green)

Were there any differences in practitioners' and managers' views on the use of PACE? There were mixed views from both practitioners and managers. Some PEWOs and solicitors felt that EWOs had concerns about its use: 'There are some practitioners who feel some unease about that [formally cautioning under PACE]' (PEWO). EWOs who were working in LEAs where PACE was already used also raised concerns (see issues above) about its implementation.

Interviewees also highlighted *variability in the use of PACE* between LEAs in terms of:

- where the cautions took place
- who delivered them
- when they were delivered.

#### **Where the cautions took place**

In those LEAs that were using PACE the caution would either be delivered during a

formal interview held at the EWS offices or another 'formal' local authority building, or in the parents' home. Delivering the caution in a formal interview or meeting was the most common approach and one adopted by six LEAs. Those LEAs delivering cautions under PACE in parents' homes (four LEAs) highlighted the potential health and safety implications for the officers involved and, in some cases, where there were concerns that officers might be at risk, the caution would be sent by letter or parents would be invited for an office interview. Another LEA also sent a letter delivering the caution if parents failed to attend the PACE interview.

#### **Who delivered the cautions under PACE?**

Cautions under PACE were usually delivered by a senior member of EWS staff, for example a PEWO or Assistant PEWO or SEWO (in four LEAs). Although some were exploring the possibility of EWOs delivering the caution: 'In the longer term, front line officers will take a lead role in PACE' (PEWO). In two LEAs, cautions were already delivered by EWOs and, in another, EWOs had been trained to deliver them but had not done so yet. Other LEAs felt that it was inappropriate to have EWOs delivering the PACE caution as it might have a negative impact on their relationship with the family and that some parents might not take it seriously enough unless it was delivered by a senior manager:

*I don't deliver the caution, it's [name of PEWO] that delivers it. I sit there and take the notes. I don't participate. It could possibly damage relationships between us and the family.*

(EWO)

*I don't feel that they take it that seriously when it is coming from an EWO. I think it needs to come from some sort of authority figure.*

(SEWO)

#### **When the caution was delivered**

There was debate amongst interviewees about when the caution should be delivered. The legal argument was that, if the EWS was going to use what a parent said as evidence

against them in court, they should be delivering the caution as soon as they believe an offence had been committed. However, the nature of the EWS work meant that most officers felt it would be inappropriate to deliver a caution at their first meeting with a client and that this approach was not conducive to working with families in a positive way:

*There's some authorities saying that we should be administering PACE at the very first home visit. I'm not sure of the legalities of that but cautioning somebody at the very first visit, they're not going to be very cooperative after that. But some people do think that if you are operating under PACE then you should be doing so right from the beginning of the process. It just wouldn't work it would completely damage the relationships with the families.*

(EWO)

One LEA had resolved this issue by delivering the formal PACE caution after all possible mitigating circumstances had been explored and the decision to prosecute had been made.

#### 1.4.4 Withdrawal from prosecution

PEWO interviewees were asked if they ever withdrew cases from prosecution (once the summons had been issued) and, if they did, to give their reasons for withdrawal. More than three-quarters of PEWOs (94 out of the 122 interviewed) said that they had withdrawn cases. In some instances, PEWOs gave more than one reason.

The reasons for withdrawal, in rank order, focused on:

- new evidence coming to light:
  - new medical evidence about the parent or child
  - a change in family circumstances
  - a family bereavement or other trauma
  - the imprisonment of a parent
  - a child taken into care
  - the discovery of undiagnosed SEN
  - a young person becoming pregnant

- exclusion from school, or involvement in offending (55)
- improved attendance (28)
- delays in the court process and adjournments, which meant that the young person had reached the school leaving age or the evidence was no longer admissible (7)
- that it was no longer in the public interest to prosecute, usually on the advice of Legal Services, i.e. the case was unlikely to be successful (6)
- school authorisation of non-attendance (5)
- families' change of residence (5)
- parental cooperation (2).

A number of interviewees who said that they would withdraw a case if the young person's attendance improved, qualified this statement by saying that they would only do this if they were relatively certain that the improvement would be maintained and that it 'wasn't just a temporary blip to fend off prosecution' (PEWO). Some said they might ask the court to consider adjourning the case to ensure that improvements were sustained. Conversely, a number of interviewees said that they would not withdraw a case if the young person's attendance had improved, because they wanted to ensure that any improvements were sustained, although they would inform the court of the improvement and ask them to consider this when deciding on a disposal. Those interviewees who were unwilling to withdraw a case on the grounds of improved attendance also highlighted that, as the offence had already been committed, they felt that the case should proceed regardless of any improvements in attendance.

Although the majority of PEWO interviewees said they would withdraw a case if the circumstances were right, nearly half of them said that very few cases were withdrawn once the summons was issued. For these interviewees, withdrawal of cases was seen as something that happened occasionally or in 'exceptional circumstances'. Interviewees

expressed concern at withdrawing cases once the summons was issued as it was felt this was an inappropriate way of using court time and that prosecution should not be used as an 'idle threat' against parents:

*Our Legal Services don't like it when we do that [withdraw] because they are saying, if you are clear that that is what you should be doing, then that's what you should be doing... We mustn't get into an abusive process, threatening, almost getting to the brink of prosecution and then withdrawing hoping that the fear of potential prosecution and the summons is going to put the wind up people. That is part of the assessment. If you are clear that a prosecution is appropriate in your assessment you do it, you don't suddenly pull out.*

(PEWO)

The reasons the 13 PEWOs gave for not withdrawing cases also focused on the fact that an offence had already been committed and that once the summons had been issued and the case had entered the legal process they should proceed. Interviewees said they would ask the court to consider an adjournment if the young person's attendance increased dramatically. PEWOs were asking the court to look favourably on parents who made an improvement, for example, by giving them a conditional discharge, but there was a feeling that the process had to reach a conclusion once it had begun. One PEWO highlighted the problem of withdrawing cases:

*[The parent could feel] 'Well that's OK, now we can just go back to what we were doing' and then you have got to go through the whole process [again]. I would much prefer to have a conditional discharge that allows you to say to the parent 'Yes, OK, you are doing something about it, but if you don't continue you obviously have to come back to court'.*

(PEWO)

## Issues for consideration

- This research has shown the overwhelming criteria for prosecution (apart from their child's non-attendance at school) was the non-cooperation of parents. Is there a need for EWS staff to further explore the concept of non-cooperation so that everyone is working with a similar definition?
- The research highlighted that a number of EWS were using prosecution checklists as a way of ensuring consistency in approach and also to justify or record why (or why not) they were prosecuting particular parents. Should all EWS be thinking of how they make their prosecution processes consistent and ways of improving the consistency of existing procedures?
- The first report (Kendall *et al.* 2003) highlighted the importance of the EWS use of monitoring systems to examine prosecution data, so that services knew *whom* they were prosecuting (in terms of gender, marital status, socio-economic status, ethnicity etc.), the age of the children involved, ethnicity, parental plea, the disposals given and perhaps, most importantly, school attendance levels pre- and post-court. The importance of collecting and analysing these data in all LEAs at an aggregate level in order to provide insights into the prosecution process should perhaps be considered. Would the effectiveness of prosecution as a strategy be better understood if such systems were universally in place?

- In relation to the use of the aggravated offence, Section 444.1a, the research highlighted different views from interviewees as to how to prove that parents knew their children were not attending school. Is there a need for legal clarification on this point?

- The research has shown some confusion regarding the EWS use of and delivery of cautions under PACE. Again does this suggest that there is a need for national guidelines on its use in school non-attendance cases?

## 2 Processes leading to prosecution

### Key findings

- A great deal of variation was apparent in the ways in which prosecution processes operated in different LEAs. Variations in terminology concealed the similarities evident in the array of prosecution processes.
- The processes leading to the issue of a summons could end at the point of supervision meetings and warning letters, or at parent ('office') interviews, or at larger-scale, wider meetings and consultations.
- The majority of prosecution processes culminated in opportunities for final dialogue and discussion between parents and EWS, suggesting they were interactive and inclusive in nature.
- The process of prosecution was often seen to be more effective in improving attendance than the court-related disposal or outcome.

### 2.1 Introduction

A great deal of variability was evident from interview data regarding the nature of the prosecution process – that is, the mechanisms and procedures in place which lead to a prosecution being brought. This chapter examines these variations in procedures leading up to the points or stages at which procedures culminate and the decision to prosecute is finalised. It ends with interviewees' perspectives on the effectiveness of the prosecution process.

### 2.2 The components of the prosecution process

All interviewees identified casework with families as an underlying element of the prosecution procedures and, in most cases, this resulted in resolution without recourse to prosecution through the magistrate's courts. The casework/intervention stage was generally said to involve attempts to address attendance issues through the development and implementation of action plans and attendance targets.

This involved meetings with the family – in the home or in school – as well as interaction and negotiation with schools and other agency professionals as a means of devising and implementing strategies for successful reintegration and improvement in attendance. One interviewee noted that, prior to the consideration of prosecution:

*There would be significant casework and multi-agency involvement with the case to start with. There would be quite a number of meetings with parents to try and find a solution, which would include schools and other agencies.*

(PEWO)

Following casework intervention (which was universal), further verbal and written discussion and communication with parents occurred as a precursor to prosecution. However, the final stage of such dialogue prior to the summons being issued did vary. EWS might complete their staged approach after:

- supervision meetings and warning letters
- parent ('office') interviews
- larger-scale, wider meetings and consultation.

Hence, each of these approaches might represent the point at which the decision whether or not to prosecute was either made or, if made during one of the preceding stages, was assessed and reviewed. The stage at which prosecution procedures or processes culminated ranged from EWO-SEWO supervision meetings and the issuing of warning letters, to multi-agency panel meetings; involvement ranged from the EWS alone, to the involvement of the EWS, the family and other agencies.

The range and frequency of these different final stages varied within the sample of 119 LEAs involved in phase one of this research, shown in Table 2.1.

**Table 2.1 The final stages of prosecution processes**

Final stage	Number	Percentage
Wider meetings and consultation	77	65
Supervision meetings and warning letters	26	22
Parent ('office') interviews	16	13

*Source: Interviews in phase one of the NFER study, 2002*

Just over one-fifth of prosecution processes (22 per cent) were concluded at the point of supervision meetings and the issue of warning letters where parents/family were not ultimately present. Nearly four-fifths of prosecution processes (78 per cent) culminated in opportunities for discussions between the family, EWS and others. Whether or not the parents/family and other agencies accepted such invitations was, however, often deemed to be another issue. Supplying opportunities for discussion appeared to be central to many prosecution processes.

The following analysis considers this variability in types of prosecution in more detail to give a indication of the various ways in which prosecution for non-attendance can be conducted, starting with the least complex approach.

### 2.3 Supervision meetings and warning letters: involvement limited to EWS

Interviewees detailed the type of work that was carried out during the casework phase of intervention and the role of supervision meetings/procedures within this. This generally involved senior education welfare staff discussing individual cases with officers, monitoring, reviewing and providing support and guidance as to the progression of the case. This could involve the decision to prosecute or to instigate other interventions.

In one case this type of prosecution process was classified as a 'paper process' in which case notes and records were examined in supervision meetings between EWOs and SEWOs during a flexible time span, leading to the decision to prosecute being taken by senior officers. Parents would then be warned by letter that prosecution would follow unless there was an improvement in attendance.

Hence, prosecution processes culminated in supervision meetings where parents and young people were not directly involved at this final stage. This type of system was often said to be reasonably systematic and was intended to be uncomplicated: 'The simpler we can keep these prosecutions, the better it is' (PEWO). Hence, warning letters were a central aspect of supervision-type prosecution processes. (See Figure 2.1 for examples of supervision meetings and warning letters.)

Interviewees noted that letters to parents constituted a significant part of the prosecution process, in accordance with the 1996 Education Act. Some letters were clearly advisory and encouraging in nature, explaining to parents the seriousness of the situation and the possible legal consequences if improvements were not forthcoming. One interviewee suggested that such letters could be sent to 'motivate' parents as well as clarifying the legal situation for them. Other respondents provided details of letters of invitation sent to parents, designed to give

them increased opportunities to engage with EWS staff.

Across the sample, the content and nature of letters varied from what was described as 'a very mild' first warning letter after three or four weeks of EWO intervention, to a warning letter with red headband that 'looks very official' and described as 'not friendly' in its terminology (PEWO). At the extreme end of the spectrum, one interviewee noted that: 'We have two letters to send. They look nasty' (PEWO).

Thus, most interviewees noted that the sending of letters to parents was a staged process, the content and severity of each letter increasing accordingly, relative to the outcomes of the previous stage of intervention. Without significant improvement in attendance or parental cooperation, 'quite low key and informal' letters of concern and invitation to meetings would be followed by formal letters of enforcement and finally notification of prosecution.

As noted previously, letters were a common feature of all prosecution procedures and they carried with them symbolic importance in addition to 'increasing the pressure, trying to get the message home' (PEWO). In several instances, for example, the issuing of a warning letter acted as a 'watershed' between casework and legal intervention:

*Once the letter of concern goes out, it's the end of the nicely nicely touch approach and we're going to enter into a different arena now. The prosecution process starts now.*  
(PEWO)

*Once a warning letter has been sent, that's the point that we're acknowledging that this is likely to go down the court route. The warning letter is the beginning of our formal procedures.*  
(PEWO)

Warning letters and notices represented the official notification that prosecution could be an outcome of continued poor or non-attendance and were used to clearly set out EWS positions and intentions. One

interviewee, for example, noted that the warning letters 'state quite clearly, rather than hide behind meetings, to say that there is a possibility of prosecution' and that if attendance did not improve, 'a further letter confirming the prosecution is to occur and to suggest that parents seek legal advice' (PEWO).

The importance of warning letters was reflected in the use of recorded delivery and the reference made to warning letters in court, as evidence of attempts made by the EWS to make contact with the family and work with them to improve attendance.

### Figure 2.1 Example of supervision meetings and warning letters

---

#### Supervision meetings

Casework and intervention packages were put in place and, if no improvements occurred, a warning letter was sent to the parents by the SEWO. The case was monitored in supervision and, if attendance did not improve satisfactorily, the decision was taken to issue a warning notice. This took place within a flexible time span. Following this, the EWO attempted to make further home visits and evidence was gathered during this time. If improvements in attendance were not forthcoming, legal proceedings were instigated. This system was developed as a means of replacing the previous panel-based system that was seen as detrimental, because of the time delays and consequent damage to a child's education: 'We've tried that in the past – now we just go for the cut and thrust' (PEWO).

#### Warning letters

*There has to be a warning letter and then a second warning letter and if there was no improvement, we would contact the legal department.*  
(PEWO)

In another LEA, the approach to prosecution took a similar form. Following a period of casework, a warning letter was sent out and the case reviewed for four weeks after which the final warning was served. If there was no improvement after a further four weeks, then prosecution would follow.

---

Source: NFER interviews in phase one of the NFER study, 2002

## 2.4 Parent 'office' interviews: involvement limited to EWS and the family

Sixteen interviewees (13 per cent of the total) gave details of prosecution processes that culminated in office interviews or meetings (see Figure 2.2). These were generally small-scale meetings involving the family and one or two members of the EWS. The stated aims of these meetings centred on:

- target setting and action plan development
- providing a safeguard mechanism.

Office interviews were held to develop *action plans and targets* when casework intervention had failed to secure satisfactory improvements in attendance levels. For example, following discussions during supervision meetings between EWO and PEWO:

*At some point, we will decide on having an office interview where the parents and child are asked to come in and discuss any difficulties.*

(PEWO)

*We tend, when things get really tough, to try and call the parent in to the Education Office as well to try and move it forward.*

(EWO)

These interviews therefore reflected an increase in formality and some meetings would produce a written agreement or action plan leading to a period of further monitoring, then review at supervision, followed by another office interview. Other interviewees suggested that contracts were developed, agreed and signed during these meetings, setting out the responsibilities and actions of the parent, child and EWS in improving attendance levels. In some instances, a decision regarding prosecution would be made at that particular meeting.

Office interviews were also held as a quality assurance or *safeguard mechanism* to ensure the validity of the decision to prosecute or not. In addition to providing the parents and child with a 'final opportunity to explain'

their attendance difficulties, one interviewee characterised the parent meeting as a means by which proceeding with the prosecution could be confirmed as the most appropriate strategy. Such a meeting was said to be held 'in the last minutes ... just to satisfy myself that we have all the facts [to safeguard against] discrimination and victimisation'. Hence, following casework with an EWO and discussions between EWO and SEWO, this particular PEWO used the meeting with the parent as a last attempt to remedy the situation and to ensure consistency and equality of approach if legal action was to be followed in the courts.

Office interviews exhibited certain features, distinguishing them from supervision meetings and casework stages, notably:

- seniority of EWS staff involved
- formality of setting.

Although seemingly flexible in timing – education welfare staff appeared to have considerable discretion in when they were to be held – office interviews generally represented an increase in the level of formality of the prosecution process, reflected in the composition and location/setting of the meeting. These meetings took place with *senior or managerial level education welfare staff*, such as Team Leaders and PEWOs. Furthermore, 'a meeting with the head of education welfare', would often take place in *high profile venues*, such as meeting rooms in civic buildings.

In one case, for example, if there had been no satisfactory improvement in attendance after six to eight weeks of casework, a formal meeting was held at the Civic Centre. This meeting took the form of 'a mock court' and would be suggested 'if we think that we can instigate change by frightening the child by being more formal'. This meeting would be attended by senior education welfare staff who would not be known to the family: 'We can be quite hard in those meetings' (PEWO). Hence, this particular example differed from others that appeared to pursue a more supportive and reconciliatory approach.



This increase in formality, including, in some cases, parents signing an agreement confirming their understanding that court action could follow, led some interviewees to comment that 'parents do take it more seriously at that stage' (PEWO).

**Figure 2.2 Example of parent office interviews**

---

EWOs work with the family: 'Now it is very difficult to say whether they are going to work with it, for three weeks, six weeks or ten months, obviously each case is worked on its own merits really. But the process is normally that if there is no improvement in attendance it kind of goes up a stage so there would be a parent meeting.

Parent meetings would usually be attended by the EWO and a senior member of staff and parents could bring a friend or solicitor for support. Occasionally meetings would be held in school, but were normally held in the Education Office:

Because sometimes parents will tell us about something that is happening at school if there is not a member of staff there. So we find it's actually better to hold the meeting away from school to get a better picture really.

(PEWO)

At the meeting, parents and the young person were told:

*What the situation is and this is what you need to do to improve it and, if it doesn't, this [legal action] could be the consequence. Sometimes at those parent meetings we have other things that come out where they need to be referred to Social Services or there could be a child protection issue or there could be other issues. Some of it might be child employment that we weren't aware of before. So that would change what happened next obviously.*

(PEWO)

The final decision would always be made with a senior member of staff.

---

Source: NFER interviews in phase one of the NFER study, 2002

## 2.5 Wider meetings and consultation: education welfare-based or orientated meetings and multi-agency meetings

Meetings between education welfare staff, the family and other agencies and professionals constituted the greatest proportion of prosecution types (65 per cent

of the total), although within this, two main elements can be identified: education welfare-based meetings (in 58 LEAs) and multi-agency meetings (in 19 LEAs). Many similarities were apparent and the two types were closely related, the major difference being that education welfare-based meetings *could* involve input from other agencies, whereas the composition of multi-agency meetings *would* include other agency representatives.

### 2.5.1 Education welfare-based/orientated meetings

The greatest overall number of prosecution processes culminated in meetings involving education welfare personnel. Nearly half (49 per cent) of the prosecution processes in the sample could be categorised as culminating in 'education welfare-oriented meetings'. These differed from parent office interview processes as, although primarily involving and centring on education welfare staff, they had the potential to involve input from personnel from different agencies, where appropriate.

There was considerable variability in terminology by which these education welfare-oriented meetings were referred to and Figure 2.3 shows the terms used, although they have been condensed into three main categories.

Interestingly, the range of meetings was divided almost evenly between school, court and composition-related terminology. It is apparent, however, that the particular terminology applied had little bearing on the nature, purpose and outcome of the different meetings. Commonalities and variations within these differently termed/named meetings existed in terms of:

- composition
- location or setting
- ethos
- purpose.

What was the *composition* of these meetings? In addition to practitioners (EWOs), education welfare-based meetings frequently involved senior staff who would not normally have had

**Figure 2.3 Variation in nomenclature of education welfare-based meetings**

Terminology category	Name of meetings
School and attendance related (22)	Attendance Panel (including Attendance Support Panel and Non-school Attendance Panel) Attendance Case Conference Attendance Planning Meeting School Attendance Case Group Meeting Education Planning Meeting School-based Meeting Non-attendance Meeting
Court/prosecution related (18)	Pre-court or Pre-prosecution Meeting PACE or Caution Interviews/Meetings Court Assessment Meetings, Pre-court Review Meeting or Interview Legal Intervention Meeting Legal Action Panel
Composition/structure related (18)	Planning Meeting Formal Meeting Panel Meeting Link Meeting Governors' Attendance Panel Network Meeting Liaison Planning Meeting Authority Strategy Meeting Consultation Meeting LEA Meeting LEA Attendance Panel EWS Meeting

Total number of education welfare-based meetings = 58

*Source: Interviews in phase one of the NFER study, 2002*

direct involvement with the family during previous stages and casework intervention. Meetings were thus generally characterised by the presence of managerial and strategic level personnel. For example, Education Welfare Divisional Managers attended PACE Interview Meetings in one area and, in another LEA, a Legal Action Panel was chaired by the ESW Manager. Similarly, Social Inclusion Managers were invited to Pre-court Meetings in several LEAs.

Most interviewees contended that parents and young people were intended to be central to education welfare-based meetings and were invited, in writing, to attend and several commented on the emphasis placed on children's presence: 'Children are encouraged to attend the meeting' (Attendance Planning Meeting). In other

authorities, age restrictions were imposed so that 'secondary age children are invited, but not primary' (PEWO).

Parents were also said to be given the opportunity to be accompanied by a supportive figure. For example, it was noted that: 'It's good practice for parents to be encouraged to have a representative with them' when attending one particular Pre-court Meeting and, at a Formal Meeting 'the parent often brings a friend or family member'.

Although unusual, it was noted by some interviewees that in several instances, parents were not invited to the education welfare-based meetings at which prosecution decisions were made or confirmed. Despite one particular Legal Action Panel being

described as 'fairly informal', cases were considered without parents' input. Similarly, Legal Intervention Meetings in another authority were also said to take place without the parents having been invited. This exclusion of parents appeared to be extremely rare and may be a reflection of the number of opportunities for parental involvement prior to the final stage.

Most education welfare-based meetings carried with them the possibility of involving a range of other professionals in the process of decision-making or review. That is, even though oriented around education welfare, the input of other agencies was seen as desirable in most cases. Other agencies and professionals that could be involved included school representatives: 'We try as far as possible to involve schools in those [Pre-prosecution Meetings]'. In some cases, this presence was expected, as in the case of a Pre-court Meeting, for example, which was chaired by a SEWO and held in school 'so we would always expect someone from the school to attend'. A variety of school staff were involved, including class teachers, headteachers (especially primary schools), heads of year and pastoral staff.

School governors were also included in some education welfare-based meetings and in one instance, the prosecution process culminated in a Governors' Attendance Panel. Interestingly, there were situations where the school was not represented. A Legal Action Panel, for example, consisting of EWS Managers and a legal advisor, was said to be considering inviting school representatives, (although not parents), to future meetings. Another interviewee noted that the school was particularly discouraged from attending the Formal Meetings that took place at the Town Hall: 'We generally don't ask the school. I have found that if we invite the schools, they tend to take over' (PEWO).

Education welfare-based meetings were thus presented as having the scope to incorporate input from a wide range of sources, if considered appropriate: 'Any professional

involved with the family' was said to be invited to a Pre-court Meeting, although specifically 'the Youth Offending Team (YOT) are automatically invited'. Other examples given included Social Services and Family and Adolescent Support Team, reflecting the supportive nature of these meetings. Other interviewees highlighted the involvement of representatives of Borough Solicitors or Legal Services. One suggested that a Legal Services representative was invited to a Formal Meeting and even if they were unable to attend, the invitation alone served to illustrate to the parents 'the important legal nature of the case'.

Many interviewees pointed out the inclusivity of education welfare-based meetings and the potential for including any agency or individual able to contribute to improving attendance. 'At the meeting are SEWO, school rep, parents – anyone else relevant – social workers, YOT, friends of the family, even. We try to make it as big as possible' (PEWO).

Such comments reflected the prevailing sentiment that attendance issues could require collective solutions: 'We need to get together as a group to try and improve attendance'.

Several interviewees did, however, suggest that the role played by professionals other than education welfare staff was an area for development. For example, it was said that in the case of a Pre-court Interview, 'We are looking to increase interaction with other agencies, especially Social Services'. It was also suggested that, in many cases, even though they were contacted and invited, input from other agencies was not always assured. Interestingly, a number of interviewees noted that the meeting was often only attended by those with direct educational involvement, as, although open to other agencies, they often did not attend these meetings.

In addition to meeting composition, variability existed in terms of the *location or setting* of education welfare-based meetings.

Three main types of venue were identified:

- schools
- education and education welfare offices
- civic/public buildings.

Where meeting places were specified, schools appeared to be the most common venue for all types of education welfare-based meetings. These included five court-related meetings and six attendance-related meetings as well as school-based and governors' attendance panels. Meetings held in education and education welfare offices included three Pre-court Meetings and PACE interviews and three Attendance Planning or Panel Meetings. Other venues included Council Offices and Civic Centres. These were described as formal meetings taking place in formal venues.

The variability evident in terms of the setting of meetings suggests that those meetings involving court-related terminology appeared to be just as likely to take place in schools as did attendance-related meetings. Similarly, meetings taking place in school were just as likely to culminate in a decision to prosecute as were those taking place in a Town Hall. Hence, the increasing formality of the location of a meeting did not necessarily have any bearing on its likely outcome.

Generally, the *ethos* of education welfare-based meetings was described as being 'formal' and 'official', conveying the seriousness of the situation and often communicating to parents that 'this is the end of the line' and that the meeting constituted 'parents' last chance'. Parents received letters formally inviting them to attend these meetings, which often had fixed agendas and minutes. For example, a Governors' Attendance Panel was said to constitute the:

*... first really formal meeting that we have. They [parents] are invited formally, it is minuted properly and they are asked to go out and come back in again to be told what recommendation has been made.*

(PEWO)

The minutes of at least one Attendance Planning Meeting were recorded and could be submitted as evidence if the case went forward to prosecution, reflecting the serious nature of the meeting. Some interviewees also identified an element of compromise in the nature of the meeting, for example, one Pre-court Review Meeting was described as:

*A mixture of meetings. Quite formal, but at the same time we are saying 'We will continue to work with you, we want to make this better' but the parents have to agree to do something.*

(PEWO)

This suggested that an outcome other than a court appearance could stem from this Court Review Meeting, reflecting the contention that such meetings were not designed to be punitive and court action was not a foregone conclusion or predetermined outcome.

Education welfare-based meetings conveyed symbolic meanings and messages as they were seen as illustrating parents' commitment and willingness to interact, engage and cooperate in order to address non-attendance. For example, various interviewees suggested that failure to attend meetings (without reasonable justification or mitigating circumstances) could hasten the route to court. In several instances, parents' failure to attend these final meetings would automatically trigger prosecution proceedings: 'If parents don't turn up that gives us a very clear message that they're not interested – that goes straight to court'.

Others, however, noted that the meetings symbolised a further stage and gesture of compromise and mediation between legal enforcement and support, communicating to parents that resolution rather than prosecution was the desired outcome. A Network Meeting was described as 'looking at ways of preventing prosecution' and a Link Meeting was said to 'give them [parents] the opportunity to avoid court action'.

In discussing the *purpose or aims* of education-welfare oriented meetings,

interviewees revealed a general consistency, identifying:

- information gathering and discussion
- action plan development and monitoring
- decision-making.

Education welfare-based meetings were said to provide a final opportunity for *gathering information* regarding the circumstances of cases, suggesting a safeguard, or quality assurance function. For example, a Pre-court Interview was described as a means of checking for any other information or facts pertinent to non-attendance and its solution. Similarly, a Formal Meeting, held in school, was said to have two main purposes, the first being to 'ensure that the EWO hasn't missed anything in casework, to make sure there are no family problems' and the second was 'to get a second opinion, wider views on the case'. Likewise, another Formal Meeting was seen as a means of:

*looking for any other issues that have been raised ...we have to know that our officer has made a good effort to try and support the parent.*

(PEWO)

Education welfare-based meetings were also regarded as a forum for *discussing* the options or solutions available. A School Attendance Consultative Group meeting, for example, was characterised as being 'basically a forum for all those involved to look at what the issues are and what can be done to address them', whilst an Attendance Case Conference was described as operating:

*Basically to tease out of the parent whether there is a legal defence or not and whether there is something more that agencies can do ... concerns are raised and put onto a legal footing.*

(PEWO)

Education welfare-based meetings also fulfilled the function of *developing action plans* and *monitoring* any subsequent changes in attendance levels. This was common to all types of meetings, reflecting

the desire and flexibility within systems and processes to avoid prosecution. Variability was apparent in terms of the outcome of such monitoring. For example, the effects of an action plan devised at one Pre-Court Review Meeting would be monitored for six weeks and the cycle would be repeated twice prior to the final decision on prosecution being made.

However, in another LEA, parents would be warned of the possibility of prosecution during an Education Planning Meeting and attempts would be made to try and devise an 'alternative contract' for reintegration into school. The effectiveness of this would be monitored and then a final warning letter would be issued. If improvements were not forthcoming during the next ten school days, 'we would proceed to the prosecution. It's pretty systematic'.

In the majority of cases, the education welfare-based meetings contained the *direct decision-making function*: 'It is made clear at the start [of the meeting] that the decision to prosecute may come from this meeting' (Attendance Planning Meeting). In some cases, this was an immediate decision taken during the meeting and in others it could be deferred pending consideration of the attendance situation throughout a specified review period. Education welfare-based meetings could also have an indirect role to play in the decision-making process. For example, the function of a Caution Meeting and a PACE Interview was to consider and assess the prosecution decision made previously, whilst the outcome of one Attendance Case Conference could be a request to the PEWO to issue a final warning letter reminding parents of legal responsibilities prior to a summons being issued. Most interviewees also suggested that Education Supervision Orders (ESOs) could also be considered and discussed at these meetings.

Within education welfare-based meetings, differences were apparent in the use of PACE to caution parents (the issues surrounding

PACE have been explored in the previous chapter). Where it was stated that parents were cautioned – either under PACE or otherwise – it is apparent that this occurred predominantly, although not exclusively, in meetings involving court-related terminology, such as Court Assessment Meeting, Caution Meeting, PACE Interview. However, it was noted that PACE was used in some other meetings, including an Attendance Case Conference, a Non-attendance Meeting and a Consultation Meeting.

**Figure 2.4 Example of education welfare-based meetings**

Following assessment by the EWO, an action plan was devised and circulated to the parents and the school, detailing the agreed action to be undertaken by the school, EWS and parent/family in securing school attendance.

*If at that point in time we have gone eight weeks and there has been no movement at all or we feel that the parents are not working with us, we will go on at 12 weeks to a Pre-court Meeting. Quite often these don't come until about 16 weeks because there might have been a slight improvement and then it settles back again.*

The meeting was chaired by an education welfare Team Leader and could involve input from a variety of sources:

*Any agencies that we felt could effectively work with the parents and would help to solve the situation. If Child Mental Health are involved we would invite them, if the Social Services were involved we would invite them. Youth and Community personal advisors, the school obviously would be there, the parents would be there. The child, if it is an appropriate age, would be there as well.*

*We have done so far this year about 430 Pre-court Meetings. Of those, 35 have gone on to court so the others have been successful. So, it is actually a very good forum for bringing about change.*

Source: NFER interviews in phase one of the NFER study, 2002

## 2.5.2 Multi-agency meetings

In 19 LEAs, (16 per cent of the total) prosecution processes culminated in meetings that specifically comprised various professionals and agencies, in addition to education welfare personnel. Although

exhibiting many similarities, these differed from education welfare-based meetings in that the participants in such meetings generally included standing members, or regular members, who were not called just for their involvement with individual prosecution cases. The variation in multi-agency meetings is shown in Figure 2.5.

It is evident that multi-agency meetings employed similar terminology to education welfare-based meetings, although there was a greater reference to, or usage of, 'panel', reflecting and emphasising the composition associated with these meetings. It is also noteworthy that court-related terminology was quite rare, (when compared with education welfare-based meetings) and that attendance terminology was the most common.

In terms of the *composition* of multi-agency meetings, a similar, although extended range of professionals and agencies were involved in multi-agency meetings as were evident in education welfare-based meetings. This included education welfare staff (practitioners and managerial/strategic level) and school staff with particular involvement with individual cases/families. In addition, multi-agency meetings also included elected members, school representatives such as primary and secondary headteachers' representatives, Governors' Association representatives, LEA inspectors and the head of an LEA PRU (pupil referral unit). A School Attendance Panel was described as:

*A formal panel that meets every half-term and has standing members from Social Services, somebody from Legal Services and we invite school, parents and the young people and other professionals, depending on the case.*

(PEWO)

The example of a Local Authority Action on Attendance Group Meeting serves to illustrate the possible wide-ranging composition that could be associated with a multi-agency meeting:

*A borough solicitor, a senior member of staff from Social Services, a representative*

**Figure 2.5 Variation in nomenclature of multi-agency meetings**

Terminology category	Name of meetings
Composition-related terminology (11)	Local Authority Action on Attendance Group Borough Attendance Panel LEA Attendance Panel Joint Education and Social Services Planning Meeting Education Planning Meeting Multi-agency Panel School Attendance Joint Consultative Panel Meeting Multi Agency Forum Formal Consultation Meeting
Attendance-related terminology (6)	Non-attendance Panel School Attendance Panel Out of School Panel Attendance Advisory Panel
Court/prosecution-related (2)	Legal Proceedings Panel Legal Panel
Number of LEAs using multi-agency meetings = 19	

Source: NFER interviews in phase one of the NFER study, 2002

*secondary headteacher, a representative primary headteacher, a senior inspector from the education department, the head of the LEA pupil referral unit, a representative from the YOT, two team managers from ESW, an education social worker and the attendance policy coordinator at the school, parents and child.*  
(PESW)

As in the case of education welfare-based meetings, this illustrates a high degree of inclusivity and interaction, although, in one case, it was noted that the child was not invited to the meeting and in another, neither the child nor the parents were present.

As with education welfare-based meetings, schools, education welfare/education department buildings and civic buildings were the main *settings* for multi-agency meetings. Within this, it appears as though there was a bias of locations away from school and more towards civic and public buildings. Interviewees drew links between location and purpose, suggesting that the setting could be a reflection of the meeting's function and status. For example, one particular Borough Attendance Panel was described as being 'intended as a formal meeting and is held in the committee rooms of the town hall'.

Others suggested that, although held in formal venues to emphasise the importance of the meeting, attempts were made to reduce the potential intimidation felt by parents:

*We try and get the less formal meeting rooms. It's still a very imposing structure to try and impose on parents in terms of they have to come to the Civic Centre in the first place – they are invited into a room that's full of people they've never met before and there's potentially half a dozen people sitting there and it can feel in some ways that they're backed into a corner.* (PEWO)

As in the case of education welfare-based meetings, multi-agency meetings were characterised as being mechanisms by which the reasons for non-attendance could be discussed in a wider forum and where relevant agencies could offer additional support. In addition, targets could be set, action plans agreed, attendance monitored and decisions taken regarding prosecution. Multi-agency meetings were generally supportive but with the added formality of personnel and location/setting. An LEA Attendance Panel, for example, was said to 'take place in the Town Hall so it is a very formal meeting and takes place with the senior managers of our service' (PEWO).

Although often fulfilling the same functions as education welfare meetings, multi-agency meetings could follow on from the former, adding an extra stratum of formality and possible influence on the parents. Furthermore, multi-agency meetings could also provide a means of ensuring consistency and equality of approach to prosecution. Multi-agency meetings were also said to be used especially in the more complex non-attendance cases and where the range of agencies involved reflected the diverse and often severe needs of the family and/or the young person. Examples of this specialist input included medical and child protection agencies, such as a Child and Family Consultation Service.

**Figure 2.6 Example of multi-agency meetings**

The progress of casework intervention and agreed action plans was reviewed by the EWO: 'If the situation isn't improving, or if a parent isn't cooperative, or if a child isn't cooperative, then we convene a meeting in school where we would discuss the situation.' If significant improvements were still not forthcoming, the case was referred to a monthly Education Planning Meeting, chaired by the PEWO.

Parents and young people were invited, along with a representative from school and 'a representative from any other interested agency who is working with the family'. In addition, the meeting would comprise:

*A regular panel which consists of a Senior Community Paediatrician, a team manager from Social Services, a representative from the borough's legal department ... So we make up a regular panel and we sit for the entire morning. Obviously each meeting that occurs we have different people coming in and out of it depending on the involvement. So if the family's known to Social Services then sometimes a particular social worker will come or, if there is a health visitor who has got a particular involvement, they'll be invited in as well (PEWO).*

*The meeting follows an agenda – it is set out in a very, very structured way. A report is prepared by the EWO and that's circulated before the meeting to give parents time to read it and digest it in their own time and then therefore comment on it. We then hear from everyone who has involvement with the family before we come to summarising and then asking Legal Services for their comments. After that, depending on what Legal Services say, we come together and we have an action plan and a review date (Education Planning Meeting).*

Source: NFER interviews in phase one of the NFER study, 2002

## 2.6 Series of stages

Many prosecution processes comprised a combination of stages, including discussion in supervision, the issue of warning letters, parent meetings, education welfare-based meetings and multi-agency meetings, reflecting varying degrees of complexity across the sample.

The majority of prosecution processes involved at least two stages, following casework intervention, leading to a decision to prosecute and a summons sought. Presented in Figure 2.7 are some examples that illustrate the diverse approaches and procedures that comprise the prosecution process.

**Figure 2.7 Examples of diverse approaches and procedures that comprise the prosecution process**

- Discussion in supervision, leading to Office Interview
- Issue of warning letters, leading to Attendance Support Panel
- Issue of warning letters, leading to discussion in supervision
- Discussion in supervision, issue of warning letter and notice of prosecution
- Office Interview, leading to Local Authority Action on Attendance Group
- Discussion in supervision, issue of a warning letter, leading to Court Assessment Meeting
- Discussion in supervision, leading to Office Interview, leading to a Formal Meeting
- Issue of warning letters, leading to Office Interview, leading to a Governors' Meeting, leading to a Non-attendance Panel Meeting
- Office Interview, issue of a warning letter, leading to School Attendance Meeting, leading to Court Assessment Meeting.

Source: NFER interviews in phase one of the NFER study, 2002

Within this diversity, it is apparent that flexibility exists within prosecution processes to suit the requirements and demands of individual cases. That is, the number of stages in a process can increase with the parents' willingness to cooperate, i.e. if no cooperation and engagement, go straight to prosecution; also if parents are cooperating,



i.e. there may be an increased number of opportunities available in order to improve attendance. Similarly, if no progress is being made, then more meetings (of increasing formality) could be held.

## 2.7 Perspectives on the effectiveness of the prosecution process

Education welfare professionals often suggested that the actual process of prosecution itself could be more likely to be effective than court-related outcomes. 'I do think we often get a better result with the process than we do with the court case' (PEWO). And 'It can be effective. I think that the process is perhaps more effective than the disposal' (PEWO).

If prosecution was to work as a strategy for improving school attendance, many of the gains could occur during the lead up to the court appearance and the procedures involved:

*The only way to look at it is to say 'we serve four times as many first warnings as we do summonses'. So, somewhere along the line, something is working.*

(EWO)

The effectiveness of prosecution processes was often related to issues of clarity and definition. Clear stages, components and procedures were seen to be in place and were followed, which could ultimately lead to court action if improvements in attendance were not forthcoming.

*It is a well-established system and the people understand it and know what's expected of them. It's a fairly clear system: if you don't go to school you will be referred to the Education Social Worker and they will come round. If you don't play ball you will get a court warning notice, if you don't play ball it will be up to a panel, they will decide and once the panel is decided, there's a series of events [legal proceedings] that will follow after that.*

(PESW)

*There's boundaries set now, you work to time limits, review dates, there's all the necessary forms. It's good because each step of the way you've got the guidelines and the boundaries to deal with each and every aspect. It's a very good system. Each step of the way, is marked up as to why it happens. I can safely say for every one of my cases that have ended up a prosecution, it's not been through lack of effort by the officer involved. It takes a lot to get to court.*

(EWO)

Transparency and accountability were also regarded as contributing to effectiveness.

*I think the process is transparent. I think that some of my staff might argue that it removes some of the professional discretion that they might previously have had with regard to decisions around prosecution ... but I feel that in terms of an authority, we need to not be challenged on our consistency of practice ... so I think our process has become slightly more bureaucratic, perhaps slightly more rigid, but I think with good reasons behind that.*

(PEWO)

Underlying these general sentiments, interviewees suggested that particular aspects or stages of a prosecution process could be identified as being key elements in the effectiveness of prosecuting parents for non-attendance.

- warning letters
- receipt of summons
- meetings and interviews.

As noted previously in this chapter, issuing letters to parents formed a vital part of the process and within this, *warning letters* and notices of intent to prosecute were seen as having particular impact on parents when casework intervention had not brought about satisfactory improvements in attendance: 'I normally find that once the first letter goes out it's 50/50 improvement' (EWO). In a similar way, another interviewee suggested that warning letters could have significant impact on attendance levels:

*One letter might improve 20 per cent of them because they're not bad, they're decent families 'Oh God, I've let it slip' and it does the trick. Another letter that you're warned for court will make another 20 per cent improve.*

(EWO)

Letters warning of legal proceedings were seen as being effective because they could persuade the parent to engage with education welfare personnel, so facilitating further attempts to improve attendance:

*That letter can be enough to get a parent who is being elusive, not answering the door, not returning phone calls ... the letter may get them angry, but at least it gets contact with them. You've broken the ice and you've got something to work on. You can then arrange a meeting and progress from there.*

(EWO)

Warning letters were also seen as being effective because of the message they conveyed and the severity of the situation they symbolised: 'Often people don't realise how serious it is until they get the letter' (EWO).

*Sadly, often when we send the final warning letter, that's the thing that prompts them into thinking 'crikey, this really could happen'.*

(PEWO)

Others noted, however, that in order for warning letters to have such motivating effects, parents had to be aware that prosecution was a reality, that it does happen and could happen to them. Some said that warning letters had to be reinforced by substantive action regarding prosecution in an authority.

*I think that warning letters are effective, but they are only believable if they know that people are occasionally taken to court, I think that you have got to have that.*

(PEWO)

Interviewees also suggested that receiving a summons to court could actually lead to

marked improvements in school attendance as it demonstrated to parents that prosecution was more than just a hollow threat, symbolising the legally-enshrined importance of school attendance. One interviewee, for example, cited a case in which attendance had increased from a negligible level to almost 100 per cent as a result of impending court action.

*So many threats had been made, when it came to the reality of getting the summons, the lady realised that the crunch had come and improvements came.*

(SEWO)

*I think it is a very strange process in that, in some families, as soon as they get the summons all of a sudden the child is able to attend who wasn't able to attend before. So we have that: 'We never thought you'd prosecute us, but now we have got the summons, we realise you are'. So there is that impact.*

(PEWO)

*It's sad that you actually have to serve a summons for someone to actually believe you are going to do it ... but often we get an immediate result from the summons being served.*

(PEWO)

One parent who was interviewed noted that the receipt of the summons marked a turning point in his son's non-attendance:

*He didn't really believe us until the court papers came. I asked him to read them and I think it shook him up a bit because since then, his attendance started going up a bit.*

(Mr Black)

However, whilst one interviewee contended that there was 'excellent evidence to say these proceedings have actually forced the parents to take responsibility' it was conceded that this would not always be the case: 'For some parents, the summons and the court case means nothing' (EWO).

A range of meetings and interviews were identified as being effective in improving attendance because they offered parents further opportunities to engage with

education welfare staff and a variety of other professionals or agencies.

*We have multi-agency meetings with anyone who might be relevant. We look at how best we can support the family, what support they're asking for and how we can work together with them. I say to them, 'this is basically the last chance, we really need to work together ... we need you to be honest and tell us exactly what the problems are'. Then we put a plan together that will work for all of us.*

(Attendance Strategy Manager)

*We will invite them for a school Attendance Consultative Group Meeting where they can come along and speak to me, my senior and the school and other agencies if they are involved ... The family can get their opinion across.*

(EWO)

Meetings were seen as successful, partly because they represented an increase in formality from the previous stages of casework interventions, communicating to parents the seriousness of the situation. This was seen by some as possibly motivating parents into cooperating with EWS. A Court Assessment Meeting, for example, was cited as being an effective and often final stage in the prosecution process:

*Very often at that stage we can really get parents to work with us. On a number of occasions it's not needed to go any further than that.*

(EWO)

The range and roles of people attending meetings, as well as the nature of the venues in which they were held, were seen as factors which could contribute to the possible resolution of attendance problems without ultimately proceeding to court.

*Certainly the consultations make a difference. Sometimes just being brought to the Civic Centre, away from school, with a senior [education welfare officer] there, that can be enough sometimes to improve things.*

(EWO)

The terminology applied to the meeting, combined with the factors of setting and composition, was also seen to underpin its potential effectiveness:

*It's actually called a 'Court' Assessment Meeting. It sounds serious and the mere fact that we've put that word in brings parents into school when previously they didn't bother.*

(PEWO)

This particular meeting was seen as being highly effective as, of the 70 meetings held in one particular year, between 30 and 40 reviews had been necessary, of which nine cases were forwarded for prosecution in the magistrates court:

*My view is that we're not doing massive numbers of prosecutions because this meeting seems to be relatively successful.*

(PEWO)

Meetings were also regarded as being effective components in the prosecution process, as a result of the quality assurance role they could play, acting as a forum for discussion and providing opportunities for all involved parties to present their views.

Similarly, the presence of a range of people was seen as a way of ensuring consistency and equality of treatment, ensuring fairness – giving parents equal opportunity to avert legal action. Following discussions between family, education welfare staff and other relevant agencies present at one School Attendance Consultative Group Meeting:

*the decision is made by the chair of the meeting actually at the meeting, not before. It's a fair hearing.*

(EWO)

*I think the fact that we have the non-school attendance panel is a great vehicle for promoting equality of approach and some consistency. I wouldn't like prosecutions to take place without that, because people who sit on the panel are equitable in the decision making.*

(PEWO)

Meetings were seen as offering a safeguard mechanism, providing education welfare staff with the confidence that everything possible had been done prior to instigation of legal proceedings:

*When I go to court, I'm confident that we have done all we could. The pre-court meeting helps to make sure that there is agreement.*

(SEWO)

Very few interviewees suggested any difficulties with the actual process or mechanics of prosecution. Of those that did, some questioned the role of elected members in the decision-making process and the consequent delays this could entail (highlighted in the first report). Others highlighted that, although invited, other agencies, especially Social Services, did not attend meetings, so possible information regarding a family could be missed. One of the biggest issues raised related to parents' attendance at meetings. It was suggested that if more parents attended 'office' interviews, education welfare-based, or multi-agency meetings, then there would be a greater number and proportion of non-attendance cases resolved prior to issuing a summons.

*If we could get more parents attending the meeting, we might be able to get less having to be taken to court. But I can't drag parents to this meeting. All I can do is send them a letter inviting them to attend.*

(EWO)

## Issues for consideration

- On the surface, a great deal of variation exists in the ways in which prosecution processes operated in different LEAs. However, within this, it can be seen that the majority of procedures leading to prosecution culminated in engagement between the EWS, other agencies and parents. In general, prosecution processes can be understood as interactive processes: interviewees stressed that parents were given many opportunities to explain the difficulties and barriers to their child's attendance and were offered access to specialist support over and above that provided through casework intervention. Is there a need to consider further the advantages and disadvantages of this variability and ensure whether there is an appropriate balance between flexibility and equality?
- The effectiveness of the prosecution process itself was often deemed to be greater than that of the court disposal. This stemmed from the opportunities for discussion and engagement in more formalised settings. Is there a need to further capitalise on this, through the identification of particular aspects, stages or elements deemed to be effective e.g. formal meetings, the involvement of other agencies etc.?

## 3 The court experience

### Key findings

- In terms of the duration between a summons being issued and a court date, over a third of LEAs reported a timescale between five weeks and eight weeks and, for over a quarter of LEAs, the process took place within a month. The majority of interviewees who chose to comment were not satisfied with the timescale and would have preferred a quicker turnaround. A lengthy waiting period was said to have repercussions for the potential impact of prosecution and relevance of the evidence.
- In over a quarter of LEAs interviewees reported that school non-attendance cases were allocated specific dates/times in court, whilst in a larger proportion (nearly two-fifths of LEAs) dates were booked when required. The prevailing view was that the allocation of specific court time was advantageous to the prosecution process because it made more efficient use of staff time, signified the seriousness of school non-attendance, improved consistency, assisted EWS planning and improved magistrates' understanding of the issues.
- When interviewees commented on the matter of adjournments they made the following observations: legal representation resulted in more adjournments, cases lost their momentum as a result of adjournments, EWO time was also wasted in the process and children remained out of school for prolonged periods.

- Where LEAs used Legal Services to present cases, the following rationales were cited: guaranteed legal expertise, the saving of EWO time and Legal Services were sufficiently detached from families. Meanwhile, EWS presentation was preferred by some LEAs because of EWOs' detailed knowledge of the families and the work which took place prior to the case reaching court. Some interviewees also felt that EWOs were better informed about education law and that, by presenting cases in court, their image and credibility would benefit.
- The main issues raised in terms of the court process and relations with magistrates were: the inconsistency of disposals, some magistrates' lack of education background/understanding, variability in how magistrates engaged with defendants and the need for more liaison with, and training for, court personnel.

### 3.1 Introduction

This chapter deals with the court stage of the prosecution process in 119 LEAs. Three key elements are examined: timing, case presentation and the liaison/dialogue that takes place between the EWS and magistrates. With regard to timing, the chapter provides details on the duration between the receipt of a summons and a court appearance and whether specific court slots were allocated for school non-attendance cases. At this point, interviewees' comments on the matter of adjournments are also relayed. The next section details those

individuals who were responsible for presenting cases in court, the role of the EWS, as well as the extent of parental representation. The third aspect to be discussed concerns the dialogue that exists between the EWS and magistrates, in the form of meetings and/or training. For each of the above elements interviewees' thoughts on the relative effectiveness of different arrangements are highlighted, as well as any implications arising. The chapter concludes by focusing on the accounts of families who have had personal experience of the court process.

### 3.2 Timing

In this section, issues of timing are discussed, namely the interval between a summons and a court date, the time allocated in court for non-attendance cases and lastly, interviewees' views on adjournments.

#### 3.2.1 Timescale between summons and court date

During phase one of the research, PEWO interviewees were asked: What was the typical timescale between a summons being issued to a family and a court appearance? Table 3.1 details PEWOs' responses. Of the 99 respondents, interviewees in six LEAs were unable to provide a typical timescale, commenting that it varied, depending on the individuals involved or the particular courts being used. A further 17 interviewees were not aware of the average length of time, but amongst these LEAs, six interviewees considered the time span to be too long, whilst an equal number were content with the speed of the process. The shortest period of time mentioned was two weeks, whilst the longest period between a summons and court appearance was four and a half months. In summary, it can be seen that:

- over a third of LEAs reported a timescale between five and eight weeks
- over a quarter of LEAs reported a court date within a month of the summons being issued.

**Table 3.1 Average timescales between a summons and a court date**

Timescales	No. of LEAs (N = 99)
Unable to give an average	17
Varied	4
Varied depending on court used	1
Varied depending on individual case	1
<hr/>	
Within a month	
<hr/>	
2 weeks	3
3 weeks	8
3.5 weeks	1
4 weeks	18
<hr/>	
Between 5 and 8 weeks	
<hr/>	
5 weeks	3
6 weeks	17
7 weeks	2
8 weeks	16
<hr/>	
Between 2.5 and 4.5 months	
<hr/>	
2.5 months	1
3 months	4
3.5 months	1
4 months	1
4.5 months	1

*Source: Interviews in phase one of the NFER study, 2002*

Of the 122 interviewees, 48 chose to highlight implications arising from the duration of time that existed between a summons and a court appearance. Comments included:

- sufficient time lapse required for families to bring about change
- time for EWS to prepare court papers
- a need for a more rapid turnaround
- impetus of prosecution lost if the process is too slow
- evidence becomes inadmissible.

In eight LEAs, the existing time lapse was viewed favourably for two reasons. Most often, interviewees felt that a reasonable period of time was required between a summons and a court date to give families one final opportunity to instigate changes in

their child's attendance. Even at this late stage, it was hoped that the reality of a court appearance would be the trigger that ultimately forced parents to address the matter. Two interviewees also considered the time span to be appropriate (i.e. six weeks and eight weeks) because it gave the EWS sufficient time to prepare papers for a court appearance. Indeed, one interviewee felt that the time lapse suited all parties involved in the process:

*It gives us sufficient space to be able to prepare the documentation appropriately. This is done in conjunction with the court. It gives the court sufficient time and also ourselves and also the parents. So it is a fair timescale for everybody.*

(PEWO)

The majority of interviewees (40), however, were not satisfied with the timescale between a summons and court appearance. The consensus was that the waiting period should be reduced, on the basis that this would improve the effectiveness of prosecution. Twelve interviewees simply stated that the timescale should be quicker. Others elaborated on their reasons for a more rapid turnaround. Most commonly, the rationale for getting families to court sooner was that the impetus of the prosecution should be maintained. Interviewees believed that, if cases were left to drift, parents were less likely to take the prospect of prosecution seriously. Essentially, it conveyed to them that non-attendance was not an offence that the courts wished to process with any great urgency.

*I think it is too long, because I think it loses its impetus a little bit with parents. They get a letter from us to say that we are going to court and advising them to consult a solicitor, then absolutely nothing happens for weeks.*

(PEWO)

Other repercussions were also said to arise from a lengthy waiting period. Four interviewees explained how it affected the presentation of evidence, as this was required to fall within the six-month period immediately preceding the court appearance.

If the court date was pushed forward, then new information could have to be collated and, sometimes, where improvements had materialised, cases would have to be withdrawn because the original evidence would no longer be admissible. Another drawback of an extended post-summons period was that the case could be left to stagnate.

*Delays mean once we've handed the case over, we do try and keep in touch with the family, but we have no stick then, nothing else we can do.*

(PEWO)

*If you had to wait a long time you were sort of in limbo as to what do I do now? Do I continue to work with the family? Do we have to look at it again? Should we drop the whole thing if they have improved? I think the quicker the better, keep it on the boil.*

(PEWO)

Eight interviewees, when asked about implications for effectiveness, simply acknowledged that delays were an issue. Four interviewees linked this to adjournments (see Section 3.2.3 for a more detailed discussion). Meanwhile, a further four interviewees believed that delays were often incurred at the point when cases were handed over to legal departments.

Whilst most interviewees supported a reduced time span between summons and court, there was a solitary instance of an interviewee asserting that a longer duration would be preferable in their particular authority. Here, the courts were under-utilised and were therefore able to offer a date within two to three weeks, which the interviewee felt was insufficient time for the families to seek representation.

### 3.2.2 Times allocated for school non-attendance cases

In over a quarter of LEAs (31) interviewees reported that school non-attendance cases were allocated specific dates and times in court, whilst in a larger proportion (46), dates



were booked when required. Where specific times were set aside, interviewees mentioned dates being assigned on a weekly basis (e.g. every Thursday afternoon) or on a monthly basis (e.g. two sessions a month). In one authority, the large number of cases being presented before the court meant that the day had been split in two halves to improve efficiency. Hence, the morning session was used for adjourned cases and the afternoon session dealt with any new cases. Other responses to the question of time allocation included interviewees who explained that school non-attendance cases were heard in specific slots reserved for general education matters (2), other local authority cases (3) or for other offences (e.g. non-payment of council tax) in a miscellaneous court. In four LEAs, the allocation of court time varied depending on the particular courts used – some courts were able to offer specific slots, others were not. Lastly, in three LEAs, whilst no specific times were set aside for non-attendance cases, they were able to block-book when the need arose. Table 3.2 gives a breakdown of how court time was allocated across the LEAs (a total of 95 interviewees commented on this).

**Table 3.2 Allocation of court time for school non-attendance cases**

Allocation of time for non-attendance cases	No. of LEAs (N = 95)
No specific times allocated	46
Specific dates and times allocated	31
Option to block book	3
Heard with non-crime cases	5
Heard with other council cases	3
Heard with other education cases	2
Varies	4
Do not know	1

*Source: Interviews in phase one of the NFER study, 2002*

Again, issues were raised by interviewees regarding the relative effectiveness of these arrangements. The prevailing view was that the allocation of specific court time was advantageous to the prosecution process, based on the following observations:

- more efficient use of staff time (10)
- signifies the serious nature of school non-attendance (7)
- improves consistency (5)
- aids planning (3)
- helps magistrates' understanding of the issues (2).

In LEAs where no specific times were set aside for non-attendance cases, interviewees highlighted the inefficiency of the system in terms of EWS resources. For example, in one LEA, EWOs would arrive for court in the morning and then have to wait until other cases had been dealt with:

*Everyone is scheduled for ten o'clock. Unless you can get the clerk to note that you've got pressing engagements and you have got to be somewhere else, in which case they might schedule you first ... you can be sitting around for a couple of hours. It's a terrible waste of time.*

(PEWO)

*It is an immense waste of time. You have an EWO there, you have got to have the team leader there as well as a solicitor, so an enormous waste of time.*

(PEWO)

Furthermore, a solicitor interviewed during phase two of the research felt that education cases were not seen as a high priority by the courts and were thus relegated to the bottom of the listings. A SEWO from another LEA had experienced this occurrence first hand. Cases from the morning sessions would sometimes overrun, which would result in education prosecutions being 'shoved aside'. The solicitor felt this dismissive attitude could be modified through training and ensuring that courts were well briefed on the repercussions of school non-attendance:

*There seems to be an impression: 'Oh it's an education prosecution, it can go lower down the list'. It doesn't really matter; it can wait all day.*

(solicitor)

Interviewees purported that, when cases were scheduled alongside minor offences, such as fishing permits and TV licences, the



importance of school non-attendance was trivialised and families were not receiving the appropriate message. In essence, the use of miscellaneous courts was thought to undermine the gravity of the situation.

Interviewees were also critical of non-specific school attendance proceedings. In miscellaneous courts, school attendance cases could be heard in isolation and magistrates would not be able to acquire an insight into the different circumstances behind various cases. By contrast, where several cases could be presented within the same session, the magistrates were said to gain a deeper understanding of the issues, which in turn would improve the consistency of the disposals given. Another complication arising from the use of miscellaneous courts was that fines imposed for illegal car parking could be substantially higher than those for school non-attendance. Again, this was thought to diminish the status of the issue in the eyes of parents:

*In other LEAs, I've been with car parking, the RSPCA. That's difficult, because education is so specific. You get taxi drivers being fined a lot more than a parent who doesn't send their child to school. You think ... this isn't sending out the right messages.*

(PEWO)

Thus, there was a general feeling that specific times for school non-attendance cases were desirable. Interviewees from two LEAs went a step further, proposing that non-attendance cases should be heard in dedicated courts, by expert magistrates, with the appropriate knowledge and training to draw the most appropriate conclusions. However, during phase two of the research, a magistrate dismissed the value of specialised courts, on the grounds that the basic issues of education welfare were 'not so complicated' and that increasing specialism may lead to courts covering wider geographical areas, thus reducing the likelihood of 'local justice'. This interviewee was of the opinion that magistrates should retain a range of responsibilities and that they were

adequately trained to deal with cases relating to school non-attendance.

Lastly, from the perspective of EWS personnel, the use of scheduled court sessions was cited as a positive arrangement, as it enabled staff to plan their diaries and make the optimal use of their time. One LEA had made attempts to negotiate the time that they were assigned in court and, as a result, the service had a clearer understanding of when they could bring a prosecution:

*At one stage we were just having to fit in wherever they could fit us in. We did some work with them and came up with this arrangement that they would give us a slot within the miscellaneous court every other week. So we know every two weeks that we have got a slot to take some cases ourselves, which is helpful in terms of our planning.*

(PEWO)

### 3.2.3 Adjournments

Across phases one and two of the research, 43 interviewees from 34 LEAs raised issues on the subject of court adjournments. They made the following observations:

- legal representation resulted in more adjournments (13)
- adjournments resulted in a waste of EWO time (13)
- cases lost momentum as a result of adjournments (9)
- adjournments prolonged the time that children were out of school (7)
- cases were adjourned because parents failed to attend court (6)
- adjournments occurred for trivial reasons (4).

One of the most frequently voiced issues was that adjournments were more common when parents sought legal representation (13). Since the introduction of the higher order offence (Section 444.1a), parents were more likely to seek legal representation, hence the number of adjournments had risen in a

number of LEAs. It was also conjectured by one interviewee that solicitors were happy to incur delays, as the longer it took for cases to reach a conclusion, the greater their financial gains.

*Solicitors draw it out. They draw the process out a hell of a long time. It's money. Every letter is money, every appearance is money. We go through adjournment after adjournment with solicitors.*

(PEWO)

Parents' failure to attend court was also noted as a reason for adjournment, although four interviewees added that courts would hear cases in parents' absence. Other interviewees, however, noted that courts were not prepared to proceed and delays would occur:

*Only maybe two or three [parents] out of ten even attended court themselves. The rest pleaded guilty by letter or just didn't turn up and it got adjourned instead of being dealt with. The evidence was there to find them guilty in absence, but it gets adjourned.*

(EWO)

Interviewees went on to highlight the consequences of adjournments. Firstly, two interviewees explained that as the number of adjournments mounted up, they were unable to bring new cases to court until they had cleared the backlog. In addition, cases that became increasingly protracted only added to the time that children were absent from school, a point made by seven interviewees. The 'long-winded' nature of the court process, where representation was involved, was said to exacerbate the problem rather than lead to a speedy resolution.

*More cases are having representation in court and quite often the solicitor will come to court and say they've only just seen papers. The next time it comes back, it'll be another solicitor from the same practice who will also just have seen papers and all that time, the child won't be in school.*

(presenting officer)

*We have had one, which has had seven adjournments already and has just been*

*adjourned for four months. So that is going to be over a year from when it was first started.*

(PEWO)

Moreover, interviewees complained that very often adjournments were granted for what they described as 'flimsy reasons', or issues that had already been explored by the EWS before arrival in court, such as mental health problems, for example. Interviewees felt that, in some instances, cases were being unnecessarily extended and as a result, the momentum of prosecution was lost. Adjournments were said to 'dilute' the potential impact of the court experience on parents, perhaps diminishing the overall effectiveness of prosecution.

*What we can't do anything about unfortunately is the constant adjournments that happen and that is the bane of our life – and the adjournments are for rather trivial reasons from our point of view.*

(PEWO)

The final major drawback stemming from adjournments was that they were a drain on EWS resources, in terms of the amount of time EWOs had to spend in court. Thirteen interviewees commented that 'unnecessary' adjournments made the court process less efficient, referring to both staff time and cost effectiveness. One interviewee felt this dissuaded EWOs from pursuing action through the courts:

*A lot of man-hours yes, especially the adjournments. There are a lot of hours spent having to go to court and having to sit there. It puts EWOs off, there is no doubt of that, the thought that they are going to have adjournments and the waste of time when they could be doing what they should be doing.*

(PEWO)

*You can guarantee that if a parent doesn't turn up on the first occasion, it's adjourned, that goes without saying. If you get different magistrates and they are looking for different things they may adjourn on the second occasion. We can use a lot of manpower and it takes an afternoon out of your time.*

(presenting officer)

### 3.3 Presentation of cases in court

This section concerns the arrangements for presenting cases in court, both from the perspective of the prosecutor and the defendant. Respondents to the phase one pro forma were asked to provide details of who actually presented their prosecution cases in court. An overview of their responses is presented in Table 3.3. This section discusses the implications arising from the different arrangements and also relays interviewees' experiences of the incidences of parental representation.

#### 3.3.1 Presentation by Legal Services

Legal Services were most likely to present cases in court, with nearly half of respondents making this point. This legal representation was often carried out in conjunction with members of the EWS, with both senior managers and practitioners attending court to give evidence, provide support and answer queries.

During phases one and two, interviewees sometimes offered justification as to why it was deemed more appropriate for Legal Services to present school non-attendance cases (although in some instances, Legal

Services would only be used for 'not guilty' pleas). The reasons given included:

- the guarantee of legal expertise
- the saving of EWO time
- Legal Services' detachment from families.

The most frequently stated reason, (given by 19 interviewees), was the level of expertise that could be guaranteed through Legal Services representation. Some interviewees acknowledged that, by comparison, EWS personnel would not always possess the necessary confidence, knowledge and background of law to adequately present a case in court. Where parents sought legal representation, this was said to put EWOs at a disadvantage when pitched against a qualified solicitor. It had been observed that in recent years cases were more likely to be contested since the introduction of Section 444.1a paved the way for higher fines and possible imprisonment. Interviewees felt that cases were becoming increasingly complex and would thus benefit from the professional expertise of Legal Services. A PEWO, having observed the climate change around prosecution for school non-attendance, suggested that their current practices required a re-think. More specifically, they were increasingly convinced that

**Table 3.3 Presentation of cases in court**

Cases presented in court by	No. of LEAs (N = 97)	Support from Legal Services
Legal Services	47	N/A
SEWO/SESW	21	7
EWO	8	6
PEWO/Assistant PEWO	6	1
PEWO/Assistant PEWO and courts officer	1	–
PEWO/Assistant PEWO and SEWO	1	–
Courts officer	5	1
Courts officer and SEWO	1	–
Courts officer and EWO	1	–
EWS	2	1
EWS and Legal Services	1	–
Unable to respond/no response	2	–
Assistant Education Officer (AEO)	1	–

Source: NFER proforma returns, 2002

responsibility for presenting cases should be handed over to their legal department.

**Figure 3.1 Professionals' views**

---

**Background in law**

*I don't see any mileage in anybody else presenting the case in court other than a solicitor and you need an in-depth background in law.*

(EWO)

**Experience of court**

*Hand on heart, with my team; there are some people who wouldn't do a good job, who wouldn't feel confident in doing that. I think it's wrong. At the end of the day, there is a difference between presenting the case and providing the evidence. We are providing the evidence so we need someone whose job it is to work the court.*

(PEWO)

**Increasingly complex cases**

*I would say more cases are taken by Legal Services. There has been a big shift in the last 18 months in non-attendance matters. They are much more complicated now. People bring factors into play and I think to some degree the 1a offence has done that – most 1a matters are contested because they carry a penalty, imprisonment and they carry a much heavier financial penalty, so people are going to be much more vociferous about it.*

(PEWO)

*My feeling is that we need to hand this over to our legal department. I'm not trained and the growth in barristers and representation and some people can now get legal aid because they stand a chance of being deprived of their liberty.*

(PEWO)

---

A second advantage of using Legal Services, referred to by six interviewees, was that this would save EWO time. A solicitor interviewed during phase two pointed out that legal personnel were familiar with the court process and could therefore 'just get on and present it'. Other interviewees highlighted the unpredictability of court proceedings, with the possibility of adjournments and other delays: 'You can get there for an 11 o'clock hearing and still be there at 5 o'clock'. Some LEAs felt they could not afford to tie up EWO time with court work. By delegating cases to legal departments, interviewees felt they would be dealt with efficiently, without

detracting EWOs from their day-to-day activities.

*What we try to do is minimise the amount of time EWOs are actually spending on this. Once it gets to the court stage we try to do it as quickly as possible and keep them out of the process.*

(PEWO)

Two interviewees voiced a preference for Legal Services presentation because of their impartiality. EWOs, by contrast, would have had prior involvement with the families, notably in a supportive capacity. If they were then seen to assume the role of prosecutor there was a danger that this could jeopardise their future dealings with the families, once cases had been heard. Legal Services were seen as a more desirable alternative due to their detachment from the cases:

*Legal Services take all cases, guilty and 'not-guilty'. I think we are more detached from the issues than ESW. Social workers have a tension between themselves as social workers and a law enforcement agency. They are more comfortable that it's not them seen to be prosecuting because they still have to try and have a working relationship with parents afterwards.*

(solicitor)

*We're the ones who have got to go back and work with families and so I think, if they saw us as the prosecutor, then I think they'd be quite reluctant. I've had people say that to me in the past: 'You're going to take me to court so I'm not even going to speak to you'. And so you usually put it back on the LEA: 'It's the LEA not me personally who's taking you to court'. So I think it's best to keep it separate.*

(EWO)

However, two interviewees, from LEAs who made use of Legal Services, also flagged up some disadvantages arising from this approach. Whilst a solicitor may be sufficiently distanced from cases, they may also be unaware of precisely how education welfare operates. An EWO recalled incidences where parents had taken issue with particular

points and, because the solicitor did not fully understand attendance procedures, the cases had been adjourned. Rather than aiding the progress of cases through court, a lack of educational knowledge had actually proved a hindrance. Similarly, another interviewee commented that the quality of representation depended on whether a solicitor who had previous experience of such cases took the case.

### 3.3.2 Presentation by EWS staff

The second most frequently reported arrangement was that cases were presented by Senior Education Welfare Officers/Senior Education Social Workers. Over a fifth of LEAs (21) who completed the proforma stated that SEWOs/SESWs were responsible for taking cases to court. In eight LEAs, this task was undertaken by an EWO and in a further eight by an Assistant PEWO/PEWO. However, it should be noted that in 14 of these authorities Legal Services would still provide general support and/or take more complex cases, i.e. those with 'not guilty' pleas, or if the parents had legal representation.

A number of LEAs used specific courts officers to present cases in court. Usually these were SEWOs or EWOs who might take all the prosecutions within their LEA, or a specific geographical area within the LEA. Some respondents indicated that courts officers presented cases in conjunction with other practitioners and managers within the service.

Again, during phases one and two of the research, interviewees signalled the implications arising from EWS staff presenting cases in court. EWS presentation was viewed favourably for the following reasons:

- their detailed knowledge of the family and EWS work
- their understanding of education law
- increased EWS credibility in the courts
- the opportunity to engage with families
- increased efficiency.

A positive factor, highlighted by four interviewees, was that EWOs had a detailed knowledge of the family, the work undertaken and the circumstances surrounding the case. They were then in a strong position to answer any queries from the magistrate or to respond to any challenges made by the defence:

*We are the caseworkers. We deal with it from the very beginning, from referrals, to meetings, home visits, court assessment meetings. So you are very familiar with a case when it does get to court because you've been there from day one.*

(EWO)

*I think SEWOs have a greater understanding of the work that may have been done with the parents and I think that can play quite an important part, because there are a lot of people that really don't understand this sort of work that we do and how much we do. You know, the SEWO can emphasise that.*

(EWO)

Secondly, there were five interviewees who opposed the assumption that because Legal Services were trained in matters of law, they were better able to present cases. Rather, they felt that EWS personnel possessed a more comprehensive understanding of education law, in particular, that which referred to school attendance. They felt EWOs were more qualified to present such cases. However, at the same time, interviewees conceded that, where cases were more contentious, it might be desirable to refer them on to a trained solicitor.

*Staff in our service are probably better versed in education law than the staff in Legal Services that would present our cases. The people from Legal Services don't get much practice. We're prosecuting on a fairly regular basis so we build up our knowledge of education law. The difficulty can be in relation to our not having a legal background, there are some things that qualified solicitors can handle in court that we might have some difficulty with.*

(PEWO)

Amongst the sample were LEAs that had experience of both Legal Services representation and EWS staff taking cases to court. Interviewees were therefore able to compare one practice against the other. A PEWO concluded that, whilst they were not legally trained, he still felt that EWS input was valuable because of the knowledge they brought to the cases:

*When we've used the local authority service, I think there has been a feeling that they don't do it better. And in fact when magistrates start asking some quite searching questions, Legal Services are not able to answer that range of questions, which the assistant principal will either be able to answer directly or know when to call on the EWO to give that response.*

(PEWO)

Recognising the contribution that EWS insight could make to the court process, interviewees from two of the case-study LEAs made reference to the use of dedicated courts officers. One authority had recently established a team of officers who would see cases through from early meetings to a court appearance. This was deemed an effective way of working because the service would appear more professional, the process would be more rapid and hopefully, the court outcomes more appropriate. Another interviewee, underlining a need for consistency, felt this again could be met through the use of designated courts officers. They added that this would be a cheaper and therefore more preferable option than employing the services of barristers.

Two interviewees from different LEAs felt that the attitudes of court personnel towards non-attendance could be positively influenced when EWS staff presented their own cases. Due to their intimate knowledge of the cases and EWS intervention, EWOs were better able to relay the circumstances of the prosecution to magistrates, which in turn improved their understanding of non-attendance issues. Thus, a more high profile presence in court was said to bolster the credibility of the EWS, which ultimately

promoted the importance of school attendance amongst court personnel:

*I think, as you spend your time in the court, the clerks get to know you, the magistrates get to know you and you have a mutual respect. I think if you can get that mutual respect and that relationship with the court, you give them the information that gives them the bigger picture.*

(PEWO)

Individually, interviewees cited other advantages arising from EWS staff presenting cases in court. One interviewee explained that, when parents arrived at court, this may be the first time they had met the EWO, for example, in cases of total non-cooperation. Hence, if the EWO was present they might be able to capitalise on this meeting, using it as an opportunity to engage the parent and kick-start some kind of dialogue:

*Where often on the day, the parent will come to the court, you are able to have a conversation with them beforehand: 'This is the first time you've seen me, why didn't you come before?' If I'm there and I can see they do want to work with me and they've ignored me because they've been frightened and thought it might go away, then I might ask for an adjournment for a month and explain to the magistrate.*

(EWO)

One authority opted to present its own cases purely because it was more economical to do so: 'They [Legal Services] have charged £75 in the past simply to issue a summons'. Similarly, for reasons of efficiency, another authority had reclaimed responsibility for presenting cases as they felt Legal Services would be unable to deal promptly with the volume of cases now going to court.

The only negative factor mentioned by authorities who used EWS staff to present cases was that EWOs might be too close to the family (as mentioned earlier). This could have repercussions for any ongoing work, once they were seen to switch from being a supportive ally to an enforcer of the law. On balance, however, both interviewees who

raised this concern felt that the advantages of EWO presentation outweighed any negative side effects. One interviewee also warned that EWOs should be clear with families from the outset about the prospect of court action. In the event of a prosecution, relations with the family would hopefully remain intact, because they had been made aware of the possibility at the very beginning. Another authority, mindful of this potential pitfall, preferred to use EWOs who did not work personally with the families to present in court. This served to maintain a professional distance from the parents being prosecuted, whilst at the same time, preserving the family's relationship with their allocated EWO.

*The disadvantages are they hate us even more afterwards. They can be quite violent. It can be quite frightening if you are very new, it can destroy any kind of working relationship. But if an EWO is clear from the start that actually we are not going in to be their friend, we are doing a job, we are going to support them to support their children into school and we are quite clear from the outset, so if we do need to take legal action they are not shocked and think 'Oh, you were my friend and you helped me'. I always say to new EWOs when you are opening a case, when you are writing your first letter, be clear from the start that this is a legal requirement.*

(EWO)

There was also a viewpoint that, even if the EWO did not present the case, it was important for them to attend the proceedings to offer support and for work to resume once the case had been heard:

*We hope that one of the outcomes will be that they will want to go on working with us, so while we have brought the case with some degree of sadness, at the end of the day, we actually need to be there with the parent, picking up the pieces and seizing that moment to say 'Well, where do we go from here?'*

(PEWO)

*I also think it is handy for the family because obviously you speak to the family beforehand and you speak to the family afterwards. So they know that you are not going to run away from them – they know that you are there for help and support.*

(PEWO)

However, at the opposite end of the spectrum, another interviewee preferred to attend court with a colleague for health and safety reasons. They had in the past received threats from angry parents after a prosecution and were therefore only willing to attend court if accompanied by a colleague. This did, however, appear to be a rare situation.

A diverse range of opinions were therefore articulated regarding the positive and negative aspects of EWS and/or Legal Services representation. Some interviewees were unable to nominate the best option, acknowledging that both presented their own unique benefits and/or difficulties. For example, it was noted that, whilst a solicitor may not be able to respond fully to magistrates' probes on non-attendance, the alternative of EWOs performing this task would have considerable implications for their time. Given that cases vary in their nature and complexity, it may be that a degree of flexibility and choice is called for. Indeed, many LEAs would turn to Legal Services for less straightforward cases, with the remainder being dealt with by EWS staff. Two interviewees from the same authority agreed that a flexible approach was required, one which accounted for different degrees of aptitude and confidence amongst EWOs and also the variable demands of individual cases:

*I want people to do what they are comfortable about doing and what they are competent about doing. So I've got the attitude 'if you want to do it and feel at home doing it, fine do it, if not, fine, it's Legal Services.'*

(presenting officer)

### 3.3.3 Parental representation

Phase two interviewees were also invited to comment on whether they had seen any developments in the number of parents seeking representation in court. In addition, phase one interviewees sometimes chose to raise issues on this matter. Three phase two interviewees reported no changes, whilst nine interviewees (from both phases) felt that parental representation was a growing trend. Meanwhile, interviewees from a further two LEAs stated that cases were being contested more often. Two other interviewees said that if parents could obtain access to legal aid, then they would generally contest the case. These developments were linked to parents' increasing awareness of their rights, the advent of 'Fast Track' prosecutions<sup>1</sup> and the possibility of a custodial sentence since the introduction of prosecutions under Section 444.1a. In addition, there was said to be awareness amongst solicitors of these developments and some were seen to be actively canvassing for clients:

*Yes, it's starting to creep in. That has coincided not with anything that we've done, but with the publicity that has come out from the government about the Amos case.<sup>2</sup> We've started to get more representation. Hot on the heels of the press release that covered [name of town] saying 'Court shame of parents'. The local feedback in that area is a number of solicitors' firms coming into the area and getting in touch – 'ambulance chasing'. We think you're going to need representation, here's our card'. We have budgeted for that. We've got two special courts set aside for Fast Track. The timing has been built in to cope with the fact that we expect most cases to have representation. I think that will spiral.*

(PEWO)

*In the last couple of years people are becoming more aware of their rights and they are willing to pay to get someone to represent them to try and get out of things on technicalities.*

(EWO)

A consequence of solicitors' involvement, mentioned by six phase one interviewees, was that the court process slowed down, with solicitors presenting mitigation and seeking adjournments. However, one PEWO did not see this as an entirely negative development, as it forced the EWS to examine their prosecution procedures and ensure that cases were put forward on the basis of firm evidence. Three interviewees from different LEAs, when responding to the question of parental representation, simply commented that in a large proportion of cases parents do not even attend court, with many pleading guilty by letter.

## 3.4 Relations with court personnel and other court issues

This section presents interviewees' accounts of the dialogue/liaison that exists between court personnel and the EWS and it therefore deals with EWS access to court user groups and any training provided for court personnel. Interviewees were also asked whether they wished to highlight any other issues in relation to the magistrates court.

### 3.4.1 General court-related issues

The main issues raised by interviewees were:

- inconsistency of disposals
- lack of education background/understanding amongst magistrates
- variation in how magistrates engage with defendants
- magistrates and clerks who do not take non-attendance cases seriously
- need for more liaison with the courts.

The main criticism voiced by 41 interviewees across both phases of research, was that magistrates were inconsistent: 'There is a great deal of pot luck with the bench that you get' (PEWO). This issue will be discussed in

<sup>1</sup> The Fast Track to prosecution framework concentrates on early intervention and aims to ensure a faster and more effective approach to the implementation of intervention strategies for tackling school non-attendance. In cases where it is identified to be appropriate, parents have 12 weeks (one term) to ensure their child regularly attends school or will face prosecution.

<sup>2</sup> Mrs Amos was the first parent jailed for not sending her children to school (British Broadcasting Corporation (BBC), 2002a, 2002b).



more detail in Chapter 4, although it warrants some attention here as it was often associated with a lack of EWS/court dialogue. With regards to inconsistency, interviewees often recounted non-attendance cases of what they felt were of comparable severity that had resulted in vastly different disposals. Such disparity was attributed to the different experiences and attitudes held by magistrates 'from being very strict, to the pathetically soft' (EWO). Those who came with an education perspective, such as ex-headteachers, were said to be better informed, 'have a good input in the bench' (EWO) and were thus more likely to give what were viewed by the EWS as 'appropriate' disposals. Other magistrates, however, were seen to be more easily swayed by the 'tears and excuses' of parents:

*On any one given day, I am talking locally here, not even nationally or regionally, we can take a case to court on a Tuesday afternoon and it can go before a certain magistrate and it can be fined £100. Another case of the same extensiveness of non-attendance can go through on the Wednesday straight after and they can be fined £30.*

(PEWO)

*There's a mixed bag of relationships with magistrates. Some headteachers tend to lead the bench with the heavier fines because they know what's involved. We've got the other extreme, the 'pushovers' where the woman goes into tears and it's 'we'll give her unconditional discharge' and you try to hide the look of incredulity on your face.*

(PEWO)

Some interviewees felt that magistrates were sympathetic to parents because they felt they were being unjustly 'persecuted' by the EWS and magistrates did not necessarily appreciate the amount of work that took place prior to a case reaching court. Whilst this lack of knowledge may account for some of the variability, 12 interviewees also intimated that they felt some magistrates did not take non-attendance cases seriously.

Three interviewees, from different LEAs, posited another factor behind the variation in disposals. They noted that, unless a parent pleaded 'not guilty', the magistrate would only hear a one-sided account of the case. Parents were able to put forward any number of reasons as to why their child did not attend school, but the EWO would not be given the same opportunity to comment on, or respond to, these claims. In selecting a disposal the magistrate would be basing their decision on partial and not always truthful evidence. Hence, it was felt that current procedures were weighted in favour of the parents:

*The parents have every opportunity to give 1001 excuses why their child is not in school and our service can't argue with that in court unless they've pleaded not guilty. In nine out of ten cases, it's not the truth; they'll say there's a bullying problem that's not been addressed. We don't get the chance to state our case, so I'd rather have individual witness statements written by the EWO to present a better picture to the magistrates.*

(presenting officer)

Variations were also reported in the extent to which magistrates engaged with defendants. One interviewee praised the approach of stipendiary magistrates who would not only administer the disposal, but would also attach some words of warning, emphasising to parents their responsibilities regarding school attendance. This type of interaction was viewed as helpful because a third party was restating the seriousness of the offence. However, in another authority, the stipendiary magistrates were said to be dismissive of non-attendance cases. Here, it was felt that the stipendiary magistrates attached no particular importance to education welfare and as a result, cases were constantly adjourned. This was contrasted with the treatment received by individuals who appeared in court for animal cruelty offences:

*You can get the RSPCA in before us and parents have mistreated a dog and they'd*

*be fined £1000. We're going in with a child who's been mistreated because they've been kept out from school, they're losing their education and they won't even hear it, because the stipe's [sic] not interested.*

(presenting officer)

Inconsistency was also an issue amongst clerks to the court, although only mentioned by three interviewees. Some clerks were said to 'focus the magistrates' minds' whilst others would 'interfere in getting it [the disposal] reduced down' (SEWO). One solicitor detected a view amongst clerks that 'it's just the LEA, it's not a proper criminal prosecution'; hence, non-attendance cases were treated as a minor inconvenience that needed to be dealt with as speedily as possible.

When reflecting generally on the interaction between the EWS and the court service, four interviewees (from four LEAs) reported a poor relationship, or that they had very little communication with court personnel outside of the proceedings:

*When we had a court officer, she managed to establish some dialogue with magistrates but I haven't been able to do so. One of the problems is that magistrates don't meet that often and with all the training issues it isn't that easy.*

(PEWO)

*We don't have a good relationship with our court, they never answer any correspondence.*

(PEWO)

Meanwhile, ten interviewees articulated a desire that more liaison should take place, on the grounds that this would lead to an enhanced understanding of education welfare practice and consequently, more appropriate disposals. Indeed, a PEWO explained that, as meetings with magistrates became a more regular occurrence, the outcomes in court had improved. Likewise, another PEWO felt that relationships had developed and court dates were now more forthcoming.

Eleven interviewees, however, noted difficulties in obtaining access to magistrates and some had even encountered resistance when making attempts to liaise more closely with the courts. For example, one PEWO had suggested setting up a training session with the clerk to the court. The proposal had been agreed in principle, although in reality, it never came to fruition. Another interviewee received feedback from magistrates that they would be keen to establish dialogue in order to be briefed on non-attendance issues. However, when the PEWO approached the court to initiate some form of information exchange, their request was denied. Some interviewees suggested this resistance arose from concerns that the EWS may unduly influence the decision-making process, in particular the disposals given. However, interviewees were adamant that current sentencing was unsatisfactory and they were keen to address the problem with magistrates:

*I have been trying to meet with the magistrates and their clerk without success, because something's come up and they have had to cancel it all the time. I mean to me, we desperately need to meet with them, because we have such a diversity in sentencing.*

(PEWO)

### **3.4.2 Opportunities for EWS–court dialogue**

Of the 12 phase two LEAs, half reported having access to the court users group. A magistrate interviewed during phase two explained that these meetings gave court users 'a voice' but also a chance for the EWS to 'bring us up to speed with current trends or changes in emphasis in schools'. Three interviewees, however, noted that the meetings were more concerned with procedural matters, such as court etiquette and were not a forum for raising awareness of non-attendance issues.

Thirteen PEWOs interviewed in phase one of the research mentioned that they had previously staged training sessions for magistrates and/or clerks. A further five LEAs planned to do so in the immediate future.

These events were generally intended to inform magistrates of how education welfare operates and in particular, the work that took place prior to a case coming before the court:

*We made sure that they understood what this process was and that they understood we weren't going to be bringing cases where we hadn't invested time and effort in trying to solve the problem before we invited them to make a judgement about it.*  
(PEWO)

Once in possession of this knowledge, EWS staff felt more confident that magistrates would be able to make an appropriate judgement on non-attendance cases. Indeed, there was evidence, cited by two interviewees that this heightened awareness was reflected in more 'sensible' disposals and generally, magistrates gave EWOs a more considered hearing:

*They invited me to come to their monthly forum and I was allocated half an hour and I was there for two hours. They had so many questions that they wanted to ask. I did see a huge change immediately afterwards, but since then with the turnover of magistrates, I can see it's needed again.*  
(EWO)

*Had it not been for that training, there wouldn't have been that realisation of the problems, so, consequently, when they are sitting in court hearing our cases now they have got that in their mind. They realise what we are up against and what we are actually doing with these cases prior to getting them to court.*  
(PEWO)

Fourteen interviewees (including two magistrates) identified a need for training for court staff, typically referring to the limited understanding around school non-attendance issues, especially the efforts made by EWOs to resolve the situation. Interviewees spoke of the frustration they felt when magistrates made hasty decisions, with no regard, or sometimes no knowledge, of the work that had previously taken place. A magistrate acknowledged this problem and suggested that often parents offered excuses

for non-attendance and EWS staff were not afforded a similar opportunity to respond.

Magistrates could be misinformed about the facts of the case and the case would then be weakened in the light of parents' excuses, for example, a bereavement in the family or bullying. The magistrate felt it was imperative that colleagues were fully aware of the various stages families had to pass through before they reached court and also the level of non-attendance that precipitated a prosecution. This interviewee also admitted that very often 'magistrates don't always realise the serious implications of truancy'.

*The traditional idea of bunking off school prevails and if you are not careful people are not conscious of what can happen. So education of magistrates is obviously important.*

(magistrate)

### **3.5 Family accounts of the court experience**

So far, the court process has been portrayed from the perspective of professionals involved in the process. To complete the picture, it is important to look at families' experiences of attending court.

#### **3.5.1 Attendance at court**

Of the 20 families interviewed for this research, all but two confirmed that they attended court on the day of their hearings. The reasons for not attending were 'I didn't think it was important. I put it to the back of me mind' (Mrs Caddick) and the other parent was informed that s/he did not need to be present, but could instead explain her/his daughter's absence in a letter to the court. The EWO attached to this particular case however explained that the parent had been uncooperative throughout the entire process and had failed to attend any meetings in the lead up to the prosecution.

#### **3.5.2 Feelings at the time**

Three-quarters of the parents admitted that they found the court experience unpleasant.

Most often they remembered being 'nervous' or 'worried'. This fear was commonly associated with two factors: the prospect of actually having to appear in court and concerns about what might subsequently happen, for example, a heavy financial penalty or a custodial sentence. Some interviewees also mentioned that they felt humiliated by the process: 'You were spoke to like a child, everyone was domineering' (Mrs Allen). Others said they were made to feel like 'a criminal' (Mr Green). This comment illustrates how some parents did not readily accept that condoning or facilitating school non-attendance was indeed breaking the law. Only one parent verbalised an apathetic response to court – maintaining that 'it didn't really bother [me]' (Mrs Peters).

**Figure 3.2 Parents' experiences**

---

Nervous	<i>Very frightening. I near enough broke down. I couldn't stop shaking.</i> (Mr Edwards)
Concerned about consequences	<i>Terrified about what might happen. It's taken me a long time to get this house and my kids the way they are and to lose that would be absolutely crap, so I was terrified. It entered my head, would they lock me up? And then the girls would have lost everything and they haven't got much.</i> (Mr McCaffrey)
Feeling humiliated	<i>Horrible. Like you're a criminal. Like you were going to be put down before you went into the court. They already had it sewn up what they were going to do. Going to court, it's a daunting feeling to go to court and be looked on like that with a judge as if it's our fault and everything.</i> (Mr Green)

---

### 3.5.3 Plea entered

Sixteen of the 20 families pleaded guilty in court (in four cases the plea was not clear from interview data). Where interviewees expanded on the reasons for their chosen plea, two families acknowledged that as parents they were ultimately responsible for their children's attendance, similarly two parents entered a guilty plea because their children were not attending school, two families were advised by solicitors and one

parent hoped to avoid a higher penalty by pleading guilty. Lastly, one parent, although convinced of their innocence, pleaded guilty because they were unable to secure the services of a solicitor to defend the case.

**Figure 3.3 Parents' views**

---

Children not attending	<i>I pleaded guilty because I knew he wasn't at school.</i> (Mrs Peate)
Accepting parental responsibility	<i>As a parent you can't turn round and say you're not guilty.</i> (Mr Watson)

---

### 3.5.4 Representation

Eleven of the 18 families who attended court did not have legal representation. Five families reported having a solicitor and one other parent had a discussion with the duty solicitor. Aside from legal representation, two interviewees mentioned obtaining advice from other sources. One family received guidance from the clerk of the court who explained their options in terms of whether to plead guilty or not guilty. The other family took advice from an EWO who outlined how court worked and what they should say. Both families found this extra input helpful.

### 3.5.5 Dialogue with the magistrate

During interviews, EWS staff often stated that the court experience was more effective if magistrates spoke to families and underlined their responsibilities regarding attendance. Families were asked whether the magistrate addressed them and if so, in what manner. Two families simply confirmed that the magistrate spoke to them. Another two families recalled that very little was aimed at them directly. Five families were happy with the magistrate's approach, whilst four expressed some dissatisfaction at their treatment. These parents complained that they felt patronised, that they were harshly treated 'like I was a murderer' (Mrs Sturgeon) and that things were being taken too seriously. Whilst these families may not have relished a stern approach, the magistrates were successfully reinforcing the message

that failure to ensure children's attendance at school was severely regarded by the courts.

**Figure 3.4 Parents' views on approaches**

Sympathetic magistrate

*The magistrates were nice, they was fair, they listened to it, they sympathised with it.*

(Mrs Varley)

A harsher approach

*The first time was the worst because [name of wife] lost it because the magistrate turned round and said 'this is the worst case of neglect I've ever seen' and I was thinking 'hold on - neglect?' Neglect is when you leave a child unattended or you're abusing them. My wife just went mad and walked out of court.*

(Mr Watson)

### 3.5.6 Reaction to disposal

Chapter 6 includes a table listing the disposals received by the families interviewed during the course of the study (Table 6.9). Where opinions on the disposal were expressed, five families took issue with the fairness of the decision. These interviewees felt they had done all they could to effect change in their child's behaviour and therefore could not be held accountable. Often, these parents maintained that their children were out of their control and they could do nothing to influence their behaviour. They concluded it was wrong to punish parents for their children's misdemeanours. Two interviewees, on receiving their disposals (fines of £150), were surprised (and relieved), expecting the penalty to be much worse. Furthermore, one parent was unable to pay their fine and, when the matter returned to court, the disposal was overturned because, according to the parent, it was education related.

**Figure 3.5 Parents' views on outcomes**

Relief at level of disposal

*I was a bit shocked but also I was expecting it to be higher as well. I said to [name of child] I bet it's about £1000 because I always read and had seen it in the papers and on television programmes that it's £2500 per adult in charge of a child and that was what I was expecting. And when she said £100 and £50 I thought 'Oh well, why's it so low?'*

(Mrs Allen)

Unfair to punish parents

*I thought why should I be given a fine, because they won't go to school, because of what they've done? I didn't think it were right.*

(Mrs Moss)

### 3.5.7 Children's reaction

Seven parents stated that the court appearance had no discernable effect on their children: 'He couldn't care less'; 'He just wasn't interested'. Three other parents had detected some reaction, although this was often in response to the extra pressure exerted by them around the time of the court appearance: 'He was upset, because his dad was telling him that he was going to kick him out' (Mrs Peters). Other children were just relieved that their parents had returned home: 'My kids were over the moon when I came home because you never know' (Mr Edwards). Several parents proposed that children should also be present in court so that they could appreciate the consequences of their action:

*I think children should be allowed to go in to court so they can see what they are actually putting their parents through, because it's not very nice. I mean I'm sitting there and having all this with the judge and everything and thinking 'Well I have tried but they get away with it'. I walk out with a fine and a parenting order.*

(Mrs Foster)

Seven of the children interviewed, however, admitted they had been apprehensive about their parents' court appearance. Three were surprised that the threat of prosecution had actually become a reality and with this, imprisonment became a possibility (at least in their minds). Some children realised the impact that a custodial sentence would have on family life and for one individual, this was enough to motivate him to attend school on a regular basis:

*She got 12 months' conditional discharge. That means to not get in trouble for 12 months or not to let us have any time off. I told her that I only had one year left and I might as well stick to it and see what grades I get in my GCSEs and then go to college.*

(Liam Smith)

Another young person described how her mother's prosecution had caused her to reassess the situation:

*I was surprised and I was thinking about if it was going to be in the papers and all over the news and if mum was going to have to go to prison. It did actually get to me, although mum doesn't think it did. It did hit home, it put the frighteners on.*

(Laura Allen)

## Issues for consideration

- The research showed that over a quarter of LEAs reported a timescale of a month or less between a summons being issued and a court date. Most interviewees in LEAs with longer timescales felt that this was detrimental, as the momentum of prosecution was lost and cases were left to drift. Do issues of time and timescales in the prosecution process need to be addressed, at a local and national level?
- Many interviewees voiced a preference for specific court times during which school non-attendance cases could be heard. Interviewees felt that dedicated court times meant that the courts were more focused on and had a better understanding of the issue of school non-attendance, which in turn was perceived to lead to more consistent disposals. By contrast, slotting cases in amongst hearings for 'minor' offences, such as failure to apply for a TV licence, was said to diminish the importance of school non-attendance. Is there a need to raise the profile of school non-attendance prosecutions within the legal/court setting? Notwithstanding the need for there

to be sufficient cases to warrant a dedicated slot in the day's hearings, is this something which needs to be addressed by courts, in consultation with the EWS?

- Whilst LEAs were more likely to use Legal Services to present non-attendance cases, a substantial proportion were also using EWS staff. Both options were seen to offer advantages, for example, Legal Services' guaranteed expertise in matters of law, whilst EWOs were familiar with the specifics of the case, educational matters and the work undertaken prior to a court appearance. The demands of each case will inevitably vary, depending on, for example, the level of prosecution (Section 444.1 or Section 444.1a), whether parents plead guilty or not guilty and whether they seek legal representation. Would LEAs benefit from being able to tap into both approaches (i.e. Legal Services and EWS presentation) according to the nature of the case?
- Many of the problems cited in relation to the court process (for example, perceived inconsistencies in disposals, adjournments, magistrates' lack of knowledge of education and school attendance matters) might be addressed through closer liaison between the EWS and the courts, for example, via the court users group. However, EWS interviewees sometimes reported difficulties in gaining access to court personnel when seeking to engage them in meetings or training. How can both parties best understand the necessity for dialogue and make provision for such information exchange and awareness raising?



## 4 The disposals arising from prosecution

### Key findings

- All groups of interviewees levelled some criticisms towards fines. They felt that low levels and inconsistencies of fines contributed to their ineffectiveness. The appropriateness of this disposal, in certain instances, was questioned.
- PEWOs, EWOs and presenting officers were generally supportive of conditional discharges, suggesting that they were effective in improving attendance because of the pressure sustained upon parents.
- Magistrates were less supportive of conditional discharges, questioning whether such a disposal made parents think that they had 'got away with it'.
- A large proportion of interviewees did not offer views on Parenting Orders and Education Supervision Orders (ESOs), suggesting that these disposals were implemented relatively infrequently. Those who did respond presented mixed opinions.
- Both Parenting Orders and ESOs were believed to be beneficial because they gave parents access to support; however, interviewees noted that the resources necessary to implement them effectively were not always available.
- Overall, interviewees appeared to view fines as the least effective disposal and conditional discharges and Parenting Orders as potentially the most effective disposals.

### 4.1 Introduction

This chapter explores court outcomes arising from prosecutions undertaken for school non-attendance. Primarily, the chapter offers a range of individuals' perspectives on the disposals issued to prosecuted parents. Subsequently, interviewees' thoughts on the effectiveness of these disposals, as a strategy for improving attendance, are summarised.

### 4.2 Views on disposals

This section relays the following interviewees' thoughts and perspectives on the main disposals resulting from prosecutions in magistrates courts:

- 122 PEWOs (summarised from the first report)
- 18 EWOs
- 14 presenting officers (8 SEWOs/Team Leaders, 4 solicitors, 1 courts officer/EWO and 1 senior administration assistant)
- 9 magistrates/clerks to the court
- 23 parents (3 couples, 13 mothers and 4 fathers)
- 8 young people
- 6 school representatives.

#### Figure 4.1 PEWOs' views

In the first report, 102 of the 122 PEWOs questioned offered their thoughts and perspectives on the range of disposals arising from prosecutions in magistrates' courts. Whilst acknowledging that magistrates were restricted in the level of fine they could impose due to parents' ability to pay, they were critical of the message that low fines conveyed. PEWOs were also critical of what they perceived to be inconsistencies in the levels of fines imposed. They were largely supportive of conditional discharges, recognising this outcome's ability to effect a positive change in children's attendance by supporting parents and not, like other disposals, 'punishing' them.

However, a minority of PEWOs questioned the effectiveness of conditional discharges due to their indecisive conclusion and the fact that parents might think they had 'got away with it'. Interviewees had mixed views on Parenting Orders and ESOs. Both were deemed to be beneficial in the fact that they gave parents access to support. However, PEWOs identified problems in terms of the resources available to implement these disposals. In particular, interviewees commented that there were difficulties in ensuring parents attended and cooperated with these orders and that procedures for non-compliance were difficult to enforce.

---

Interviewees (in phases two and three of the research) reiterated PEWOs' views that the most common disposals were fines followed by conditional discharges. Over half of the EWOs, presenting officers and magistrates did not offer opinions on Parenting Orders and ESOs, suggesting that these disposals were much more rarely imposed. Several EWOs and a small number of magistrates noted that courts issued a combination of disposals more frequently than individual ones, with fines and Parenting Orders being the most prevalent combination.

#### 4.2.1 Fines

Sixteen of the 18 EWOs interviewed in phase two were critical of the fines imposed, with the majority of these interviewees highlighting the low level of fines. Interviewees understood that fines had to relate to family incomes but they insisted that families 'don't miss two quid a week' and asserted that 'they pay more on the lottery'. It was felt that such minimal fines failed to encourage parents to ensure their children attended school. One EWO spoke about a mother who had kept her daughter away from school for several months in order for her to care for younger siblings. This parent received a £25 fine and on her way out of court was overheard saying to a friend: 'Well, that's cheaper than childcare'. A number of EWOs confirmed that the vast majority of parents would rather pay a small fine than make the substantial effort required to send their children to school. EWOs believed that if

fines were greater it would 'send information through to parents that we mean business, that we're serious'. In addition, like PEWOs, interviewees felt that the low level of fines did nothing to signify to parents how important education was for their children:

*You look at the level of fines on television licences and then attendance cases and then you ask the question, well what is more important? A child's education is at stake here as opposed to a television licence. I don't think there is any argument, do you?*

(EWO)

Several EWOs revealed their dissatisfaction with the perceived inconsistencies associated with the level of fines imposed on parents:

*Inconsistencies are a real problem for me. It's very frustrating. I had four cases in court and I couldn't see any sense in how they [the magistrates] had come to their judgement. They were all different.*

(EWO)

EWOs' views on the low level and inconsistency of fines replicated those of PEWOs presented in the first report (Kendall *et al.*, 2003). However, something not previously always acknowledged by PEWOs was that low fines were a cause of considerable frustration to EWOs. Five EWOs commented that the fines magistrates imposed did not justify the amount of time and effort they invested in getting children back into school and sometimes made them question the effectiveness of their job.

Five EWOs did not feel fines, whatever the level, were an appropriate disposal. Four interviewees felt that even higher fines had little impact on parents, as they were frequently not paid and the courts officers responsible for collecting fines appeared to do little to enforce these payments. One EWO had visited a family a few months following the parents' prosecution, to warn them that if the situation did not improve they would be facing a second fine, only for the mother to respond: 'Well fine me if you like because I haven't paid the last one'.



Another concern, highlighted by three EWOs, revolved around the fact that parents were able to walk away, pay the fine and in many cases, still not send their child to school. In these cases the prosecution process would begin again, the cycle would continue and their child would still not be in school:

*When we take a case to court and it comes away with £50 fine and £50 costs, I don't think we're achieving that much. They [the children] still don't go to school and the parents don't appear in court. It's just not having any effect on these people.*

(EWO)

One interviewee stressed that imposing fines on families who were often extremely disadvantaged, only added to their hardship and did not assist them in any way. The view that a more supportive approach needed to be adopted, mirrored that of a PEWO:

*It's about empowering parents . . . The idea that parents who are experiencing problems with children in relation to school, need increased levels of support is fantastic . . . it's a good idea.*

(PEWO)

The remaining two EWOs had mixed views relating to fines, highlighting that the disposal was effective only with some families. One interviewee believed that a fine impacted on the children because it meant they would either miss out on pocket money or suffer because of things their parents could no longer afford. It was suggested that the possibility of a further fine and the financial hardship attached to this may be an effective means of motivating children to return to school.

Ten of the fourteen presenting officers (five SEWOs, three solicitors, the administration assistant and the courts officer/EWO) questioned the effectiveness of fines as an efficient form of disposal. These presenting officers raised the same issues as the EWOs, criticising the low level of fines, the inconsistency of fines and the fact that fining somebody already in financial difficulties did little to help their situation. An additional

matter raised by a presenting officer was that by imposing lower fines on parents on benefits had resulted in other parents being dishonest about their earnings. Parents had been known to state they were on benefits when they were not, in the hope of receiving a lower fine:

*They [parents] can just stand there and make up any fib they want to. Nobody checks, so the fines don't work that well.*

(SEWO)

Six magistrates and three legal advisors/clerks to the court were questioned regarding court disposals. These interviewees collectively agreed that fines, along with conditional discharges, were the most common disposals imposed in their courts. However, echoing previous views, these interviewees asserted that fines were seldom effective in improving children's attendance at school:

*Fines are used, but to me that's not going to get a child back into school. Once you've looked at their income, and you find that they've got no money then it's something silly like £2 a month. Paying £2.50 a month really has no effect on them.*

(magistrate)

Magistrates reported that, when fines were used, it was imperative to calculate how much parents were earning before determining the level of the fine imposed. It was estimated that 'in a good 70 per cent [of families] there's only one parent and there's no money'. In these cases, fines were deducted from parents' benefits and consequently they could not equate to more than a few pounds a week. Magistrates explained that because courts had 'an agenda to collect fines within 12 months of imposition' fines over £100 were rare. If fines were unpaid, the majority of these interviewees were unsure how much time, if any, was spent chasing up payments.

However, in one LEA, a mother had had a warrant issued for her arrest when she failed to pay a fine within the given period. In another LEA, an electronic pay card had been introduced to track parents' fines. If there were two missed payments this triggered an

enforcement summons to bring the parents back to court. In these LEAs, fine enforcement was clearly a high priority. However, the magistrate from this second LEA questioned whether, if parents had other debts that needed paying, this penalty could realistically be demanded.

One magistrate commented that, when there was publicity surrounding prosecution for school non-attendance, magistrates tended to increase the level of fines. It was explained that magistrates were under considerable pressure because the government now regarded school non-attendance as 'a major issue and a cause of crime and a major social problem'. However, interviewees felt that when publicity was not at the forefront of the political agenda, cases were viewed more sympathetically, 'the sad story took over' and the level of the fines decreased.

Out of the 20 sets of parents who were interviewed, 12 received fines in court. These fines ranged from £23 to £650. Seven received only fines and five received fines and Parenting Orders. Generally, parents felt that these fines had had little, if any, impact on their children's attitudes towards attendance. 'We told him that it was a hefty fine but it didn't have a blind bit of difference' (Mr Edwards).

However, half of the parents who received fines mentioned the detrimental impact that these had had on their own lives:

*The wife works part-time and I'm unemployed at the moment, so the only money we have is what the wife earns, so all the jobseekers I get, gets taken away because she works. The money that we have coming in has to pay for everything. It causes real problems and stress because you've got rent, council tax, gas, food, clothing, bus fares to school, catalogues, finance companies. It's difficult.*

(Mr Watson)

Three parents maintained that they had not been able to pay their fines. Two of these appeared anxious that they would receive

warrants asking them to return to court. However, the remaining parent, who had been fined £200 for each of her two children, claimed that she had returned to court voluntarily to explain that she was unable to pay her fine and subsequently it had been lifted:

*I didn't pay the fine and I went back to court. They said: 'What are the fines for?' and I said 'education' and he dropped the fines the judge. So I didn't have to pay.*

(Mrs Moss)

One mother interviewed had been prosecuted three times for her daughter's non-attendance. Previously she had received fines of £75 and £200 and at her latest court appearance she was fined £300. Although these were substantial fines, her daughter's attendance had not improved, demonstrating the ineffectiveness of fines in some cases. However, in contrast to this, one child commented that, if her mother had received a large fine in court, this would have made her attend school, through fear that if she did not attend a further fine would be imposed: 'I don't mind going to school to stop my mum getting fined' (Leanne Foster).

#### 4.2.2 Conditional discharge

In agreement with PEWOs, 16 of the 18 EWOs interviewed considered conditional discharges to be an effective disposal. Several interviewees explained that this disposal was a valuable mechanism because it sustained pressure on parents: 'There is still that threat that they could go back to court and they could be fined a large sum of money'. EWOs perceived this disposal as being a final warning to parents, stressing to them that unless they took action to ensure their children attended school they would receive a more severe penalty. EWOs also expressed support for this disposal because they felt that they were in control of the case, as any deterioration in a child's attendance permitted them to 'fast track' the parents back to court.

Three officers presenting cases in court, all SEWOs, commented on conditional

discharges. These interviewees' responses replicated those of EWOs, stating that the advantage of a conditional discharge was that 'you've always got a hold over them [the parents]' and 'we can take the case straight back to court' as soon as attendance deteriorates. In addition, a presenting officer commented that, because the parents have already attended court once, if the case returned to court 'it should be looked at slightly higher' by the magistrate.

One EWO explained that conditional discharges were effective because they could help change children's attitudes towards school. The discharge period provided children (some of whom may have been out of school for a period of time) with opportunities to re-establish social networks and 'set up friendship networks' and get back 'into the routine of going to school'. Additionally, it was highlighted that a conditional discharge 'does not hit the parent's pockets so the children won't suffer financially'. Two EWOs expressed reservations about the use of conditional discharges. In these cases interviewees had worked with families where this disposal had failed to improve the child's attendance and consequently the parents were prosecuted again. In one of these cases the EWO had been particularly frustrated with the outcome because the child was in year 11 and it was therefore difficult to return the case to court before s/he left school.

In comparison to EWS staff, magistrates and other legal personnel were less positive about conditional discharges. When questioned whether they considered the disposal effective they offered mixed views. Three magistrates spoke positively about the outcome. Echoing the views of other interviewees, they asserted that the disposal gave parents a final warning, spelling out to them that if they did not cooperate they would be brought back to court. One magistrate explained that s/he favoured a conditional discharge over a fine because with the former 'something is hanging over' the parents, whereas 'with the fine they are often only paying £2.50 a month'. Another

interviewee believed that the disposal had a positive impact on parents because it was a magistrate 'laying down the law' to them:

*Going to court and having a magistrate say to them: 'This is actually a requirement that your child is entitled to an education and you as a parent have a responsibility to ensure that your child attends school and if there are problems, there is an agency who can help'. That can be the biggest impact on parents.*

(magistrate)

Two legal advisors/clerks to the court felt that a conditional discharge only had a short-term impact on parents, with the child's attendance often improving immediately after the court appearance, but then declining due to the fact that the disposal had failed to address the cause of the problem:

*Conditional discharge is a bit like a Damocles sword hanging over their head – if they are brought back again, we can do something. But there's usually an improvement, then it tails off.*

(magistrate)

Three magistrates questioned the effectiveness of a conditional discharge. Two commented that the disposal implied to the wider community that parents were 'getting away with it'. In another LEA there had been 'a concerted effort to try to avoid conditional discharge'. It was explained that, in this area, a magistrate would opt for a fine over a conditional discharge because it was felt that the latter was simply issuing the parents with a warning after they had already received countless warnings from school and the EWS. In addition, this LEA wanted disposals to reflect the seriousness of non-attendance and they did not feel that conditional discharges achieved this:

*Also, I think there's a general feeling that, in this community, in this area, we're worse than the national average for school non-attendance. I think that plays a part in making sure that the penalties reflect that and that the magistrates take this problem seriously.*

(magistrate)

Six of the 20 sets of parents interviewed received a conditional discharge. Three parents were issued with conditional discharges and Parenting Orders and three parents received only conditional discharges (one of these parents also had to pay £300 costs). All the conditional discharges issued were for a 12-month period. The son of one of the mothers who received a conditional discharge explained that this disposal had made him and his brother start attending school:

*I don't want my mum to go back into court. My mum is taking all the rap for me and my brother not going to school. I don't mind her going to court for her own things, but not for us.*

(Liam Smith)

With the exception of this young person, the conditional discharges issued to parents were not said to have resulted in any significant improvements in their children's attendance levels. In one of these cases, the parent felt that she had been given a conditional discharge because the court 'wanted a solution but couldn't think of anything'.

Absolute discharges were reported by a few interviewees to have been issued occasionally in their LEAs. These interviewees echoed the sentiments of PEWOs in the first report, noting that this disposal conveyed the wrong message to parents. An absolute discharge signified that parents had been found guilty of the offence but were not being punished. One of the parents interviewed had been given an absolute discharge relating to his three daughters' attendance at school. This was a family where the children had previously been living with their mother and not attending school. However, since they had moved in with their father they had attended school regularly. The father had pleaded guilty in court and had assured the magistrate that he would do everything in his power to ensure his daughters attended school. He was relieved when he received the absolute discharge:

*I felt fantastic. I felt justified in the way I was doing things. It really made me want to just stick to it, get on with it.*

(parent)

Since their father was prosecuted the children's attendance had been satisfactory, suggesting that, in this situation an absolute discharge was an appropriate disposal.

#### 4.2.3 Parenting Orders

Half of the EWOs interviewed commented on Parenting Orders although a high proportion of the remaining interviewees were from LEAs where this disposal was issued infrequently and therefore felt that they were 'not really armed with enough information about whether Parenting Orders were good or bad' (EWO) to pass comment.

Of the ten EWOs that remarked on the effectiveness of Parenting Orders, all but three viewed them favourably. This is in contrast to the PEWOs, as the majority of these interviewees expressed mixed or negative opinions on the disposal. Interviewees believed that Parenting Orders were effective because they taught parents the skills required to control their children and subsequently enforce their school attendance. In many cases, EWOs felt that it was because parents lacked these skills that their children were not in school. In addition, it was reported by one EWO that Parenting Orders 'raised parents' awareness as to the importance of education and made them view school attendance in a different light'. As a result of this change in parental attitude, interviewees had witnessed parents doing their utmost to ensure their children attended school on a daily basis.

One EWO felt that Parenting Orders were effective because parents were obliged to attend the classes in order to avoid returning to court. Without this threat, it was considered unlikely that parents would attend such programmes:

*Some of the hardest cases, the parenting officer has made a success of. I mean they've got the time and they're also backed up by the fact that the parent could go back to court if they don't engage.*

(EWO)

The remaining three EWOs presented mixed views on the effectiveness of Parenting Orders. Although they could see the potential benefits, two expressed reservations about the resources available to facilitate the disposal. In particular, they stressed that there was currently no way of ensuring (despite the legal requirement) that parents attended these classes:

*If you put ten people into court and get ten orders, you can't realistically track whether parents attend classes. It's just impossible. You'd need a facilitator – someone whose title is 'Parenting Order Coordinator' who would deal with that. The EWO has done their work – got it to court, then it's down to someone else to deal with it.*

(EWO)

One EWO did not agree with the compulsory nature of Parenting Orders and felt that they should not be a disposal of the court. S/he believed that, when classes were made compulsory, the benefits were lost because parents felt that their parenting skills were being scrutinised. Another EWO was critical of the time-limited nature of the intervention, remarking that 'even if it [the Parenting Order] is successful there is nothing afterwards'. S/he felt that it would be 'better to put constant support in the community rather than a Parenting Order course run on the other side of the city'. Other reservations focused on the intrusive and personal nature of Parenting Order assessments, which might have to be completed early on in the EWO/parent relationship.

Two presenting officers, both solicitors, relayed their thoughts on Parenting Orders. One commented that s/he had noticed that only certain magistrates considered cases for Parenting Orders: 'Sometimes it never gets mentioned and sometimes you can have three to four'. The other stated that, in her/his LEA, they had recently started to adjourn cases in order to consider whether a Parenting Order was appropriate. The remaining 12 presenting officers did not make any evaluative comments with regard to Parenting Orders, largely because of their

lack of experience or knowledge of this disposal. In agreement with EWOs, magistrates appeared to view Parenting Orders as a positive disposal, with five interviewees asserting that Parenting Orders could be 'extremely effective'. However, three of these five magistrates had no personal experience of this disposal: 'I have no personal experiences of them but I am aware of them and I think they are a very good idea' (magistrate). 'I haven't had the opportunity yet. I do have a strong belief in the Parenting Orders and I would like them being used' (magistrate).

One magistrate felt that by 'befriending them [parents] rather than making them the victims' a Parenting Order took some positive steps in assisting parents to get their children into school. Interestingly, another magistrate commented that, if courts deemed parents accountable for their children's non-attendance, then it was the courts' responsibility to assist parents as much as possible and believed that a Parenting Order attempted to do this.

The remaining two magistrates acknowledged the usefulness of Parenting Orders but also questioned whether there were the resources available to run the parenting classes. In one particular LEA there appeared to be confusion as to who should be funding the classes. The courts felt that it was the Youth Offending Team's (YOT) responsibility, but a YOT spokesperson disagreed because, as far as s/he was concerned, their target was 'reducing crime ...and for many of the parents given Parenting Orders there was no link to crime'. In the first report PEWOs also offered mixed views on whether YOTs should be responsible for running parenting classes as they inevitably had an offending focus, which was not necessarily suitable for parents whose children were not attending school and unlikely to address education issues. In one LEA, it had been decided that 'if it is an education one then it is an education issue, but if it is to do with youth crime then the YOT take it on'.

Out of the 20 sets of parents interviewed eight had received Parenting Orders (four were issued with a Parenting Order and a conditional discharge and four received Parenting Orders and fines). The parents had differing opinions as to the usefulness of the parenting classes they had attended. Three felt that they had been beneficial, three did not feel that they were useful and the remaining two parents had not yet attended their courses.

Those who found the classes valuable highlighted the fact that they had met other parents in similar situations to themselves and had been able to discuss the difficulties they experienced with their children:

*It was very useful and interesting because we met people ... you see loads of kids playing truant, but you still think you're the only one who's got this child with the problem. So at these classes you meet others in the same situation. It was a fantastic bunch we were with. We went for seven weeks. We were learning different things and chatting about our problems.*

(Mrs Black)

At these classes, parents also reported that they were advised about different disciplinary strategies that they could use with their children and, amongst other things, might impact on their school attendance. Mr McCaffrey had greatly appreciated this guidance and felt that, as a result, he was more likely to take advice if it was offered to him in the future:

*As a parent, you bring your kids up your own way or the way that you got brought up, but when you've got someone independent giving you advice, you can try it and see the benefits.*

(Mr McCaffrey).

Three parents felt that parenting classes had not assisted them in any way as they did not feel they were relevant to their situation because they were addressing issues such as offending. Mr Green felt that, with the exception of him, all the parents on his course had children who 'were completely out of

control, drug addicts and everything, smashing the house up, hitting their mam, swearing'. He commented that his daughter did not do anything like that, 'she just won't go to school' and consequently he had not found listening to other parents' stories about their children taking drugs or stealing cars helpful to his situation. Mrs McGrath felt the same, commenting that she did not see the point in saying: 'Oh, I'm only here for my daughter because she won't go to school' when others 'had children who beat them up, took drugs, you know things like that'. At her parenting classes she explained that they would spend time talking in groups about why they were there, doing role play (with one being the teenager and one the parent) and watching videos of 'Kevin and Perry'. Mrs McGrath asserted that the role plays were 'nothing like you'd do at home' and she could not see how the classes were meant to help her. Nonetheless she knew that she had to attend the full eight weeks because 'if you have so many days off they take you back to court'. This mother felt that it should have been her children who were made to attend a course:

*When I had to sit there chucking the ball around I was too embarrassed anyway. Because [child's name] wasn't there she didn't know what was going on, what was being said. At about 13, 14 [years of age] you should stick them all in a room and have them play with a ball and see how they like it.*

(Mrs McGrath)

The final two parents issued with Parenting Orders had not yet attended parenting classes. Mrs Peters explained: 'I haven't been on the parental because I suffer with mental health'. Mrs Foster, who had been issued with a Parenting Order a few months earlier, was unaware of any arrangements for her to attend a parenting course.

#### 4.2.4 ESOs

A total of eight interviewees (four EWOs, two presenting officers, one magistrate and one family interviewee) offered views on ESOs. The remaining interviewees did not offer

opinions on ESOs because of their lack of experience of this disposal.

The EWOs and presenting officers who commented on the use of ESOs offered mixed views on this disposal. One EWO had conducted several ESOs and had found them to be a valuable tool. However, s/he, along with other interviewees, stressed that without the cooperation of parents an ESO would be unsuccessful. A presenting officer believed that ESOs were the most effective disposal because they were 'not a "them and us" situation'. S/he felt that the increased multi-agency input offered to families was imperative and often the reason behind any improvement in school attendance. One EWO and one presenting officer reiterated one of the PEWO's criticisms, the fact that there was a lack of sanctions in place to enforce a young person's involvement and cooperation with the strategies implemented following an ESO. The magistrate who commented on ESOs was also critical of the disposal. S/he replicated a view offered by PEWOs, remarking that s/he had not and would not in the future, apply for an ESO because s/he believed that any strategies attached to this order would have, or at least should have, been undertaken prior to the prosecution:

*My personal view is that ESOs are very difficult to work with because a lot of the strategies on an ESO to work with a child, a lot of that work is done prior to going to court anyway. The only difference that it has in court, it puts the legal framework around it. What might work for one family, might not work for another.*

(magistrate)

One young person interviewed had been subject to an ESO. Despite his mother's cooperation with the EWS and his school, no progress had been made prior to the ESO. However, the ESO required the child to have a psychiatric assessment, to be referred to a Joint Adolescent Service and Youth Awareness Project (to address drug misuse) and to be dual registered at school and at a Pupil Referral Unit (PRU). Following the ESO

this young person's EWO commented that his attendance was 'absolutely fantastic. He's on full time attendance ... everything has completely turned round'. When asked what s/he thought the reasons were behind this improvement, s/he remarked: 'Primarily it has been the consistent approach from those who have been involved in the ESO'. S/he added that:

*if we didn't have an order whereby you legally have to look at and review the case on a regular basis we wouldn't have reached the stage we have.*

(EWO)

### 4.3 Effectiveness of disposals

Interviewees reported that some disposals were more effective than others. Consequently they stressed that the success of a school non-attendance prosecution was dependent partly on the disposal issued by the magistrates' court.

#### 4.3.1 Fines

An overwhelming majority of interviewees from all groups reiterated PEWOs' responses with regard to the effectiveness of fines. Interviewees felt that, because fines were typically of a low level, they were ineffective in encouraging parents to ensure their children attended school:

*Usually it is £30 plus costs. Well, I mean, for some of the parents that we are working with they will think that with all the aggro it will cause them to try and get their child to go to school they would rather just leave it, go to court because it is a minimal amount.*

(EWO)

Interviewees explained that even when fines were higher they remained inadequate because parents could pay them on a weekly basis, frequently resulting in them paying as little as £2 a week. Several EWOs asserted that, because fines did nothing to assist parents in changing their situation, the disposal was seldom effective in bringing

about a positive change in children's attendance levels.

#### 4.3.2 Conditional discharge

Over three-quarters of PEWOs, EWOs and presenting officers reported that conditional discharges were effective in improving children's school attendance. Interviewees commented that the disposal was effective because parents' responsibilities were highlighted by the magistrate and it was stressed that if they failed to ensure their children attended school, they would be brought back to court:

*I think a conditional discharge is probably one of the best disposals you can get. What it is doing is saying to parents: 'You've got 12 months to turn this round'. I would be happy with that every time because what it says to parents is 'the courts see your child's attendance as important; they've given you the opportunity to turn it around'.*

(EWO)

Magistrates and other legal personnel offered mixed views regarding the effectiveness of conditional discharges in combating non-attendance. Three magistrates spoke positively about the outcome, echoing the EWS opinion that the disposal was effective because it gave parents a final warning. Two legal advisors/clerks to the court felt that the disposal was effective, but only in the short-term. The remaining four magistrates asserted that conditional discharges were an ineffective means of improving attendance because the disposal simply issued parents with 'yet another warning':

*Magistrates here wouldn't take the view of the efficacy of the conditional discharge. One of the things that we would take into consideration is that they [parents] would have had warning letters from school and truancy warnings. A conditional discharge is just another type of warning. They would take the view that the offender might feel that if s/he was brought back to court again, then they would probably just get a fine – so it's delayed the process.*

(magistrate)

#### 4.3.3 Parenting Orders

The majority of each category of interviewee was unsure as to the effectiveness of Parenting Orders, partly because the disposal had been issued relatively infrequently within their LEAs.

One third of PEWOs and EWOs felt that Parenting Orders were effective because the classes taught parents skills they needed to control their children and enforce their school attendance, skills that parents of non-attenders regularly lacked. In addition, several EWOs asserted that parenting classes changed parents' attitudes towards education and subsequently effected a positive change in their children's attendance:

*The theory of a Parenting Order is good. People can argue that it is punitive because of the ultimate consequences but if it's about reframing someone's education and making them raise their awareness and think a bit differently, then it's good.*

(EWO)

Many EWOs commented that the effectiveness of a Parenting Order was, in part, due to the fact that parents were obliged to attend the classes in order to avoid returning to court. A greater proportion of magistrates and court personnel, than EWS interviewees, remarked that Parenting Orders were effective. They asserted that this disposal was effective because it gave parents access to support, rather than punishing them.

When compared with interviewees from other groups, significantly more PEWOs and EWOs questioned the effectiveness of Parenting Orders. These interviewees noted that parenting classes were ineffective because there were insufficient resources available to implement them correctly. They highlighted issues regarding who should fund and run these courses and suggested that there were no mechanisms in place to ensure parents attended the classes.

Three of the five sets of parents who received Parenting Orders had found the classes



beneficial because they had been able to talk to other parents in similar situations and had been offered advice on ways to discipline their children. The remaining three sets of parents had not found the parenting classes useful because they felt the topics covered at these classes did not relate to their particular situations and circumstances.

#### 4.3.4 ESOs

A total of eight interviewees responded when questioned about ESOs, suggesting that this disposal was seldom imposed by the courts. These interviewees had mixed views with regard to the effectiveness of the disposal. A presenting officer thought that ESOs were the most effective disposal because of the increased agency input offered to parents, in an effort to improve their child's attendance. However, this interviewee, along with an EWO, highlighted that for the disposal to be effective it was essential that the parents cooperated. The disposal was viewed to be less effective when the different services did not engage with one another. One child from the 20 families spoken to had received an ESO and following this his attendance improved dramatically.

### Issues for consideration

- The research found variability in the perceived effectiveness of the different disposals available. Given the range of existing disposals were seen as relatively limited, would

there be scope at looking in more depth at alternative disposals, such as community rehabilitation orders, as well as greater use of existing disposals, such as Parenting Orders and the use/consideration of ESOs, as possible sanctions which actually attempt to address issues of school attendance?

- The research showed that magistrates' awareness and experience of Parenting Orders as a possible disposal appeared to vary. Is there a need for additional awareness-raising amongst magistrates of this disposal?
- The research found mixed views amongst interviewees as to whether Parenting Orders should be a disposal of the court or whether they were more beneficial on a voluntary basis. Whichever approach is taken, should there be further consideration of issues regarding the resourcing of Parenting Orders and including who is responsible for the provision of parenting classes under such orders and the relevance of the content of such classes for parents of children who are not attending school?
- Given parents' views on the need for their children to be involved in the process, is there a case for increasing the involvement of young people in the disposals imposed, for example young people participating in parenting classes?

## 5 The effects and wider outcomes of prosecution

### Key findings

- The most common positive impact of prosecution noted by PEWOs was that prosecution made parents aware of their responsibilities and made them realise the importance of school attendance. The most common negative effect of prosecution identified by PEWOs was that some parents experienced financial difficulties after they were issued with fines.
- Of the 18 EWOs interviewed, 14 stated that, following prosecution, their relations with parents had remained positive. This was largely due to the fact that typically parents did not associate their prosecution with their EWO.
- PEWOs believed that prosecution was more successful with primary than secondary-aged children, mainly because parents were perceived to have more control over younger children. Despite this belief, findings from the first report showed that the actual number of prosecutions taken in LEAs increased in line with age, peaking at year 10.
- Schools were supportive of prosecution because they saw it as a useful mechanism for deterring non-attendance amongst other pupils.
- As a result of prosecutions, LEAs were seen to be 'doing their job' and their credibility amongst other services increased.
- Half of the 110 PEWOs who offered opinions on the wider outcomes of prosecuting parents reported that, following parents' prosecution, the involvement of other agencies, or the offer of additional support, was uncommon.
- Four-fifths (82 out of 103) of the PEWOs who responded when questioned about the impact of a prosecution on other families, felt that prosecutions in their LEAs had impacted on other parents and pupils in the school or local community.
- The large majority (85 out of 89) of PEWOs who offered their opinions on the impact of publicity reported that publicity surrounding high profile prosecution cases had had a positive impact on attendance levels in their LEA.
- The large majority (87 out of 96) of PEWOs who responded when asked their opinion on publicising prosecutions relating to non-attendance were in favour of this. Over half of these interviewees stressed that the local press should not identify the families.

### 5.1 Introduction

This chapter explores the effects and wider outcomes arising from prosecutions undertaken for school non-attendance. The first part of the chapter presents interviewees' thoughts on the effect prosecuting parents has on different groups involved in the process. The second part of the chapter

considers any wider outcomes, including indirect or unexpected outcomes, arising as a result of prosecution.

## 5.2 Main effects of prosecuting parents

This section explores a range of interviewees' perspectives on the effect prosecuting parents had on parents, children, schools and the LEA. The interviewees were from all three phases of the research:

- 122 PEWOs
- 18 EWOs
- 14 presenting officers (8 SEWOs/Team Leaders, 4 solicitors, 1 courts officer/EWO and 1 senior administration assistant)
- 23 parents (3 couples, 13 mothers and 4 fathers)
- 6 school representatives.

### 5.2.1 Effects on parents

PEWOs reported a number of positive effects of prosecution on parents. They stated that prosecution:

- made parents aware of their responsibilities (32)
- made parents realise the importance of school attendance (32)
- helped parents re-enforce their authority in the home (14).

A quarter of PEWOs felt that the main effect prosecution had on parents was that it made them aware of their responsibilities as far as their children were concerned. One PEWO commented that prior to prosecution a large proportion of parents 'abdicated responsibility for their children' (PEWO).

A further quarter of PEWOs noted that prosecution made parents realise the importance of their children attending school. Prosecution highlighted the severity of the offence: it was a criminal offence for which they could be imprisoned. Half of the EWOs

interviewed reiterated this view, commenting that prosecution had 'moved school attendance up the family's agenda' (EWO).

Fourteen PEWOs reported that the prosecution experience helped parents re-enforce their authority in the home. Interviewees believed this was a result of the advice on parenting skills, in particular, discipline strategies that were offered to parents by the EWOs supporting them:

*The amount of parents that say to us: 'Well if I take the TV out of their bedroom they get ever so angry'. Well yes, but they might also go to school in order to get it back. So, I think sometimes it gives parents that bit of strength they need to confront the young person. They have kind of let it go until now but now they have got us supporting them.*  
(PEWO)

A small number of PEWOs felt that the prosecution experience benefited parents in that it gave parents an opportunity to voice their concerns and helped them get their children back into school. This led to an improvement in the quality of parents' lives because they no longer had to deal with attendance issues and the attention of the EWS.

In contrast, PEWOs reported that prosecution also had some negative effects on parents as it may result in:

- financial difficulties due to the fines imposed (18)
- a deterioration in parents' relationship with the EWS (16)
- it being a harrowing experience for parent(s) (16)
- a deterioration in family relationships (8).

Eighteen PEWOs reported that prosecution had had a detrimental impact on those parents who were experiencing financial difficulties prior to attending court and then acquired a substantial fine. Although it was reported that fines were generally low and families were able to pay them off weekly,

interviewees were adamant that this additional payment had affected some families:

*We have put these families into further trauma and crisis by imposing financial penalties which they could not afford.*

(PEWO)

Sixteen PEWOs felt that prosecution harmed the relationship between a parent and the EWS. However, EWOs' comments did not generally comply with this view. Of the 18 EWOs interviewed, 14 stated that, following prosecution, relations with parents had remained positive. This could be seen as a significant outcome. EWOs suggested that this was because they had 'built a strong relationship with the parents' over several months and from the start had made the parents aware that they could end up in court:

*If you side-step the issue, it can be difficult, you have to be up front with them, completely honest from the beginning. We go in and point out that it could result in prosecution and every visit you reinforce that. If not, you're setting them up.*

(ESW)

Some EWOs noted that they also tried to maintain effective relationships with parents by distancing themselves from the prosecution itself. In one LEA, EWOs were instructed to tell parents: 'My senior says I have got to do this' and another EWO told parents the decision to prosecute 'was government driven'. Sometimes it was remarked that EWOs chose to 'pass the buck' to avoid any resentment from parents that could impact on their relationship. However, a small number of EWOs did not feel that this was an appropriate way of working.

Three-quarters of parents interviewed confirmed that relations with their EWO had not changed following prosecution. Several highlighted the fact that it was 'not their fault' that they were taken to court and that EWOs had 'a job to do' and a number of parents did not associate their court appearance with their EWO:

*I just seemed to take it out on 'the education'. I'm like saying to myself: 'It stinks, they should not be allowed to do this, they should have listened, they should have helped us more'. But I never took it out on [name of EWO]. When we went to court she was doing her job and it was out of her hands.*

(Mrs Varley)

*We're not prosecuted by the social workers, we're prosecuted by the government. It's not them – not their fault.*

(Mr Watson)

Presenting officers also mirrored these views, asserting that prosecution did not appear to affect EWOs' relationships with parents. These interviewees' comments, in particular, parents' admissions that they took frustration at being prosecuted out on 'education as a whole' may indicate that PEWOs' reports of 'damaged relationships' between parents and the EWS, referred to the EWS as an authority and not relations between individual parents and their assigned EWOs.

Sixteen PEWOs commented that many parents prosecuted for their children's non-school attendance were 'people who had not attended court previously'. These interviewees noted that frequently for these parents, often single mothers, going through the prosecution process, particularly appearing in court, was a devastating experience.

Eight PEWOs reported that prosecution often caused friction between the child's parents 'because mums are left with the responsibility to ensure that the child attends school', whilst fathers sometimes 'removed' themselves from the situation, by going to work, for example. Consequently, there was a tendency for fathers to blame mothers: 'You almost see the mother shivering with the weight of the responsibility that is put on her'. PEWOs also commented that prosecution created tension between the parents and child because the parents sometimes took their frustrations out on the young people. A third of the parents who were interviewed echoed these

sentiments, reporting that family relationships had deteriorated post-prosecution for this reason. One mother asserted that, since she was fined in court, she had been extremely angry with her thirteen-year-old daughter, commenting that 'at the minute I'm not speaking to her'.

A small number of PEWOs identified additional negative effects on parents. These included:

- having a criminal record (6)
- having to cope with the stigma of appearance in court (5)
- their situation not changing (i.e. child does not return to school) (5)
- parents being frightened into avoiding all contact with the EWS (2)
- parents withdrawing their child from school and educating them at home (2).

With regard to the final comment, two PEWOs, in the lead up to prosecution, had experienced parents withdrawing their children from school and educating them at home. One PEWO commented that 'the last thing you want is for them [parents] to be doing that' because it is unlikely the children will receive an adequate education and they will miss out on the social aspect of school. The other PEWO was concerned that 'there wasn't a system in place for actually checking that these children were being educated'.

### 5.2.2 Effects on children

When questioned about the impact of prosecution on children, half the PEWOs reported that older children were affected more by prosecution than younger children. Interviewees explained that when younger children missed school it was 'usually an issue to do with parenting, or the lack of it', it was rarely the child's decision to absent themselves from school and, in many cases, these young children were ignorant of the situation. EWOs' views on the effect prosecution had on younger children replicated those of PEWOs, one EWO asserting that 'the parents I've dealt with

have kept younger children oblivious to what is going on'. One primary school headteacher commented that his pupils, whose parents were facing prosecution, 'didn't express any worries' or 'show any awareness' of what was going on. Older children, on the other hand, were better able to comprehend the seriousness of the situation:

*Older children take it quite seriously and I think it can be said to have quite an effect on them.*  
(PEWO)

When asked about the positive effects that prosecuting parents had on children, over half of the PEWOs responded that it meant children were being educated and thus given the opportunity to achieve their full potential later in life. In addition, interviewees remarked that children would experience the social benefits of going to school on a regular basis, i.e. forming friendship groups. Nearly half of the interviewees reported that prosecution was more successful with primary-aged children than secondary-aged children and offered the following reasons for this:

- parents have more control over younger children (22)
- older children are physically stronger (10)
- older children may see prosecution as 'a way of getting at their parents' (8)
- older children have more 'entrenched attendance problems' and can no longer see the value of education (8).

Twenty-two PEWOs explained that parents had control over younger children and could therefore influence their decisions. In contrast, older children were able to make their own decisions and it was said to be more difficult to bring about positive change in such situations. In addition, ten PEWOs mentioned that older children were often physically too strong for parents 'to bring' into school:

*Obviously the difficulty that a lot of parents will quote is 'How do you manage? How do you get a 14, 15, 16-year-old actually to go*

*to school? They are as big as me. They are not going to do what I tell them to do' and so on.*

(PEWO)

Several PEWOs reported that, although some older children started attending school when they realised their parents were facing prosecution, others 'quite liked their parents being prosecuted as a punishment, if you like, for what they wouldn't let them have'. EWOs commented that, from the outset, they made it clear to older children that 'they're the ones that can make all the difference'. However, several EWOs confirmed that, although older children were aware of what they were putting their parents through 'not all of them cared'.

Eight PEWOs noted that older children were frequently unable to see the value of education because they had missed so much school. Often the only way to get these teenagers back into education was to offer an alternative curriculum as a way of making education more attractive:

*The older the child, they've become more disillusioned with school. Parents have become more disillusioned and less capable of having control over them and is school offering what that young person really wants?*

(PEWO)

This view was reiterated in phase three, when EWOs gave examples of older children who would not return to school but successfully took up alternative education placements.

The majority of PEWOs did not report any negative effects that prosecution had on children, one interviewee commenting:

*I see no negative [effect] at all, we are only endeavouring to improve a young person's education, so for me there's no down side.*

(PEWO)

However, fifteen PEWOs reported that a negative impact of prosecution was that parents could take their frustrations out on their children, leading to a deterioration in parent/child relationships. One PEWO

reported that prosecution could have a negative effect on relationships between the child's parents, which in turn, could impact on these young people:

*The relationships in the family between husband and wife might be a factor when thinking about prosecution. If that was going to cause violence and domestic upheaval that is something that you should certainly give some consideration before pressing ahead.*

(PEWO)

Another negative effect on children, identified by several interviewees, was that, because of the possible stigma attached to court attendance, children's peer relationships could be affected.

### 5.2.3 Effects on schools

When questioned about the impact prosecuting parents had on schools, PEWOs identified the following positive effects:

- it helped schools deter non-attendance amongst other pupils (36)
- it improved schools' attendance figures (14).

Over a quarter of PEWOs reported that the main effect prosecution had on schools was that they could use it as a threat to the wider school community, in effect, using it as a deterrent to other parents and pupils. PEWOs believed schools were 'very keen on prosecutions'. The EWOs, most of whom worked closely with schools, confirmed that schools were generally supportive of prosecutions and would do what they could to assist (e.g. first day contact, investigating bullying claims) when the EWS wanted to prosecute a parent.

Fourteen PEWOs reported that schools benefited from prosecutions because their attendance figures improved, which impacted positively on the schools in terms of their standing in the league tables.

With regard to the negative impact prosecuting parents had on schools, PEWOs identified that it:

- resulted in schools becoming frustrated when they felt disposals were inadequate and ineffective (18)
- caused problems for schools who did not agree with the principle of prosecution (18)
- meant schools had to deal with difficult pupils (18)
- resulted in increased levels of unauthorised absences (12)
- meant possible increases in the number of pupils being excluded (6).

A third of PEWOs felt that, now schools were aware of prosecution, they wanted to prosecute 'any parent whose child hasn't attended for, I don't know, 80 per cent of the time'. Interviewees remarked that when school personnel were informed that prosecutions would not be pursued in particular cases, they were apparently 'unimpressed as to why we were not prosecuting'. One EWO had felt it necessary to point out to a deputy headteacher that 'we can't just pig-headedly go charging in just because their attendance isn't 90 per cent'. Several EWOs agreed that, where there had been problems with schools in the past, it was because they were not prosecuting a parent. One interviewee, for example, felt that schools liked the idea of being able to 'pass the buck' over to the EWS and also that they enjoyed seeing parents 'punished' without playing a role in it themselves:

*Schools generally like us to prosecute 'cos they like the element that someone's being punished for the non-attendance but it's taken out of their hands ... this is one area of school life that they're not necessarily getting the flack for.*

(PEWO)

Eighteen PEWOs noted that, if schools felt the disposals given to parents were inadequate, they became extremely frustrated with the entire process:

*A lot of our schools still haven't got their heads around that a lack of a big fine means anything other than we have lost.*

(PEWO)

In contrast, 18 PEWOs reported that some schools did not agree with the principle of prosecution and were reluctant to become involved. This was typically primary schools, or community schools, who were said to want to protect their parents and not damage the relationships they had developed with them. Several EWOs and presenting officers substantiated this view:

*Secondary schools would like 100 per cent prosecution. Primary heads will come in with parents and not want prosecution to damage their relationship with the family or to get involved.*

(SEWO)

Eighteen interviewees recognised that schools were now having to deal with 'problem children' who had returned to school following a prosecution, often months, or even years, after they had last attended regularly. PEWOs reported that some schools were reluctant 'to look at alternative packages' in order to help integrate these young people back into school. One interviewee suspected that some schools wanted parents prosecuted but did not necessarily want their children back in school because they then 'had a requirement to assist that child to catch up on lost time' and their return to school was viewed as problematic. Several PEWOs commented that young people with behavioural difficulties returning to school post-prosecution were at risk of exclusion.

Twelve PEWOs explained that schools were instructed only to authorise absences when they were certain there were legitimate reasons, as parents could not be prosecuted on authorised non-attendance. Consequently, schools' unauthorised attendance figures were likely to increase. Many schools had great difficulty with this, given the pressure on them to reduce levels of unauthorised absence. One PEWO explained the conflicting pressures:

*Two or three weeks ago we had something from the DfES saying that they wanted us to set targets for schools for unauthorised*



*absence. Whilst we can do that, what we are saying to the schools is: 'Don't authorise anything unless you think it is a genuinely good reason. If you are not happy with the reason, don't authorise it and we can take court action'. The government are saying, 'Ah, but you are 4.5 and you should be only 3.2 so you have got to decrease your unauthorised absence' and, as a result, what they do is they authorise everything. This then puts us in the position where we are saying: 'You want us to take this parent to court but you have authorised the fact that they have been off every Monday for eight weeks'.*

(PEWO)

#### 5.2.4 Effects on the LEA

When questioned about the impact prosecuting parents had on the LEA, from a positive perspective, PEWOs reported that:

- LEAs were seen to be 'doing their job' and their credibility increased (23)
- more children were attending school regularly (12)
- LEAs had 'another tool at their disposal' (11).

A fifth of PEWOs believed that the main impact of prosecuting parents on the LEA was that the authority was seen to be 'fulfilling their statutory obligation' and the message was conveyed to the wider community that 'if parents do not ensure their children attend school they will be challenged by the LEA'. Interviewees highlighted that by prosecuting parents, LEAs were attempting to change local and cultural attitudes towards non-attendance. One PEWO commented that if LEAs were not seen to be carrying out their responsibilities people would have no respect for them:

*If we don't act on it, what do families and young people think of someone who's got a professional responsibility apparently being insufficiently interested to act, or their reluctance or inability to pursue the plans that are in place?*

(PEWO)

By taking this approach towards school non-attendance, LEAs' credibility amongst services, in particular schools, local government and OfSTED, was said to increase, due to the fact that these institutions viewed prosecution as an effective method of supporting school attendance.

As a result of this hard line approach against non-attendance, 12 PEWOs noted that when children attended school more regularly this led to improved attainment and made the service provided by the LEA more effective. Links were also drawn, by some PEWOs, between improvements in attendance (through prosecutions) and reductions in youth crime (during school-hours) in some LEAs. Eleven PEWOs commented that prosecution had had a positive impact on the LEA because it meant there was a further strategy that they could use in their battle against non-attendance.

As far as negative effects of prosecution on the LEA were concerned, fifteen interviewees reported that prosecutions were 'an extremely costly process'. PEWOs explained that, given the vast amount of time, money and resources the LEA invested in non-attendance cases, it was extremely demoralising when the disposals given to families did not appear to reflect this.

### 5.3 Wider outcomes including indirect/unexpected outcomes

This section considers any further outcomes arising from the prosecution of parents. Other agencies' involvement with families, the effect of prosecution on other parents and pupils in the school/community and the impact of publicity surrounding prosecutions (including high profile cases), were explored. For each of these areas, the perspectives of interviewees from all three phases of the research were considered. These interviewees were the same as identified previously for section 5.2, but excluded parents.



### 5.3.1 Involvement of other agencies and support for pupils

Half of the 110 PEWOs who offered opinions on the wider outcomes of prosecuting parents, reported that, following parents' prosecution the involvement of other agencies, or the offer of additional support, was uncommon. A third of these interviewees explained that this was due to the fact that interventions such as these were already in place before the parents appeared in court. One PEWO commented that 'before we get to court, we need to explore every avenue, we need a complete case and a complete knowledge', so if other interventions were introduced post-prosecution this would imply that 'we had been derelict in our duty'. Hence, these 18 interviewees implied that, by the time a case reached court, any interventions that might have assisted the family would already have been undertaken.

The remaining two-thirds of interviewees, who felt that no additional interventions were offered to families following prosecution, commented that when the main issue centred round school non-attendance 'very few agencies would step in just because a parent had been prosecuted'. Several interviewees specifically highlighted difficulties they had experienced trying to engage Social Services' involvement with families post-prosecution: 'Non-attendance in Social Services' view is purely a school issue and it rests with us' (PEWO).

*Social Services will only do care proceedings or child protection proceedings if we have done court six times.*

(PEWO)

PEWOs stressed how vital Social Services' contribution was in these instances. In the following case, Social Services became involved following a family's failure to comply with an ESO:

*They [Social Services] instigated a proper search of their records and threw up the fact that very recently a member of this family, who we were totally unaware of, had just been released for sexual offences against children and, lo and behold, was*

*living in the home and shouldn't have been. And that started an enormous level of investigation and involvement and it came about solely because we said we can't get the kids into school.*

(PEWO)

In total, four PEWOs commented that applying for ESOs was considered a way of involving Social Services because, if the order was breached, then it was their obligation to assess the family.

In contrast, a third of PEWOs reported that, as a result of prosecution, additional agencies became involved with families, or more support was provided in schools to assist the children. Half of these interviewees had succeeded in securing Social Services' involvement with families post-prosecution:

*Often when we threaten prosecution they start jumping about a bit. Where we have found it hard to get Social Services persons to be engaged, prosecution sometimes gets them realising quite how far down the road this has gone.*

(PEWO)

In addition to Social Services, these 43 PEWOs noted that the following agencies/support groups had become involved with families after the parents were prosecuted for non-attendance:

- Community based groups
  - Connexions
  - the Youth Service
  - a neighbourhood project group
  - a youth crime reduction agency
  - YOT
  - a housing department.
- Health organisations
  - mental health services
  - school nursing service
  - health services department
  - GP.
- School support services
  - learning mentor
  - SEN teacher
  - pupil welfare officer
  - educational psychologist.

In contrast to the earlier group, this group of PEWOs clearly believed that following parental prosecution there were a variety of agencies or other support services accessible to them: 'We have a lot of schools with some fantastic community based projects and we have had parents tap into those following court to get help to manage and sustain regular attendance' (PEWO).

### 5.3.2 Impact on other parents and pupils in school/community

Of the 122 PEWOs interviewed in phase one, 103 responded to questions about the impact prosecutions had on other parents and pupils in the school/community where the prosecution had taken place. Eighty per cent (82) of those who replied felt that prosecutions in their LEAs had impacted on other parents and pupils in the school or local community. These interviewees documented two ways in which information relating to prosecuted parents was conveyed to other parents. The first was through publicity, including local newspapers, news programmes or schools' own methods of communication. One EWO displayed details of the prosecutions s/he had taken on the school notice board, 'where they were extremely visible to any parents that visited the school'.

The second way in which parents became informed of prosecutions that had taken place was through other parents, because 'parents in schools talk' and, as one PEWO testified, 'the grapevine spreads like wildfire'. LEAs that did not publicise prosecutions appeared grateful for this type of publicity:

*We very rarely get them in the paper in this area, but if word of mouth gets out that is really good for us, or a very indiscreet teacher, that is sometimes how it gets out. They will say: 'You know, so and so's parents were fined'. I mean, we love it if it gets out, so long as it is not us doing it.*

(PEWO)

One PEWO highlighted how, following the prosecution of a local parent, considerable 'rumour mongering' had resulted in:

*A lot of parents coming in to attendance panels and saying 'I know I have had three letters from you but I really don't want to go to court, so I am here today'.*

(PEWO)

Other PEWOs agreed that prosecuting one parent had a significant effect on others. Mirroring the views of PEWOs, the EWOs and presenting officers agreed that prosecuting one parent often had a wider impact on other parents in the school and the local community. As a result of this, one EWO thought that, when a parent was prosecuted, the focus should be on the wider impact of the prosecution:

*When you look at the prosecution and the parents get fined and you don't see a return to school of that child, you think: 'Well the process has failed'. But then you look and you say to yourself: 'Well, OK, I haven't won on that one, but I wonder what happened to other parents and other children who live in the same community who were looking to see what happened?' They have seen that something is done about this, parents do get prosecuted. They don't want that happening to them.*

(EWO)

Several EWOs commented that prosecutions particularly impacted on parents who had already been warned about prosecution themselves. It was felt that a prosecution acted as a deterrent to these parents, making them realise that it could actually happen because 'so and so was taken to court'. However, nearly a quarter of PEWOs highlighted that the impact these prosecutions had on other parents and pupils in the school and community was often short-term. It was remarked that, although around the time of these cases 'everybody was worried' about the same happening to them, 'people soon forget' and hence the impact was not sustained.

Prosecutions that had disposals that were perceived by interviewees to reflect the seriousness of non-attendance were seen as having a positive impact on other parents. Conversely, many interviewees felt that when

parents received what were perceived to be more 'lenient' disposals, this had an adverse effect. That is, when other parents heard about a small fine or conditional discharge being given to parents who were prosecuted from their school or community, the possibility of receiving a similar outcome did not have a deterrent effect:

*We are telling children and parents that this is a very serious matter, you could risk a level 3 or 4 and X, Y, Z penalties and then we get to court and it's £25. It's sending out completely the wrong message.*

(PEWO)

Around ten percent of PEWOs did not believe a prosecution had any impact on other parents/pupils in the school or community where the prosecution occurred. This was typically in LEAs where prosecution cases were not publicised.

### 5.3.3 Impact of publicity/high profile cases

Primarily, this part of the chapter considers interviewees' thoughts and perspectives on the impact of publicity relating to prosecutions. This includes any publicity relating to high profile prosecution cases. Subsequently, this section explores interviewees' opinions on whether they believe prosecution cases should be publicised.

Eighty-five of the 89 PEWOs who offered views on the impact of publicity surrounding high profile prosecution cases, reported that such publicity had a positive impact on attendance levels:

*If you could have one of those every year that would be good, even a bogus one, if they made up a family and have them go to court that would be excellent.*

(PEWO)

*I think it has been a bit of a godsend to us really.*

(PEWO)

The responses of EWOs, presenting officers and school representatives replicated those of

PEWOs. Interviewees explained that when prosecution cases were publicised this 'made families with non-attendance issues realise the seriousness of what could happen to them'. As a result of this, PEWOs and EWOs reported increases in parental engagement with EWOs, be it returning telephone calls, keeping appointments or attending meetings:

*When the infamous case in Oxford came about [BBC, 2002a, 2002b], we had a non-attendance panel the week after all the stuff hit the press and we had a full turn out, families all turned up and it was the first thing on their lips: 'What about this? Is this going to happen to me?'*

(PEWO).

Twelve PEWOs and half the EWOs and school representatives interviewed noted that the impact publicity had on attendance levels was 'short-lived' and although 'it put attendance up on top for a time' this did not last for long. It was felt that, in order to maintain the impact, regular publicity of similar cases was needed:

*People's memories are short and as soon as it's out of the public's gaze it loses its impact. The issue does not have a high profile within itself in regard to parental responsibility.*

(PEWO)

Of the five PEWOs who reported that high profile cases had had no impact in their LEA, a few interviewees had seen little, if any, publicity relating to these cases and hence felt that parents were simply unaware of what had happened. Others suggested that parents viewed the high profile Amos case (BBC, 2002a, 2002b) as a 'one off' and for this reason were not encouraged to ensure their children attended school.

Reflecting their earlier views on the impact of publicity, 87 of the 96 PEWOs who gave an opinion were in favour of publicising prosecutions relating to non-attendance. Half of these interviewees did not express any reservations about naming parents in the local press. Although many of these PEWOs

acknowledged the problems this may cause for families, they thought the threat of public humiliation would act as a deterrent to others, remarking that 'anything that could be done to increase attendance levels ought to be'. Other PEWOs believed that parents should be named because 'society has a right to know' when someone is found guilty of a criminal offence:

*The fact that the press can be in court is fair enough because it is, I suppose, like any other offence, it is an offence so if the press want to report it they have got the right to do so.*

(PEWO)

Headteachers were generally in favour of parents being named, one commenting that, although it:

*might be sad for the individuals in court, equally 100 more may decide that they don't want to be in that situation.*

(secondary school headteacher)

Nevertheless, half of the PEWOs interviewed disagreed with naming parents due to the potential negative impact this might have on the children involved. One PEWO remarked that by naming parents: 'You might be creating another reason why they [children] don't go to school'. These PEWOs preferred publicity to focus on the number of parents who were prosecuted and the fines they received, without focusing on who these people were. The majority of EWOs agreed with this, acknowledging that details of prosecution cases should be publicised in order to 'prevent other ones [parents] from going down the same road', but they felt that parents should not be named.

Nine PEWOs were against publicising prosecutions altogether, even when parents were not named. The reason given for this was that if minor disposals were publicised they felt this might have an adverse effect on other parents' attitudes to non-attendance. A third of the EWOs agreed that 'bad press' could do more harm than 'no press' and commented that, ideally, they would be able to 'pick out the cases with the highest fines

and publish those'. One EWO commented that recently in his/her LEA there had been press coverage of a parent who had pleaded not guilty in court and s/he expressed concerns that, as a result of this, they would have more parents making the same plea in the future.

A small number of PEWOs were wary about using the media because of the perspective the press might take:

*Using the media is a two-edged sword really. It can quickly turn against you. If we invited the local media in ... something might be said by a parent or a defending solicitor which is of far more interest to them, so they take the angle about 'my child hasn't been in school because he's been bullied for six months and the school knew about it and didn't do anything'.*

(PEWO)

Finally, one secondary school headteacher criticised the negative impact that press coverage had had on his school. He explained that:

*If people are considering where to send their child and then two parents are prosecuted, the more conscientious parents will think we don't want our children going there.*

(secondary school headteacher)

## Issues for consideration

- A small number of interviewees highlighted that a possible perceived negative impact of prosecution (or potential prosecution) was that parents might opt for education other than at school (EOTAS). Have LEAs seen an increase in parents requesting education otherwise as a way of avoiding prosecution? What mechanisms are in place within LEAs to monitor such provision?

- It is testimony to the quality of the relationships developed between parents and EWS staff that relationships often remained positive during and even following prosecution. Could the precise skills and procedures required of the EWS at this stage be given greater prominence?
- Prosecution was thought to make parents more aware of their responsibilities and realise the importance of school attendance. How do LEAs ensure that such possible changes in attitude are sustained post-prosecution?
- Following prosecution some children who return to school have difficulties reintegrating back into the school context and examples were given in this research of young people who were subsequently excluded from school. What specific strategies do LEAs, schools and EWS have in order to support these youngsters' return to school?

- The research also raised issues about schools' authorisation of non-attendance. The view relayed was of the pressure on schools to minimise their levels of unauthorised absence. This raises the question of what mechanisms or evidence do LEAs have in place to reassure schools that they can address attendance issues by (where appropriate) not authorising absence?
- The majority of PEWOs who offered their opinions on the impact of publicity, reported that publicity surrounding high profile prosecution cases had had a positive impact on attendance levels in the LEA. How can prosecutions be used to publicise and promote LEA/EWS attempts to improve and support attendance? Is there a place for publicising all prosecutions, including high profile cases and custodial sentences?

## 6 Effectiveness

### Key findings

- Professional interviewees spoken to during phases two and three of the research were largely supportive of the principle of prosecution, which reflected the views given by PEWOs in phase one. Across all phases of the research, the most common reason given for supporting the principle of prosecution was the compulsory nature of education. Reiterating PEWOs' views, nearly three-quarters of professional interviewees spoken to during phases two and three of the research felt that prosecution could, at times, be an effective strategy.
- Nearly two-thirds of parents interviewed also agreed with the principle of prosecution but were likely to qualify their response by saying that prosecution was only right in certain circumstances. The most common reason why parents were opposed to prosecution was a belief that they should not be held responsible for their child's behaviour.
- Over half of the parents interviewed felt that prosecution did not work because it did not lead to an increase in attendance and did nothing to address the reasons why children were not attending school.
- Of the families involved in the study, just over two-fifths of the prosecutions could be classed as effective, in that post-prosecution attendance levels had risen, just over one-third were 'not effective' as

there had not been any significant improvements. In one fifth of cases, prosecution had mixed effectiveness; this included sporadic or intermittent increases in attendance, followed by decline.

- Variation in the cooperation and attitudes of parents and young people, as well as family relationships and behavioural issues, were identified as key components in the relative effectiveness of these prosecutions.

### 6.1 Introduction

This chapter is divided into three sections. The first presents interviewees' perspectives on the principle and effectiveness of prosecution as a strategy. The second provides illustrative quantitative prosecutions data from two LEAs in order to examine the effectiveness of prosecutions within individual LEAs. The third section provides a conclusion to the chapter by exploring issues of effectiveness related to the families interviewed during the course of the study, as well as presenting possible alternatives to prosecution.

### 6.2 Views on effectiveness

In this section interviewees' views on the principle of prosecution are discussed and this is followed by their perspectives on the effectiveness of prosecution as a strategy for improving school attendance. It should be noted that, in order to preserve confidentiality, pseudonyms have been used for the parents and young people who took part in the study.

## 6.2.1 Views on the principle of prosecution

Figure 6.1 PEWOs' views on the principle of prosecution: phase one

Ninety per cent (110 out of 122) agreed with the general principle of prosecution. The most common justification for prosecution was the compulsory nature of education. PEWOs were also supportive of the principle of prosecution, because it was another tool the EWS could use to increase attendance and it sent a clear message to other parents about the importance of school attendance and education generally. Some PEWOs who were supportive of prosecution accompanied their statements with justifications and provisos. These included support for prosecution where parents were failing to cooperate, a belief that prosecutions should be used appropriately (i.e. not for all families) and that prosecution should only be used as a last resort.

Presenting officers, EWOs, magistrates and school staff were also asked their views on the general principle of prosecuting parents. They were largely supportive of the principle of prosecution (although one solicitor said that s/he had no views on prosecution and that s/he was merely acting on instructions). Their views generally reflected those given by PEWOs in phase one of the research. Interviewees were supportive of the principle of prosecuting parents because:

- of the compulsory nature of education (20)
- it protects children's rights (7)
- it was seen as a necessary tool in the EWS 'tool box' (7)
- it acted as a deterrent (2).

Mirroring PEWOs' views, the most common justification for prosecution given by other interviewees was that the compulsory nature of education requires prosecution. A total of 20 interviewees (7 presenters, 8 EWOs, 2 magistrates, 3 school representatives) felt that prosecution upheld parents' legal responsibility to send their children to school and also held them accountable for their actions because they had broken the law. The following comments highlight how these

perspectives were shared by the EWS and legal representatives:

*There has to be something there to give a bite to follow the EWO's bark.*  
(solicitor)

*We need it in place. It's a law that children attend school at the end of the day.*  
(ESW)

*I don't have any problem with it. I support the principle. Parents have responsibilities. They are falling down on their responsibilities. They are breaking the law.*  
(magistrate)

Linked to the compulsory nature of education, interviewees also agreed with the principle of prosecution because it protects children's rights and defends a child's right to education, a factor highlighted by seven interviewees (2 presenters, 3 EWOs, 2 magistrates/clerks to the court). It was felt that by not sending them to school, parents were denying their child a basic human right and prosecution was viewed as a way of defending that right. They also focused on the negative impact non-attendance at school had on children's life chances and issues of child safety and child protection, i.e. when children were not at school they were at risk:

*[It's about the] welfare of the children as well. If they don't go to school, they're not going to get the education and they're not going to be fit for many things in life. They're not going to be prepared.*  
(legal adviser)

Presenters (4) and EWOs (3) were also supportive of the principle of prosecution because it was seen as a necessary tool in the EWS tool-box, particularly where parents were failing to cooperate with the EWS.

*It's the only weapon we have in our armoury really to ensure attendance, where the parents aren't cooperating.*  
(solicitor)

Two interviewees also supported the principle of prosecution because they felt it acted as a deterrent, warning other parents that non-attendance was a serious matter.



A number of interviewees agreed to the principle of prosecution in specific circumstances:

- as a last resort (3 presenters, 6 EWOs)
- when parents were failing to cooperate (2 presenters, 3 EWOs, 1 magistrate)
- if used appropriately (1 presenter).

These provisos mirrored those raised by PEWOs in the first report. Those who felt that prosecution should only be used as a last resort, when all other strategies and sanctions had failed, were either presenters or EWOs. The fact that EWOs were more likely to raise this as a proviso perhaps reflected the close working relationship that they had with families and they were therefore likely to be more reticent about taking them to court:

*[Prosecution is] very much a last resort. We're social workers and we're trying to help the family as much as we can. I don't think any of us would admit to enjoying taking a parent to court – it's not nice standing up and giving evidence against someone you are trying to help.*

(ESW)

Others felt that prosecution was justified when parents were failing to cooperate with the EWS and, as was highlighted in Chapter 1, this was the main criterion for prosecution in most LEAs: 'You need to have a sanction, where parents refuse to cooperate' (SEWO).

One interviewee felt that prosecution was a necessary sanction as long as it was used appropriately:

*I think we need to have that ultimate sanction, but it needs to be used wisely and in appropriate cases and not over and over again for a child that doesn't attend.*

(presenter)

### **Questioning the principle**

Despite their overall support for prosecution, a small number of interviewees (5), none of whom was from the EWS, did express doubts about its use and one interviewee openly questioned the principle. Their doubts

focused on, firstly, whether prosecution was the appropriate sanction for non-attendance and whether it resulted in a return to school:

*I'm not sure a criminal record for not sending your child to school is appropriate.*

(solicitor)

*Whether fining the parent is the way to get them to school, I don't know. It would be nice to think that there's something else that could be done.*

(legal advisor)

*The aim is to get children to go to school and I don't think punishing the parents in the way that they are at the present time helps in achieving that end. It punishes the parent and gives them a fine that they can ill-afford to pay anyway.*

(magistrate)

Secondly, they were concerned as to whether the magistrates' court was the most appropriate forum for addressing issues of non-attendance at school. They felt that there should be a better way of dealing with it, for example, via a specialist panel which reviewed school attendance and had sanctions:

*More tailored than fines ... it needs something more imaginative than an ordinary criminal penalty. Is the magistrates' court the proper forum for this? ... It seems to me a massive sledgehammer to crack a nut.*

(magistrate)

### **Parents' and young people's views on the principle of prosecution**

Parents and young people who were interviewed in phase three of the research were also asked whether they felt it was right that parents should be prosecuted for their children's non-attendance at school. Their responses are summarised in Table 6.1.

As shown in Table 6.1, the majority of the parents in the sample agreed with the principle of prosecution, but were likely to qualify their response by saying prosecution was only right in certain circumstances and they felt that their own particular cases did not fit these circumstances.



**Table 6.1 Parents' and young people's views on the principle of prosecution**

Parents' views (N = 23)	Young people's views (N = 8)
<ul style="list-style-type: none"> <li>● Yes, parents should be prosecuted (3)</li> <li>● Yes, they should be prosecuted, but only in certain cases (12)</li> <li>● No, they should not be prosecuted (8)</li> </ul>	<ul style="list-style-type: none"> <li>● Yes, parents should be prosecuted (2)</li> <li>● No, they should not be prosecuted (4)</li> <li>● No comment (2)</li> </ul>

Source: Interviews in phase three of the NFER study, 2003

These parents felt that it was right to prosecute parents in the following circumstances:

- When their children were out of control and involved in anti-social behaviour and offending:  
*Some children are out doing horrible things, roaming the streets, stealing and one thing and another.*  
(Mrs Allen)
- For 'irresponsible' parents who were knowingly condoning their child's non-attendance and not attempting to get them into school:  
*For those people who know their kids are nicking off school and don't give a damn. They should be the ones that go.*  
(Mrs Peate)

Parents who felt that it was wrong to prosecute parents per se and those who agreed with prosecution but felt that it was wrong that they themselves had been prosecuted, gave similar justifications for not prosecuting parents:

- parents are being punished for their child's actions and the child should be accountable for their own behaviour (8)
- prosecution puts pressure on families who are already under stress (5)
- parents are unable to make their children go to school (4)
- parents are in need of support rather than punishment (3)
- there were mitigating circumstances, e.g. the child was being bullied or was ill (3).

The most common reason why parents were opposed to prosecution was a belief that they

should not be held responsible for their child's behaviour and that children should be held accountable for their own actions. These parents felt that it was unjust that they were prosecuted for something over which they felt they had no control: 'I think it's unfair that parents suffer for it [their child's non-attendance at school]' (Mrs Varley). A number of parents felt that it would be useful if older children were obliged to attend court in order to convey the seriousness of the offence to them:

*I thought why should I be put on trial? I'm not the criminal. I'm not the one that's not going to school. Why should I be humiliated and put through it all? Why shouldn't they have the child there with you and let them see what it's like, what the parents have to go through and how they're spoken to and it might frighten them. Just to be there, just to see what it's like for themselves*  
(Mrs Allen)

*I just think if the child is old enough to understand right from wrong, then I don't think it's the parents that should be prosecuted. It should be the children.*  
(Ms Jackson)

One young person, Leanne, actually said she would have returned to school if she had had to attend court. Parents felt that the punishment had to be focused on the child because: 'If the punishment's not aimed at them, they're not bothered' (Mrs Peate). The young people interviewed also reiterated this view. They all said that they, rather than their parents, should be held accountable for their non-attendance at school:

*I should be the one standing up in the courtroom, not my mum. I'm the one that's doing it, it's my choice, it's my decision. I'm 15 years old, you can't exactly drag me to*

*school ... I've got my own mind, it's my choice, I should be the one that gets punished for it. The law is stupid in that department. I should get community service or something ... just anything that's not mum getting punished for it.*

(Laura Allen)

This young person's statement also focused on the difficulties parents of older children had in enforcing attendance at school and the lack of control many had over their children's behaviour: 'She should go to school but I've tried everything but she will not budge' (Mrs Brown).

Other parents disagreed with the principle of prosecution because they felt it placed additional pressure on families who were already under stress and was likely to further exacerbate their difficulties:

*If people are struggling already, taking them to court and fining them is just going to make the problem worse. It's not going to help their situation if they've already only got a small amount coming in. Sending them to prison is only going to cost the government more because they've got to put the children in a home. So why don't they just use that money on something useful, like a programme in the schools for kids that don't want to be there like smaller classes or something.*

(Ms Foster)

Linked to this was a belief that parents needed support rather than punishment:

*I think I should have been given more respect. I just got taken to court but I was begging for help.*

(Mrs Peate)

Others felt that mitigating circumstances, for example bullying or illness, were not fully accounted for prior to parents' prosecution and that additional support should have been offered:

*The EWS was saying that I had got to go and physically take [name of son] to school. He's 15 and he's getting bullied. He'd get a lot more bullied if his mum has to go and sit in each class with him.*

(Mrs Peters)

*In my case, because it was a health problem, I shouldn't have been [taken to court] I should have had more help from that school. I should have had more help from [name of EWO] instead of them going against me.*

(Mrs Caddick)

The three parents who agreed with the principle of prosecution felt that, although they might be angry about being taken to court themselves, sometimes parents 'need a sharp shock ... I think that short sharp shock can work' (Mr and Mrs Black) especially for those parents who 'ain't bothered' (Mr and Mrs Black). The other parent who agreed with prosecution, Mr McCaffrey (who received an absolute discharge), felt that parents should be prosecuted because it is 'important that their kids go to school'.

## 6.2.2 Views on the effectiveness of prosecution

This section focuses on interviewees' perspectives on the effectiveness of prosecution as a strategy for improving attendance. It begins with a summary of the views of PEWOs from phase one, then details the views of presenting officers, EWOs, magistrates and school staff, pupils and their parents.

### Figure 6.2 PEWOs' views on the effectiveness of prosecution: phase one

Seventy per cent (86 out of 122) felt that, at times and within certain contexts, prosecution could be an effective strategy. Key factors contributing towards the effectiveness of prosecution, (e.g. the timing of prosecution and the disposals given), were also identified as factors that might mitigate against effectiveness. The process of bringing parents to court was often viewed as more effective than the actual outcome.

Presenting officers, EWOs, magistrates and school representatives interviewed during phases two and three of the research were asked to comment on the effectiveness of prosecution as a strategy for dealing with non-attendance. Reiterating PEWOs' views presented in phase one of the research, nearly

three-quarters of individuals interviewed in phases two and three (34 out of the 47) felt that prosecution could, at times, be an effective strategy. Interviewees' views on effectiveness could be divided into the following categories:

- largely effective  
(4 presenting officers [all EWS staff], 6 EWOs, 2 magistrates, 2 headteachers)
- effectiveness mixed and dependent on the circumstances of individual cases  
(8 presenting officers [including 4 EWS staff and 4 solicitors], 10 EWOs, 1 magistrate, 1 school representative)
- not an effective strategy  
(2 presenters, 2 magistrates, 1 school representative)
- unsure/unable to comment on its effectiveness  
(2 EWOs, 4 magistrates, 2 school representatives).

#### ***Prosecution largely effective***

When interviewees were asked to comment on the effectiveness of prosecution as a strategy, the issue of defining effectiveness was raised:

*You can look at effectiveness in several ways. One of them is: 'Does it get that child back to school?' Secondly: 'Does it get that child's brothers and sisters who are younger back to school when they see what happens when their parents are prosecuted?' Next: 'What does it do to the children of the neighbours, if they see them getting away with it, does it have an impact on them?' Also the general public at large ... You have to look more broadly I think than just that one individual or that family, you have to look at the whole picture.*

(magistrate)

The majority of interviewees took this broader view. Nearly a third (14) of interviewees in phases two and three felt that prosecution was largely an effective tool in combating non-attendance, again reflecting the views of PEWOs in phase one. Indicators of effectiveness provided by interviewees

focused on improvements in attendance and the small number of repeat prosecutions:

*When we analysed our data we had 57 per cent who had improved attendance. Of the 43 per cent left, only 11 per cent returned to court. All the rest either went on to alternative provision or had left school. So for us 57 per cent it [prosecution] had made a difference with.*

(SEWO)

*I would say that, of the 300 plus [prosecutions] we did last year, I would say 60 per cent it's maybe worked for.*

(SEWO)

*[There will be] one child out of 20 where it's not working ... for the other 19 [prosecution] led to an improvement in attendance.*

(EWO/courts officer)

One LEA was able to provide data on effectiveness in terms of the small number of parents re-entering the prosecution process over a period of time. In this LEA, 1,190 cases entered the prosecution process between September 2000 and March 2003 and the number of cases with a previous conviction entering the process between March 2001 and July 2003 was 110, giving a re-entry rate of 9.2 per cent. Thus, the prosecution process was considered to be an effective strategy because of the relatively small number of repeat offenders.

In another LEA, prosecution as part of the EWS overall attendance strategy was perceived to have had a positive impact on attendance within the LEA:

*The attendance overall went up one per cent in high school and 0.5 per cent in primary schools.*

(SEWO)

Like PEWOs in phase one, five interviewees defined prosecution effectiveness in terms of being a deterrent because of the message it sent out to other families and the community.

#### ***Mixed views on effectiveness***

Nearly half of the interviewees questioned during phases two and three of the research

(20 out of the 47) expressed mixed views on the effectiveness of prosecution, suggesting that it was largely dependent on the circumstances of individual cases. This represents a greater proportion of interviewees holding such views than was revealed by PEWOs in phase one of the research (when a quarter of PEWOs felt that the effectiveness of prosecution was mixed). The four solicitors interviewed during the course of the research all expressed mixed views on the effectiveness of prosecution.

A number of interviewees who felt that prosecution could be effective on a case-by-case basis highlighted the impact of the prosecution process and felt that it was often the process that led to an improvement in attendance (this is discussed in detail in Chapter 2). They believed that effectiveness lay in the process, but without the prosecution at the end of that process it would be completely ineffective:

*The prosecution has to be there at the end of the process, but I think what's more effective is the process.*

(secondary headteacher)

*Effectiveness depends on how many fall out [of the prosecution system] because they know they've got this threat.*

(solicitor)

*If you asked me: 'Has prosecution made a difference in the majority of your cases?' I would say that the process of prosecution has definitely made a difference. Whether it's made a difference on those that actually get to the last stage, when we do take the prosecution I would say that in some 'yes'.*

(EWO)

Some aspects of the prosecution process were seen as particularly effective, for example formal interviews (see Chapter 2). Four education welfare interviewees felt that effectiveness had improved because of developments in the prosecution process, for example, due to the introduction of Section 444.1a and PACE interviews (as described in Chapter 1). Other interviewees felt that it was the actual appearance in court that was

effective, because, as highlighted elsewhere, it could make parents appreciate the seriousness of the offence:

*When you get a magistrate who's quite comprehensive on non-school attendance and can talk quite confidently about the importance of education and young persons' rights. That has quite a great impact and does, I've seen it make a difference.*

(magistrate)

Other interviewees (both EWOs and headteachers) referred to the short-term effectiveness of prosecutions, but felt that the long-term impact was questionable: 'In our own school, it does improve attendance for a short time' (secondary headteacher).

*It does initially ... After prosecution they all normally start off OK, but some you won't win with and it will drop ... but yes, initially it does do what it sets out to do.*

(EWO)

Although these interviewees generally felt that the effectiveness of prosecution had to be considered on a case-by-case basis, some confirmed the PEWO view that its effectiveness was dependent on particular types of parent or family, the age of the child or related to the types of disposal. These are now discussed in turn.

#### • The type of parent/family

A number of interviewees identified the type of parent for whom they felt prosecution was likely to be more effective. Generally, prosecution for non-attendance was seen as less effective for those 'hard core' families with other convictions who frequently appeared in court:

*It's very dependent on the family. If they've had legal involvement for other matters, school attendance is just not a priority for them.*

(SEWO)

*If it is a family who has total disregard for education and total disregard for pretty much anything other than what is happening with them, it is not effective at all.*

(EWO)

*Prosecution might help with the fringe people but it doesn't do any good with the hard core.*

(primary headteacher)

*For those cases that do not improve and court action becomes necessary, there is little evidence to show that court action actually improves the attendance of these 'hard-core' cases.*

(written communication from SEWO)

Prosecution was seen as more likely to be effective with those families who found it difficult to enforce boundaries with their children but were in a position to put these boundaries in place. In these circumstances, interviewees felt that prosecution might provide families with an impetus for change:

*I think parents who find it difficult to say [to their children] 'go to school' and condone [their child's] absence from school. I think it has an impact on them.*

(SEWO)

*If it is a family who are trying but they are not really getting there. When I say 'trying' they are appearing to be trying rather than actually doing what they need to be doing, then I think it has some effect because it makes them [think] 'I need to really buck my ideas up because otherwise x, y, z might happen'.*

(EWO)

*For a lot of parents who've never been to court, it's [the prosecution process] enough to get them moving on.*

(solicitor)

#### ● The age of the child

Seven interviewees who felt that prosecution could be effective on a case-by-case basis also reiterated PEWOs' views that effectiveness was dependent on the age of the child when the prosecution took place. They felt that prosecutions could be very effective with younger children, but less so with older children:

*The earlier the better. [With] lower ages it can be very effective. When it gets to year 11, less so I would say.*

(EWO)

A PEWO interviewed in phase two of the research provided data to support this view:

*We've looked at whether the year group has impacted [on effectiveness] ... We found that the younger you prosecute, the more effective it is. If you prosecute after year 9, there's very little effect.*

(PEWO)

Later prosecutions meant that Education Welfare were taking cases to court when the child's behaviour had become entrenched. Affecting a change in that behaviour (either by the EWS and/or the parent) was viewed as problematic and prosecution was perceived as unlikely to have a positive impact on the child's attendance:

*One of the problems is that by the time we get to the stage where children are refusing to attend school, it's usually because the parent has spent the last 14 to 15 years bringing them up in a way that's led to that behaviour. So it's almost locking the door after the horse has gone. Maybe it needs more intervention at a much younger age rather than a prosecution at 14 or 15 years old.*

(SEWO)

*Obviously when they get to adolescent age, it can be a lot more difficult ... Often, the parents are the child in this and the child is the adult and actually running the home.*

(SEWO)

These issues are discussed further in section 6.4 of this report. Interviewees also provided examples of successful prosecutions taken relating to year 11 pupils.

#### ● The type of disposal

This was an issue raised by PEWOs in phase one of the research and the views of other interviewees on this subject have already been explored in Chapter 4. A total of ten interviewees (2 presenting officers, 5 EWOs and 3 school representatives) when discussing the effectiveness of the prosecution process raised this as an issue. Inappropriate and inadequate disposals were seen to negate the effectiveness of the prosecution: 'effectiveness depends on the penalty' (ESW).

*It [prosecution] can be [effective] in certain cases. That's why I feel let down a bit when the courts only give a £50 fine, because that then minimises all the effort that's gone into it. We could do with a more effective disposal.*

(EWO)

*When I think of this particular case and the number of hours spent, to get a £25 fine, was a bit of a slap in the face.*

(headteacher)

#### ● Prosecution not often effective

A total of five interviewees interviewed in phases two and three of the research felt that prosecution was not often an effective strategy, whilst a further eight were unsure or unable to comment on its effectiveness. The latter group included four magistrates/clerks to the court who felt they were unable to comment on effectiveness because they were unaware of what happened after the court appearance. Doubts as to the effectiveness of prosecution largely related to the fact that it did not lead to an improvement in attendance:

*I have to say the legal process in general doesn't seem to effect much change in attendance.*

(SESW)

*I know that other heads think that it [prosecution] has increased attendance. It hasn't in our school.*

(primary headteacher)

The incidence of repeat prosecutions was seen as reinforcing this view:

*Sometimes you think: 'This is the third time you've prosecuted this parent, it obviously isn't working ...what's the point?' But they have to be prosecuted if the children are not going to school.*

(solicitor)

Even those interviewees who felt that, in certain contexts, prosecution was an effective strategy questioned its effectiveness in terms of returning children to school. However, as the following comment illustrates, not all interviewees felt that the purpose of prosecution was to return children to school;

rather it was a sanction for parents who failed to comply with their legal responsibilities:

*I don't believe it's an effective tool for getting children back into school ... I don't believe we prosecute to get the child back into school. We prosecute because the parents are breaking the law.*

(SEWO)

Nevertheless, this interviewee felt that prosecution was an effective strategy in terms of the wider impact it had on school attendance in the community and LEA generally. The inter-generational transmission of school non-attendance within families also led interviewees to question the effectiveness of prosecution:

*For some older EWOs, they see their cases coming back as parents, with the same issues. It's a whole cultural issue to deal with – the value of education and school.*

(solicitor)

Interviewees also felt that prosecution was unlikely to be effective in cases where children (particularly older children) did not want to go to school. In these circumstances, it was seen as more pertinent to address the issues as to why children did not want to attend school. Prosecution of parents was not seen as the most effective way of addressing these issues:

*You also get the child that won't attend school, the parent is cooperating fully but the child will not come to school, usually year 10 and 11, those you can offer them this and offer them that, but they don't want to know.*

(EWO)

*It's an issue for older children, years 10 and 11, they aren't motivated, the courses aren't relevant to them. It's good to see other options but sometimes they don't value those either.*

(solicitor)

*You've got to examine why the youngster isn't coming into school. Why don't they want to be here? Are they bored? Are they unable to access the curriculum? Are they in fear of something?*

(secondary deputy headteacher)

### Parents' and young people's views on the effectiveness of prosecution

Parents and young people who were interviewed in phase three of the research were asked whether they felt that prosecution worked. A summary of their responses is provided in Table 6.2:

**Table 6.2 Parents' and young people's views on the effectiveness of prosecution**

Parents' views (N = 23)	Young people's views (N = 8)
● No (13)	● No (2)
● Yes (3)	● Yes (3)
● Mixed views (7)	● No comment (3)

Source: Interviews in phase three of the NFER study, 2003

Over half (13) of the parents interviewed felt that prosecution did not work. These parents believed that prosecution did not work because it did not lead to an increase in attendance and did nothing to address the reasons why children were not attending school: 'It doesn't get to the bottom of why they don't go to school' (Mrs Sturgeon). Issues of illness and bullying were highlighted as reasons why children were not attending school. These mitigating circumstances meant that parents felt that prosecution was likely to be ineffective, as it was only when these issues were addressed that their children were in a position to return to school:

*It [prosecution] didn't make any difference to me. It didn't work in my case because our children were ill so they couldn't attend school.*

(Mr and Mrs Khan)

Mrs Allen, whilst acknowledging the possible short-term impact of prosecution, observed that any immediate improvements in attendance were not sustained in the long-term:

*[Does it work?] No. It does at first; it just puts the frighteners on you for a bit. It jolts you into thinking, 'Well yeah it is wrong' but other than that, no, I don't think it does. I mean [Laura's] started going downhill*

*again. I mean it frightened me but it didn't frighten [Laura]. No I don't think it's solved anything. It does a short jolt but then it's back to the way it was again.*

(Mrs Allen)

Laura agreed with her mother's viewpoint:

*[Does it work?] No, I don't think it does. It puts the frighteners up you, it shocks you for a bit but it makes no difference. It's not getting me to school, is it? It's not making me learn my lessons. It's just putting my mum through the trouble, not me. I'm the one that's still sitting at home, she's the one that has to stand up in court and get humiliated. No, it doesn't make any difference, it doesn't help.*

(Laura Allen)

These parents felt that prosecution was not an effective strategy because they were not in a position to change their child's behaviour. Some acknowledged their legal responsibility to ensure their child's attendance at school (or otherwise) but felt that it was unjust that they should be prosecuted when they were not in a position to effect change:

*[Did it work?] Not in this case, definitely not. We were doing everything. We've had to take loads of time off for meetings and trying to get John to school. We couldn't have done any more. Bribery, we tried that, we tried everything. If a child doesn't want to go to school it doesn't matter what they do to the parent, the child won't go. Even the threat of jail ... he said he wanted his dad to go to court and to prison ... it didn't make any difference to his attendance.*

(Mrs Edwards)

One interviewee who felt that prosecution did not work highlighted that her court appearance had had a positive impact on her older children's attitude to their children's school attendance:

*It's opened my eldest kid's eyes. They won't be going to court for their kids – it's made them realise that you can go to court and their kids daren't have half a day off.*

(Mrs Peate)

Her comments again highlight the possible effectiveness of prosecution in a wider context.

Nearly a third (seven) of the parents interviewed felt that prosecution could work in some instances, namely where parents were given support: 'I think it could do [improve attendance] as long as there is support around it' (Mrs Pearson) and where children were concerned that their parents had been prosecuted. Parents who expressed mixed views felt that prosecution would not work where parents had no control over their children:

*[Does it work?] Probably in a lot of cases, yeah and then in a lot of other cases, not at all because some parents haven't got any control over their children. You can prosecute that parent all you like that kid still isn't going to go to school. There's not an easy answer to that one at all.*

(Mr McCaffrey)

They also felt that prosecution would not work where the children were not concerned about their parents being prosecuted:

*[To my children the prosecution made] no difference at all. Most children, if their parents went to court, the penny would drop and they would get back into school – not mine. We actually took them into court once and all they did was just carry on. I wanted the magistrates to have a word with them. They just thought it was a day out.*

(Mr Watson)

Mr Watson felt that the parenting course he and his wife attended (as a result of a Parenting Order) had a short-term positive impact on his children's behaviour and school attendance. However, because his children's behaviour was so entrenched, he and his wife were unable to sustain the parenting strategies they had learnt on the course. This resulted in a deterioration in their children's behaviour and they also stopped attending school. Mr Watson also highlighted the physical intimidation that he and his wife were subject to from their children and his desire for them to attend school:

*The parenting course was the only thing that got them to see sense and got them into school for a couple of weeks. It was because me and the wife's attitude was changed. They said 'If they don't go to school, take their Play Station off them'. Unfortunately my eldest one had such a temper that if you took the Play Station off him he put holes in the wall. I couldn't go through that. It worked for a while, they went in for a bit, but then they got fed up and stopped going in again. I feel over the moon when he's back in school 'cos I've got time to myself – I can relax.*

(Mr Watson)

The complexity of interviewees' responses reflected their mixed views on prosecution. One interviewee had an overall belief that prosecution did not work, but deeper reflection did reveal some positive impact associated with prosecution:

*[Did it work?] I don't think so, not really, 'cos you forget, the kids forget, the parent forgets ... [Did it help get Chantelle back into school?] It did in a sense but in another it didn't. She went to school because I sat down with her and said 'Chantelle this is it'. I just couldn't take any more. I said 'I'm going to pack my stuff and walk out and leave because I can't put up with any more'.*

(Mrs Varley)

Only three parents (one couple and a single parent) felt that prosecution could work. Mrs Caddick justified this by saying that it would work for those parents who could not be 'bothered' to send their children to school, but excluded herself. However, the couple felt that it had worked for them and their son:

*We think it's worked with David. We hope it can work with other children. Well it did work for us. They should all be prosecuted.*

(Mr and Mrs Black)

Interestingly, three of the young people who were interviewed felt that prosecution could work:

*I think it does actually [work] because they will send their kids, won't they, if they know*



*that they are going to be prosecuted and took to court. They're more likely to send their kids.*

(Wayne and Liam Smith)

Both these young people did return to school. Martin, who was subject to an ESO, also felt that it had 'worked in the end' for him.

Parents raised issues relating to the stress experienced by families when they were prosecuted:

*If they had given us more time, we wouldn't have had to go through all this stress and worry.*

(Mr and Mrs Khan)

*The effect it could have, is cause families to up and move ... It's very scary and I was talking to my solicitor about this and she says families are very vulnerable and to have all this [prosecution] as well.*

(Mrs Pearson)

In some instances children were physically intimidating their parents when they tried to impose behavioural boundaries and others referred to prosecution causing a 'lot of family upheaval' (Mr Green). Others felt that prosecution would not work because they needed support rather than punishment:

*It all comes down to their view that it's my parental responsibility. It is, but I'm saying that I'm not coping very well and I need some help and I don't get it.*

(Ms Foster)

### 6.2.3 Alternatives to prosecution

Interviewees spoken to in phases two and three of the research were questioned about possible alternatives to prosecution. Several EWOs felt that the focus needed to be on creating a 'more stimulating' school curriculum for young people not attending school. In particular, it was thought that vocational curricula or part-time timetables should be more readily accessible to these young people. This was seen as especially important when reintegrating long-term non-attenders back into the classroom:

*The whole environment of a secondary school is for some children so daunting because they have been out of school for a period of time and they have been in a completely different circle to what they would experience if they were in school.*

(EWO)

A small number of EWOs believed that, as an alternative to prosecution, parents could be offered additional assistance from other agencies and support groups. It was felt that their increased input would help parents with strategies to combat their children's non-attendance and, in addition, might highlight to families the value of education. School representatives were in agreement with this, the majority highlighting the usefulness of support from other agencies. These interviewees believed that frequently children were not attending school because they had not 'received the right sort of guidance from an early enough age'. The deputy headteacher of a secondary school confirmed that a large proportion of parents needed assistance with their children:

*I think there's an awful lot of parents out there, certainly in this area, who really do need parenting skills, not just regarding getting their youngsters to school but how to bring them up and what is acceptable and not acceptable in the home.*

(PEWO)

School representatives felt that agencies and support groups would be able to help parents develop the skills required to be effective parents, including those needed to ensure their children attended school on a daily basis:

*A lot of our parents are young parents; they've got absent fathers. They are often from larger families and just working with those families, all those different agencies coming together, talking to those families and working through the situations, looking to develop the skills they need as parents, supporting them to support their children, enabling them to understand that education is important.*

(headteacher)

However, professional interviewees also highlighted that these strategies relied on parents' willingness to work with other agencies and: 'without recourse to law, it's very difficult to engage with those people' (EWO). Some parents were not in a position to, or were unwilling to engage. Section 6.4 discusses parental engagement in greater detail.

Parents' views on alternatives to prosecution differed considerably from those offered by EWOs and school representatives. Parents' suggestions focused on the fact that children should be made accountable for their behaviour by, for example, having to attend court themselves:

*Instead of taking the parents to court, take the children to court, make them pay the fine. It might scare them.*

(Mr Watson)

One young person reiterated this viewpoint:

*I think if you kept them in a boarding school for probably a month – stopped all the treats, the pocket money and whatever else they get I think they would think twice about it next time, I really do.*

(Marie Jackson)

### 6.3 LEA data

This section presents quantitative data from two LEAs in order to provide an insight into the effectiveness of prosecutions within individual LEAs. LEA 1, a city authority, provided data on prosecutions over a two-year period (2000–2002), showing pupils' attendance both pre- and post-prosecution. LEA 2, a regional authority, provided data on prosecutions over a four-year period (1998–2002) and included the year group of the child prosecuted; however, individual pre-prosecution rates of attendance were not available.

#### 6.3.1 LEA 1

LEA 1 provided prosecution data over a two-year period (2000–2002) showing pupils'

individual attendance both pre- and post-prosecution. Table 6.3 provides an overview of these data.

The data provided show that in 2001–02 a number of cases were withdrawn, whereas in the previous year there had been no withdrawals. There also appeared to be increased mobility in the second year as more families were recorded as having moved away.

The changes in attendance relate to pupils' attendance ten weeks after prosecution. Table 6.3 shows that post-prosecution attendance increased in over a half of cases in 2000–01 and two-fifths of cases in 2001–02. Conversely, it had decreased or not changed in over a quarter of cases in 2000–01 and in over a third of cases in 2001–02. Thus, in absolute terms slightly more cases had shown an increase in attendance than those that had decreased or remained the same.

**Table 6.3 LEA 1: attendance post-court**

Attendance	Increase	Decrease	No change	Not applicable*
2000–01 (N = 107)	62	20	11	14
2000–02 (N = 149)	60	37	17	35

Source: LEA data 2000–2002

\* The 'not applicable' column included cases:

- which were withdrawn (16 in 2001–02)
- where the family had moved away (2 in 2000–01 and 8 in 2001–02)
- where the young person was over the school leaving age (5 in 2000–01 and 6 in 2001–02)
- where the young person had gone on to education otherwise than at school and was no longer on roll or had been removed from school (7 in 2000–01 and 4 in 2001–02)
- where the young person had been excluded from school (1 in 2001–02).

Table 6.4 provides a summary of levels of attendance for those pupils' whose attendance increased post-prosecution.

This shows that, in this two-year period, for those pupils whose attendance increased ten weeks after prosecution, attendance most commonly increased to between 61 and 70 per cent. In both years, nearly half of the pupils increased their attendance to 61 per

cent and above. Those pupils in the 91 to 100 per cent range included two pupils in both years who achieved 99 and 100 per cent attendance respectively. The increase in attendance achieved by pupils is also interesting to examine. One of the pupils who achieved 100 per cent attendance in the ten weeks after prosecution had an attendance rate of 12 per cent prior to prosecution.

**Table 6.4 Levels of attendance post-prosecution for pupils showing an increase in attendance**

Level of attendance post-prosecution (%)	2000-01 (N = 62)	2001-02 (N = 60)	Total (N = 122)
91-100	6	4	10
81-90	5	5	10
71-80	10	7	17
61-70	11	13	24
51-60	6	7	13
41-50	5	8	13
31-40	10	3	13
21-30	2	9	11
11-20	2	3	5
0-10	5	1	6

Source: LEA data 2000-2002

Table 6.5 provides a summary of the percentage increase in attendance for these pupils.

**Table 6.5 Level of increase in attendance post-prosecution**

% increase in attendance post-prosecution	2000-01 (N = 62)	2001-02 (N = 60)	Total (N = 122)
81-90	1	0	1
71-80	2	3	5
61-70	3	1	4
51-60	5	3	8
41-50	6	8	14
31-40	8	9	17
21-30	10	12	22
11-20	11	15	26
0-10	16	9	25

Source: LEA data 2000-2002

Table 6.5 shows that the most common level of improvement was between 0 and 20 per cent in 2000-01 and between 11 and 30 per cent in 2001-02, although a small number of pupils in both years showed a significant increase in attendance, i.e. 61 per cent and above. The most common level of improvement over the two years was between 11 and 20 per cent.

LEA 1 provided pupils' attendance data focusing on three periods:

1. The prosecution period
2. The prosecution period to the court date
3. Post-court attendance.

Trends in attendance over the three periods could be examined and Table 6.6 provides an overview of these trends in attendance (2001-02) for those pupils whose attendance increased, decreased or did not change post-prosecution.

**Table 6.6 Trends in attendance in LEA 1**

Increase in attendance (N = 60)	2001-02
Decrease in attendance during prosecution period to court date, but an increase in attendance post-court	24
Straight increase in attendance	23
No increase in attendance during prosecution period to court date but an increase post-court	6
Increase in attendance during prosecution period to court date and a decrease post-court but remaining higher than pre-court	4
Increase in attendance during prosecution period to court date and increase maintained	3
Decrease/no change in attendance (N = 54)	2001-02
Straight decrease in attendance	22
Decrease in attendance during prosecution period to court date and decrease maintained	10
No change	7
Decrease in attendance during prosecution period to court date and an increase in attendance post-court but still less than or the same as pre-court	7
Increase in attendance during prosecution period to court date and a decrease post-court	6
Maintained attendance during prosecution period to court date but a decrease post-court	2

Source: LEA data 2001-2002

Table 6.6 shows that in 2001–02 for half of those pupils whose attendance increased (30), improvements were seen after their parent's appearance in court, whereas for the remaining half improvements were seen prior to the court date, i.e. during the prosecution process. For more than half of those pupils whose attendance showed no change or actually decreased, their attendance deteriorated prior to their parents' appearance in court.

### 6.3.2 LEA 2

LEA 2 provided prosecution data for a four-year period (1998–2002) and also included the year groups of the pupils whose parents were prosecuted, but did not include individual pre-prosecution rates of attendance. This LEA took fewer prosecutions than LEA 1 but the outcomes in terms of improvements in attendance were less successful, perhaps reflecting the entrenched non-attendance of families who were prosecuted. Table 6.7 gives the post-prosecution attendance rates for each year.

This shows that nearly a third (37) of pupils (whose post-prosecution attendance was

known) had attendance of 0–10 per cent eight weeks after prosecution. Conversely, a quarter (31) had attendance over 70 per cent.

LEA 2 was also able to provide year group information for 116 of the 157 pupils whose parents were prosecuted between 1998 and 2002 and Table 6.8 provides an overview of this information.

These LEA data reflect the national findings presented in the first report (Kendall *et al.* 2003) that showed the number of prosecutions increasing in line with year group, peaking at year 10 and reducing again in year 11. Again, reflecting the national data presented in the first report, nearly half of all the prosecutions in this LEA related to children in key stage 4 and nearly two-thirds of prosecutions related to children in the last three years of secondary school (years 9 to 11).

Table 6.8 shows that post-prosecution attendance rates for nearly three-quarters of year 11 pupils were below 50 per cent, whereas for year 10 pupils nearly half had attendance rates of more than 50 per cent

**Table 6.7 Post-prosecution attendance rates 1998–2002**

%	1998–99 (N = 29)	1999–00 (N = 65)	2000–01 (N = 35)	2001–02 (N = 28)	Total (N = 157)
Attendance range pre-prosecution	0–54	0–69.88	0–55	0–55	N/A
<b>Attendance post-prosecution</b>	<b>No. of pupils</b>				
0–10	7	16	9	5	37
10.1–20	0	2	3	2	7
20.1–30	1	4	4	1	10
30.1–40	0	8	2	2	12
40.1–50	2	3	4	0	9
50.1–60	2	2	2	3	9
60.1–70	1	2	2	2	7
70.1–80	3	6	2	0	11
80.1–90	4	4	2	0	10
90.1–100	2	6	1	1	10
Data not available*	7	12	4	12	35

Source: LEA data 1998–2002

\* Data unavailable due to pupils moving away, cases withdrawn, pupils going on to Education Other Than At School (EOTAS), cases not concluded etc.

**Table 6.8 Levels of attendance post-prosecution 1998/02 according to year group**

Attendance post-prosecution	Y11	Y10	Y9	Y8	Y7	Y6	Y5	Y4	Y3	Y2	Y1	Total (N = 116)
0-10	9	10	6	2	0	1	0	1	1	0	0	30
10.1-20	0	2	3	1	0	0	0	0	0	0	1	7
20.1-30	2	2	3	1	0	1	1	0	0	0	0	10
30.1-40	4	1	0	5	1	0	0	1	1	0	0	13
40.1-50	4	0	1	1	2	0	0	0	0	0	1	9
50.1-60	1	0	4	2	2	0	0	0	0	0	0	9
60.1-70	1	2	1	2	1	0	0	0	0	0	0	7
70.1-80	3	4	1	0	0	1	1	1	0	0	0	11
80.1-90	2	2	1	2	1	2	1	0	0	0	0	11
90.1-100	0	4	2	1	0	0	1	0	0	0	1	9
<b>Total</b>	<b>26</b>	<b>27</b>	<b>22</b>	<b>17</b>	<b>7</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>3</b>	<b>116</b>

Source: LEA data 1998-2002

(although it should be remembered that pupils' pre-prosecution rates of attendance were unknown so the level of increase in attendance that this reflects is unknown).

## 6.4 Family illustrations

This section provides an overview of the data relating to individual families spoken to during the course of the research and highlights factors underpinning the effectiveness or otherwise of the case-study prosecutions. Table 6.9 provides an overview of the data on the families and Appendix 1 provides a more detailed presentation of the data and includes information on a number of additional families who were not spoken to but who EWOs were able to provide data on.

EWS staff's, parents' and young people's perspectives on the potential effectiveness and the general principle of prosecution have already been explored. This section provides an overview of the factors and issues understood to have contributed to the degree of success of the actual prosecutions that took place. What was it that made a prosecution successful or not? Where did effectiveness lie?

Table 6.9 provides details of the 30 individual young people whose parents were

prosecuted. Assessments of the effectiveness of each prosecution have been made by a comparison of pre- and post-prosecution attendance levels, in conjunction with discussions with the EWS staff involved in these cases and the families themselves.

In just over two-fifths of the cases (13 out of 30) prosecution could be classed as effective, in that post-prosecution school attendance levels had risen and just over one-third of cases (11) as not effective as there had been no significant improvements. In one-fifth (6) of cases prosecution had 'mixed' effectiveness, including sporadic or intermittent increases in attendance, followed by decline.

Table 6.10 details the year of school of the 30 children when their parents were prosecuted. It should be remembered that this was not a representative sample. In terms of effectiveness, the table shows that there were both effective and ineffective prosecutions across the school years. What is perhaps most notable was the ineffectiveness of multiple prosecutions. Prosecution had not resulted in an improvement in attendance for three of the four pupils whose parents had been prosecuted more than once and for the fourth pupil who had been involved in multiple prosecutions where the outcome had been mixed.

**Table 6.9 Pupil data**

Pupil	Age/year group when prosecuted	Pre-prosecution attendance level	Prosecution characteristics	Outcome or disposal	Post-prosecution attendance level
1. Peter Baxter	Age 14	75 per cent	444.1	£50 and £80 costs in parent's absence	100 per cent (3 weeks after)
2. Aziz Khan	Age 5	77 per cent	444.1 (second prosecution, previous withdrawn)	Withdrawn on the day of court appearance due to improvements	85 per cent (3 weeks after)
3. Ahmed Khan	Age 7	73 per cent			78 per cent (3 weeks after)
4. Kevin Watson	Year 8		444.1	£340	Never returned to school
	Year 8		444.1	£550 and voluntary Parenting Order (PO)	
	Year 10	23 per cent at referral	444.1		
5. Sam Watson	Year 6		444.1	£650	13 per cent post-court. Now on alternative placement and EWS hopeful of improvement
	Year 7	7 per cent at referral	444.1		Not been back in, will be prosecuted again under 444.1a
6. Nicola Brown	Year 8		444.1	£266	
	Year 9		444.1	£400	
	Year 10	3.5 per cent	444.1a	Conditional discharge (CD) and £300 costs	
7. Ryan Peate	Year 7	3.7 per cent at referral	444.1	£150	No major improvement post-prosecution but attendance improved to 80 per cent since moving to special school
8. John Edwards	Age 12	'minimal'	444.1	CD	'Slight' improvement
9. David Black	Year 10	46 per cent (term before)	444.1	£25 each parent and voluntary PO	76 per cent (term after)
10. Wayne Smith	Year 7	Not on roll, no attendance	444.1	12 month CD	50 per cent (term after)
11. Liam Smith	Year 9	7.5 per cent (term before)	444.1		53 per cent (term after)
12. Leanne Foster	Year 9	47 per cent (term before)	444.1	12 month CD and PO	14 per cent (term after)
13. Marie Jackson	Year 9	51 per cent	444.1	Fine	19 per cent but due to start an alternative education placement
14. Joseph Peters	Year 9	48 per cent	444.1	Mother £65 fine and PO Father £200 fine plus costs	77 per cent year 10
15. Ann Green	Year 7	10 per cent	444.1	PO and 12 month CD	61 per cent year 8

**Table 6.9 Pupil data (contd)**

Pupil	Age/year group when prosecuted	Pre-prosecution attendance level	Prosecution characteristics	Outcome or disposal	Post-prosecution attendance level
16. Kelly McGrath	Year 9	22 per cent	444.1	£100 fine PO	38 per cent but now successfully attending alternative education placement
17. Martin Pearson	Year 8	'minimal'	ESO	ESO	Reintegrated into mainstream, near full attendance
18. Craig Stocks	Year 5	30 per cent	444.1	£100 and PO	Continued deterioration
19. Tiffany Sturgeon	Year 7	77 per cent during year 7 then major decrease	444.1	PO and small fine	Initially a significant improvement, followed by decline
20. Scott Carlisle	Year 11	30 per cent	444.1	CD, PO and costs	No improvement. Will be prosecuted again under 444.1a
21. Lee Carlisle	Year 9	15 per cent	444.1	CD, PO and costs	No improvement. Will be prosecuted again under 444.1a
22. Charmaine Carlisle	Year 11	20 per cent	444.1	CD, PO and costs	No improvement. Will be prosecuted again under 444.1a
23. Paul Moss	Age 14	'minimal'	444.1	£200, not paid, subsequently waived	No improvement
24. Sean Moss	Age 13	'minimal'	444.1	£200, not paid, subsequently waived	No improvement
25. Chantelle Varley	Years 9 and 10	Year 9: 34 per cent Year 10: 65 per cent	444.1	Year 9 CD Year 10 withdrawn because of family circumstances	Year 10 overall attendance: 52 per cent. Periods of improvement in attendance but not sustained
26. Niamh Caddick	6 years old	60 per cent	444.1	Fine £30 and £70 costs	88 per cent (year after prosecution)
27. Laura Allen	Year 9	2 per cent 11 weeks prior to prosecution	444.1	£100 fine and £50 costs	Very mixed: 45 per cent 11 weeks post-prosecution. Following term 100 per cent, next term 21 per cent. Next term following a reminder about prosecution 54 per cent
28. Sarah McCaffrey	Year 7	39 per cent	444.1	Absolute discharge	Attendance improved when moved in with father prior to prosecution
29. Annie McCaffrey	Year 9	57 per cent		Absolute discharge	Attendance improved when moved in with father prior to prosecution
30. Rosie McCaffrey	Year 10	39 per cent		Absolute discharge	Attendance improved when moved in with father prior to prosecution

**Table 6.10** Age of young person and effectiveness of prosecution

Year group when prosecution took place	Prosecution effective	Prosecution ineffective	Mixed effectiveness	Total N = 30
Reception	1	0	0	1
Year 1	1	0	0	1
Year 2	1	0	0	1
Year 5	0	1	0	1
Year 6	0	1*	0	1
Year 7	3	1*	3	7
Year 8	1	4*	0	5
Year 9	4	5*	3*	12
Year 10	2	2*	1*	5
Year 11	0	2	0	2
<b>Total</b>	<b>13</b>	<b>16</b>	<b>7</b>	<b>36**</b>

Source: Interviews in phase three of the NFER study, 2003

\* Part of a multiple prosecution

\*\* Totals more than 30 due to multiple prosecutions

Three main factors appear to be involved in facilitating or prohibiting the effectiveness of the prosecutions:

- parental attitudes and cooperation
- young person's cooperation
- family relationships and behaviour.

It is evident that, in each case, there were complex interplay and interrelationships between these factors, all of which – whether acting in isolation, or in combination – may have contributed to the effectiveness, or not, of the prosecution. For example, whilst some parents might have been cooperating fully with the EWS, the nature of the relationships with their children were such that they were unable to exert any influence in order to improve attendance. It is also noteworthy that interviewees were generally more able to identify the reasons behind unsuccessful prosecutions than effective ones.

#### 6.4.1 Parental attitudes and cooperation

Parental attitudes and levels of cooperation with education welfare and other agencies varied between cases and also during the course of a prosecution. Conflicting attitudes and an absence of cooperation were seen as

impacting negatively on the chances of an effective outcome.

Some parents presented a conflicting approach to their children's non-attendance and attempts to address it (although these appeared to be in the minority in this sample). Occasionally, this could be manifested as deliberate attempts to contest the position of the EWS and authorities:

*I had the EWO come round, but I didn't particularly like his attitude, so I told him to get lost ... I send him [son] to school – if he arrives late and they turn him away, then I will not be sending him back until the following day ... I'll be as petty as them.*

(Mrs Baxter)

When asked about the likely outcome of her impending court appearance, this particular parent contended that, 'I think it will be OK. My solicitor is good. He'll help me out'. After two adjournments, this case was eventually proven in the absence of both the parent and the solicitor. Despite this inconsistent stance and a firm belief that the prosecution was unjust and ineffective, this particular 14-year-old child had full attendance in the three weeks following the court hearing. This perhaps illustrates the complexity and



paradoxes associated with prosecution – although it might appear that a prosecution may not be effective, this might not necessarily be the case.

The attitudes of other parents were seen to have changed positively as a result of involvement in the prosecution process. It helped some parents, like Mrs Varley, ‘keep focused’ (EWO) on the issue of school attendance and resulted in a positive shift in parental attitude, it ‘moved school attendance up the family agenda’. Her daughter’s attendance did improve although it was not sustained because of other difficulties in the family. In this case, prosecution was seen as a tool to keep the family focused on school attendance, without which other crises would take over. For other parents, like Mr and Mrs Parker (see Appendix 1 for further details), their attitudes were said to have changed when they got to court, as their EWO observed: ‘I had a long conversation with both parents and this was the first time they really listened to what I was saying and what they needed to do’ (prior to the court appearance Mr Parker had not engaged with the EWS). After their court appearance Mrs Parker was said to be working more closely with the school and had developed relationships with them in supporting her children.

In other cases, parents’ lack of cooperation could take the form of avoidance, such as not responding to calls or visits and not attending meetings.

*The Browns have never attended a meeting in school – a formal attendance case conference meeting. [They] always make up some excuse. It then becomes very difficult because we put a plan together with school, but without their input it’s very difficult.*

(ESW)

The efforts to improve attendance would, therefore, be impaired as a result and the inconsistencies in parental cooperation were also highlighted as a common barrier to effectiveness, especially when seen in terms of parental commitment to improving attendance.

*Inconsistency of the parents getting her into school and also of their cooperation. They didn’t seem to comprehend that this would snowball massively.*

(ESW)

In this case, the parents had been prosecuted on two previous occasions, leading to fines totalling in excess of £1000 and were facing another prosecution under Section 444.1a for Nicola’s continued failure to return to school.

In discussing levels of parental cooperation and engagement, several education welfare professionals identified an element of manipulation whereby parents were seen as ‘playing the game to avert prosecution, going through the motions, but not really committed to improving attendance’.

*The ones that do engage with you are playing a bit of a game, I think. They’re dragging it out. You end up going round for months and you’re referring them to all sorts of different agencies. It might take six months and then it gets to court and it’s the child’s education that’s paramount.*

(EWO)

As a possible way ahead, this particular EWS professional suggested that a speedier and more time-limited process could be more appropriate as a way of countering parents’ limited and inconsistent cooperation.

Other education welfare staff suggested that parents appeared to be willing and cooperative, whilst still failing to bring about improvements: ‘They say they’ll do this and do that but they don’t. There’s always an excuse’. For example, it was said that Mr Watson, who (with his wife) had been prosecuted several times before for the non-attendance of his children ‘tends to pay you lip service’.

*They genuinely think that if they put across to me that they have tried their hardest, then I’ll leave them alone. Well I want evidence ... I can go there at ten in the morning and know that the kids are still in bed – they haven’t even tried.*

(ESW)

Other parents, such as Mr and Mrs Black, were seen as cooperating with the EWS and were

committed, although unable, to improve the non-attendance situation.

*They were available for home visits, they were cooperative and supportive ... they were working with us, but they couldn't do anything to change David's attitude or outlook, that was the problem.*

(EWO)

This particular young person's attendance did, however, improve following the prosecution and he went on to complete his school career and this was seen as an effective prosecution.

EWOs noted that parents' levels of cooperation and views on school attendance and whether school attendance was seen as a priority, was often dependent on what was happening within the family: 'It's not defiance and not not wanting to cooperate it's just that other things take over' (EWO). This meant that some parents, like Mrs Varley, were able to cooperate with the EWS for a while and possibly effect some change in their child's attendance but other crises within the family would take over and they would be unable to sustain the change. This 'roller coaster' effect meant that families might access support from other agencies when they were in crisis, but that when the crisis was alleviated they did not continue with the help offered. It was felt that these families required long-term intervention from other agencies to effect any sustained changes.

Education welfare professionals also noted that parental cooperation and engagement often declined as the process continued, or during second and third prosecutions. There was a feeling that a lot of parents had 'given up':

*I think some of these parents become a bit resigned to the fact that they think there is nothing they can do about it, so there's no point trying.*

(EWO)

Such sentiments were reiterated by others:

*The last time I prosecuted them for both the kids, mum just used to laugh at me. In the second week of the plan, when it was*

*obvious that it wasn't going anywhere. She used to come in and laugh and say 'guess what? They haven't been in again. See you again next week.' At that point, she was making absolutely no effort because they knew what was coming and they weren't bothered. I think the first time in court, they were both upset.*

(ESW)

In this case, neither young person returned to school.

Some parents were also seen as refusing to recognise or accept responsibility for their children's non-attendance:

*I'm getting prosecuted for her and she's took my life away from me for something that I've never done.*

(Mrs Brown)

*I try my hardest but once they're through the school gates, it's up to the school at the end of the day.*

(Mrs Baxter)

It was also an issue in at least two families that the one parent who may be influential in changing their child's behaviour, the father, was not engaging with the EWS. When they did engage they were able to effect some change in attendance but this was short-lived and, in Mr Varley's case, he was seen by the EWS as withdrawing 'from the situation rather than challenging the children'.

Issues of parental cooperation and engagement with the EWS to bring about improvements in attendance were extremely complex and varied throughout the sample. Despite this, education welfare staff did contend that there was more likely to be a successful outcome if parents were willing to cooperate – these were the cases in which prosecution was seen to have the greatest chance of being effective:

*It's never a foregone conclusion, but you do get a feeling sometimes that there's a high probability that this one is going to court. You get a feeling whether or not the parents are engaging with you. If you think they're doing as much as they can and they*

*are engaging with you, there's always a hope that things will turn around. Parents that are not engaging, or if they are engaging but not fully supporting you, then you always feel that there is a probability that this will go to court.*

(EWO)

In a number of cases prosecution had not been successful in improving school attendance, but the process of prosecution was seen by the EWS as having other positive impacts, for example, getting parents to engage, to think more seriously about school attendance, or discuss alternatives, as well as making parents more proactive and take more responsibility for their child's behaviour:

*Where parents have stopped contacting you ... they're not engaging ... we're not even able to talk to them about alternatives, so we need to go down the route which will make them realise this is very serious and they need to accept our support and allow us to come in and talk to them. So from that point of view, yes, I can see that there was a benefit from prosecution. I know that [Mrs Everett] is the sort of person who would respond to this.*

(EWO)

In some circumstances, it had also impacted on a younger sibling's school attendance:

*Mum now understands that school is a priority and has cooperated with me in sorting out a position [placement at special school] for [name of younger sister].*

(EWO)

#### 6.4.2 Young person's cooperation

It was suggested that prosecution was not likely to be effective if the young people themselves were reluctant to engage with the EWS, a view echoed by parents. Several suggested that the efforts of education welfare staff during home visits were unsuccessful:

*[Name of EWO] came round to the house a few times but it didn't do any good because he didn't want to listen.*

(parent of 15-year-old)

Similarly, meetings were often said to have had the same outcome:

*He doesn't cooperate. He'll sit there and talk for a little while, then they'll say something he doesn't like and then he'll go. He's not a very cooperative child. He has also been known to be violent as well.*

(Mrs Edwards)

The effectiveness of such attempts to improve attendance, including EWS staff actually taking young people into school, were dependent on young people's willingness to cooperate. '[Name of EWO] managed it once – he ran off every other day' (Mrs Edwards). In this case, there had been a slight improvement in John's attendance, although the EWO working with the family suggested that, since the target attendance of two afternoons a week had not been met, a subsequent prosecution would be likely.

Other parents provided examples of how their attempts to cooperate with the EWS were compromised by their children's reactions:

*I used to ring her up [name of ESW] and tell her that I couldn't get him to go [to school] but he knew her car and would do a runner when he saw it.*

(Mrs Peate)

The involvement of the EWS meant that, in some cases, young people were able to access other agency support to focus on factors affecting their school attendance, such as self-esteem and other issues. For some young people this did lead to improvements in their behaviour and attendance but, like their parents, they were not always in a position to sustain those changes because of other factors within the family. As Chantelle Varley's EWO observed:

*She would try and I got alternative placements for her but she could not sustain them because of other influences.*

At other times Chantelle was seen as 'colluding' with her mother in her non-attendance: 'Oh I've been in a week now, I don't need to go in' (EWO). The suggested

way forward with this case was to try and improve Mrs Varley's home/family situation so that she was in more of a position to support her daughter's attendance.

#### 6.4.3 Family relationships and behavioural issues

Parents' loss of influence over the child was seen as a key reason for attendance problems in the first place and a key factor in the subsequent prosecution not being effective:

*I can't get him to school now. He's bigger than me, he's too big and he knows it – he plays on it.*

(Mrs Edwards)

A range of examples of this were evident in the sample. In one family, attendance difficulties were said, by the parents, to result from the children's ill health. Whilst accepting that there were some problems, education welfare professionals suggested deeper issues regarding parenting were of greater significance:

*I've known the family for three years. Same problems every time – mum and dad say the children are ill. They're very nice people but the children can wrap them around their little finger. Little cough, or a few little tears, 'OK you can stay at home'. If they don't want to get out of bed, they won't get out of bed. If they don't want to go to bed at bedtime, they won't go. They are five and seven. The way they are going, the older they get the more they're going to be able to do what they want and before you know it they're going to be in trouble with other things.*

(EWO)

After several prosecutions, the EWO involved predicted further legal action as improvements did not appear forthcoming – court was seen to have 'not changed anything', largely accounted for because 'they've got no parenting skills, they find it very difficult to control misbehaviour' (EWO). Following the receipt of a summons to court, it was noted that the attendance of these particular children improved markedly,

leading to the case being withdrawn on the day of the appearance. The parent accounted for this in terms of the improved health of her children.

EWS staff felt that many parents in the sample had difficulties setting boundaries and imposing sanctions on their children:

*I think what mum finds difficult is that she doesn't have a great deal of control over the children, they do what they choose to do and mum wants the best for them and she wants people to try and help but as soon as there's any sort of situation where she has to be exerting any influence on them, she isn't able to because they don't understand what ground rules are and what guidelines are and what the boundaries are because they've never really been set.*

(EWO)

This was seen as especially difficult with older children, where parents were suddenly trying to impose restrictions on their children that had not been in place before. They also had difficulties in sustaining the behaviour management strategies and sanctions suggested by EWS staff: 'His mum is able to see the problem but is not able to keep the sanctions in place' (EWO talking about Mrs Parker). There was often a lack of consistency in their approach in implementing sanctions which meant that attendance was unlikely to improve. However, as a result of prosecution, some of these parents had become more proactive in contacting the EWS and saying they needed help and suggesting strategies to use with their children.

More disruptive behaviour and deeper manifestations of the loss of parental control were evident within the case-study families. In one particularly severe case, ESW staff and the parent were in agreement over this.

*They just stopped attending. The kids decided to stop attending and to use attendance as a weapon against the parents. It was an out-and-out manipulation by the kids.*

(ESW)

When accounting for his children's non-attendance, Mr Watson noted that:

*There was no bullying nothing like that, we just haven't got to the bottom of it. They just decided not to go.*

(Mr Watson)

Hence, the blame for non-attendance was located firmly with the young people themselves who were seen as acting by their own agency and the parents were powerless to modify their behaviour. Mr Watson explained that he had tried to keep his children in the house when they were not attending, although the impact of other non-attenders was too powerful:

*The next door neighbours used to come for them, but I'd say, 'If you can't go to school, then you can't go out' but then I'd go do something in the kitchen or whatever and they'd be gone.*

(Mr Watson)

It was noted that throughout the process, this lack of control was a problematic and difficult issue. Mr Watson stated that, during an education welfare-based meeting prior to the initiation of court proceedings:

*As a parent you feel terrible 'cos you wonder what they're all thinking about how you're bringing him up. That he doesn't take any notice of you.*

(Mr Watson)

The mitigation offered during court appearances generally involved the claim that the children were beyond the parents' control. The education welfare professional involved with this family spoke of the 'inappropriate boundaries' within the household, which gave the young people the 'upper hand'. The 'bribe culture of the household' was highlighted as being behind the extremely sporadic and limited post-prosecution school attendance.

An ESW suggested that this loss of control was a common factor in non-attendance:

*You have to look at the root causes of why they don't attend school. I don't know why Kevin and Sam and Nicola stopped*

*attending school, but I do know that somewhere along the line, it is because the parents lost control of them. They lost control of them before they stopped attending school. Somewhere in the dim and distant past, they lost that authority as a parent. At that time, it had nothing to do with school attendance. School attendance is just a manifestation of that.*

(ESW)

As a way ahead, following several unsuccessful prosecutions, or in cases with similar circumstances, parenting classes were seen as possibly a more effective strategy:

*It was all about setting boundaries, telling dad that Kevin didn't need his fishing rod as soon as he demanded it. He just gave him it for peace.*

(ESW)

Did parenting classes in such cases work? In the Watsons' case, it was felt as though some benefit came from attending, although in others, such as the Blacks, whose son was in year 10 at the time of prosecution, classes were seen as being too late. Similarly, in the Khan's case, although the children were both young, the EWO involved suggested that classes would not be effective because the parents did not appear committed to tackling the behavioural and relationship issues in the family. 'There's no will on behalf of the parents to make it work' (EWO). In the case of Mr and Mrs Green and Mrs McGrath the classes were seen as ineffective by the parents because they felt they were not relevant to their situation. They were seen as having too much of an offending focus which was not relevant to their child and did not address the school attendance difficulties they were experiencing (Chapter 4 provided a discussion of interviewees' thoughts on the effectiveness of parenting classes):

*He [Mr Green] says 'Why was I there?' [Ann] ain't a problem child, it's just she won't go to school but he's listening to everyone about drugs and car thieves and that, I mean she doesn't do 'owt like that. He says 'Well why do I have to go to this?'*

(Mrs Green)

Several EWS staff did, however, contend that some form of intervention focusing on parenting could be a way ahead:

*I think that's where we need to be looking – earlier intervention, assessing the parenting skills early on, even just a basic assessment with no intervention in place – flag them up early before they become chronic non-attenders. Putting positive things in place beforehand is always better than trying to sanction them afterwards. Maybe that's something nationally, as a service, we could be looking at doing – developing the parenting classes.*

(ESW)

Education welfare professionals and parents also commented that the nature of the relationships between parent and child could influence the effectiveness of the prosecution. Some young people appeared to have been aware of the impact that their non-attendance was having on their parents and acted on this:

*I used to come the odd day and then not come for the rest of the week. When we found out that mum was going to have to come to court, we thought as well that we were losing a lot of education ... I thought there's no point getting mum into any more trouble than she's in at the minute and just to come to school.*

(Wayne Smith)

In the majority of cases in this sample, however, it is apparent that the young people themselves were not particularly concerned about their parents being prosecuted for their non-attendance. Most parents suggested that their children were not concerned about their non-attendance and that they did not value the education they were missing. Furthermore, very few were able to say that any of the stages of prosecution – meetings, receipt of warning letters, summonses, attendance at meetings and court proceedings or even disposals – had any noticeable impact on their children.

'They were not bothered' generally summed up parents' interpretations of their children's

feelings and the young people themselves often reinforced these sentiments. Some parents also said that the financial penalties associated with prosecution had not impacted on their children. Mr Watson said that he had told Kevin and Sam that, as a result of the fines imposed:

*There would be less money coming in the house so there'd be less for them, but they weren't bothered ... to my kids, money is something you just get. They don't know where it comes from.*

(Mr Watson)

Some young people were said to have expressed concern over the reduced household income that could result from fines. Nicola said that she was 'worried that she [mother] might get taken to court, but when she got off with it [£75 fine], I didn't bother going back in' (Nicola Brown).

Several other parents also noted that they had lied to their children regarding the level of fine they had received as a means of trying to increase the seriousness of the situation, although this was also seen as largely ineffective.

Furthermore, the possible jail sentences under Section 444.1a were also regarded as being unable to motivate change in children's behaviour and attitudes. Mrs Peate, for example, noted that she had informed Ryan of the possibility of her being imprisoned as a result of his failure to attend school:

*He said to me that 'If you get put in jail, I'll stay with my brothers or sisters till you come out'.*

(Mrs Peate)

Some young people even suggested that they would not mind if their parents had been given jail sentences (some parents retorted by suggesting that jail would actually give them a rest as well).

*The social [worker] had a word with John about me going to jail, she actually made him cry. She said that 'if your parents go to prison, you'll lose your house, you'll end up in care, they'll lose their jobs'. But then he*

*said that he wanted his dad to go to court and to prison. It didn't make any difference to his attendance.*

(Mrs Edwards)

In such cases where prosecution was not ultimately effective, was it that children were not accepting responsibility for their own actions?

#### 6.4.4 Comments

Interviewees often suggested that prosecutions had not been effective in particular cases because of the overriding and pervasive nature and circumstances against, or within which, the prosecutions occurred. Non-attendance was a symptom of the problems and not the cause and factors such as the level of parental cooperation were often dependent on what other crises were going on in the family. Prosecution was seen as another tool to keep families focused because their difficulties were so entrenched. Without prosecution it was felt that there would be little chance of improving attendance:

*If we had not prosecuted, other support services would have been put in place but it would have been likely that there would have been no periods of improved attendance.*

(EWO)

#### Issues for consideration

- Throughout all phases of the research, professional interviewees were largely supportive of the principle of prosecution and felt that

at times it could be an effective strategy. All felt that the option of prosecution had to be available. The main factors perceived to mitigate against effectiveness: magistrates and court-related issues, the timing of prosecutions, policy issues and procedures and time factors, have been explored in this and the first report. Is there sufficient exchange of practice and strategies available within LEAs for addressing these factors that are seen to mitigate against the effectiveness of the prosecution process?

- The most common reason why parents were opposed to prosecution was a belief that they should not be held responsible for their child's behaviour. Is there an issue regarding getting older children more involved in the prosecution process and taking greater responsibility for their own actions?
- The research highlighted that prosecution could be effective when parents were in a position to effect change in their own and/or their child's behaviour. The study also highlighted the difficulties experienced by parents in imposing behavioural boundaries on their children. How can the EWS and the range of other agencies often working with families best ensure that they are working together to try and assist such change and innovation? How far would early intervention address such problems?

## 7 Concluding comments

Education, school attendance and prosecution for non-attendance cannot be considered in isolation from wider social, economic and cultural contexts. Throughout the course of this research, interviewees stressed the need to address issues of curriculum modification and the relevance and impact of education when considering the issues surrounding non-attendance. However, whilst the law regarding school attendance stands, a system of enforcement is required – how can this be made to be as effective as possible?

- One of the key issues again identified in this report is that of variability, including the criteria on which prosecution decisions are made, the mechanics and processes by which prosecutions are brought, the nature of offences pursued, the range of personnel presenting the cases and the range of disposals imposed by magistrates.
- The research would suggest that variability can be seen as both a positive and negative influence within non-attendance prosecutions. It may be necessary to allow for sufficient flexibility of approach, for example, to allow the judgement of EWS professionals to inform approaches and decisions as to when a prosecution might be most appropriate to effect change in a young person's attendance. However, variability may also be associated with inconsistency and unequal treatment in law, in terms of the issuing of cautions under PACE and the pursuit of prosecutions under Section 444.1 or Section 444.1a, for example.
- There is a need to ensure that systems are in place to maximise flexibility and appropriateness, but to minimise the effects of inconsistencies. This could involve increased liaison between the EWS and magistrates and systems to strengthen and improve relationships and mutual understanding. Consequently, a greater connection between, or integration of, the 'prosecution process' (EWS) and the 'court process' (magistrates), may lead to overall improvements in effectiveness.
- The processes and procedures involved in the lead-up to court proceedings were often regarded as having a greater potential for effectiveness than the court-related outcomes themselves. It was reported that the processes towards prosecution can be effective, acting as a means of reinforcing the seriousness of non-attendance in relation to its legal status. Furthermore, the process towards prosecution was felt to act as a vehicle for collective engagement and opportunities for dialogue and engagement between families and all other involved agencies (reinforced by the legal element) and appears to be a significant factor in the overall effectiveness of a prosecution. Ensuring that strategies are in place to encourage and increase the involvement of parents and young people in the process has been highlighted.
- Issues of the exclusivity of parental responsibility for a child's non-attendance surround the effectiveness of prosecution. Many interviewees – EWS staff, as well as parents and young people themselves – suggested that prosecutions could be both inappropriate and ineffective when the underlying cause and resolution of non-attendance issues lay beyond the immediate and direct control of the



parent. Hence, within the principle of prosecution, there may be value in considering the issue of increasing young people's responsibility and accountability – jointly with parents – where appropriate. This could involve

strategies to expand and support earlier identification and intervention, especially in relation to resolving issues arising from family dynamics that manifest and can compound attendance difficulties.

## Appendix: Summary of family prosecutions

Pupil including age when prosecuted	School and attendance issues	Parental engagement with EWS	Offence and disposal	Level of perceived effectiveness and reasons
1. Peter Baxter age 14	No bullying, no work problems. Frequent lates. Mother identified lifestyle and living conditions as being central to punctuality problems. Other younger children in household with health problems led to inability to ensure that he arrived at school punctually.	Mother conflictual and un-cooperative. Suggested that EWS approach equated to 'bullying', and school policy on punctuality was 'petty' so she would not cooperate. Denied receiving letter regarding meetings with school and EWS.	444.1 adjourned for solicitor to consult barrister £50 and £80 costs	Mother accepting no responsibility for attendance situation. Believes that EWS and school have not supported her, and are 'victimising' her. Stated that she would go to jail rather than pay a fine for something she was not responsible for.
2. Aziz age 5 and 3. Ahmed Khan age 7	No bullying or work-related problems (attainment lower than average according to EWO). Absence due to on-going illness.	Parents cooperating with EWS – were present for home visits and attended EWS meeting. EWO belief that they only paid 'lip service' and were not committed to improving the situation.	444.1 (second prosecution, first case was withdrawn following improvement in attendance) Conditional discharge (CD)	Attendance had improved significantly around the time of summons. Parents accounted for this in relation to an improvement in children's health, although expressed concerns that when health deteriorated in the future, attendance would decline leading to another prosecution.
4. Kevin Watson year 8 x2, year 10 and 5. Sam Watson year 6, year 7	No bullying problems – just would not attend school. Chronic non-attenders and conflict with parents. Two other children in the household with no attendance problems.	Cooperative. Present for home visits, at least one parent attends ESW meetings.	All taken under 444.1 Long prosecution history over 3 years: Sam year 6 and Kevin year 8 £340 fine Sam year 7 and Kevin year 8 £550 fine and voluntary Parenting Order (PO) Kevin year 10 £650 fine	Multiple prosecutions have little or no effect. Maybe a few days of attendance, but largely as a result of promise/bribe by parents. ESW belief that parents are resigned to prosecution for their children's non-attendance as a way of life – powerless to do anything about it. Hence, accepted that repeat prosecutions will take place.
6. Nicola Brown year 8, 9 and 10	Chronic non-attendance, but all authorised initially on medical grounds. Resolution of problems, but attendance became practically nil. Suggestion of bullying, but not substantiated.	Difficult relationship between mother and ESWs, although slightly better with father. Mother did not attend any meeting and often missed home visits.	Long history of working with ESW. Older sibling with attendance problems. Prosecuted under 444.1 and 444.1a CD and £300 costs	Not had any impact on attendance even despite the threat of imprisonment under 444.1a. Professionals predict that case will be back in court in the near future.

## Summary of family prosecutions (contd)

Pupil including age when prosecuted	School and attendance issues	Parental engagement with EWS	Offence and disposal	Level of perceived effectiveness and reasons
7. Ryan Peate year 7	Problematic attender – placed in inappropriate school. Eventually assessed for SEN. Allegations of bullying at school.	Cooperative parent – available for meetings with ESW.	444.1	Improvement in attendance – prosecution coincided with placement in a special school.
8. John Edwards age 12	Bullying at school, but that was not the main reason – inexplicable – just refused to attend, increased through primary into secondary school.	Mother cooperated with EWS, but contends that she was never informed about final decision. Child did not cooperate with EWS.	Conditional discharge (CD)	Unlikely to be effective – physical and behavioural characteristics of son mean that mother is unable to ensure his attendance.
9. David Black year 10	Never liked school, 'got in with wrong crowd'. Would leave home every day but not attend school – deceiving his parents.	Parents very cooperative with EWS, attended meetings, available for visits.	444.1 £25 each parent and voluntary PO	Feeling that prosecution has been effective – brought home to child the importance of attendance. Prosecution also coincided with change of peer group. School career was completed.
10. Wayne year 7 and Liam Smith year 9	Elder brother was bullied at school. When younger brother started, joint decision made to prevent the same happening to him. Attendance dropped from full to nil which was sustained for two years.	Mother missed two home visits. Missed two formal meetings, including PACE caution. Not cooperating.	444.1 12 month CD (other parent had been prosecuted previously)	Despite many missed appointments and meetings, turnaround occurred once summons was received. Pupils themselves appear to have been instrumental in affecting change out of a desire not to see their mother prosecuted for their actions.
12. Leanne Foster year 9	Poor attender since year 7. Did not enjoy school, had problems with some teachers. No specific bullying issues. Problems sleeping, leading to extreme tiredness and difficulties getting up in the morning.	Claims to have cooperated with EWS, but contends that never received letters regarding formal meetings.	444.1 12 month CD and PO	Attendance had not improved following prosecution, and subsequent proceedings were initiated under 444.1a for breaching terms of CD.
13. Nathan Fisher year 9	Long fixed-term exclusion after which he found it very difficult to return to school he was 'out of the habit of attending'. Peer violence and alcohol issues.	Mother was 'dead cooperative'; father was involved as well (separated). Kept all appointments and attended EWS meetings.	444.1 Absolute Discharge (AD)	Parents told son that disposal was much more serious in order to have a greater impact. Attendance has improved, but other issues still impacting on this.

## Summary of family prosecutions (contd)

Pupil including age when prosecuted	School and attendance issues	Parental engagement with EWS	Offence and disposal	Level of perceived effectiveness and reasons
14. Marie Jackson year 9	Attendance deteriorated in year 9. Lot of emotional problems and instability and transience in the family – at one point she moved to live elsewhere with relatives. Reluctant to access help for her problems. Very bright and confident. Reintegrated back into school but got into a fight and was excluded – she did not want to be there. Older sibling also had attendance problems.	EWS unable to establish any contact with mother (single parent) and she did not attend any meetings.	444.1 Fine	Her attendance did not improve. There were emotional events that had a huge impact on her. She lived with relatives away from home at the start of year 10, but returned later in the year. Family situation settled and parent more responsive. Another EWO was able to establish contact with parent and pupil and alternative education placement arranged for year 11.
15. Joseph Peters year 9	Attendance issues since year 7. Alleged bullying addressed by school. Parents had a difficult divorce but shared parenting and he lived with both parents during this period. Time for which they were prosecuted he was living with his mother. Quiet and has difficulties forming friendships. Always had medical reasons for non-attendance. When had problems with one parent would go and live with the other. Sporadic improvements in attendance were not maintained. Older siblings had attendance problems.	Both parents very cooperative and had regular contact with EWS and attended meetings. Mother saw EWO as a friend and therefore upset when she was prosecuted. Father bought a new suit for court appearance. Mother claimed that days son was not attending were the days he was staying with his father. Father accepted that prosecution was inevitable but mother less accepting.	444.1 Mother £65 fine and PO Father £200 fine plus costs	Attendance was greatly improved post-court. Neither parent wants to return to court. Had some problems in year 10 but has a learning mentor for support in school. His parents' appearance in court was the turning point.
16. Ann Green year 7	Attendance poor in primary school due to family issues and some learning needs. Did not like school and parents did nothing about it. Initially she did not transfer to secondary school. School and EWO offered integration package.	Parents attended all the meetings and cooperated throughout. Understood why court was inevitable after PACE interview if daughter's attendance failed to improve.	444.1 PO and 12 month CD	Attendance improved although there are still some issues, she has achieved a considerable change. Parents trying and bringing her in and collecting her from school.

## Summary of family prosecutions (contd)

Pupil including age when prosecuted	School and attendance issues	Parental engagement with EWS	Offence and disposal	Level of perceived effectiveness and reasons
17. Kelly McGrath year 9	No specific problems identified, she was quiet and isolated. Assessment with CAMHS provided no evidence of any other problems other than school attendance. Reduced timetable offered. Unable to establish reason for poor attendance. Older sibling had poor attendance (and parent prosecuted) but not as bad as Kelly's.	Mother very cooperative and attended every meeting, she was friendly throughout. Never phoned in to authorise absence because there were not any reasons for authorising it. Parent accepted that prosecution was inevitable.	444.1 £100 fine PO	Attendance eventually improved in year 11 when Kelly accessed alternative provision (special school and alternative education initiative) outside of school – this was a huge success for Kelly. Court failed to have an impact on her attendance.
18. Martin Pearson year 8	Problems with school – especially teachers, behaviour issues related to home circumstances. Referred to PRU.	Good relationships between EWS and mother. Mother cooperated and supported the action taken by EWS.	ESO	Significant turnaround in attendance and behaviour. Seen to have been effective because of the consistency of support put in place as part of the ESO. Also, pupil's attitude changed and he realised the seriousness of the situation.
19. Craig Sturgeon year 5 and 20. Tiffany Sturgeon year 7	Home and behaviour problems – Craig did not want to leave the home environment. Tiffany – no reasons given for non-attendance, other than parenting problems.	Mother did not make attempts to contact EWS or respond to calls/appointments. However, mother did attend a formal meeting.	444.1 Four prosecutions in four months. £100 fine and PO for Craig, and PO and small fine for Tiffany.	No improvements in attendance for Craig. Tiffany's attendance improved considerably initially, due to her own, and not her mother's efforts. But, started to decline again and EWO predicts further prosecutions.
21. Barry Hunter year 1 and 22. Dillon Hunter year 2	Poor and sporadic attendance, and punctuality a problem as well. Very transient lifestyle, frequent home moves. No problems when they were in school. Home – neglect and child protection issues.	Mother was not generally cooperative – did not attend meetings or keep appointments. Hostile and resentful towards authoritarian figures.	444.1 12 month CD and £75 costs	It is hoped that attendance will increase as a result of this, and possibly more prosecutions in the future to reinforce the seriousness to the parent.
23. Leah Perkins year 1	Attendance in the region of 50 per cent. Family issues – death of father, belief that mother was keeping her off school for company. No medical issues, likes school when she attends.	Total non-cooperation. EWO never managed to make any contact with mother. Slight increase in cooperation at the court stage, but only short-lived.	444.1 CD and PO	Small improvements in attendance and mother will make contact with the school. However, mother has not imminent parenting classes, so imminent return to court, under 444.1a. EWO expressed hopes that the second prosecution will reinforce the seriousness of the situation.

## Summary of family prosecutions (contd)

Pupil including age when prosecuted	School and attendance issues	Parental engagement with EWS	Offence and disposal	Level of perceived effectiveness and reasons
24. Julie Heron year 10	Family problems – ill health and alcohol issues for one parent. Child protection issues have been raised. Attendance dropped to 35 per cent at time of prosecution.	Mother and father were cooperative, but difficult home visits because mother worked. Was always very difficult to engage with Julie because she was never at home. Parents did attend the final formal meeting.	444.1 CD, PO and costs	PO was seen as quite successful – parents benefited but seen as too late to help Julie's situation. Slight improvements in attendance until the end of her school career.
25. Scott Carlisle year 11 and 26. Lee Carlisle year 9 and 27. Charmaine Carlisle year 11	Scott – 30 per cent and some behavioural issues. Lee – 15 per cent and 'terrible' behaviour. Criminal behaviour and involvement. Charmaine – 20 per cent no school problems. She had friends and she could do the work.	Family background of transience, domestic violence and prison Very little contact – frequent change of address, failed to respond to calling cards and phone calls. Friendly when contact is made, but they do not take any action regarding attendance issues. Mother did attend an office interview.	444.1 CD and £50 costs	Scott made some effort, as did Charmaine but she had domestic care responsibilities so school attendance was not the highest priority. Lee made no effort at all. Following the prosecution, attendance deteriorated for all of them. Also, a younger sibling in year 6 is exhibiting similar attendance problems. Case will either be taken back as a breach of the CD, or under the higher offence.
28. Paul Moss year 14 and 29. Sean Moss year 13	Paul had problems with teachers and a conviction for stealing from the school. Sean was said to be suffering in school because of his brother's reputation. Sean was disaffected and this was seen as the reason for his non-attendance.	Mother did cooperate with EWS. EWO concerned that since there had already been a prosecution, another one might result in jail.	444.1 £200 each child. Not paid so returned to court. Judge waived fines.	No impact on attendance. Both pupils convicted of offences, leading to suggestion that they will be eligible for placements on various schemes.
30. Chantelle Varley year 10	Attendance erratic for a number of years. Family history of prosecution, grandparent prosecuted for parent's non-attendance and older sibling had poor attendance. Chaotic home life: domestic violence, drugs and alcohol misuse.	EWO had good relationship with the family but parental cooperation dependent on what was happening at home. Did not attend most of the meetings because other crises arose. Engaged with other agencies when in crisis but when this not the case did not continue with the help offered.	444.1 Prosecuted in year 9 and received a CD Prosecuted again in year 10 but withdrawn because of family circumstances.	Periods of improvement in attendance, attitude and behaviour but unable to sustain them because difficulties so entrenched. Prosecution seen by EWS as a tool to keep the family focused.
31. Niamh Caddick age 6	Niamh kept off school by her mother because of head lice. Family history of non-attendance: grandparent prosecuted for mother's non-attendance at school.	Mother never in the house when EWO visited and did not come to meetings although was at home for one meeting. Her relationship with the EWS was 'OK'.	444.1 Fine £30 and £70 costs. Did not appear in court	Turnaround in attendance since prosecution and increase in attainment since her attendance increased. Mother does not want to be prosecuted again.

## Summary of family prosecutions (contd)

Pupil including age when prosecuted	School and attendance issues	Parental engagement with EWS	Offence and disposal	Level of perceived effectiveness and reasons
32. Jordan Bates year 10	History of poor attendance but never got as far as court before.	Mother appears very cooperative attended all meetings but does not implement strategies suggested fully or does not maintain them – no consistency in managing his behaviour.	444.1 Fine £75 and £70 costs (had legal representation)	Attendance not improved since prosecuted. Asked school to disapply him from the curriculum in year 11: three day work placement and two days in school. Mum has become more proactive since prosecution.
33. Laura Allen year 9	Older sibling's attendance poor. Very bright child difficult to find out what the issue is – problems sleeping so finding it difficult to get up in the morning but EWS still do not know what the whole story was.	Mother very cooperative did all the things asked of her except ensure her child attended school.	£100 fine and £50 costs	Returned to school post-prosecution but then stopped attending and then went back in on a slightly reduced timetable to re-engage and then back onto a full timetable.
34. Sarah McCaffrey year 7, and 35. Melanie McCaffrey year 9, and 36. Rosie McCaffrey year 10	Girls lived with their mother whilst father was in prison (parents had separated). Ended up running the home and looking after younger siblings.	Father cooperative and attended meetings once he had custody of the children.	Absolute discharge	Children returned to school prior to prosecution because living with father.
37. Ricky Everett year 9, and 38. Tammy Everett year 8	Mother single parent and prosecuted previously for older children. All of the children have a history of poor attendance. Attendance very erratic. Ricky statemented and spending much of his time when he was in school in the inclusion base, as was Tammy, but attendance deteriorated further.	Difficult family to work with, mother receptive to working with EWS but only when it suits her, she does not take on the responsibilities she should. Only attended one meeting away from home. When attendance deteriorated mum stopped cooperating, not in for visits etc.	444.1 Fine	Neither of them returned to school after the prosecution. Tammy now got a placement through Connexions and looking to get Ricky an out of school placement with the funding attached to his statement.
39. Darren Parker age 13, and 40. Dale Parker age 14	Attendance deteriorated when started attending secondary school. Very low attendance at referral Darren 2.5 per cent and Dale 5 per cent (attendance for whole year: Darren – 63 per cent and Dale 56 per cent). Darren some SEN, problems with anger and involved in crime. Darren severe behavioural problems and excluded on a number of occasions, also involved in crime. Both in inclusion unit at school had difficulties integrating into the classroom.	Mother went in and supported Dale in school which was successful but could not keep doing it as she has six children. Mother appears cooperative but does not always follow through the things suggested e.g. boundaries and sanctions. Mother did not tell husband about the problems with the boys because worried about the repercussions. Father not involved at all.	444.1 Father £200 for each child plus costs Mother £50 fine for each child plus costs Both parents received parenting orders.	Some improvement for Darren, attended on a part-time timetable for most of the time until he was permanently excluded (two months after court appearance) from school. Placement arranged at new school for next academic year.  Very little improvement for Dale (attendance 13 per cent post-court).

## References

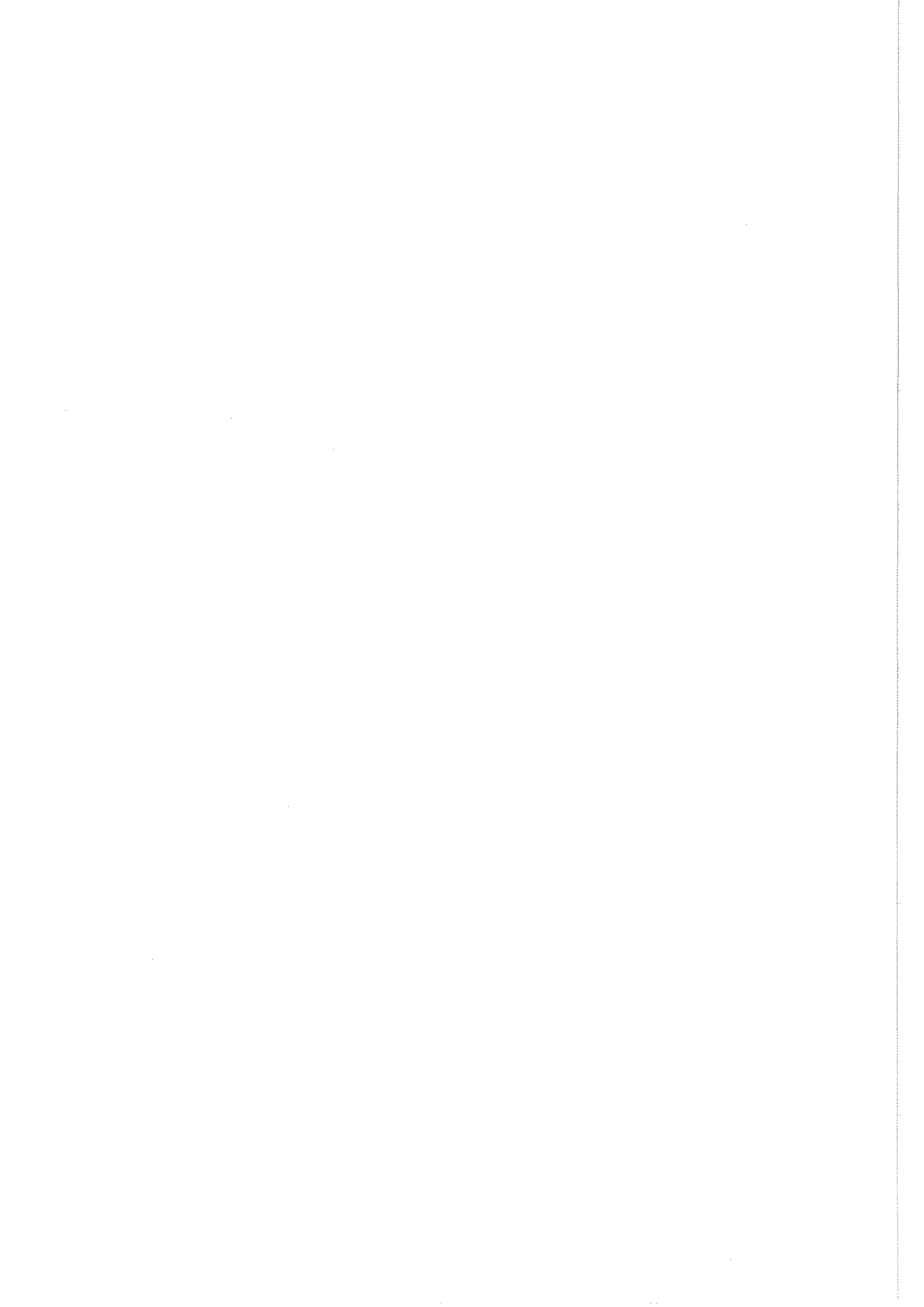
BRITISH BROADCASTING CORPORATION (BBC) 2002a. 'Mother jailed for girls' truancy', BBC news [online]. Available: [http://news.bbc.co.uk/1/ni/english/uk/england/newsid\\_1984000/1984502.stm](http://news.bbc.co.uk/1/ni/english/uk/england/newsid_1984000/1984502.stm) (15 July 2002).

BRITISH BROADCASTING CORPORATION (BBC) 2002b. 'Parents told to get in line', BBC

news [online]. Available: [http://news.bbc.co.uk/1/ni/english/education/newsid\\_1984000/1984842.stm](http://news.bbc.co.uk/1/ni/english/education/newsid_1984000/1984842.stm) (15 July 2002).

KENDALL S., WHITE R. AND KINDER K. 2003. *School attendance and the prosecution of parents: perspectives from education welfare service management*. Slough: NFER





The LGA Educational Research Programme is carried out by the NFER. The research projects cover topics and perspectives that are of special interest to LEAs. All the reports are published and disseminated by NFER, with separate executive summaries.

The summaries are available free of charge both on paper and on the NFER website – [www.nfer.ac.uk](http://www.nfer.ac.uk)

## A selection of recent publications arising from the LGA Educational Research Programme

### New Technologies Supporting Teaching and Learning (LGA Research Report 49)

*Mark Cunningham, Sue Harris, Kirstin Kerr and Rhona McEune*

This study focused on specific ICT projects in schools and found that teachers' use of new technologies has led to changes in their educational approaches, having a significant impact upon students, both in the ways they are required to work using ICT and in developing extra-curricular skills. In discussions, students stated that they enjoyed using new technologies and were able to recognise the 'real life relevance' of using them. The case-study schools and their partner organisations featured in this research offered a wealth of ideas for future ICT development in schools, ideas which could enhance the quality of teaching and facilitate learning. In addition, the effect on the wider community was also important to this study, as schools have endeavoured to develop home, community and industry links. One of the important messages that emerged was the desire of schools to develop links with industry and others in the community, and to afford more paid time for teachers to explore the potential of new technologies.

Published in 2003

ISBN 1 903880 48 3

Price: £8.50

### School Phobia and School Refusal: Research into Causes and Remedies (LGA Research Report 46)

*Tamsin Archer, Caroline Filmer-Sankey and Felicity Fletcher-Campbell*

This study considered the causes of school phobia and school refusal and what Local Education Authorities (LEAs) and schools can do to support affected pupils. It focused specifically on identification and assessment, causes of school refusal and phobia, provision for pupils who appear to be school refusers and school phobics, and training and monitoring structures.

Published in 2003

ISBN 1 903880 59 9

Price: £8.00

### School Attendance and the Prosecution of Parents: Perspectives from Education Welfare Service Management (LGA Research Report 43)

*Sally Kendall, Richard White and Kay Kinder*

This research is the first stage of a three phase study and provides an overview of the prosecution process within LEAs from interviews with 122 Principal Education Welfare Officers (PEWOs) or equivalent, and data on prosecutions provided by nearly 100 Local Education Authorities (LEAs) between September 2001 and July 2002. It gives an in-depth study examining the effects and effectiveness of prosecuting parents as a strategy to combat non-school attendance.

Published in 2003

ISBN 1 903880 51 3

Price: £9.00

### Using Research for School Improvement: The LEA's Role (LGA Research Report 42)

*Rebekah Wilson, Jane Hemsley-Brown, Claire Easton and Caroline Sharp*

Schools and teachers who use research gain new challenges, insights and levels of understanding – and find it enhances the quality of teaching and learning. This report provides LEAs with information on good practice in the use of research to support school improvement. Examples of projects supported and/or initiated by LEAs are identified and show that much is being done to promote and facilitate research use.

Published in 2003

ISBN 1 903880 49 1

Price: £8.50

### Saving a Place for the Arts? A Survey of the Arts in Primary Schools in England (LGA Research Report 41)

*Dick Downing, Fiona Johnson and Satpal Kaur*

The report reveals a degree of commitment and determination to secure the place of the arts in the face of what are perceived to be considerable threats. It further identifies perceptions of a significant mismatch between the views of school staff and the views of policy makers concerning the value of the arts in primary schools. While recent national changes in the approach to the arts have brought about some developments, schools themselves are seeking a climate change.

Published in 2003

ISBN 1 903880 45 9

Price: £10.00

For further information on any of the above projects or the publications, please contact:

**Publications Unit, The Library, NFER, The Mere, Upton Park, Slough, SL1 2DQ.**

**Tel: 01753 637002 Fax: 01753 637280 email: [book.sales@nfer.ac.uk](mailto:book.sales@nfer.ac.uk)**



For further information, please contact the  
Local Government Association at:

Local Government House, Smith Square,  
London SW1P 3HZ  
Telephone 020 7664 3000  
Fax 020 7664 3030  
E-mail [info@lga.gov.uk](mailto:info@lga.gov.uk)  
Website [www.lga.gov.uk](http://www.lga.gov.uk)

**or telephone our general information  
helpline on 020 7664 3131**

Price £12.50 (including postage)

For further information on the research or  
to purchase further copies, contact:  
Publications Unit,  
The Library,  
National Foundation for Educational Research,  
The Mere, Upton Park, Slough,  
Berkshire SL1 2DQ  
Telephone 01753 637002  
Fax 01753 637280

ISBN 1 903880 65 3  
Code No. SR109